

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
October 6, 2020

The Richland County Water Resource Board ("RCWRB") met October 6, 2020 at 8:00 AM at the Richland County Courthouse.

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

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 September 22, 2020 minutes were presented. A motion was made by Mgr. Fahsholz, seconded by Mgr. Haugen, and unanimously carried to approve the September 22, 2020 minutes as presented.

Mail

- 1) None

Applications

Application to Install a Subsurface Water Management System No. 20-048 for Andrew Braaten in the SE1/4 Section 15, Homestead Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-048*, dated August 22, 2020, and filed August 27, 2020, for Andrew Braaten. Under the application, Applicant seeks to install a 154-acre drain tile system in the SE1/4 Section 15, Homestead Township, Richland County, North Dakota. The project will include a single pump outlet located in the southeast corner SE1/4 Section 15; the outlet will discharge into the north road ditch along County Road 10; the discharge will flow east through the County 10 road ditch, through an existing culvert under County Road 30; the discharge will continue through the County 10 road ditch, along the south boundary of Section 14.

The Board previously provided THIRTY-DAY NOTICES to the downstream landowners in the S1/2 Section 14, as required under N.D. Cent. Code § 61-32-03.1. The Board also provided a copy of the Notice to Southeast Water Users District and to the Richland County Highway Department, even though the Highway Department does not own its right of way in this area. None of the downstream landowners submitted any "technical evidence" to object to the project; with that in mind, the Board cannot require Applicant to obtain consent from any downstream landowners as a condition to the permit. However, the Board will require Applicant to install and maintain erosion protection in the County 10 ditch, and to turn off his pump when flooding is occurring downstream.

Southeast Water Users District has a blanket easement in the SE1/4 Section 15, 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 Andrew Braaten owns the SE1/4 Section 15, Homestead Township. With regard to downstream parcels, Mary Jean McGregor and Carolyn McGregor McMahon own the SW1/4 Section 14, and Lois C. Price owns the SE1/4 Section 14. The Richland County Highway Department does not own, nor does it have an

easement, regarding its County 10 right of way along the S1/2 Section 14; the County instead relies upon its statutory 33-foot easement rights.

Manager Fahsholz moved, and Manager Haugen seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-048*, dated August 22, 2020, and filed August 27, 2020, for Andrew Braaten regarding a proposed tile system in the SE1/4 Section 15, Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-048, 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 County Road 10 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 line on the SE1/4 Section 15, 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, Managers Burvee, Haugen, and Fahsholz voted in favor of the motion; Manager Moffet voted against the motion. Mgr. Friskop was absent and not voting. The motion carried.

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 its highway 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. 20-049 for Andrew Braaten in the NW1/4 Section 23, Homestead Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-049*, dated August 22, 2020, and filed August 27, 2020, for Andrew Braaten. Under the application, Applicant seeks to install a 149-acre drain tile system in the NW1/4 Section 23, Homestead Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner NW1/4 Section 23; the outlet will discharge into the south road ditch along County Road 10; the discharge will flow east through the County 10 road ditch, along the north boundary of the NE1/4 Section 23; the discharge will flow through an existing culvert under 161st Avenue SE, then will continue east in the County 10 road ditch, along the north boundary of the NW1/4 Section 24.

The Board previously provided THIRTY-DAY NOTICES to the downstream landowner in the NE1/4 Section 23, as required under N.D. Cent. Code § 61-32-03.1; Applicant owns the NW1/4 Section 24 so no notices were necessary regarding that property. The Board also provided a copy of the Notice to the Richland County Highway Department, even though the Highway Department does not own its right of way in this area. None of the downstream landowners submitted any “technical evidence” to object to the project; with that in mind, the Board cannot require Applicant to obtain consent from any downstream landowners as a condition to the permit. However, the Board will require Applicant to install and maintain erosion protection in the County 10 ditch, and to turn off his pump when flooding is occurring downstream.

Applicant contacted Southeast Water Users District and Southeast indicated they do not have any easements in the NW1/4 Section 23, Homestead Township.

According to records supplied by Applicant, Applicant Andrew Braaten owns the NW1/4 Section 23 and the NW1/4 Section 24, Homestead Township, and Robert David owns the NE1/4 Section 23. The Richland County Highway Department does not own, nor does it have an easement, regarding its County 10 right of way along Section 23 or the NW1/4 Section 24; the County instead relies upon its statutory 33-foot easement rights.

Manager Haugen moved, and Manager Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-049*, dated August 22, 2020, and filed August 27, 2020, for Andrew Braaten regarding a proposed tile system in the NW1/4 Section 23, Homestead Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-049, 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 County Road 10 road ditch; 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 permission from the Richland County Highway Department to discharge into, or otherwise utilize, any County Road 10 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. 20-055 for Wayne and Janice Ward in the NW1/4 Section 16, Ibsen Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-055*, dated September 28, 2020, and filed October 5, 2020, for Wayne and Janice Ward. Under the application, Applicants seek to install a 155-acre drain tile system in the NW1/4 Section 16, Ibsen Township, Richland County, North Dakota. The project will include a single pump outlet located in the northeast corner NW1/4 Section 16; the outlet will discharge into the south road ditch along 74th Street SE; the discharge will flow north, through an existing culvert under 74th Street, and directly into Richland County Drain No. 4(32), a legal assessment drain owned by the Richland County Water Resource District.

Because the project will discharge 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 Applicants' permit. However, the Board will require Applicants to install and maintain erosion protection in the township road ditch, and to turn off the project pump when flooding is occurring downstream.

Applicants contacted Southeast Water Users District and Southeast indicated they do not have any easements in the NW1/4 Section 16, Ibsen Township.

According to records supplied by Applicants, Janice Ward owns the NW1/4 Section 16, Ibsen Township.

Manager Fahsholz moved, and Manager Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-055*, dated September 28, 2020, and filed October 5, 2020, for Wayne and Janice Ward regarding a proposed tile system in the NW1/4 Section 16, Ibsen Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-055, 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;
- 2) that Applicants install and maintain erosion protection at the outlet into the 74th Street SE road ditch; and
- 3) that Applicants 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 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;
- 2) that Applicants obtain permission from the Ibsen Township Board of Supervisors to discharge into, or otherwise utilize, any township road right of way; and

3) 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.

Appl #20-056, Jeff Pankow: N1/2NW1/4 31, Waldo Township- The RCWRB acknowledged the application for drain tile was filed for notification purposes only. No State Subsurface Permit is required and no action is required by the RCWRB as the project involves less than 80 acres.

Technician's Report

•Contractor Updates-

Kummer Construction- Mr. Kummer has submitted his contractor's license, certificate of insurance, and equipment rates to the District. A motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and unanimously carried to recognize Kummer Construction as an Approved Contractor for the RCWRD.

Comstock Construction- The Pausch driveway culvert, located in the NW1/4 Section 18, Summit East, has been replaced. The contractor was going to move to Proj #10 next.

•Proj #3

Site #233: Section 6, Fairmount South Township- The Board previously approved replacing the low water crossing, located in the middle of the section, with a texas crossing; however, the landowner did not want the crossing replaced due to the extremely high cost and the Managers subsequently cancelled the project. The landowner recently contacted Mgr. Burvee to inquire about removal of the crossing since it is in disrepair. Mgr. Burvee reported to the Board that the crossing impedes the flow of water and recommended it be removed.

A motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and upon roll call vote, unanimously carried, to assign removal of the low water crossing to JBX. (RCWRD #20-018)

•Proj #3

Site #472: SWCR Section 36, Devillo Township- 24 inch cmp rusted out. Interstate Engineering hydraulic report recommended replacing the existing culvert with a new 24 inch cmp.

Site #473: NWCR Section 1, Lamars Township- Two 42 inch cmps rusted out. Interstate Engineering hydraulic report recommended replacing the existing culverts with two new 42 inch cmps.

A motion was made by Mgr. Haugen, seconded by Mgr. Moffet, and upon roll call vote, unanimously carried, to replace the culverts at Sites #472 and #473 as recommended and assign the project to JBX. (RCWRD #20-034)

•Proj #4(33)

Site #484: SWCR NW1/4 Section 13, Ibsen Township- 30 inch cmp rusted out. Interstate Engineering hydraulic report recommended replacing the existing culvert with a new 30 inch cmp.

A motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and upon roll call vote, unanimously carried, to replace the culvert at Site #484 as recommended and assign the project to Comstock Construction. (RCWRD #20-023)

•Proj #12

Site #492: SW1/4 Section 1, Garborg Township- Damage to drain from farm equipment.

Site #493: SE1/4 Section 1, Garborg Township- Damage to drain from farm equipment.

Before the Board proceeded with any substantive discussion regarding the damage to the drain, Mgr. Fahsholz indicated he may have a conflict in light of land he farms within the Drain #12 assessment district. More specifically, Mgr. Fahsholz farms the SE1/4 Section 12, Garborg Township.

Mgr. Haugen indicated he may have a conflict in light of land he owns within the Drain #12 assessment district in the SE1/4 Section 16, Freeman Township.

The Board's attorney, Sean Fredricks, previously indicated the Board is required by law to conduct a conflict analysis in these situations.

The law in North Dakota regarding conflicts, Section 44-04-22 of the North Dakota Century Code, provides the relevant standard. That statute provides:

A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

The North Dakota Supreme Court and the Attorney General's Office have taken narrow views of situations where a public official can abstain from participating in a matter. A public official must have a "direct and substantial personal or pecuniary interest" in the matter. The mere appearance of a conflict is not enough to allow the public official to refrain from participating, and a public official cannot unilaterally decide not to participate or to abstain from voting. The North Dakota Supreme Court adopted a "rule of necessity" that requires public officials to participate in matters before their respective boards. The public policy rationale is that public officials have a duty to vote on issues before them, and cannot avoid participation simply to avoid the appearance of impropriety. In other words, just the possibility that a Manager has some type of interest in a matter does not automatically afford that Manager the ability to abstain from any votes on the matter; rather, the Board must first conduct the requisite conflict analysis.

The Section 44-04-22 test requires a multi-step analysis. With regard to Mgr. Fahsholz's potential conflict, the question is whether or not the property he farms in the Drain #12 district creates a conflict and with regard to Mgr. Haugen's potential conflict, the question is whether or not the property he owns in the Drain #12 district creates a conflict. Under Section 44-04-22, the question is if the situation creates a "direct and substantial personal ... interest" conflict under Section 44-04-22. Any work required under this matter will not impact directly on property Mgr. Fahsholz farms or on property Mgr. Haugen owns. However, Mr. Fredricks previously indicated the North Dakota Supreme Court has held that a Manager's ownership or interest in real property within a drain assessment district qualifies as a technical conflict since the interest creates a "direct and substantial personal ... interest" regarding the property and the assessment district.

However, the existence of a technical conflict does not conclude the conflict analysis. The Board must next decide if the conflict should preclude Mgr. Fahsholz and Mgr. Haugen from participating in this matter or any votes regarding this matter.

In this situation, repairs which may be needed will not result in new assessments to property Mgr. Fahsholz farms or to property Mgr. Haugen owns; if the Board funds any of this work the Board would fund the work with the Drain #12 maintenance district, and the maintenance levy for Drain #12 will not vary depending upon this work. Further, Mgr. Fahsholz and Mgr. Haugen have more personal knowledge of the area, more familiarity with the

issues with Drain #12, and an understanding of the benefits the work may provide to the various properties in the Drain #12 assessment district. In light of Mgr. Fahsholz's knowledge of the watershed, Mgr. Haugen moved to declare that Mgr. Fahsholz does have a conflict in the matter under Section 44-04-22, but to require Mgr. Fahsholz to participate in discussions regarding this matter, and to vote on any work which may be needed. Mgr. Moffet seconded the motion. Upon roll call vote, the following Managers voted in favor of the motion: Burvee, Moffet, and Haugen; Mgr. Friskop was absent and not voting. Mgr. Fahsholz abstained from voting. The motion passed.

In light of Mgr. Haugen's knowledge of the watershed, Mgr. Fahsholz moved to declare that Mgr. Haugen does have a conflict in the matter under Section 44-04-22, but to require Mgr. Haugen to participate in discussions regarding this matter, and to vote on any work which may be needed. Mgr. Moffet seconded the motion. Upon roll call vote, the following Managers voted in favor of the motion: Burvee, Moffet, and Fahsholz; Mgr. Friskop was absent and not voting. Mgr. Haugen abstained from voting. The motion carried.

With the conflict issues concluded, the Board proceeded with discussion regarding the matter.

After viewing Mr. Johnson's photographs of the damage, and discussing the work needed, a motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and upon roll call vote, unanimously carried, to assign the repair work to Kummer Construction. Repair costs at Drain #12 expense. (RCWRD #20-025)

•Proj #19- At the September 15, 2020 meeting, the Board deferred Appl #20-052, submitted by Stuart Gunness and Group, for cleaning Proj #19 in the NW1/4 Section 2, Eagle South Township. Mr. Johnson recommended an engineer set grade stakes as needed as there are no culvert elevations to reference in some areas.

A motion was made by Mgr. Fahsholz, seconded by Mgr. Haugen, and upon roll call vote, unanimously carried, authorizing Kummer Construction to clean Proj #19 in the NW1/4 Section 2, Eagle South Township; Interstate Engineering to provide the necessary staking. (Gunness & Group #20-052)

•Proj #31- The Board next discussed an application for the Drain #31 assessment district. Under Application #20-057, Chris Johnson requested the District lower and extend an inlet culvert to Proj #31 in the NW1/4 Section 28, Summit West Township.

Before the Board proceeded with any substantive discussion regarding this application, Mgr. Burvee indicated he may have a conflict in light of land he owns and his family owns within the Drain #31 assessment district in Section 31, Devillo Township, Section 36, Waldo Township, and Section 6, Lamars Township.

The Board's attorney, Sean Fredricks, previously indicated the Board is required by law to conduct a conflict analysis in these situations.

The law in North Dakota regarding conflicts, Section 44-04-22 of the North Dakota Century Code, provides the relevant standard. That statute provides:

A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

The North Dakota Supreme Court and the Attorney General's Office have taken narrow views of situations where a public official can abstain from participating in a matter. A public official must have a "direct and substantial personal or pecuniary interest" in the matter. The mere appearance of a conflict is not enough to allow the public official to refrain from participating, and a public official cannot unilaterally decide not to participate or to abstain from voting. The North Dakota Supreme Court adopted a "rule of necessity" that requires public officials to participate in matters before their respective boards. The public policy rationale is that public officials have a duty to vote on issues before them, and cannot avoid participation simply to avoid the appearance of impropriety. In other words, just the possibility that a Manager has some type of interest in a matter does not automatically afford that Manager the ability to abstain from any votes on the matter; rather, the Board must first conduct the requisite conflict analysis.

Vice Chr. Burvee turned the meeting over to the Secretary-Treasurer at this time.

The Section 44-04-22 test requires a multi-step analysis. With regard to Mgr. Burvee's potential conflict, the question is whether or not the property Mgr. Burvee and his family owns in the Drain #31 district creates a conflict.

Under Section 44-04-22, the question is if the situation creates a "direct and substantial personal ... interest" conflict under Section 44-04-22. The culvert work will not have any impact directly on property Mgr. Burvee and his family owns. However, Mr. Fredricks previously indicated the North Dakota Supreme Court has held that a Manager's ownership or interest in real property within a drain assessment district qualifies as a technical conflict since the interest creates a "direct and substantial personal ... interest" regarding the property and the assessment district.

However, the existence of a technical conflict does not conclude the conflict analysis. The Board must next decide if the conflict should preclude Mgr. Burvee from participating in this matter or votes regarding this application.

The culvert work will not result in new assessments to property Mgr. Burvee owns, or property the Burvee family owns; the Board would fund the culvert work with the Drain #31 maintenance district, and the maintenance levy for Drain #31 will not vary depending upon this project. Further, Mgr. Burvee has more personal knowledge of the area, more familiarity with the issues with Drain #31, and an understanding of the benefits the culvert work may provide to the various properties in the Drain #31 assessment district. In light of Mgr. Burvee's knowledge of the watershed, Mgr. Fahsholz moved to declare that Mgr. Burvee does have a conflict in the matter under Section 44-04-22, but to require Mgr. Burvee to participate in discussions regarding this application, and to vote on the application. Mgr. Moffet seconded the motion. Upon roll call vote, the following Managers voted in favor of the motion: Moffet, Haugen, and Fahsholz; Mgr. Friskop was absent and not voting. Mgr. Burvee abstained from voting. The motion carried.

With the conflict issues concluded, the meeting was turned over to Vice Chr. Burvee and the Board proceeded with discussion regarding the application.

Mr. Johnson reported the request is to lower the inlet culvert 6 inches and extend it. He further reported Chris Johnson signed the NRCS O26 Waiver Form and that Chris purchased the extension and band and was planning to install the extension himself until he realized the culvert should be lowered. At that point Chris submitted Appl #20-057 for all of the work. Mr. Johnson also reported that he explained to Chris that he cannot work in the legal drains at his free will. Not only did Chris plan to extend this culvert, he also extended another inlet culvert further to the west of the culvert he submitted the request for. Concern was expressed about Chris working in the drain and without approval of the Board.

A motion was made by Mgr. Haugen, seconded by Mgr. Fahsholz, and upon roll call vote, carried unanimously, to approve Appl #20-057 and to assign the culvert work to Ehlert Excavating. It was noted that Chris will not be reimbursed for the culvert extension and band he purchased. Mr. Johnson will inspect the other culvert Chris extended and if cleanup work is needed, will have Ehlert Excavating do the necessary.

●Proj #58

Site #486: SW1/4 Section 5, Fairmount North Township- Damaged 15 inch flap gate. Mr. Johnson recommended replacing the gate.

Site #487: SW1/4 Section 5, Fairmount North Township- Rusted out 18 inch culvert and flap gate. Mr. Johnson recommended replacing the existing culvert and gate with same size.

Site #488- SW1/4 Section 5, Fairmount North Township- Someone removed the crossing that was used by the old railroad line. The Managers viewed photographs showing the mess left in the drain. Mr. Johnson reported that when Kevin Kutzer called him about all of these items on the drain he also expressed concern about the possibility of increased water flow to his land because of the crossing being removed. Mgr. Burvee does not feel it will cause a problem, but the Board will address it if a problem arises.

A motion was made by Mgr. Haugen and seconded by Mgr. Moffet that the party responsible for removing the crossing clean up the drain no later than November 1, 2020. Upon roll call vote, the motion carried unanimously. Mgr. Burvee will investigate to determine who removed the crossing and will notify the responsible party of the Board's directive concerning cleanup.

Appl #20-058 was completed and a motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and upon roll call vote, carried unanimously, to assign Sites #486 and #487 to JBX per Mr. Johnson's recommendations.

●Proj #72

Before proceeding with discussion of Appl #20-026 regarding erosion and culvert repairs on Proj #72, the Secretary-Treasurer announced that on August 18, 2020, the Board conducted a conflict analysis regarding Mgr. Fahsholz's ownership of property in the Drain #72 assessment district. At that meeting, the Managers declared Mgr. Fahsholz does have a conflict in the matter under Section 44-04-22, but to require Mgr. Fahsholz to participate in discussions regarding this application, and to vote on the application.

Mr. Johnson provided recommendations/comments regarding the following sites:

Site #458: NW1/4 Section 7, Abercrombie West Township- 71 inch x 48 inch cmpa; poor condition. Replace with same size cmpa.

Site #451: SW1/4 Section 1, Nansen Township- Erosion damage; water breaking out into field. Install 18 inch inlet culvert and flap gate.

Site #461: SW1/4 Section 1, Nansen Township- Erosion damage at inlet of culvert. Repair erosion.

Site #459: NE1/4 Section 34, Colfax West Township- 84 inch x 56 inch cmpa; bottom of culvert rusted. Monitor site per Mr. Johnson's previous discussion with Highway Department Engineer, as this culvert is through a county road and requires County cost-share.

Site #460: NW1/4 Section 2, Nansen Township- Erosion on south side of concrete wall. Make temporary repairs and monitor until Spring 2021. This is County Bridge #117-12 and will require County Engineer input and County cost-share.

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

Site #463: SE1/4 Section 14, Nansen Township- 71 inch x 47 inch cmpa; poor condition. Replace with same size cmpa.

Site #464: SE1/4 Section 14, Nansen Township- 73 inch x 55 inch cmpa; poor condition. JBX to make temporary repairs pending replacement with same size cmpa.

A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet authorizing Mr. Johnson to assign repairs to contractors for the above reported sites and as noted above. Upon roll call vote, the motion carried unanimously.

●Proj #95

Site #483: SW1/4 Section 2, Danton Township- 18 inch inlet culvert damaged on inlet end.

Before the Board proceeded with any substantive discussion regarding the damage to the culvert, the Secretary-Treasurer announced that on September 22, 2020, the Board conducted conflict analysis regarding land farmed by Mgr. Fahsholz, land owned by Mgr. Moffet, and land owned and farmed by Mgr. Moffet's family in the Drain #95 assessment district. At that meeting, the Managers declared Mgr. Fahsholz and Mgr. Moffet have a conflict in the matter under Section 44-04-22, but to require Mgr. Fahsholz and Mgr. Moffet to participate in discussions and to vote on matters related to Drain #95.

Mr. Johnson recommended the damaged end of the culvert be cut off and a 20 foot extension added.

A motion was made by Mgr. Fahsholz, seconded by Mgr. Haugen, and upon roll call vote, carried unanimously, to assign the recommended repairs to Kummer Construction. (RCWRD #20-030)

●Proj #97

Site #494: NW1/4 Section 16, Ibsen Township- Sediment at outlet end of inlet culvert.

Appl #20-059 was completed and a motion made by Mgr. Fahsholz, seconded by Mgr. Moffet, and upon roll call vote, unanimously carried, to assign the sediment removal at Site #494 to Kummer Construction.

Drain Tile Legislation

The 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. Mr. Fredricks is currently drafting a preliminary bill for the group to review.

Adjournment

There being no further business to come before the Board, Vice Chr. Burvee adjourned the meeting at 11:00 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Arv Burvee
Arv Burvee
Vice Chairman of the Board