

RICHLAND COUNTY WATER RESOURCE DISTRICT
Richland County Courthouse, Wahpeton, ND
September 15, 2020

The Richland County Water Resource Board ("RCWRB") met September 15, 2020 at 8:00 AM at the Richland County Courthouse.

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

THOSE ABSENT: Arv Burvee

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 August 25, 2020 and August 27, 2020 minutes were presented. A motion was made by Mgr. Fahsholz, seconded by Mgr. Moffet, and unanimously carried to approve the August 25, 2020 and August 27, 2020 minutes as presented.

Financial Matters

- **August 2020 Financial Reports**- A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to accept the August 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 \$7,251,281.44. Bremer Bank's Letter of Credit in the amount of \$8,000,000 adequately covers the District's funds.

Mail

- 1) Richland County Commission- Minutes of the August 2020 meetings.
- 2) Minnesota Department of Health ("MDH")- Notification of startup of Moorhead Surface Water Protection Plan and inquiry regarding RCWRD's interest in attending MDH committee meetings in an advisory role. The Managers chose not to take part in this committee.

Applications

Application to Install a Subsurface Water Management System No. 20-038 for Dustin Erickson and Jon and Paula Erickson in the N1/2 Section 21, Walcott West Township

The District next reviewed *Application to Install a Subsurface Water Management System No. 20-038*, dated July 31, 2020, and filed August 7, 2020, for Dustin Erickson and Jon and Paula Erickson. Under the application, Applicants seek to install a 216-acre drain tile system in the N1/2 Section 21, Walcott West Township, Richland County, North Dakota. The project will include a single pump outlet located in the NE1/4NE1/4 Section 21; the pump outlet will discharge into the south road ditch along 57th Street SE; the discharge will flow north through an existing culvert under 57th Street and into the north road ditch; the discharge will then flow east for a short distance before flowing into Red River Valley & Western Railroad's right of way in the SE1/4SE1/4 Section 16; the discharge will flow through an existing culvert under RRV&W's tracks, then east a short distance before discharging into Richland County Drain #5(37). Richland County Drain #5(37) is a legal assessment drain owned by the Richland County Water Resource District.

The Board previously provided THIRTY-DAY NOTICES to the downstream landowners in the SE1/4 Section 16 and to Red River Valley & Western

Railroad, as required under N.D. Cent. Code § 61-32-03.1; the Board also provided copies of the THIRTY-DAY NOTICE to Walcott Township. None of the downstream parties submitted any “technical evidence” to object to the project and, with that in mind, under Section 61-32-03.1, the Board cannot require Applicants to obtain consent from downstream landowners as a condition to their permit.

Applicants conferred with Cass Rural Water Users District and confirmed Cass Rural Water Users does not have any rural water lines on the property Applicants intend to tile.

According to records supplied by Applicants, Dustin Erickson owns the S1/2NE1/4, and the SE1/4NW1/4 Section 21. Jon and Paula Erickson own the N1/2 N1/2 Section 21. With regard to downstream properties, David Erickson and Zachary Erickson own the SE1/4SE1/4 Section 16, less Red River Valley & Western Railroad’s right of way and less the Board’s Drain #5(37) right of way.

Mgr. Fahsholz moved, and Mgr. Moffet seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-038*, dated July 31, 2020, and filed August 7, 2020, for Dustin Erickson and Jon and Paula Erickson, regarding a proposed 216-acre tile system in the N1/2 Section 21, Walcott West Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 20-038, 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 provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Walcott Township at any and all outlets into the Township’s right of way; 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 Walcott Township to discharge into, or otherwise utilize, any of the Township right of way;
- 3) that Applicants obtain permission from Red River Valley & Western Railroad to discharge into, or otherwise utilize, any of its right of way; and
- 4) 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. 20-047 for Corey Theede and Alton Theede, in the SE1/4 Section 32, Devillo Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-047*, dated and filed August 25, 2020, for Corey Theede and Alton Theede. Under the application, Applicants seek to install a 155-acre drain tile system in the SE1/4 Section 32, Devillo Township, Richland County, North Dakota. The project will include two gravity outlets, both located along the north boundary of the SE1/4 Section 32; both outlets will discharge directly into Richland County Drain #31, a legal assessment drain owned and operated 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 downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, because the project will discharge directly into a legal assessment drain, the Board cannot require Applicants to obtain any consent from downstream landowners as a condition to the permit. However, the Board can require Applicants to install and maintain erosion protection at the outlets into Drain #31 to protect the drain.

Applicants contacted Southeast Water Users District, and Southeast Water Users indicated they do not have any water lines in the SE1/4 Section 32.

According to records supplied by Applicants, Alton Theede owns the SE1/4 Section 32, Devillo Township.

Mgr. Moffet moved, and Mgr. Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-047*, dated and filed August 25, 2020, for Corey Theede and Alton Theede, regarding a proposed tile system in the SE1/4 Section 32, Devillo Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-047, 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 provide, install, and maintain adequate erosion protection at any and all outlets 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.

Appl #20-048, Andrew Braaten: SE1/4 Section 15, Homestead Township- A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to defer Drain Tile Appl #20-048 pending the 30 day notice to downstream landowners. Upon roll call vote, the motion carried unanimously.

Appl #20-049, Andrew Braaten: NW1/4 Section 23, Homestead Township- A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to defer Drain Tile Appl #20-049 pending the 30 day notice to downstream landowners. Upon roll call vote, the motion carried unanimously.

Mgr. Haugen joined the meeting.

Application to Install a Subsurface Water Management System No. 20-050 for Paul and Brigid Langseth, in the NW1/4 Section 12, Antelope Township

The District reviewed *Application to Install a Subsurface Water Management System No. 20-050*, dated and filed September 8, 2020, for Paul and Brigid Langseth. Under the application, Applicants seek to install a 160-acre drain tile system in the NW1/4 Section 12, Antelope Township, Richland County, North Dakota. The project will include two gravity outlets, both located along the north boundary of NW1/4 Section 12; both outlets will discharge via underground pipelines that will run under 73rd Street SE; both pipelines will daylight in the north road ditch along 73rd Street and will discharge directly into Richland County Drain #4(32), a legal assessment drain owned and operated 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 downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, because the project will discharge directly into a legal assessment drain, the Board cannot require Applicants to obtain any consent from downstream landowners as a condition to the permit. The Board will recommend that Applicants obtain consent from Antelope Township to install any pipeline within its road right of way.

Applicants contacted Southeast Water Users District, and Southeast Water Users indicated they do not have any water lines in the NW1/4 Section 12.

According to records supplied by Applicants, Paul and Brigid Langseth own the NW1/4 Section 12, Antelope Township.

Mgr. Moffet moved, and Mgr. Fahsholz seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 20-050*, dated and filed September 8, 2020, for Paul and Brigid Langseth, regarding a proposed tile system in the NW1/4 Section 12, Antelope Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 20-050, 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 provide, install, and maintain adequate erosion protection at any and all outlets into Richland County Drain #4(32).

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 written consent from Antelope Township to install and maintain pipeline within the Township's 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 #20-051, Stuart Gunness: N1/2NE1/4 Section 9, Colfax East 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.

Appl #20-052, Stuart Gunness: NW1/4 Section 2, Eagle South Township- Request to have Proj #19 cleaned. A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to defer the application pending contact with a contractor. Upon roll call vote, the motion carried unanimously.

Richland-Sargent WRD Appl #20-002, Section 1, Kingston Township & Section 6, Duerr West Township- Clean legal drain. A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet authorizing JBX to clean RS #1 in Section 1, Kingston Township and Section 6, Duerr West Township. Upon roll call vote, the motion carried unanimously. (The Sargent County Water Resource Board will also take action on this request at their September 17, 2020 meeting.)

Senator Larry Luick and North Dakota State Water ("NDSW") Commissioner Mike Anderson

Senator Larry Luick and NDSW Commissioner Mike Anderson met with the Board at this time. Their request to meet with the Board was for the purpose of discussing multiple issues including problems with the current drain tile law, inconsistencies being experienced across the state with how various matters are handled by Water Resource Districts, establishment of assessment districts and the notification and voting process for new legal drains, potential legislation being attempted to require the vote of the affected assessment district for reconstruction projects (not requiring an excess levy vote), increasing simple majority vote requirements to a higher percentage for passage, Water Resource Boards transparency, and State cost-share funding.

Senator Luick and Commissioner Anderson left the meeting.

2021 Budget

Mgr. Haugen reported that he met with the Richland County Commission earlier in the day regarding the District's 2021 budget. The Commission reduced the District's mill levy to three mills. Mgr. Haugen explained to the Commission the District's concern with continued reduction of the mill levy and the impact on future snagging and clearing projects. Commission Chr. Berg assured Mgr. Haugen they would try to increase the levy in the coming years.

Technician's Report

•Proj #3

Site #473, NWCR NW1/4 Section 1, Lamars Township- Two 42 inch culverts are rusted out.

Site #477, NECR SE1/4 Section 3, Lamars Township- 30 inch culvert is too short. Mr. Johnson recommended replacing and extending it to 65 feet.

Site #478, NWCR SW1/4 Section 2, Lamars Township- 18 inch culvert is too short. Mr. Johnson recommended replacing and extending it to 60 feet.

A motion was made by Mgr. Haugen and seconded by Mgr. Fahsholz to defer Site #473 pending a hydraulic study by Interstate Engineering. Upon roll call vote, the motion carried unanimously. (Appl #20-034)

A motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to replace and extend the culverts at Sites #477 and #478 as recommended and assign the work to Ehlert Excavating. Upon roll call vote, the motion carried unanimously. (Appl #20-034)

- Proj #31

Site #479, SE1/4 Section 32, Devillo Township- Corey Theede has a concern about water that broke out of the drain this summer in the SE1/4 Section 32; he feels the spoil bank should be raised for an approximate 100 foot distance.

Appl #20-053 was completed and a motion was made by Mgr. Fahsholz and seconded by Mgr. Moffet to approve raising the spoil bank and to assign the project to JBX. Upon roll call vote, the motion carried unanimously.

- Contractor Updates- Mr. Johnson provided a brief update on projects contractors have completed and are currently working on.

Adjournment

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 11:55 AM.

Respectfully submitted,

Monica Zentgraf
Monica Zentgraf
Secretary

Gary Friskop
Gary Friskop
Chairman of the Board