

MINUTES OF MEETING
NORTH CASS WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 22, 2015

The North Cass Water Resource District met on September 22, 2015, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Wes Ecker, Chairman; Robert Thompson, Manager; Ken Lougheed, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Brenda Lovgren, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Kurt Lysne, Engineer for the Board; Mary Scherling, Cass County Commissioner; and Jay Zimmerman, property owner in Gunkle Township.

Minutes

It was moved by Manager Thompson and seconded by Manager Lougheed to approve the minutes of the August 25, 2015, meeting, as presented. Upon roll call vote, the motion carried unanimously.

Drain #55 Channel Improvements

Kurt Lysne updated the Board regarding the Drain #55 Channel Improvements Project. The project was completed on September 11, 2015. The original completion date was August 1, 2015.

It was moved by Manager Ecker and seconded by Manager Lougheed to waive the Claim for liquidated damages against Northern States Excavating, Inc. and to pay Moore Engineering, Inc. for additional costs for project inspections due to the delay of project completion caused by weather conditions regarding the Drain #55 Channel Improvements Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Thompson to approve the *Certificate of Substantial Completion* for Northern States Excavating, Inc. regarding the Drain #55 Channel Improvements Project. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201510 for Brenda Larson in the NW 1/4 and NE 1/4 of Section 18 in Bell Township

The Board reviewed *Application to Install a Subsurface Drain #201510* dated July 13, 2015, for Brenda Larson. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the "statewide" elements; therefore, the Board concluded the application does not

propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the N 1/2 of Section 18 in Bell Township, Cass County, North Dakota. The project will include a pump outlet in the northeast corner of the NE 1/4 of Section 18; the pump will outlet into the south road ditch along the Section 7/18 east-west township road; from the northeast corner, the tile discharge will flow east through the south road ditch and through an existing culvert between the northeast corner of Section 18 and the NW 1/4 of Section 17; the tile discharge will continue to flow east through the south township road ditch.

The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1 to the owners of the N 1/2 N 1/2 of Section 17 in Bell Township. The Board will require Applicant to obtain flowage easements from those landowners to mitigate adverse impacts, including prolonged wetness in the township road ditch, cattail growth, and access issues. In addition, the Board will require Applicant to obtain permission from the township.

According to records on file with the Cass County Recorder's Office, Brenda Larson and Charlene Burggraf own the N 1/2 of Section 18, the property Applicant intends to tile. In addition, the Jerry Allan Larsen Trust, the Barbara Ann Larsen Trust, and Donna Rae Porter all own one-third interests in the N 1/2 N 1/2 of Section 17 in Bell Township.

It was moved by Manager Lougheed and seconded by Manager Thompson to approve *Application to Install a Subsurface Drain #201510* dated July 13, 2015, for Brenda Larson in the N 1/2 of Section 18 in Bell Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the N 1/2 N 1/2 of Section 17 in Bell Township, Cass County, North Dakota;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant obtain written permission from the Bell Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) That Applicant notify the North Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) That Applicant notify the North Cass Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;

6) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the North Cass Water Resource District; and

7) 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.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201513 for Dan Zimmerman in the NE 1/4 and SE 1/4 of Section 25 in Hunter Township

The Board reviewed *Application to Install a Subsurface Drain #201513* dated August 6, 2015, for Dan Zimmerman. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements; therefore, the Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the E 1/2 of Section 25 in Hunter Township, Cass County, North Dakota. The project will include a pump outlet located along the east boundary of the NE 1/4 of Section 25, at approximately the quarter-quarter line; the pump will discharge into the west township road ditch along the Section 25/30 township road (Section 25 in Hunter Township and Section 30 in Bell Township); the tile discharge will flow north through the west township road ditch until reaching the northeast corner of the NE 1/4 of Section 25; from there, the tile discharge will follow the natural drop to the east through an existing culvert between the northeast corner of Section 25 in Hunter Township and the NW 1/4 of Section 30 in Bell Township, through the south township road ditch along the east-west township road between Sections 24 and 25 in Hunter Township and Sections 19 and 30 in Bell Township; from there, the tile discharge will follow the natural slope to the east through the south township road ditch along the north boundary of Section 30 in Bell Township; the tile discharge will ultimately flow north near the northeast corner of Section 30, through an existing natural drain before entering a natural watercourse in the SE 1/4 of Section 19, at a point beyond the District’s one-mile jurisdictional limit from the pump outlet in the NE 1/4 of Section 25 in Hunter Township.

The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1 to landowners in the N 1/2 of Section 30. The Board will require Applicant to obtain flowage easements from the owners of the N 1/2 N 1/2 of Section 30 in Bell Township in light of adverse impacts the tile discharge will cause, including prolonged wetness, cattail growth, and access issues. In addition, the Board will require Applicant to obtain permission from both Hunter Township and Bell Township regarding use of the Townships’ township road ditches regarding the tile discharge.

According to records on file with the Cass County Recorder's Office, Lester Zimmerman owns the NE 1/4 of Section 25; Daniel and Mary Zimmerman own the SE 1/4 of Section 25; and John and Ann Porter own the N 1/2 N 1/2 of Section 30 in Bell Township.

It was moved by Manager Thompson and seconded by Manager Lougheed to approve *Application to Install a Subsurface Drain #201513* dated August 6, 2015, for Dan Zimmerman in the E 1/2 of Section 25 in Hunter Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the N 1/2 N 1/2 of Section 30 in Bell Township, Cass County, North Dakota;
- 2) That Applicant obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) that permits Applicant to install, operate, and maintain a subsurface tile drainage system from the owner of the NE 1/4 of Section 25, Hunter Township, Cass County, North Dakota;
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant obtain written permission from the Hunter Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 5) That Applicant obtain written permission from the Bell Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 6) That Applicant notify the North Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 7) That Applicant notify the North Cass Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;
- 8) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the North Cass Water Resource District; and
- 9) 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.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201518 for Jay Zimmerman in the NW 1/4 of Section 8 in Gunkle Township

The Board reviewed *Application to Install a Subsurface Drain #201518* dated September 16, 2015, for Jay Zimmerman; Jay Zimmerman was present to discuss the project. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements; therefore, the Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the NW 1/4 of Section 8 in Gunkel Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge directly into Cass County Drain #41; Applicant intends to install a 15-inch pipe through the south berm of Drain #41 to accommodate his tile discharge into Drain #41. The North Cass Water Resource District owns and operates Drain #41.

Because the proposed project will discharge directly into Drain #41, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners. The Board will require Applicant to obtain a Utility Permit regarding the proposed use of Drain #41 and Applicant’s plan to install a pipe through the North Cass Water Resource District’s berm, to protect the Drain.

Jay Zimmerman asked for permission to conduct a cleanout or to possibly alter the grade in Drain #41 to ensure his gravity outlet will be sufficient, and to avoid the necessity to run electricity to the outlet for a pump. However, the Board noted that Jay Zimmerman is not a licensed contractor and that altering the grade would require a new permit from the North Dakota Office of the State Engineer. Instead, Mr. Zimmerman agreed to reimburse the Board if the Board directed Moore Engineering, Inc. to conduct a survey to compare current conditions with surveys conducted when the Board previously administered a vote regarding Drain #41. If the survey reveals there is significant silt in the drain, the Board may ultimately procure a contractor to conduct a cleanout. Kurt Lysne estimated a survey of this nature would cost approximately \$1,200; Jay Zimmerman agreed to reimburse the Board for Moore Engineering Inc. costs. Mr. Lysne will notify Jay Zimmerman of the outcome of the survey and of the expense. The survey results may prompt Jay Zimmerman to modify his permit to include a pump outlet, in which case Mr. Zimmerman will amend his permit. It was moved by Manager Thompson and seconded by Manager Loughheed to authorize Moore Engineering, Inc. to conduct a survey of Drain #41 along Section 8 in Gunkel Township. Upon roll call vote, the motion carried unanimously.

According to records on file with the Cass County Recorder’s Office, Jay Zimmerman owns the NW 1/4 of Section 8 in Gunkel Township.

It was moved by Manager Thompson and seconded by Manager Lougheed to approve a *Utility Permit* to allow Applicant to discharge into, and otherwise utilize, Drain #41, and to approve *Application to Install a Subsurface Drain #201518* dated September 16, 2015, for Jay Zimmerman in the NW 1/4 of Section 8 in Gunkel Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant provide and maintain adequate erosion protection at any and all outlets into Cass County Drain #41 (Applicant is solely responsible for any damages to Cass County Drain #41 as a result of the tile project);
- 3) That Applicant notify the North Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 4) That, upon a determination by, and notice from, the North Cass Water Resource District that Drain #41 is full or otherwise unable to accommodate the discharge of water from Applicant's tile system, Applicant must turn off any and all pumps;
- 5) That Applicant notify the North Cass Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;
- 6) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the North Cass Water Resource District;
- 7) That Applicant obtain an approved *Utility Permit* from the North Cass Water Resource District regarding any and all outlets into Cass County Drain #41, and regarding Applicant's 15-inch pipe through the Drain #41 berm; and
- 8) 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.

Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Thompson and seconded by Manager Lougheed to approve payment of Checks #4026 through #4037 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Ecker, Thompson, and Lougheed. The Chairman declared the motion passed.

Adjournment

There being no further business to be considered by the Board, the meeting adjourned without objection.

APPROVED:

Wes Ecker
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer