

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
HERITAGE CONFERENCE ROOM  
WEST FARGO, NORTH DAKOTA  
OCTOBER 10, 2024  
8:00 A.M.

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on October 10, 2024, at 8:00 a.m.

Present were Ken Lougheed, North Cass Water Resource District; Keith Weston and Rick Steen, Southeast Cass Water Resource District; Gerald Melvin, Maple River Water Resource District; Jacob Gust, Rush River Water Resource District; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Elizabeth Smith, Administrative Assistant; Rita Nelson, Accounting Assistant; Chris McShane, Lukas Andrud, and Katie Schmidt, Ohnstad Twichell, P.C.; Rob Stefonowicz, Larkin Hoffman; Kurt Lysne and Levi Hanson, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Jessica Warren, Tom Fuchs, and Madeline Daudt, Metro Flood Diversion Authority (MFDA); Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Scott Stenger, and Dale Ahlsten, ProSource Technologies, LLC; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Kelsey Lee and Wade Whitworth, HDR, Inc.; Paul Barthel, Jacobs.

**Approval of agenda**

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

**Minutes**

It was moved by Manager Melvin, seconded by Manager Gust, and unanimously carried to approve the minutes of the September 26, 2024, meeting, as presented.

**Metro Flood Diversion Project – Oxbow-Hickson-Bakke Ring Levee Project – Project updates and general topics**

Paul Barthel provided an overview of the construction status of various components of the Metro Flood Diversion Project. Mr. Barthel noted that all railroad bridges impacted by the Metro Flood Diversion Project are now under construction. All components of the Diversion Channel and Associated Infrastructure of the Project are currently under construction or completed. Work is also continuing on the various components of the Southern Embankment and the final portion of the Oxbow-Hickson-Bakke Ring Levee Project.

**Metro Flood Diversion Project – Executive Session for purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing litigation and contract negotiations related to right of way and property acquisitions necessary 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:**

It was moved by Manager Gust and seconded by Manager Steen to close the meeting at 8:11 a.m. for purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing litigation and contract negotiations related to right of way and property acquisitions necessary 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:

- Cass County Joint Water Resource District v. Peter A. Ihle, et al, Civ. No. 09-2023-CV-01158 (OIN 1959).

Upon roll call vote, the following Managers voted in favor: Lougheed, Weston, Gust, Steen, and Melvin. The motion carried unanimously.

The executive session was attended by Managers Lougheed, Weston, Gust, Steen, and Melvin, Melissa Hinkemeyer, Leilei Bao, Elizabeth Smith, Chris McShane, Luke Andrud, Katie Schmidt, Rob Stefonowicz, Madeline Daudt, Duane Breitling, Eric Dodds, Dean Vetter, Sabrina Tusa, Ken Helvey, Katie Laidley, Wade Whitworth.

The executive session adjourned at 8:26 a.m. and the regular meeting was reconvened and opened to the public.

**Metro Flood Diversion Project - Acquisition review and approval**

Chairman Lougheed asked if any members of the Board wished to offer any motions regarding the following matter:

Ihle -- Cass County Joint Water Resource District v. Peter A. Ihle, et al, Civ. No. 09-2023-CV-01158 (OIN 1959)

Manager Weston moved to approve a settlement with Peter A. Ihle, as follows:

- Ihle will convey to the Cass County Joint Water Resource District (the “District”) fee simple ownership of OIN 1959, consisting of approximately 4.78 acres, as defined by survey.
- The District will pay Ihle a total of \$505,000 upon closing of the real estate transaction contemplated under the parties’ settlement agreement for OIN 1959, as outlined above, inclusive of the replacement housing differential payment (RHDP).

- Following the closing of the of the real estate transaction contemplated under the parties' settlement agreement, and following payment to Ihle, the parties will execute and file a stipulation to dismiss the eminent domain action, Cass County Joint Water Resource District v. Peter A. Ihle, et al, Civ. No. 09-2023-CV-01158, as well as that portion of Civ. No. 09-2023-CV-00109, as it relates to Ihle and OIN 1959.
- Ihle will lease back OIN 1959 for \$500 per month through December 31, 2025, in accordance with the terms of a written lease the parties will execute in conjunction with execution of the parties' settlement agreement.
- The District will reimburse Ihle for reasonable attorneys' fees and costs, not to exceed \$39,000.

Manager Melvin seconded the motion.

**Discussion:** The Board discussed the structures on the property and their contributing value.

Upon roll call vote, the following Managers voted in favor: Lougheed, Weston, Melvin, Gust. Manager Steen voted against the motion. The Chairman declared the motion passed.

**Metro Flood Diversion Project – Relocation and RHDP reimbursement review / approval**

It was moved by Manager Steen and seconded by Manager Gust to approve the relocation and replacement housing payment for OIN 8386, as outlined in the letter dated October 10, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Steen to approve the relocation and replacement housing payment for OIN 9423, as outlined in the letter dated October 10, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Weston and seconded by Manager Melvin to approve the relocation and replacement housing payment for OINs 1112 and 1113, as outlined in the letter dated September 25, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Melvin and seconded by Manager Weston to approve the relocation and replacement housing payment for OINs 1087, 1093, and 1095, as outlined in the letter dated September 25, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – Property management**

Madeline Daudt discussed a proposed License Agreement for property maintenance of

OINs 1889 and 1990 regarding Metro Flood Diversion Project. A motion was made by Manager Gust and seconded by Manager Steen to approve and authorize the Chairman to sign the *License Agreement* with Ryan Weibye for property maintenance of OINs 1889 and 1990 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously

It was moved by Manager Steen and seconded by Manager Weston to approve and authorize the Chairman to sign the *Extension to Rental Agreement and Consent to Lease* with 6 G Farms, LLC regarding an extension of the lease of OINs 1093X and 5002 until January 15, 2025. Upon roll call vote, the motion carried unanimously.

Ms. Daudt said the property owner of OIN 8920 has been working with the Corps of Engineers, the North Dakota State Historic Preservation Office, and the Western Minnesota Steam Threshers Reunion to create a plan to relocate a historic structure currently on the property. It was moved by Manager Weston and seconded by Manager Gust to approve and authorize the Chairman to sign the *Right of Entry Agreement* regarding moving of the historic structure from OIN 8920 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

#### **Maple River Dam – Hunting**

Manager Weston left the meeting at this time.

The Secretary spoke to North Dakota Game and Fish Department about what assistance they could provide regarding hunting and other related activities on Cass County Joint Water Resource District properties at the Maple River Dam. The Board reviewed their properties regarding the Maple River Dam and noted hunting and other activities could be hazardous with the dry conditions. The Board directed the Secretary to invite the North Dakota Game and Fish Department to a future meeting to continue discussions on how the department can assist the Water Resource District regarding hunting at the Maple River Dam.

#### **Maple River Dam - General operation and maintenance updates**

Kurt Lysne reported the project archaeologist observing the environmentally sensitive sites regarding the Maple River Dam has concluded her site visit. She plans to meet with the Secretary to discuss any recommendations on immediate repairs and animal damage control efforts needed.

#### **Maple River Dam – Emergency Action Plan (EAP) update**

Mike Opat updated the Board on the Maple River Dam EAP update. Cost-share requests were submitted to the North Dakota Department of Water Resources (NDDWR) and the Red River Joint Water Resource District for the project. Mr. Opat and the Secretary continue to discuss the cost-share request with the NDDWR.

#### **Regional Conservation Partnership Program (RCPP) – Rush River Watershed**

Mr. Lysne updated the Board on the RCPP – Rush River Watershed Plan. The Natural Resources Conservation Services (NRCS) is reviewing the Plan. Moore Engineering Inc. is preparing the cost-share applications for the Conditional Letter of Map Revision (CLOMR) from FEMA and permitting needed for the project.

### **Sheldon Flood Protection Project No. 2019-01**

Mr. Lysne briefly updated the Board on the status of right of way acquisition for the Sheldon Flood Protection Project No. 2019-01. Moore Engineering Inc. met with the remaining property owner and discussed the project further. The property owner is requesting compensation of \$10,000 for easements needed on their property for the project.

Manager Gust moved to approve and authorize the Chairman to sign the *Agreement* with Rosalind Vigen Nelson regarding right of way for the Sheldon Flood Protection Project No. 2019-01, Manager Melvin seconded the motion. Upon roll call vote the motion carried unanimously.

It was moved by Manager Melvin and seconded by Manager Steen to approve and authorize the Chairman to sign the *Agreement for Cost-Share Reimbursement* with the State Water Commission regarding the Sheldon Flood Protection Project No. 2019-01. Upon roll call vote, the motion carried unanimously.

### **Weed Control**

Mr. Lysne reported Dakota Helicopters Inc. is no longer able to fulfill their Agreement with the Cass County Water Resource Districts regarding weed control. DL Barkie Construction Inc. submitted a quote for ground spraying of the Cass County Water Resource Districts facilities.

The Board discussed the reduced effectiveness of spraying this late in the year and the Board suggested DL Barkie Construction Inc. be contacted again next spring regarding weed control efforts for 2025.

A motion was made by Manager Melvin, and seconded by Manager Gust to officially terminate the *Agreement* with Dakota Helicopters Inc. in accordance with Section 3 of the Agreement regarding weed control on Cass County Joint Water Resource District facilities for 2024. Upon roll call vote, the motion carried unanimously.

### **Bills**

It was moved by Manager Steen and seconded by Manager Melvin to approve payment of Checks #15361 through #15367 and the wire transfers as presented. Upon roll call vote, the following Managers voted in favor: Lougheed, Gust, Steen, and Melvin. Manager Weston was absent. The Chairman declared the motion passed.

**Adjournment**

There being no further business to be considered by the Board, it was moved by Manager Melvin, seconded by Manager Gust, and unanimously carried to adjourn the meeting.

APPROVED:

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Ken Lougheed  
Chairman

ATTEST:

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Melissa Hinkemeyer  
Secretary