

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
March 9, 2021

The Richland County Water Resource Board ("RCWRB") met March 9, 2021 at 9:00 AM at the Richland County Courthouse.

THOSE PRESENT: Managers Clint Arndt, Arv Burvee, Mark Fahsholz (via Zoom), Gary Friskop, Don Moffet, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

THOSE ABSENT: None

Approval of Agenda

A motion was made by Mgr. Moffet, seconded by Mgr. Arndt, and unanimously carried to approve the agenda as presented.

Minutes

The February 23, 2021 minutes were presented. A motion was made by Mgr. Fahsholz and seconded by Mgr. Arndt to approve the February 23, 2021 minutes as presented. Upon roll call vote, the motion carried unanimously.

Financial Matters

● **February 2021 Financial Reports-** A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to accept the February 2021 financial reports as presented. Upon roll call vote, the motion carried unanimously.

● **Bremer Bank Letter of Credit-** 110% of the District's securities totaled \$7,584,377.05. Bremer Bank's Letter of Credit in the amount of \$7,900,000 adequately covers the District's funds.

Mail

- 1) Richland County Commission- Minutes of the February 2021 meetings.
- 2) North Dakota State Water Commission- Notice of Temporary Water Permit #ND2021-20447, issued to the City of Water. Source: Wahpeton Buried Valley Aquifer; Point of Diversion: S1/2 Section 2, West Dwight Township; Nature of Use: Aquifer Testing.
- 3) Office of the State Engineer- Copy of Fargo-Moorhead Metropolitan Flood Risk Management Construction Permit #2638 for the Interstate 29 grade raise project.
- 4) Office of the State Engineer- Copy of Fargo-Moorhead Metropolitan Flood Risk Management Southern Embankment Construction Permit #2489, which includes all southern embankment phases.
- 5) Red River Retention Authority- 2021 priority watershed project brochure/handout.

Applications

Application to Install a Subsurface Water Management System No. 21-003 for Lugert Land Limited Partnership in the SW1/4 Section 10, Belford Township

The District reviewed *Application to Install a Subsurface Water Management System No. 21-003*, dated January 23, 2021, and filed January 25, 2021, for Lugert Land Limited Partnership. Under the application, Applicant seeks to install a 155-acre drain tile system in the SW1/4 Section 10, Belford Township, Richland County, North Dakota. The project will include a single pump outlet located in the southeast corner of the SW1/4 Section 10; the outlet will discharge into the north road ditch along 86th Street SE; the discharge will flow east in the north road ditch, along the south boundary of the SE1/4 Section 10 until discharging into a natural watercourse.

The Board previously provided a THIRTY-DAY NOTICE to the owner of the SE1/4 Section 10, as required under N.D. Cent. Code § 61-32-03.1. In

addition, the Board provided a THIRTY-DAY NOTICE to Belford Township regarding the discharge into the township's road right of way. None of the downstream parties submitted any objection to the project. With that in mind, the Board does not have any legal authority to require Applicant to obtain consent from any downstream landowner. The Board will require Applicant to install and maintain erosion protection at the outlet into the Township's ditch.

Southeast Water Users District indicated they do not have any water lines in the SW1/4 Section 10.

According to records supplied by Applicant, Lugert Land Limited Partnership owns the SW1/4 10, Belford Township. With regard to downstream property, Alan Herbert Maas, Trustee of the Alan Herbert Maas Revocable Living Trust, owns the SE1/4 Section 10.

Manager Arndt moved, and Manager Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 21-003*, dated January 23, 2021, and filed January 25, 2021, for Lugert Land Limited Partnership regarding a proposed tile system in the SW1/4 Section 10, Belford Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 21-003, subject to the following conditions:

- 1) that Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) that Applicant install and maintain erosion protection at the outlet into Belford Township's road right of way; and
- 3) that Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Richland County Water Resource District.

Upon roll call vote, the motion carried unanimously.

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 will recommend that Applicant comply with the following:

- 1) that Applicant notify the Richland County 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;
- 2) that Applicant obtain written consent from Belford Township to discharge into or otherwise utilize its Township road right of way; and
- 3) 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.

Application to Install a Subsurface Water Management System No. 21-009 for Carson Klosterman in the NW1/4 Section 4, Barney Township

The District reviewed *Application to Install a Subsurface Water Management System No. 21-009*, dated February 23, 2021, and filed March 2, 2021, for Carson Klosterman. Under the application, Applicant seeks to install a 138-acre drain tile system in the NW1/4 Section 4, Barney Township, Richland County, North Dakota. The project will include a single pump outlet, with the pump located in the northeast corner of the NW1/4 Section 4; the

pump will discharge via a non-perforated pipe through 78th Street SE, and will outlet directly into Richland County Drain #95 on the north side of 78th Street, in the SW1/4 Section 34, Antelope Township. The Richland County Water Resource District owns and operates Drain #95.

Because the project will discharge directly into a legal assessment drain, no THIRTY-DAY NOTICES were necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1, and, therefore, the Board does not have any legal authority to require Applicant to obtain consent from any downstream landowners. The Board will require Applicant to install and maintain erosion protection at the outlet into Drain #95.

Southeast Water Users District has a blanket easement in the NW1/4 Section 4, Barney Township. Applicant entered into a letter agreement with Southeast Water Users in which Applicant agreed not to install any tile lines within 20 feet of Southeast Water Users' water line.

According to records supplied by Applicant, Carson Klosterman owns the NW1/4 Section 4, Barney Township.

Manager Friskop moved, and Manager Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 21-009*, dated February 23, 2021, and filed March 2, 2021, for Carson Klosterman regarding a proposed tile system in the NW1/4 Section 4, Barney Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 21-009, subject to the following conditions:

- 1) that Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) that Applicant install and maintain erosion protection at the outlet into Richland County Drain #95;
- 3) that Applicant will not install Applicant's tile system within 20 feet, on either side, of Southeast Water Users District's rural water line on the NW1/4 Section 4, Barney Township; and
- 4) that Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Richland County Water Resource District.

Upon roll call vote, the motion carried unanimously.

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 will recommend that Applicant comply with the following:

- 1) that Applicant notify the Richland County 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;
- 2) that Applicant obtain written consent from Barney Township and Antelope Township regarding Applicant's installation of any tile line within or through any of their respective township right of way; and
- 3) 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.

Application to Install a Subsurface Water Management System No. 21-010 for Dewey and Karen Hearst in the SE1/4 Section 7, Lamars Township

The District reviewed *Application to Install a Subsurface Water Management System No. 21-010*, dated February 19, 2021, and filed March 2, 2021, for Dewey and Karen Hearst. Under the application, Applicants seek to install a 110-acre drain tile system in the SE1/4 Section 7, Lamars Township, Richland County, North Dakota. The project will include a single gravity outlet located in the northeast corner of the SE1/4 Section 7; the outlet will discharge directly into Richland County Drain #31. The Richland County Water Resource District owns and operates Drain #31.

Because the project will discharge directly into a legal assessment drain, no THIRTY-DAY NOTICES were necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1, and, therefore, the Board does not have any legal authority to require Applicants to obtain consent from any downstream landowners. The Board will require Applicants to install and maintain erosion protection at the outlet into Drain #31.

Southeast Water Users District indicated they do not have any water lines in the Southeast Quarter of Section 7.

According to records supplied by Applicants, Dewey and Karen Hearst own the SE1/4 Section 7. Further, Michael Luick rents the SE1/4 Section 7.

Manager Arndt moved, and Manager Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 21-010*, dated February 19, 2021, and filed March 2, 2021, for Dewey and Karen Hearst regarding a proposed tile system in the SE1/4 Section 7, Lamars Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 21-010, subject to the following conditions:

- 1) that Applicants notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) that Applicants install and maintain erosion protection at the outlet into Richland County Drain #31.

Upon roll call vote, the motion carried unanimously.

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

- 1) that Applicants notify the Richland County 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; and
- 2) that Applicants 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.

Application to Install a Subsurface Water Management System No. 21-011 for Gary Osborn and Betty Osborn Revocable Trust in the SW1/4 Section 35, Lamars Township

The District reviewed *Application to Install a Subsurface Water Management System No. 21-011*, dated February 25, 2021, and filed March 2, 2021, for Gary Osborn and Betty Osborn Revocable Trust. Under the application,

Applicant seeks to install a 131-acre drain tile system in the SW1/4 Section 35, Lamars Township, Richland County, North Dakota. The project will include a single pump outlet, with the pump located in the NW1/4 SW1/4 Section 35, along the west boundary; the pump will discharge via a non-perforated pipe through 178th Avenue SE; on the west side of 178th Avenue, the pipeline will run to the west a short distance before daylighting and discharging into a natural watercourse in the N1/2SE1/4 Section 34. The natural watercourse flows to the northwest.

Because the project will discharge directly into a natural watercourse, no THIRTY-DAY NOTICES were necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1, and, therefore, the Board does not have any legal authority to require Applicant to obtain consent from any downstream landowners. The Board will recommend (but cannot legally require) that Applicant install and maintain erosion protection at the outlet into the natural watercourse in the SE1/4 Section 34.

Southeast Water Users District indicated they do not have any water lines in the SW1/4 Section 35 or in the N1/2SE1/4 Section 34.

According to records supplied by Applicant, Gary Osborn, as Trustee of the Gary Osborn and Betty Osborn Revocable Trust, owns the SW1/4 Section 35, Lamars Township. With regard to the N1/2SE1/4 Section 34, where Applicant will install a segment of the pipeline, Hattie Mauch owns the parcel, subject to a life estate in Wanda Mauch.

Manager Fahsholz moved, and Manager Friskop seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 21-011*, dated February 25, 2021, and filed March 2, 2021, for Gary Osborn and Betty Osborn Revocable Trust regarding a proposed tile system in the SW1/4 Section 35, Lamars Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 21-011, subject to the following conditions:

- 1) that Applicant notify the Richland County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 2) that Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Richland County Water Resource District.

Upon roll call vote, the motion carried unanimously.

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 will recommend that Applicant comply with the following:

- 1) that Applicant notify the Richland County 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;
- 2) that Applicant obtain written consent from Lamars Township regarding Applicant's installation of any tile line within or through any of Township's road right of way;
- 3) that Applicant install and maintain erosion protection at the outlet into the natural watercourse in the N1/2SE1/4 Section 34;
- 4) that Applicant obtain and record a pipeline easement from the owners of the N1/2SE1/4 Section 34, Lamars Township; and

5) 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.

Appl #21-012, 5K Farms LLLP: S1/2 Section 13, Nansen Township A motion was made by Mgr. Friskop and seconded by Mgr. Moffet to defer Drain Tile Appl #21-012 pending the 30 day notice to downstream landowners. Upon roll call vote, the motion carried unanimously.

Appl #21-013, Bryan Metcalf: NE1/4 Section 22, Antelope Township A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to defer the State Surface Drain Application pending the "*Evaluation of Surface Drain Application*" by Interstate Engineering. Upon roll call vote, the motion carried unanimously.

Proj #66A Study

Mike Bassingthwaite, of Interstate Engineering met with the Board; Gene and Cari Wefel were also present via Zoom.

Before proceeding with discussion of Proj #66A, the Secretary-Treasurer announced that on July 28, 2020, the Board conducted a conflict analysis regarding Mgr. Friskop's interest in property in the Drain #66A assessment district. The Board agreed the potential impacts to Mgr. Friskop's property, and his Mother's property Mgr. Friskop farms, create a clear "direct and substantial personal ... interest" in the matter, and that his conflict should preclude him from voting regarding a proposed project. However, the Board also agreed Mgr. Friskop understands that area better than any of the other Board Members and that he should still be allowed to participate in discussions regarding a project, just to provide context in light of his personal knowledge of the area. At the July 28, 2020 meeting, the Board declared that Mgr. Friskop has a conflict in the matter under Section 44-04-22 and passed a motion to preclude Mgr. Friskop from voting on matters related to Drain #66A.

Purpose of the meeting was for Mr. Bassingthwaite to review the draft Proj #66A Watershed Study with the Managers and to prepare for an informational meeting with the people in the assessment district. Mr. Bassingthwaite reviewed the Study with the Board with the main focus being on cleaning the Interstate 29 road ditches and Kube drain. Mr. and Mrs. Wefel expressed support for cleaning the Interstate road ditches. Office Staff will work with Mr. Bassingthwaite to finalize meeting details. (RCWRD #20-040).

Selzer Farms Drain Tile Project

In December 2020, the Board was informed of a tile project Selzer Farms anticipates doing in 2021. The issue discussed related to an assessment to Proj #12 for the SW1/4 Section 36, Viking Township. The land is currently assessed to Proj #14; however, the tile water will likely be taken south to Proj #12. The Managers wanted to know whether the tile project will include a closed outlet or if a culvert will be installed allowing surface water to also go to Proj #12. Ron Selzer was contacted and he indicated he is open to either option, depending on what the assessment to Proj #12 will be and if the assessment to Proj #14 will be reduced. Mr. Selzer asked for the Board's decision for both options.

After much discussion, the Board concluded the assessments should be as follows:

	<u>Proj #14</u>	<u>Proj #12</u>
Closed System	30%	30%
Open System	30%	50%

The Board will not take official action until the drain tile application is submitted to the District.

Legislative Update

HB 1437 passed on the House Floor by a vote of 94-0 and will now move to the Senate Ag Committee. That hearing is scheduled for March 11, 2021.

As previously reported, SB 2208 passed on the Senate Floor and has moved to the House Ag Committee. That hearing is also scheduled for March 11, 2021.

Adjournment

There being no further business to come before the Board, Chr. Burvee adjourned the meeting at 11:50 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Arv Burvee
Arv Burvee
Chairman of the Board