

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
October 27, 2020

The Richland County Water Resource Board ("RCWRB") met October 27, 2020 at 8:00 AM via teleconference.

THOSE PRESENT: Managers Arv Burvee (in office), Mark Fahsholz, James Haugen, Don Moffet, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf (in office).

THOSE ABSENT: Gary Friskop

Approval of Agenda

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

Minutes

The October 6, 2020 minutes were presented. A motion was made by Mgr. Haugen and seconded by Mgr. Fahsholz to approve the October 6, 2020 minutes as presented. Upon roll call vote, the motion carried unanimously.

Financial Matters

●**September 2020 Financial Reports**- A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to accept the September 2020 financial reports as presented. Upon roll call vote, the motion carried unanimously.

●**Bremer Bank Letter of Credit**- 110% of the District's securities totaled \$7,099,791.67. Bremer Bank's Letter of Credit in the amount of \$8,000,000 adequately covers the District's funds.

●**Vouchers**- Vouchers for the month of October 2020 were presented for the Board's review and approval. A motion was made by Mgr. Fahsholz and seconded by Mgr. Haugen to approve Vouchers #18463 through #18484 and the electronic funds transfer for the IRS payment. Upon roll call vote, the motion carried unanimously.

Mail

- 1) Richland County Board of Commissioners- Minutes of the September 2020 meetings.

Applications

Application to Install a Subsurface Water Management System No. 20-060 for Dustin Mauch in the S1/2 Section 12, Belford Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-060*, dated September 29, 2020, and filed October 19, 2020, for Dustin Mauch. Under the application, Applicant seeks to install a 310-acre drain tile system in the S1/2 Section 12, Belford Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the SE1/4 Section 12; the outlet will discharge into the west road ditch along County Road 1; the discharge will flow north in the County 1 road ditch, along the east boundary of the NE1/4 Section 12; at the corner of the northeast corner of the NE1/4 Section 12, the discharge will split and flow in two directions. One portion of the discharge will continue to flow north, through an existing culvert under 85th Street SE, and will continue north along the east boundary of Section 1. The other portion will turn to the east and flow through the existing culvert under County Road 1; the discharge will continue east in the south road ditch along 85th Street SE, along the north boundary of Section 7, Brandenburg Township.

The Application normally would have required THIRTY-DAY NOTICES to the downstream landowners within one mile of the project outlet, as required

under N.D. Cent. Code § 61-32-03.1. However, all of the downstream landowners within one mile of the project outlet executed “Notarized Letters of Approval” to consent to the project, and those executed letters obviated the need for the Board to provide any downstream notices. More specifically, the landowners in the NE1/4 Section 12 and the E1/2SE1/4 Section 1, Belford Township, and the N1/2NW1/4 Section 7, Brandenburg Township, all executed “Notarized Letters of Approval.” In addition, the Richland County Highway Department owns its County 1 highway right of way, and the Highway Department similarly executed a “Notarized Letter of Approval.”

Southeast Water Users District has a blanket easement across all of the S1/2 Section 12; 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, the following own the property in the S1/2 Section 12, Belford Township, where Applicant intends to install the tile system:

1. Steven Mauch owns the W1/2SW1/4 Section 12, subject to a life estate in Kenneth and Memory Mauch;
2. Applicant Dustin Mauch and Chad Mauch jointly own the W1/2E1/2SW1/4 Section 12, subject to a life estate in Wayne E. Mauch;
3. James and Diane Mauch own the E1/2E1/2SW1/4 Section 12, and 69.23 acres in the W1/2SE1/4 Section 12;
4. Dustin Mauch owns a 76.6-acre parcel in the SE1/4 Section 12, subject to a life estate in Wayne E. Mauch; and
5. James and Diane Mauch own a one-half interest in a 14.75-acre tract in the SE1/4 Section 12, but are selling their interests to C & D Farm Partnership under a contract for deed; Wayne E. Mauch owns the other one-half interest, but is similarly selling his interest to C & D Farm Partnership under contract for deed.

According to records supplied by Applicant, the following own the downstream property within one mile of the project outlet:

1. Brandi Hach owns the S1/2NE1/4 Section 12, Belford Township, subject to a life estate in Wayne E. Mauch;
2. James and Diane Mauch own the N1/2NE1/4 Section 12, Belford Township;
3. Richard and Kathleen Mauch own the E1/2SE1/4 Section 1, Belford Township;
4. O.W. Fenske, as Trustee of the Orville W. Fenske Trust, owns the N1/2NW1/4 Section 7, Brandenburg Township; and
5. Richland County Highway Department owns its County 1 right of way downstream of the project outlet.

Mgr. Moffet moved, and Mgr. Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-060*, dated September 29, 2020, and filed October 19, 2020, for Dustin Mauch, regarding a proposed tile system in the S1/2 Section 12, Belford Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-060, 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 will not install Applicant’ tile system within 20 feet, on either side, of Southeast Water Users District’s rural water line on the S1/2 Section 12;
- 3) that Applicant install and maintain erosion protection satisfactory to the Richland County Highway Department at the outlet into the County Road 1 road ditch; 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 permission from the Richland County Highway Department to discharge into, or otherwise utilize, any of the County’s highway right of way;
- 3) that Applicant obtain permission from Brandenburg Township to discharge into, or otherwise utilize, any of its road right of way; 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 No. 20-061 for Michael Hoffert in the N1/2 Section 13 and the SE1/4 Section 12, Homestead Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-061*, dated October 8, 2020, and filed October 16, 2020, for Michael Hoffert. Under the application, Applicant seeks to install a 386-acre drain tile system in the N1/2 Section 13 and the SE1/4 Section 12, Homestead Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner of the NE1/4 Section 13; the outlet will discharge into the west road ditch along 162nd Avenue SE; the discharge will flow north through the 162nd Avenue road ditch, along the east boundary of Section 12, Homestead Township.

The Application would normally have required THIRTY-DAY NOTICES to the downstream landowners in the E1/2 Section 12, as required under N.D. Cent. Code § 61-32-03.1; however, Applicant is an owner regarding the SE1/4 Section 12; Applicant is tiling the SE1/4 Section 12 as a component of the project under the Application. Further, the owners of the NE1/4 Section 12 executed a “Notarized Letter of Approval” to consent to the project. With that in mind, no downstream notices were necessary to downstream landowners under Section 61-32-03.1.

Southeast Water Users District has a blanket easement in N1/2 Section 13 and the SE1/4 Section 12, Homestead 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, Applicant Michael Hoffert owns the NE1/4 Section 13; Robert J. Hoffert owns the NW1/4 Section 13; and Michael and Barbara Hoffert own an undivided one-half interest, and Robert and Kathleen Hoffert own the other undivided one-half interest regarding the SE1/4 Section 12. With regard to downstream properties, Terry D. Kolbo and

Kathleen Kolbo, as Trustees of the T & K Kolbo Trust, own the NE1/4 Section 12, Homestead Township.

Mgr. Fahsholz moved, and Mgr. Haugen seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-061*, dated October 8, 2020, and filed October 16, 2020, for Michael Hoffert regarding a proposed tile system in the N1/2 Section 13 and the SE1/4 Section 12, Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-061, 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 the 162nd Avenue SE road ditch;
- 3) that Applicant will not install Applicant's tile system within 20 feet, on either side, of Southeast Water Users District's rural water lines in the N1/2 Section 13 and the SE1/4 Section 12, Homestead 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 permission from the Homestead Township Board of Township Supervisors to discharge into, or otherwise utilize, any 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. 20-062 for D.D.A.H. Klosterman Limited Partnership in the SE1/4 Section 21, Garborg Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-062*, dated October 20, 2020, and filed October 23, 2020, for D.D.A.H. Klosterman LP. Under the application, Applicant seeks to install a 145-acre drain tile system in the SE1/4 Section 21, Garborg Township, Richland County, North Dakota. The project will include a single pump outlet located near the southeast corner of the Southeast Quarter of Section 21; the outlet will discharge directly into Richland County Drain #7, a legal assessment drain owned by the Richland County Water Resource District.

Because the project will discharge directly into a legal assessment drain, no THIRTY-DAY NOTICES were necessary to any downstream landowners under

N.D. Cent. Code § 61-32-03.1. Further, because the project will discharge into a legal assessment drain, the Board cannot require Applicant to obtain consent from any downstream landowners as a condition to Applicant's permit. However, the Board will require Applicant to install and maintain erosion protection at the outlet into Drain #7, and to locate its tile pump at least 25 feet from the back slope of Drain #7 to protect the drain.

Applicant contacted Southeast Water Users District, and Southeast indicated they do not have any easements in the SE1/4 Section 21, Garborg Township.

According to records supplied by Applicant, D.D.A.H. Klosterman Limited Partnership, a North Dakota limited partnership, owns the SE1/4 Section 21, Garborg Township.

Mgr. Moffet moved, and Mgr. Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-062*, dated October 20, 2020, and filed October 23, 2020, for D.D.A.H. Klosterman LP regarding a proposed tile system in the SE1/4 Section 21, Garborg Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 20-062, 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 #7;
- 3) that Applicant set and install any drain tile pump at least 25 feet from the top of the back slope of Drain #7, with a pipe buried from the drain tile pump to Drain #7; 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; and
- 2) 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.

Technician's Report

Mr. Johnson provided an update on projects completed and currently being worked on by the contractors.

Richland-Sargent Joint WRD- RS #1 Ditch Cleaning

Mgr. Siemieniowski contacted Ms. Zentgraf about cleaning 1.5 miles of RS #1. The area to be cleaned is along the south side of the SE1/4 Section 35 and along the east side of the E1/2 Section 2, Kingston Township. Mgr. Siemieniowski reported that the Sargent County Board passed a motion at their October 15, 2020 meeting authorizing JBX to do the cleaning. A motion

was made by Mgr. Haugen and seconded by Mgr. Fahsholz authorizing JBX to clean RS #1 at the location as reported. Upon roll call vote, the motion carried unanimously. (RSWRD Appl #20-002)

Drain Tile Legislation

Office Staff provided an update on the drain tile legislation they are working on with Representative Schreiber-Beck, Ellingson Companies management, and Sean Fredricks, legal counsel for the Red River Joint Water Resource Board. A video conference meeting was held this past week with Levi Otis, of Ellingson Drainage, Representative Schreiber-Beck, and Mr. Fredricks to discuss the draft bill prepared by Mr. Fredricks. Mr. Fredricks will revise the draft bill as discussed during the meeting.

Adjournment

There being no further business to come before the Board, Vice Chr. Burvee adjourned the meeting at 9:05 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Arv Burvee
Arv Burvee
Vice Chairman of the Board