

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
May 25, 2021

The Richland County Water Resource Board ("RCWRB") met May 25, 2021 at 8:00 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. Friskop, and unanimously carried to approve the agenda as presented.

### **Minutes**

The April 27, 2021 minutes were presented. A motion was made by Mgr. Friskop and seconded by Mgr. Moffet to approve the April 27, 2021 minutes as presented. Upon roll call vote, the motion carried unanimously.

### **Financial Matters**

●**April 2021 Financial Reports**- A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to accept the April 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 \$7,807,946.18. Bremer Bank's Letter of Credit in the amount of \$8,450,000 adequately covers the District's funds.

●**May 2021 Vouchers**- Vouchers for the month of May 2021 were presented for the Board's review and approval. A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to approve Vouchers #18606 through #18625 and the electronic funds transfer for the IRS payment. Upon roll call vote, the motion carried unanimously.

### **Mail**

- 1) Richland County Commission- Minutes of the April 2021 meetings.
- 2) North Dakota Water Education Foundation- 2021 water tour schedule.
- 3) North Dakota Water Resource Districts Association- Notice of the July 13 and 14, 2021 meetings.
- 4) Cass Rural Water Users District- Copy of letter to Helendale Private Drain regarding work and costs associated with lowering their existing water lines to accommodate the Helendale Private Drain project.

### **Applications**

#### **Application to Install a Subsurface Water Management System #21-024 for Howard Frisk Revocable Trust in the W1/2 Section 4, Freeman Township**

The Board previously reviewed *Application to Install a Subsurface Water Management System #21-024*, dated April 20, 2021, and filed April 23, 2021, for Howard Frisk Revocable Trust. Under the application, Applicant seeks to install a 91-acre drain tile system in the W1/2 Section 4, Freeman Township, Richland County, North Dakota. The US Service Forest will not allow the Applicant to run the tile water west in the US Highway 27 road ditch across the S1/2 Section 5, Freeman Township. The Applicant submitted a letter to the District withdrawing the application; a new tile application (#21-029) for an alternate route has been submitted to the District.

No action was required by the Board due to withdrawal of the application, #21-024.

**Application to Install a Subsurface Water Management System #21-026 for 5K Farms LLLP in the SE1/4 and E1/2E1/2SW1/4 Section 13, Nansen Township**

The Board next reviewed *Application to Install a Subsurface Water Management System #21-026*, dated April 9, 2021, and filed April 23, 2021, for 5K Farms LLLP. The North Dakota Legislature enacted a new tile permitting statute during the 2021 Legislative session; however, Applicant submitted Application #21-026 before the new statute went into effect so the Board had to process the Application under the law in effect at the time Applicant submitted the Application.

Under the application, Applicant seeks to install a 185-acre drain tile system in the SE1/4 and E1/2E1/2SW1/4 Section 13, Nansen Township, Richland County, North Dakota. The project will include a single gravity flow outlet that will discharge via a pipeline commencing at the northeast corner of the SE1/4 Section 13; the pipeline will run diagonally to the northeast through 168<sup>th</sup> Avenue SE, to the southwest corner of the NW1/4 Section 18, Abercrombie West Township, where the pipeline will daylight and discharge into the east road ditch along 168<sup>th</sup> Avenue; the discharge will flow north in the east road ditch, along the west boundary of the NW1/4 Section 18; at the northwest corner of the NW1/4 Section 18, the discharge will turn and flow east in the south road ditch along County Road 8, along the north boundary of the NW1/4 Section 18; the discharge will ultimately drain into Richland County Drain #72 in the northeast corner of the NW1/4 Section 18.

According to records supplied by Applicant, 5K Farms LLLP owns the S1/2 Section 13, Nansen Township. With regard to downstream properties, Elizabeth J. Corcoran owns the NW1/4 Section 18, Abercrombie West Township. Richland County does not own its County Road 8 right of way in fee; instead, the County has statutory easement rights regarding its right of way.

The Board previously provided a THIRTY-DAY NOTICE to Ms. Corcoran as the downstream landowner, as required under N.D. Cent. Code § 61-32-03.1. The Board also provided NOTICES to the Richland County Highway Department, Nansen Township, and Abercrombie Township for their information as well. None of the downstream parties submitted any “technical evidence” to object to the project and, therefore, the Board does not have any legal authority to require Applicant to obtain consent from any downstream landowners. However, the Board does have legal authority to require Applicant to install and maintain erosion protection at any discharge into township road right of way.

Applicant contacted Southeast Water Users District and confirmed Southeast Water Users District does not have any water lines in the SE1/4 or E1/2E1/2SW1/4 Section 13.

Manager Friskop moved, and Manager Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System #21-026*, dated April 9, 2021, and filed April 23, 2021, for 5K Farms LLLP regarding a proposed tile system in the SE1/4 and E1/2E1/2SE1/4 Section 13, Nansen Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-026, 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 provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Abercrombie Township at any and all outlets into the Township’s road right of way.

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 permission from the Nansen Township Board and the Antelope Township Board to install a pipe through or to bore through 168<sup>th</sup> Avenue SE;
- 3) that Applicant obtain written permission from the Abercrombie Township Board to discharge into, or otherwise utilize, any of its township road ditches; and
- 4) 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 #21-028 for Dallas Loff in the NE1/4 Section 30, Abercrombie West Township**

The Board reviewed *Application to Install a Subsurface Water Management System 21-028*. Application #21-028 replaces previously filed Application #13-136 as that system was not installed.

Under the application, Dallas Loff seeks to install a 138-acre drain tile system in the NE1/4 Section 30, Abercrombie West Township. The project will include a single pump outlet located on the east boundary of the NE1/4NE1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Fahsholz moved, and Mgr. Friskop seconded the motion, to approve Appl #21-028 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-028, subject to the following  conditions:

- that Applicant install and maintain erosion protection at all outlets;
- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT 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;

that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition, Applicant's obligations to remove silt or vegetation, or 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.

Upon roll call vote, the motion carried unanimously.

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

that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road ditches; or to bore or cut through any township, county, or state roads and road ditches; and

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 #21-029 for Howard Frisk Revocable Trust in the W1/2 Section 4, Freeman Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-029*. Under the application, Howard Frisk seeks to install a 91-acre drain tile system in the W1/2 Section 4, Freeman Township. The project will include a single pump outlet located in the southwest corner of the SE1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Upon review of the Drain #12 assessment district, it was determined that the W1/2 Section 4, Freeman Township, is not currently assessed to Drain #12 but it is assessed to Drain #10 at a 100% benefit level. Because the project will introduce new drainage into the watershed area of Drain #12, and the land is not currently in the assessment district for Drain #12, the Managers discussed the benefit level to be assigned to the W1/2 Section 4 and the benefit level reduction to the Drain #10 assessment district since the tile water will be directed to Drain #12. N.D.C.C §61-32-03.1 allows a Water Resource District to add a parcel to an assessment district without conducting a lengthy and expensive reassessment process.

Mgr. Moffet moved, and Mgr. Fahsholz seconded the motion, to approve Appl #21-029 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-029, subject to the following  conditions:

that Applicant install and maintain proper erosion protection at all outlets;

- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT 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;
- that the Board will include the W1/2 Section 4, Freeman Township, in the Richland County Drain #12 assessment district at 25% benefit and reduce the current assessment to the Drain #10 assessment district to 75% benefit; and
- that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition, Applicant's obligations to remove silt or vegetation, or 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.

Upon roll call vote, the motion carried unanimously.

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

- that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road ditches; or to bore or cut any township, county, or state roads and road ditches; and
- 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 #21-030 for Klosterman Farms Inc in the NE1/4 Section 20, Ibsen Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-030*. Under the application, Klosterman Farms Inc seeks to install a 148-acre drain tile system in the NE1/4 Section 20, Ibsen Township. The project will include a single pump outlet located on the north boundary of the NE1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Friskop moved, and Mgr. Fahsholz seconded the motion, to approve Appl #21-030 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-030, subject to the following  conditions:

- that Applicant install and maintain proper erosion protection at all outlets;
- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT 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;
- that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition Applicant's obligations to remove silt or vegetation, or 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.

Upon roll call vote, the motion carried unanimously.

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

- that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road ditches; or to bore or cut through any township, county, or state roads and road ditches; and
- 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 #21-031 for Ben Haberman in the NW1/4 and S1/2 Section 19, Antelope Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-031*. Under the application, Ben Haberman seeks to install a 456-acre drain tile system in the NW1/4 and S1/2 Section 19, Antelope Township. The project will include a single pump outlet located on the east boundary of the NE1/4SE1/4. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Fahsholz moved, and Mgr. Friskop seconded the motion, to approve Appl #21-031 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-031, subject to the following  conditions:

- that Applicant install and maintain proper erosion protection at all outlets;
- that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;
- that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;
- that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;
- that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT 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;
- that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.

With regard to this condition, Applicant's obligations to remove silt or vegetation, or 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.

Upon roll call vote, the motion carried unanimously.

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

that Applicant obtain easements from the owners of any property not owned by the Applicant but on which the Applicant will install, construct, and maintain Applicant's tile system;

that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road ditches; or to bore or cut through any township, county, or state roads and road ditches; and

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 #21-032 for Todd Woodbury in the SW1/4 Section 16, SE1/4 Section 17, NE1/4 Section 20, and NW1/4 Section 21, Garborg Township**

The Board reviewed *Application to Install a Subsurface Water Management System #21-032*. Under the application, Todd Woodbury seeks to install a 580-acre drain tile system in the SW1/4 Section 16, SE1/4 Section 17, NE1/4 Section 20, and NW1/4 Section 21, Garborg Township. The project will include two pump outlets; one located on the east boundary of the SW1/4 Section 16 and one located in the SECR NE1/4 Section 20. The Board reviewed the application, design plan, water flow map, and all accompanying data submitted as part of the application.

Mgr. Fahsholz moved, and Mgr. Friskop seconded the motion, to approve Appl #21-032 and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT #21-032, subject to the following  conditions:

that Applicant install and maintain proper erosion protection at all outlets;

that Applicant re-establish all disturbed areas to previous conditions, including re-seeding;

that Applicant will not install Applicant's tile system within 20 feet, on either side of any rural water lines under any blanket easements, or otherwise beyond any existing easements the Rural Water District has for Applicant's property being tiled;

that Applicant must turn off any pump outlets and control structures during "critical flood periods," as determined by the Richland County Water Resource District;

that Applicant must apply for an amendment to this SUBSURFACE WATER MANAGEMENT PERMIT 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;

that Applicant remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to one mile downstream from a project outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile downstream of the proposed outlet, in which case the Applicant remove silt or vegetation, or repair erosion or scour damage only between the outlet and the discharge into the nearest assessment drain, natural watercourse, slough, or lake.



With regard to this condition, Applicant's obligations to remove silt or vegetation, or 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.

Upon roll call vote, the motion carried unanimously.

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

that Applicant obtain written permission from all applicable road authorities to discharge into, or otherwise utilize, any township, county, or state road ditches; to install, operate, and maintain buried pipe in any township, county, or state road ditches; or to bore or cut through any township, county, or state roads and road ditches; and

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.

Mgr. Arndt joined the meeting.

Obj #21-033, Todd Woodbury: SW1/4 Section 16, Garborg Township Counsel for Todd Woodbury submitted a Complaint for Water-Related Issues regarding allegations of an illegal dam or dike under Section 61-16.1-53 of the North Dakota Century Code, and allegations of an "Obstruction to a Drain/Natural Watercourse" under Section 61-16.1-51 of the North Dakota Century Code. In the Complaint, Mr. Woodbury alleges Loren Hegseth installed or constructed a structure in the SW1/4 Section 16, Garborg Township, in violation of Sections 61-16.1-51 and 61-16.1-53. Mgr. Friskop moved to authorize and direct Houston Engineering to investigate the matter and to prepare a written report. Mgr. Arndt seconded the motion. Upon roll call vote, the motion carried unanimously. Sean Fredricks, the District's legal counsel, provided records to Mr. Woodbury's counsel in response to an open records request, including records from 2009 regarding a structure Mr. Hegseth was constructing at that time. Once Houston Engineering prepares a written report, the Board will discuss the matter with Houston Engineering and Mr. Fredricks will provide a copy to Mr. Woodbury's counsel.

Appl #21-034 Bradley & Kimberly Pauly: NE1/4 Section 7, Center East Request for approval to construct a new roadway and ditches which will drain into Legal Drain SW #2 for Prairie Flats Addition, in the City of Wahpeton. It was noted that this application has been approved by the City of Wahpeton. A motion was made by Mgr. Arndt and seconded by Mgr. Friskop to approve the application to allow drainage into Legal Drain SW #2. Upon roll call vote, the motion carried unanimously. The Board acknowledged the ditch work involves less than an 80 acre watershed and therefore no state surface drain permit is required.

#### **Regional Conservation Partnership Program ("RCPP Project")**

Mike Bassingwaite, of Interstate Engineering, met with the Board at their request for the purpose of discussing the work still remaining to be completed for the Regional Conservation Partnership Program ("RCPP") report. Christi Fischer, of the NRCS, Randy Gjestvang, of the ND State Water Commission ("ND SWC"), and Keith Weston, of the Red River Retention Authority, were also in attendance.

Mr. Bassingthwaite apologized and told the Board he takes responsibility for the report not being done.

The Board was asked if there is support for a project? Concern was expressed about potential NRCS cost share assistance, given the likelihood none of the projects will reach a 1:1 benefit-cost ratio. Ms. Fischer explained that it may be possible to get a waiver on the benefit-cost ratio requirement if a project will show non-monetized benefits. Non-monetized benefits could include water quality and habitat.

Chr. Burvee asked for Mr. Gjestvang's input. Mr. Gjestvang indicated the ND SWC and Red River Joint Water Resource District are interested in flood detention. Mr. Weston will research types of vegetation that would be best for water quality improvements to include in the report as non-monetized benefits.

Mr. Bassingthwaite agreed to hold meetings with the people affected by the "Proj #95/Steve Mauch" project and the "Drain #15" project within the next two weeks. Mr. Bassingthwaite will also prepare the data for the "Interim Public Meeting" which everyone agreed should be held by the end of July. It is anticipated the draft plan will be ready for NRCS review by January 2022. A final public meeting will be held in 2022 after NRCS completes their review of the report and all necessary changes are made. The Board will not make any decisions regarding proceeding with a project until the report is completed, reviewed, and input received from the public. (RCWRD #16-017)

Ms. Fischer, Mr. Gjestvang, and Mr. Weston left the meeting.

Gene and Cari Wefel joined the meeting.

#### **Proj #66A/Kube Drain**

The Managers discussed potential work on Proj #66A including cleaning the drain and/or reconstructing the northern most  $\frac{3}{4}$  mile of the drain. Financial constraints were considered. Mr. Bassingthwaite will contact the ND SWC and report back to the Board on the possibility of receiving State cost share assistance for a reconstruction project in 2022. He will also provide the Board with a very preliminary cost estimate for reconstruction.

#### **Obj #21-035 Lance Meyer: SW1/4 Section 31, Fairmount South Township**

Lance Meyer filed a state complaint with the RCWRD on May 7, 2021, against Joe Sauter for an obstruction to a watercourse in the SW1/4 Section 31, Fairmount South Township. Interstate Engineering was asked to investigate and provide the District with a report of findings. Mr. Bassingthwaite submitted his report to the District; the report was reviewed with the Managers. Mgr. Burvee reported that on May 21<sup>st</sup>, he, Mgr. Friskop, and Mr. Bassingthwaite met with Mr. Meyer on site to discuss potential work that could be done to resolve the issue. Mgrs. Burvee and Friskop intend to also meet with Mr. Sauter on-site before the Board takes action on the complaint.

Mr. Bassingthwaite left the meeting.

#### **Proj #31 Reconstruction**

Chr. Burvee informed the Managers he recently met with Jim Miller; Jim and his brother, Jay, are willing to provide the necessary temporary right-of-way for the Proj #31 reconstruction project on their land in the NE1/4 Section 28, Devillo Township.

The District's cost share request for the remaining pre-construction engineering costs and the construction costs will be considered by the North Dakota State Water Commission at the June 8, 2021 meeting. (RCWRD #18-022)

### **Secretary-Treasurer Position**

Ms. Zentgraf informed the Board of her intentions to retire in early 2022. The Managers reviewed the advertisement for the District's Secretary-Treasurer Position. Consensus was to set a salary range of \$45,760 per year to \$52,000 per year. A motion was made by Mgr. Arndt and seconded by Mgr. Moffet, to proceed with advertising for a Secretary-Treasurer. Upon roll call vote, the motion carried unanimously.

### **2021 Drain Tile Law**

The Managers reviewed Mr. Fredricks documents for processing drain tile applications under the law passed during the 2021 Legislative Session. The Board also discussed the fees that can be charged, per the new law. A motion was made by Mgr. Friskop and seconded by Mgr. Fahsholz, to approve the herein recited "**RESOLUTION OF POLICY REGARDING TILE DRAINAGE APPLICATION FEES**". Upon roll call vote, the motion carried unanimously.

## **RICHLAND COUNTY WATER RESOURCE DISTRICT RESOLUTION OF POLICY REGARDING TILE DRAINAGE APPLICATION FEES**

WHEREAS, the Richland County Water Resource District (the "District") is a North Dakota water resource district and political subdivision under Chapters 61-16 and 61-16.1 of the North Dakota Century Code.

WHEREAS, the District supports tile drainage as a method of maximizing production potential for ag producers in Richland County.

WHEREAS, in accordance with Section 61-32-03.1 of the North Dakota Century Code, the District must process, consider, investigate, and approve each tile drainage application submitted to the District, also known as an "APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM," under Section 61-32-03.1 of the North Dakota Century Code.

WHEREAS, tile permit applications require the District to conduct certain reviews and investigations before the District can make final decisions, including determinations of land ownership, potential impacts of the system to legal drains or other infrastructure, and other considerations, all in accordance with Section 61-32-03.1.

WHEREAS, the tile application review criteria are technical and legal in nature, and require compliance with specific legal procedures that typically require the District to confer with engineering and legal consultants to ensure proper review and consideration.

WHEREAS, the District's general fund budget is comprised of those dollars generated by a maximum mill levy, as limited by applicable North Dakota law, and the District must utilize its general fund to finance and fund all of its operations, with the exception of assessment projects.

WHEREAS, the District must pay for the costs required to properly consider, investigate, and process all surface and subsurface drainage permit applications with the District's limited general fund dollars, and utilizing general fund dollars for processing permits severely limits the District's ability to construct, operate, maintain, and improve other projects and water infrastructure that could benefit all residents of Richland County.

WHEREAS, in light of the financial burden on the District's general fund as a result of the District's obligation to review, consider, investigate, and process all tile drainage permit applications in Richland County in accordance with North Dakota law, the District has concluded adoption of a formal policy regarding the expenses associated with all tile drainage applications is necessary.

WHEREAS, during the 2021 Legislative Session, the North Dakota Legislature enacted HB 1437 to amend Section 61-32-03.1, and to modify the tile

permitting process; one of the provisions of HB 1437 affords the District the ability to charge tile permit fees up to a maximum of \$500 per application.

NOW THEREFORE, BE IT RESOLVED that this RESOLUTION OF POLICY represents the District's official policy regarding tile permit application fees for purposes of reviewing, considering, investigating, and processing all tile drainage permit applications submitted to the District under Section 61-32-03.1.

BE IT FURTHER RESOLVED that the District will comply with its obligations to properly review, consider, investigate, and process all tile drainage permit applications in accordance with Section 61-32-03.1 of the North Dakota Century Code to ensure orderly and legal tile drainage in Richland County.

BE IT FURTHER RESOLVED that, in an effort to maintain sufficient dollars in its general fund to construct, operate, maintain, and improve other projects and water infrastructure for the benefit of all residents of Richland County, implementation and administration of a tile drainage permit fee policy is necessary.

BE IT FURTHER RESOLVED that, from the date of the District's approval of this RESOLUTION, the District's permit fee for each APPLICATION TO INSTALL A SUBSURFACE WATER MANAGEMENT SYSTEM is \$500 per application, due at the time the District receives the application.

BE IT FURTHER RESOLVED that if the District's costs incurred in the course of considering, investigating, and processing any application are less than the \$500 permit fee, the District will refund the remaining funds to the applicant.

BE IT FURTHER RESOLVED that this RESOLUTION OF POLICY supersedes any of the District's previous policies or practices regarding tile permit fees.

Date Approved: May 25, 2021

RICHLAND COUNTY WATER RESOURCE DISTRICT

*Arv Burvee*

Arv Burvee, Chairman

ATTEST:

*Monica Zentgraf*

Monica Zentgraf

Secretary-Treasurer

### **Broadleaf Weed and Tree Spraying**

Discussion was held regarding spraying the RCWRD legal drains and Richland-Sargent Joint Drain #1 for broadleaf weeds and trees. A motion was made by Mgr. Fahsholz and seconded by Mgr. Arndt authorizing Larson Helicopters to spray all drains for broadleaf weeds and trees with the exception of Projs #1, 17, 19, and 41 (N1/2SE1/4 Section 1, Mooreton Township and W1/2SW1/4 Section 6, Center West Township) and authorizing Chr. Burvee to sign the agreement between the District and Larson Helicopters. Upon roll call vote, the motion carried unanimously.

### **Technician's Report**

#### ●Proj #5(37):

Site #517- NE1/4 Section 13, Walcott West Township: Replace 15 inch x 24 foot cmp with 18 inch x 30 foot cmp and flap gate. Appl #21-036 was completed and a motion was made by Mgr. Moffet, seconded by Mgr. Friskop, and upon roll call vote unanimously carried to assign the stated project to Ehlert Excavating.

#### ●Proj #15:

Site #520- SE1/4 Section 1, Homestead Township: Replace 18 inch x 48 foot cmp and flap gate with same size. Appl #21-037 was completed and a motion was made by Mgr. Friskop, seconded by Mgr. Arndt, and upon roll call vote unanimously carried to assign the herein stated project to Ehlert Excavating.

●Proj #34:

Site #524- SW1/4 Section 29, Fairmount North Township: Replace 30 inch x 72 foot cmp. Appl #21-038 was completed and a motion was made by Mgr. Arndt, seconded by Mgr. Friskop, and upon roll call vote unanimously carried authorizing Interstate Engineering to complete a hydraulic study and provide a report on Site #524.

Chr. Burvee turned the meeting over to Vice Chr. Friskop; Chr. Burvee left the meeting.

●Proj #41:

Site #122- NE1/4 Section 24, Mooreton Township: Replace two 42 inch x 42 foot cmps. Appl #21-039 was completed and a motion was made by Mgr. Arndt, seconded by Mgr. Moffet, and upon roll call vote unanimously carried authorizing Interstate Engineering to complete a hydraulic study and provide a report on Site #122.

●Proj #72:

Appl #20-009, RCWRD:

Due to the significant number of culverts needing to be replaced on Proj #72 in the near future, Mr. Johnson recommended the erosion at Site #434 (NW1/4 Section 12, Abercrombie West Township) and Site #435 (SW1/4 Section 1, Abercrombie West Township) be monitored, as they are not priority repairs. Consensus of the Board was to dead file Appl #20-009 and monitor the sites.

●Proj #72:

Appl #20-026, RCWRD:

Site #462- SW1/4 Section 14, Nansen Township: Replace 64 inch x 43 inch cmp with same size.

Site #463- SE1/4 Section 14, Nansen Township: Replace 71 inch x 47 inch cmp with same size. A motion was made by Mgr. Arndt, seconded by Mgr. Moffet, and upon roll call vote unanimously carried to assign the herein stated projects to JBX.

●Proj #72:

Appl #21-002, Jeff Erbes: SE1/4 Section 14, Nansen Township: Mr. Johnson reported the Applicant's tile plan has changed, so the cleaning previously requested is not needed at this time. No action required by the Board.

**Adjournment**

There being no further business to come before the Board, Vice Chairman Friskop adjourned the meeting at 12:15 PM.

Respectfully submitted,

*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Vice Chairman of the Board