

## MINUTES OF THE EDDY COUNTY WATER RESOURCE BOARD

August 18, 2022

A special meeting of the Eddy County Water Resource Board was held on August 18, 2022 at 8:30 AM at the Eddy County Courthouse. Board members Monty Schaefer and Mike Tweed, and Secretary/Treasurer, Travis S. Peterson, were present in the basement of the Eddy County Courthouse.

The only matter on the agenda for this special meeting is:

### **Justin Topp Drain Tile Application:**

#### **Application to Install a Subsurface Water Management System No. 2022-004 for Justin Topp in the S1/2 of Section 32, Township 148, Range 66 (Superior Township)**

The Board reviewed the Application to Install a Subsurface Water Management System No. 2022-004 filed July 19, 2022, by Applicant, Justin Topp. Under the application, Applicant seeks to install a 120 acre drain tile system in the S1/2 of Section 32 in Superior Township, Eddy County, North Dakota. The project will include a single pump outlet on Applicant's property along the south boundary of the S1/2 of Section 32 and discharge into Kelly Creek. Water will flow south in Kelly Creek and through a culvert in 12<sup>th</sup> Street NE. The project includes three surface inlets with 3/8ths inch coefficient.

According to the county tax roll information supplied by Applicant, Justin K. Topp and Amanda S. Topp own the S1/2 of Section 32, Township 148, Range 66 in Superior Township where Applicant intends to install the tile system.

Tweed moved, and Schaefer seconded the motion, to approve Application to Install a Subsurface Water Management System No. 2022-004 filed July 19, 2022, regarding a proposed tile system for Justin Topp in the S1/2 of Section 32, in Superior Township, subject to the following conditions:

1. That Applicant install and maintain erosion protection at any and all outlets;
2. That Applicant re-establish any areas disturbed installing or maintaining Applicant's tile system;
3. That Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines that may exist in the S1/2 of Section 32 in Superior Township under any blanket easements, or otherwise beyond any existing water line easements;
4. That Applicant install and operate control structures at any and all outlets, including the requirement that the control structures be closed or pump outlets be turned off during critical flood periods;
5. That Applicant must apply for an amendment to Subsurface Water Management Permit No. 2022-004 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; and
6. That Applicant remove silt and vegetation or repair erosion and scour damages directly caused by the tile system, up to one mile downstream from any and all outlets.
  - a. Downstream damage repair does not include deepening or widening a road ditch or existing drain.
  - b. The timing and method of silt and vegetation removal or damage repair in a county or township road ditch must be pre-approved by the appropriate road authorities.
  - c. Applicant shall follow any construction site protection requirements of the road authority.
  - d. If a downstream landowner or road authority presents substantial evidence that Applicant's tile system directly caused accumulation of silt, vegetation, erosion or scouring, Applicant shall remove the silt and vegetation or repair the erosion and scour damages directly caused

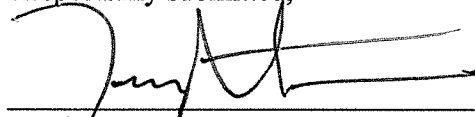
by the tile system. However, Applicant may not spread silt, vegetation or debris along adjoining land without the permission of all parties having a legal interest in the land.

Under NDCC 61-32-03.1, the water 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 water board recommends 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.

Upon vote, the above motion carried unanimously. Travis Peterson will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit 2022-004, Applicant's Downstream Flow Map and the Eddy County Permit Form to the Department of Water Resources and Superior Township. Under the current tile law, Applicant's detailed project design map is an exempt record and the water board will not provide copies to any third parties.

There being no further business the meeting was adjourned at 8:45 AM.

Respectfully submitted,



Travis S. Peterson, Recording Secretary

APPROVED:



Kenneth Reis, Chairman