

Dickey County Water Resource District

MEETING MINUTES

August 17, 2022

8:00 a.m.

The Dickey County Water Resource District met at the Dickey County Courthouse on Wednesday, August 17, 2022 at 8:00 a.m. Managers Steve Hansen, Keith Hauck, Don Zimbleman, Justin Gemar and John Quandt were all present at the meeting. Sean Fredricks, the board's attorney and Nathan Trosen, Moore Engineering representative joined via video conference. Joey Gemar, Chad Ulmer and Erik Larson were also present.

Chairman Hansen called the meeting to order.

***Drew Courtney tile permit proposal***

***Application to Install a Subsurface Water Management System No. 2022-07 for Drew Courtney in the Southeast Quarter of Section 14, the Northeast Quarter of Section 13, and the West Half of Section 13 in Ada Township***

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 2022-07* filed July 21, 2022, by Applicant Drew Courtney. Under the Application, Applicant seeks to install a 160-acre drain tile system in the Southeast Quarter of Section 14, the Northeast Quarter of Section 13, and the West Half of Section 13 in Ada Township, Dickey County, North Dakota. The project will include two gravity outlets, both in the South Half of the Northeast Quarter of Section 13; both outlets will discharge directly into a natural drain or watercourse that flows south, across the Southeast Quarter of Section 13.

According to Dickey County tax data provided by Applicant, Francis and Deborah Maddock own the Northwest Quarter of Section 13 and the Southeast Quarter of Section 14; Kervin Olson owns the Southwest Quarter of Section 13; and the Dale and Karen Hansen Living Trust owns the Northeast Quarter of Section 13.

Manager Quandt moved, and Manager Zimbleman seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-07* filed July 21, 2022, for Drew Courtney, regarding a proposed tile project in the Southeast Quarter of Section 14, the Northeast Quarter of Section 13, and the West Half of Section 13 in Ada Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any outlet into the natural drain in the Northeast Quarter of Section 13 of Ada Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southeast Quarter of Section 14, the

Northeast Quarter of Section 13, or the West Half of Section 13 in Ada Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).

4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07 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.

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. The Board recommends that Applicant obtain and record easements to install and maintain tile system components from the owners of in the Southeast Quarter of Section 14, the Northeast Quarter of Section 13, and the West Half of Section 13 in Ada Township.
2. The Board recommends that Applicant obtain all other necessary and requisite licenses, permit, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-07, and Applicant's downstream flow map to the Department of Water Resources, Francis and Deborah Maddock, Kervin Olson, the Dale and Karen Hansen Living Trust, and Southeast Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

#### ***Chad Ulmer tile permit proposal***

#### **Application to Install a Subsurface Water Management System No. 2022-08 for Chad Ulmer in the Northwest Quarter of Section 30 in Wright Township**

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 2022-08* filed August 11, 2022, by Applicant Chad Ulmer. Under the Application, Applicant seeks to install a 125-acre drain tile system in the Northwest Quarter of Section 30 in Wright Township, Dickey County, North Dakota. The project will include a pump outlet located in the center of the Northwest Quarter of Section 30; the pump will discharge into an existing irrigation line owned by Applicant; the irrigation line runs to the northwest, under 82nd Street SE and 96th Avenue SE; the line runs across a portion of the Southeast Quarter of Section 24 of Porter Township; the line daylights and discharges into a slough or pond in the Southeast Quarter of Section 24.

According to Dickey County tax data provided by Applicant, Chad Ulmer owns the Northwest Quarter of Section 30 of Wright Township where Applicant intends to install the tile system, and the Southeast Quarter of Section 24 of Porter Township where Applicant's irrigation line and outlet will be located, all subject to a life estate in Lawrence and Deann Ulmer.

Manager Zimbleman moved, and Manager Gemar seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-08* filed August 11, 2022, for Chad Ulmer, regarding a proposed tile project in the Northwest Quarter of Section 30 in Wright Township, and to authorize the

Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-08, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any outlet into the slough or pond in the Southeast Quarter of Section 24 of Porter Township.
2. Applicant will turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Dickey County Water Resource District
3. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
4. Applicant will not install Applicant’s tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 30 in Wright Township under any blanket easements, or otherwise beyond the Water District’s existing easement(s).
5. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-08 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.

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. The Board recommends that Applicant obtain written consent from Wright Township and Porter Township to install or maintain Applicant’s irrigation/tile line within any of their respective road right of way.
2. The Board recommends that Applicant obtain all other necessary and requisite licenses, permit, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board’s NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-08, and Applicant’s downstream flow map to the Department of Water Resources, Wright Township, Porter Township, and Southeast Water Users District. Applicant’s detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

#### *Kyle Courtney tile permit proposal*

#### **Application to Install a Subsurface Water Management System No. 2022-09 for Kyle Courtney in the Northwest Quarter of Section 34 and the Southeast Quarter of Section 34 of Hudson Township and the Northeast Quarter of Section 3 of Port Emma Township**

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 2022-09* filed August 15, 2022, by Applicant Kyle Courtney. Under the Application, Applicant seeks to install a 480-acre drain tile system in the Northwest Quarter of Section 34 and the Southeast Quarter of Section 34 of Hudson Township, and the Northeast Quarter of Section 3 of Port Emma Township, Dickey County,

North Dakota. The system in Hudson Township will connect to the system in the Northeast Quarter of Section 3 of Port Emma Township via a tile line under 96th Street SE. The project will include a gravity outlet that will discharge via a tile line that will run from the east boundary of the Northeast Quarter of Section 3 of Port Emma Township; the line will run to the east, under 106th Avenue SE and will continue east across a portion of the Northwest Quarter of Section 2 of Port Emma Township; the line will daylight and discharge into a natural drain in the Northwest Quarter of Section 2.

According to deeds provided by Applicant, Kyle Courtney owns the Northwest Quarter of Section 34 of Hudson Township; Kurt and Geraldine Courtney and Robert and Brenda Courtney own the Southeast Quarter of Section 34 of Hudson Township; and Robert and Brenda Courtney own the Northeast Quarter of Section 3 of Port Emma Township, subject to a contract for deed in favor of Kyle Courtney. With regard to downstream property where Applicant intends to install and maintain a project pipeline and outlet, Robert and Erica Thorpe own the North Half of the Northwest Quarter of Section 2 of Port Emma Township; and Cheryl Becker owns the South Half of the Northwest Quarter of Section 2 of Port Emma Township, subject to a contract for deed in favor of Lynn and Ruby Voightman, Trustees of the Voightman Family Trust.

Manager Gemar moved, and Manager Quandt seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2022-09* filed August 15, 2022, for Kyle Courtney, regarding a proposed tile project in the Northwest Quarter of Section 34 and the Southeast Quarter of Section 34 of Hudson Township, and the Northeast Quarter of Section 3 of Port Emma Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-09, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any outlet into the natural drain in the Northwest Quarter of Section 2 of Port Emma Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 34 of Hudson Township, the Southeast Quarter of Section 34 of Hudson Township, or the Northeast Quarter of Section 3 of Port Emma Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-09 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.

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. The Board recommends that Applicant obtain and record easements to install and maintain tile system components from the owners of the Southeast Quarter of Section 34 of Hudson Township and the owners of the Northeast Quarter of Section 3 of Port Emma Township.

2. The Board recommends that Applicant obtain and record easements to install and maintain a tile line and outlet from the owners of the Northwest Quarter of Section 2 of Port Emma Township.
3. The Board recommends that Applicant obtain written consent from Hudson Township and Port Emma Township to install or maintain any tile lines or other project components within any of their respective road right of way.
4. The Board recommends that Applicant obtain all other necessary and requisite licenses, permit, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION and SUBSURFACE WATER MANAGEMENT PERMIT NO. 2022-09 to the Department of Water Resources, landowners where Applicant intends to install the tile system, downstream landowners where Applicant intends to install the project outlet, Hudson Township, Port Emma Township, and Southeast Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

#### ***Wright Township discussion***

Joey Gemar, representing Wright Township, gave the board an update of the progress the Wright Township Board of Township Supervisors has made in regards to replacing culverts and getting bids on the project they presented at the previous meeting. Mr. Gemar stated that they had received a bid from Dakota Improvement and will present that bid and their proposal to the County Commissioners in a future meeting for their approval and response. The Township is requesting cost-share from the County Commission. Mr. Gemar then indicated the Township would like the Board to consider a proposal regarding the Yorktown-Maple Project. Chad Ulmer, also appearing on behalf of the Township, indicated he and the Township would like the Board to consider an addition to the Yorktown-Maple project to the North approximately 3 ½ miles. Wright Township will need to decide if they want the Board to pursue an extension as a legal assessment project, and as a legal extension of the Yorktown-Maple project, or if the parties would want to pursue this as a private project. If the parties would like the Board to pursue a legal extension, that would basically require new legal assessment drain proceedings, including a legal assessment vote. That would require interested parties to sign a petition and to submit bond dollars as security for the Board's general fund; if the resulting assessment vote were successful, the Board would reimburse those parties but if the vote failed, the Board would retain those dollars, as a means of protecting the Board's general fund. If the Board pursued the project as an assessment project, the Board could access cost-share dollars from the North Dakota State Water Commission, and the Board would then manage the extension in perpetuity with annual maintenance levies. If the parties wish to pursue the matter privately, they would have to apply for a surface drainage permit; the application would go to the State, and the State would then forward the application to the Dickey County Water Resource District for consideration and approval. The Board notified Mr. Ulmer that he could anticipate the Board would require the permit applicants to obtain easements from landowners along the course of the project, as a condition to any approved permit.

Chad Ulmer and the Township will consider, and the Board will revisit this issue next meeting.

#### ***Dickey County Drain #1 discussion***

Manager Gemar gave discussion on the progress that Dakota Improvement has made replacing culverts and finishing up the clean out of Dickey County Drain #1. In its appearance, the drain is flowing efficiently,

with the exception of new beaver dams which needs to be addressed. Manager Gemar will instruct the trapper that the board had hired to take care of the matter as soon as possible.

***July Minutes***

Manager Quandt moved to approve the July 20, 2022 meeting minutes. Manager Gemar seconded the motion. Upon roll call, the motion passed unanimously.

***Financial statement and bills***

The board considered bill from Ohnstad Twichell of \$1673.84, Moore Engineering of \$185.00, Dakota Improvement of \$9330.00, Dakota Helicopter of \$533.91 and Sargent County Water Resource District of \$254.79. Secretary Hansen gave the financial report. Manager Zimbleman moved to approve the bills and financial statement. Manager Gemar seconded the motion. Upon roll call, the motion passed unanimously.

There being no further business to discuss, the meeting was adjourned.

**APPROVED:**

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Steve Hansen, Chairman

ATTEST:

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Judy Hansen, Secretary