

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
NORTH CASS WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
AUGUST 27, 2024
8:00 A.M.

A virtual / conference call meeting of the North Cass Water Resource District was held on August 27, 2024, at 8:00 a.m.

Present were Ken Lougheed, Chairman; Robert Thompson, Manager; Jay Colwell, Manager; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, and Brady Woodard, Moore Engineering, Inc.; Duane Breitling, Cass County Commissioner; Blaine Laaveg, Cass County Highway Department; Kevin Hochhalter, Arthur Township property owner; and Loren Richards, Wisner Township property owner.

Approval of Agenda and Minutes

It was moved by Manager Thompson, seconded by Manager Colwell, and unanimously carried to approve the order of the agenda, as amended, and the minutes of July 23, 2024, meeting, as presented.

Drain #26 – request for intercept culvert in the SE 1/4 of Section 20 in Wisner Township

Loren Richards requested a new intercept culvert be installed on Drain #26 under Cass County Highway 34 in the southeast corner of the SE 1/4 of Section 20 in Wisner Township to improve drainage of the adjacent farmland. The SE 1/4 of Section 20 in Wisner Township is currently included in the Drain #26 maintenance assessment district. Blaine Laaveg indicated he will communicate his request with the Cass County Engineer as the culvert would need to be installed under Cass County Highway 34. The Board indicated Mr. Richards would need to purchase the culvert and discussed the culvert sizing.

It was moved by Manager Colwell and seconded by Manager Thompson to approve the installation of a new intercept culvert on Drain #26 in the SE 1/4 of Section 20 in Wisner Township, with the condition that Loren Richards purchases the culvert, and erosion protection into Drain #26 is installed, and with approval contingent upon installation of the culvert by Cass County, as the culvert will need to cross Cass County Highway 34. Cass County would then own and maintain the culvert. Upon roll call vote, the motion carried unanimously.

Mr. Richards indicated he will work with the Cass County Highway Department regarding the logistics and timing of the purchase and installation of the intercept culvert.

Complaint for Water-Related Issues from Kevin Hochhalter against Gebeke Farms for unpermitted drainage in the NE 1/4 of Section 28 in Arthur Township

Kurt Lysne updated the Board on the investigation of the *Complaint for Water-Related Issues* filed from Kevin Hochhalter against Gebeke Farms for unpermitted drainage in the NE 1/4 of Section 28 in Arthur Township. A report of the findings will be provided when the investigation is complete.

Drain #13 – erosion at the bridge between Sections 10 and 15 in Wisner Township

Brady Woodard stated Moore Engineering, Inc. collected the survey for the Drain #13 erosion at the bridge between Sections 10 and 15 in Wisner Township. Moore Engineering, Inc. continues to monitor the area and will bring the survey results to a future meeting.

Drain #23 – culvert replacement and associated intersection improvements project between Sections 1 and 12 in Gunkel Township and between Sections 6 and 7 in Gardner Township and right of way acquisition

Mr. Woodard updated the Board on the status of right of way acquisition on Drain #23.

The Secretary noted Gunkel Township inquired if there is a temporary solution for a culvert where the culvert band fell off, at the intersection between Sections 1 and 12 in Gunkel Township and between Sections 6 and 7 in Gardner Township on Drain #23. The Board indicated once right of way is acquired on Drain #23 for the associated culvert replacement project, the Board can move ahead with the project that will resolve the culvert issues in that area.

Drain #23 – slide in the NW 1/4 of Section 10 in Wisner Township

Mr. Woodard indicated he is searching for an available contractor for the Drain #23 slide repair project in the NW 1/4 of Section 10 in Wisner Township.

Drain #42 – slides east of Cass County Highway 31

Kurt Lysne updated the Board on the Drain #42 slides east of Cass County Highway 31. Moore Engineering, Inc. is looking into various repair options including reconstruction of the Drain #42 channel in this area or repairing slides individually. Once the cause of the slide has been determined, Moore Engineering, Inc. will bring back a recommendation regarding repair of Drain #42 slides east of Cass County Highway 31, for discussion.

Application for Subsurface Water Management System No. 202419 for Terry Meyers in Section 33 of Dows Township

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 202419*, filed August 7, 2024, by Applicant Terry Meyers. Under the Application, Applicant seeks to install a 309-acre drain tile system in Section 33 in Dows Township, Cass County, North Dakota, lying west of BNSF right of way. The project will include a single pump outlet, located in the northwest corner of the NW 1/4 of Section 33; the pump will discharge into the east road ditch along Cass County Highway 5; the discharge will flow north, under 17th Street SE, in the east road ditch along Cass County Highway 5 and along the west boundary of Section 28.

According to Cass County tax roll information, with regard to property where Applicant intends to install the tile system, Joan Baker owns the E 1/2 and the SW 1/4 of Section 33 and the Jerry A. Meyers Trust owns the NW 1/4 of Section 33. With regard to downstream property ownership one mile downstream from the project outlet, Cass County owns its County Highway 5 right of way and the Jay P. Schuler Revocable Living Trust owns the W 1/2 of Section 28.

Manager Thompson moved, and Manager Colwell seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202419*, filed August 7, 2024, for Terry Meyers regarding a proposed tile system in Section 33 in Dows Township; and to authorize the Secretary to sign *Subsurface Water Management Permit No. 202419*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the Cass County Highway Department's highway right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the North Cass Water Resource District.
4. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream of the project outlet.
5. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in Section 33 in Dows Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202419* in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #4, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written permission from the Cass County Highway Department to discharge into or otherwise utilize any of the County's Highway 5 right of way.
2. The Board recommends that Applicant obtain written permission from the owner of any property not owned by Applicant where Applicant intends to install project components.
3. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 202419*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, the Cass County Highway Department, Joan Baker, the Jerry A. Meyers Trust, the Jay P. Schuler Revocable Living Trust, and Cass Rural Water Users District. Applicant's detailed project design map is an exempt record and the Board will not provide copies to any third parties.

Utility Permit for Midco to install 1x1-1/4" HDPE pipe and 48F cable under the Elm River Tributary south of Cass County Highway 26 in the NE 1/4 of Section 1 in Rich Township

A motion was made by Manager Thompson and seconded by Manager Colwell to approve the *Utility Permit* for Midco to install 1x1-1/4" HDPE pipe and 48F cable under the Elm River Tributary south of Cass County Highway 26 in the NE 1/4 of Section 1 in Rich Township, with conditions provided by the Water Resource District Engineer, including the addition of the condition that the contractor shall be aware of the ongoing construction at adjacent Elm River Dam No. 3, and shall coordinate installation of the utility with the contractor for the improvement project at Elm River Dam No. 3, U.S. SiteWork Incorporated. Upon roll call vote, the motion carried unanimously.

Tree removal on North Cass Water Resource District facilities

Brady Woodard discussed a quote from a contractor to remove woody material from various North Cass Water Resource District facilities.

It was moved by Manager Thompson and seconded by Manager Colwell to approve and authorize the Chairman to sign the *Agreement* with Pro Landscapers LLC regarding removal of woody vegetation from various North Cass Water Resource District facilities, as presented. Upon roll call vote, the motion carried unanimously.

2024 facility inspections

Mr. Woodard presented the 2024 facility inspections report for North Cass Water Resource District facilities.

A motion was made by Manager Thompson and seconded by Manager Colwell to authorize Moore Engineering, Inc. to hire a contractor to complete repairs at the following sites:

- Drain #13 – Site #8
- Drain #16 – Site #5
- Drain #19 – Sites #1, #4, and #5
- Drain #23 – Site #8
- Drain #24 – Sites #1 and #2
- Drain #25 – Site #3
- Drain #26 – Site #2
- Drain #31 – Site #3
- Drain #32 – Site #4
- Drain #41 – Sites #1 (if necessary) and #2

Upon roll call vote, the motion carried unanimously.

Mr. Woodard noted Drain #18 – Site #2 is damage from a contractor, Mr. Woodard will reach out to the contractor to have them repair the damage.

The Board discussed Drain #22 – Site #1, erosion related to a subsurface water management system pump. The Board directed the Secretary to work with the Water Resource District Attorney and Engineer to send correspondence to the subsurface water management system owner regarding the requirement to maintain erosion control at the outlet to Drain #22.

The Board then discussed Drain #23 – Site #3 and directed Moore Engineering, Inc. to request the North Dakota Department of Transportation install a flap gate on the culvert at that site.

Discussion was then held on Drain #23 – Site #9, erosion related to a subsurface water management system pump. The Board directed the Secretary to work with the Water Resource District Attorney and Engineer to send correspondence to the subsurface water management system owner regarding the requirement to maintain erosion control at the outlet to Drain #23.

Discussion was then held on Drain #26 – Site #3, erosion related to a subsurface water management system pump. The Board directed the Secretary to work with the Water Resource District Attorney and Engineer to send correspondence to the subsurface water management system owner regarding the requirement to maintain erosion control at the outlet to Drain #26.

The Board then discussed Drain #55 – Site #2, where there is a swale going through the berm. Moore Engineering, Inc. will look into erosion control methods to protect the berm from erosion.

Bills

It was moved by Manager Colwell and seconded by Manager Thompson to approve the

payment of the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

Elm River Dam Nos. 1, 2 and 3 improvement projects construction updates

Manager Thompson briefly updated the Board on the construction progress of Elm River Dam Nos. 1, 2 and 3. The contractor is working on installation and backfilling of the main pipes on Elm River Dam Nos. 1, 2 and 3. The completion date for all three projects is November 30, 2024.

Adjournment

There being no further business to be considered by the Board, Manager Colwell motioned, and Manager Thompson seconded to adjourn the meeting. The motion carried unanimously.

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary