

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
APRIL 28, 2022

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on April 28, 2022, at 8:00 a.m.

Present were Dan Jacobson and Keith Weston, Southeast Cass Water Resource District; Rodger Olson, Maple River Water Resource District; Ken Lougheed, North Cass Water Resource District; Jacob Gust, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Maertens, Administrative Assistant; Sean M. Fredricks, Chris McShane, Luke Andrud and Katie J. Schmidt, Ohnstad Twichell, P.C.; Lyndon Pease, Kurt Lysne and Alexa Ducioame, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman Attorneys; Eric Dodds, Dean Vetter and Sabrina Tusa, AE2S; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, Lee Kaffar, Wade Whitworth and Kelsey Lee, HDR, Inc.; Ken Helvey and Lisa Kilde, SRF Consulting Group, Inc.; Lisa Brekkestran and Drew Nicklay, Ulteig Engineers, Inc.; Duane Breitling, Cass County Commissioner; Joel Paulson, Diversion Authority Executive Director; Jodi Smith, Diversion Authority Director of Lands; John Albrecht, Jacobs; Matt Stamness, Cass County Highway Department; Leo Richard and Terry Sauvageau, Stanley Township property owners; Anita Beauchamp, Joleen Loewen and Katrina Olson, Pleasant Township property owners.

**Agenda**

It was moved by Manager Lougheed seconded by Manager Gust and unanimously carried to approve the order of the agenda, as presented.

**Minutes**

It was moved by Manager Weston, seconded by Manager Lougheed and unanimously carried to approve the minutes of the April 14, 2022, meeting.

**Metro Flood Diversion Project – project updates and general topics**

Eric Dodds discussed the Property Acquisition Status Report regarding the Metro Flood Diversion Project.

Mr. Dodds reviewed a discussion at the previous Water Resource District meeting regarding moving a majority of the Metro Flood Diversion Project topics to the second meeting of the Water Resource District every month, starting in May. This would allow more time for preparation of the Metro Flood Diversion Project items to be discussed

during the meetings, as well as more time for land agents and other consultants to work on Metro Flood Diversion Project matters. The Board was receptive to the idea as proposed.

Mr. Dodds and Jodi Smith reviewed a list of Memorandums of Understanding or Agreements with North Dakota jurisdictions as they relate to material stockpiles and the availability of the material to those jurisdictions regarding the Metro Flood Diversion Project. Brief discussion was held regarding ongoing negotiations with Warren and Raymond Townships to execute a Memorandum of Understanding regarding material stockpiles.

Mr. Dodds reported on improvements to the Rural Impact Mitigation Program.

Chris McShane reported on formal negotiation updates regarding the Metro Flood Diversion Project.

Mr. Dodds reported the Corps of Engineers is analyzing the Drain #27 Wetlands Restoration Project based on the status of property acquisition needed. It is anticipated there will be a base bid and an alternate bid regarding the project. The base bid could be awarded in the near future with the property that has been acquired for the project.

**Metro Flood Diversion Project – appraisal / RHDP review / approval**

It was moved by Manager Gust and seconded by Manager Loughheed to approve the appraisal for OINs 2039 and 2041, with an effective date of April 7, 2022, as an estimate of just compensation for acquisition of property regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – acquisition review / approval**

Dean Vetter updated the Board on the Acquisition Timeline Status Summary regarding the Metro Flood Diversion Project.

**Metro Flood Diversion Project – Executive Session for purposes of discussing ongoing contract negotiations and attorney consultation regarding ongoing litigation associated with right of way acquisition to accommodate the Metro Flood Diversion Project, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9)**

It was moved by Manager Weston and seconded by Manager Gust to close the meeting at 8:27 a.m. for the purposes of discussing ongoing contract negotiations and attorney consultation regarding ongoing litigation associated with right of way acquisition to accommodate the Metro Flood Diversion Project, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9) regarding the following matter:

1. Cass County Joint Water Resource District v. Karn E. Jameson, et al, Civil File No. 09-2021-CV-03903 (OIN 9749)

Upon roll call vote, the following Managers voted in favor: Jacobson, Olson, Loughheed, Weston and Gust. The motion carried unanimously.

The executive session was attended by Managers Jacobson, Olson, Lougheed, Weston and Gust, Carol Harbeke Lewis, Melissa Maertens, Sean Fredricks, Luke Andrud, Chris McShane, Katie Schmidt, Jodi Smith, Duane Breitling, Eric Dodds, Dean Vetter, Sabrina Tusa and Ken Helvey.

The executive session adjourned at 8:56 a.m. and the regular meeting was reconvened and opened to the public.

**Metro Flood Diversion Project – acquisition review / approval continued**

Lisa Kilde discussed a revised *Settlement Agreement* for OINs 1108, 1109, 1110 and 1117 regarding the Metro Flood Diversion Project. It was moved by Manager Weston and seconded by Manager Gust to approve the revised *Settlement Agreement* for OINs 1108, 1109, 1110 and 1117 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Kilde reviewed a counteroffer regarding a Flowage Easement for OIN 848 regarding the Metro Flood Diversion Project. The Board declined the counteroffer.

Ms. Kilde reviewed a counteroffer regarding a Flowage Easement for OIN 1942 regarding the Metro Flood Diversion Project. The Board declined the counteroffer.

Mr. Helvey presented a Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 2014 regarding the Metro Flood Diversion Project. The property owner of OIN 2014 is preparing to relocate the farm headquarters currently operating on OIN 2014. A motion was made by Manager Olson and seconded by Manager Lougheed to approve the Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 2014 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Oly Olafson presented a Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 8385 regarding the Metro Flood Diversion Project. The property owner of OIN 8385 has purchased OIN 1121 as a replacement site for their home and business and is preparing to relocate to the property. A motion was made by Manager Lougheed and seconded by Manager Weston to approve the Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 8385 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Mr. Olafson further discussed the *Rural Impact Mitigation Program* loan for the business currently operating on OIN 8385 regarding the Metro Flood Diversion Project. A motion was made by Manager Lougheed and seconded by Manager Gust to approve the *Rural Impact Mitigation Program* loan for OIN 8385 as presented regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – Land Agent reports**

Mr. Olafson, Wade Whitworth, Kelsey Lee, Ken Helvey, Ms. Kilde, Lisa Brekkestran, Scott Stenger and Dale Ahlsten reported on activities, meetings and discussions with various property owners regarding the Metro Flood Diversion Project.

**Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project – property management**

Sabrina Tusa discussed various farmland leases regarding the Metro Flood Diversion Project. A motion was made by Manager Weston and seconded by Manager Lougheed to approve the 2022 *Cash Crop Lease Agreements* on the following properties regarding the Metro Flood Diversion Project:

- OIN 1086X
- OIN 1086N

Upon roll call vote, the motion carried unanimously.

Mr. Vetter reported the Metro Flood Diversion Authority is considering awarding a mowing and weed control contract for various North Dakota and Minnesota properties regarding the Metro Flood Diversion Project at their meeting this afternoon.

**Metro Flood Diversion Project – contracting actions**

It was moved by Manager Weston and seconded by Manager Lougheed to approve and authorize the Chairman to sign *Task Order No. 1 – Amendment 2* with SRF Consulting Group, Inc., in the amount of \$1,985,000 regarding property acquisition and relocation services for the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously

Mr. Vetter indicated the Phase I Questionnaires regarding hazardous, toxic, and radioactive waste that could be present on properties in the Upstream Mitigation Area of the Metro Flood Diversion Project are due by Friday. The questionnaires will be sent to the Corps of Engineers.

**Metro Flood Diversion Project – Resolution regarding five road crossings in Harwood Township**

Sean Fredricks discussed a Resolution regarding five road crossings in Harwood Township. Additional minutes relating to the matter are attached hereto.

**Metro Flood Diversion Project – reimbursement request #124 from the Diversion Authority pursuant to terms and conditions of HB 1020**

It was moved by Manager Lougheed and seconded by Manager Weston to approve and authorize the Secretary-Treasurer to sign reimbursement request #124 from the Diversion Authority, pursuant to the terms and conditions of HB 1020. Upon roll call vote, the motion carried unanimously.

### **Maple River Dam – current conditions**

Kurt Lysne reported on current conditions at the Maple River Dam from the recent rain events. All four roads are now closed at the Maple River Dam. Mr. Lysne discussed recent flood and weather forecasts in relation to the Maple River Dam. The Maple River Dam has some storage capacity remaining before the concrete spillway would be utilized. Moore Engineering, Inc. is conducting piezometer readings daily at the Maple River Dam per the operating plan.

### **Baldhill Dam - outflow rates**

Manager Gust inquired about outflow rates at the Baldhill Dam. Mr. Lysne displayed a hydrograph that depicts increased outflow rates at Baldhill Dam. The Corps of Engineers is operating the Baldhill Dam pool to leave enough storage capacity to accommodate potential rain events in the near future.

### **Sheyenne River breakout flows**

Mr. Lysne said the elevations of Sheyenne River breakout flows have been recorded during several previous floods and that information has been valuable in the models for the Metro Flood Diversion Project and the Western Cass Flood Insurance Study (FIS). The necessity of continuing to record the information versus simply monitoring the situation was discussed. Mr. Lysne suggested they continue to monitor the spring flooding and begin recording additional information only if something different or unusual occurs.

A motion was made by Manager Weston and seconded by Manager Gust to authorize Moore Engineering, Inc. to monitor breakout flows on the Sheyenne River, as necessary. Upon roll call vote, the motion carried unanimously.

### **Regional Conservation Partnership Program**

Mr. Lysne stated the Natural Resources Conservation Service (NRCS) has indicated the RCPP – Rush River Watershed Plan has been authorized by the Chief at the National Watershed Management Center. The Plan is the first NRCS PL-566 project authorized in North Dakota in over 20 years. Moore Engineering, Inc. continues to proceed with project design in response to feedback from recently held public meetings with City of Amenia officials, the North Dakota Department of Transportation and the Cass County Highway Department. Moore Engineering, Inc. will discuss design elements with Burlington Northern Santa Fe Railway Company to determine feasibility of road raises before discussing the updated design with the City of Amenia, property owners and the Water Resource District. Final project design is due in September 2022.

### **Western Cass FIS**

Mr. Lysne reported Moore Engineering, Inc. continues to work on the Noble and Wiser Township Letter of Map Revision (LOMR) that was previously submitted to FEMA regarding the Western Cass FIS. FEMA has accepted the models and mapping for the City of Arthur LOMR regarding the Western Cass FIS.

**North Dakota Insurance Reserve Fund – proxy for annual meeting**

A motion was made by Manager Gust and seconded by Manager Lougheed to authorize the Secretary-Treasurer to sign and return the North Dakota Insurance Reserve Fund proxy for Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Weston and seconded by Manager Gust to approve the payment of Checks #15104 through #15107 and the wire transfers, as presented. Upon roll call vote, the following Managers voted in favor: Jacobson, Olson, Lougheed, Weston and Gust. The Chairman declared the motion passed.

**Adjournment**

There being no further business for the Board to consider, it was moved by Manager Lougheed, seconded by Manager Weston and unanimously carried to adjourn the meeting.

APPROVED:

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Dan Jacobson  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer