

MINUTES OF SPECIAL MEETING
RUSH RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
NOVEMBER 25, 2015

The Rush River Water Resource District met on November 25, 2015, at 9:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Raymond Wolfer, Chairman; William A. Hejl, Manager (by phone); Carol Harbeke Lewis, Secretary-Treasurer; Brenda Lovgren, Administrative Assistant; and Mike Opat, Engineer for the Board. Manager Richard Sundberg and Sean M. Fredricks, Attorney for the Board, were absent.

Erie Dam – stop log structure and valve stem replacement

Sean Fredricks and Mike Opat met with the Cass County Park Board to request funding for repairs needed at Erie Dam. The Cass County Park Board does not have a mill levy for funding; however, the Cass County Commission finances the Park Board with general fund money. The Park Board could not promise funding or any dollars for future operation and maintenance, but the County may be willing to utilize sales tax money to fund portions of flood control operation and maintenance and general fund dollars to fund portions of water quality / fisheries operation and maintenance.

It was moved by Manager Hejl and seconded by Manager Wolfer to authorize the Water Resource District Attorney and Engineer to submit letters to the Cass County Park Board, State Water Commission and North Dakota Game and Fish Department to request funding participation for stop log structure and valve stem replacement at Erie Dam. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Hejl and seconded by Manager Wolfer to authorize the Water Resource District Attorney and Engineer to draft an agreement regarding Brewer Lake / Erie Dam operation and maintenance between the Cass County Park Board, North Dakota Game and Fish Department, State Water Commission and the Rush River Water Resource District. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201521 for North Dakota Ag Experiment Station in the NE 1/4 and SE 1/4 of Section 27 in Rush River Township

The Board reviewed *Application to Install a Subsurface Drain #201521* dated October 6, 2015, for North Dakota Ag Experiment Station/NDSU. 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 Office of the State Engineer

to consider and approve). Under the application, Applicant seeks to install a drain tile system in the E 1/2 of Section 27 in Rush River Township, Cass County, North Dakota. The project will include two pump outlets; the first outlet will discharge directly into BNSF Railway Company's right of way. Applicant will install the second pump in the southeast corner of Section 27 and the pump will discharge to the east, along the south boundary of Section 26 in Rush River Township, in the north township road ditch along the Section 26/35 section line township road.

The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code § 61-32-03.1 to BNSF Railway Company and the owners of the S 1/2 S 1/2 of Section 26. The Board will require Applicant to obtain permission from BNSF Railway Company to utilize its right of way as an outlet and will require Applicant to obtain flowage easements from the owners of the S 1/2 S 1/2 of Section 26. The project will result in adverse impacts downstream, including prolonged wetness, cattail growth, and potential access issues.

According to records on file with the Cass County Recorder's Office, the State of North Dakota owns that portion of the E 1/2 of Section 27 where Applicant intends to install the tile system. In addition, Yvonne McConnell owns the S 1/2 SW 1/4 of Section 26; and the Yvonne R. McConnell Trust owns the S 1/2 SE 1/4 of Section 26.

It was moved by Manager Hejl and seconded by Manager Wolfer to approve *Application to Install a Subsurface Drain #201521* dated October 6, 2015, for NDSU Ag Experiment Station in the E 1/2 of Section 27 in Rush River 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 S 1/2 S 1/2 of Section 26 in Rush River Township, Cass County, North Dakota;
- 2) That Applicant obtain written permission from BNSF Railway Company to discharge into or otherwise utilize any of its railroad right of way to convey Applicant's tile discharge;
- 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 Rush River Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 5) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 6) That Applicant notify the Rush River 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;

7) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Rush River Water Resource District; 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.

Adjournment

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

APPROVED:

Raymond Wolfer
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer