

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
NOVEMBER 14, 2024
8:00 A.M.

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on November 14, 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; Sean Fredricks, Chris McShane, Lukas Andrud, and Katie Schmidt, Ohnstad Twichell, P.C.; Rob Stefanowicz, Larkin Hoffman; Kurt Lysne and Alexa Ducioame, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Tom Fuchs, Jodi Smith, Jessica Warren, 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.; Wade Whitworth, HDR, Inc.; Paul Barthel and Katrina Olson, Jacobs; Doug Johnson, DKJ Appraisal LLC; and Leo Richard, Stanley Township property owner.

Approval of agenda

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

Minutes

It was moved by Manager Melvin, seconded by Manager Weston, and unanimously carried to approve the minutes of the October 24, 2024, meeting, as presented.

Metro Flood Diversion Project – Project updates and general topics

Chris McShane updated the Board on the status of formal negotiations regarding the Metro Flood Diversion Project.

Eric Dodds discussed the Property Acquisition Report regarding the Metro Flood Diversion Project and reported on key activities including continued property rights acquisition negotiations, successful closings, disposal of Project lands deemed excess, receiving appraisal reports for Christine area flowage easements, and continued work on farmland leases for 2025.

Mr. Dodds reported that the land agents are assisting in mediations and settlement negotiations, processing Rural Impact Mitigation Program reimbursement requests,

waiver valuations, utility site acquisitions, and are starting to make offers for flowage easements in Christine.

Paul Barthel updated the Board on construction progress on the Metro Flood Diversion Project. The project developer has made great progress with the dry weather conditions this fall. Nearly two million cubic yards of dirt were moved in the last month. The developer is starting to prepare for winter. Work remains ongoing on all bridges within the project and the Maple River and Sheyenne River aqueducts. Mr. Barthel noted the Red River Control Structure is approximately 70% complete. Southern Embankment reach 2B work is ongoing, reaches 3 and 5 are out for bids. Brief discussion was held on legal assessment drain transitions to the Metro Flood Diversion Channel.

Mr. Barthel discussed the AAB Addition plat regarding the Metro Flood Diversion Authority administration building. This building would be constructed by the P3 developer for the Project and the space would be used for storage and offices for current and future staff.

The Board had some concerns about the parking area and elevation of the planned structures. Mr. Barthel explained the City of Fargo parking requirement and noted it will be a meeting space for various occasions. The elevation of the building aligns with other aspects of the Project.

A motion was made by Manager Weston and seconded by Manager Gust to approve and authorize the Chairman to sign the AAB Addition plat, application, and payment of the \$600 application fee to the City of Fargo regarding the Metro Flood Diversion Project. Upon roll call vote, the following Managers voted in favor: Lougheed, Steen, Weston and Melvin. Manager Gust voted against the motion. The Chairman declared the motion passed.

Jodi Smith indicated the following OINs have been deemed excess property by the Metro Flood Diversion Authority Co-Executive Directors:

- OINs 530Y and 2372Y
- OIN 546Y
- OIN 561Y
- OINs 2366Y, 2367Y, and 8852Y
- OIN 2368Y
- OIN 9405

A motion was made by Manager Steen and seconded by Manger Gust to declare OIN 9405 as excess land and begin the process to dispose of the property following the *Policy on the Disposition and Management of Comprehensive Project Lands* regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Gust and seconded by Manger Steen to declare OINs 530Y, 546Y, 561Y, 2366Y, 2367Y, 2368Y, 2372Y, and 8852Y as excess land and begin the process to dispose of the property following the *Policy on the Disposition and*

Management of Comprehensive Project Lands regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Appraisal review and approval

Doug Johnson discussed various appraisals regarding flowage easements near Christine regarding the Metro Flood Diversion Project.

It was moved by Manager Steen and seconded by Manager Weston to approve the appraisals for the following properties as estimates of just compensation for acquisition of property regarding the Metro Flood Diversion Project:

- OIN 1462B with an effective date of September 12, 2024
- OIN 1516 and 1569 with an effective date of October 10, 2024
- OIN 1520 with an effective date of October 10, 2024
- OIN 8692 and 8694 with an effective date of September 26, 2024
- OIN 8772 with an effective date of October 10, 2024

Upon roll call vote, the motion carried unanimously.

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 matters:

It was moved by Manager Weston and seconded by Manager Melvin to close the meeting at 8:52 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 matters:

- Marjorie Ann Cossette (OIN 1948); and
- Cass County Joint Water Resource District v. Rodney A. Mathison, Cherie K. Mathison, et al, Civ. No. 09-2024-CV-02120 (OIN 1891).

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, Sean Fredricks, Chris McShane, Lukas Andrud, Katie Schmidt, Rob Stefonowicz, Jodi Smith, Jessica Warren, Madeline Daudt, Duane Breitling, Eric Dodds, Dean Vetter, Sabrina Tusa, Scott Stenger, Dale Ahlsten, Ken Helvey, and Katie Laidley.

The executive session adjourned at 9:39 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 matters:

- Marjorie Ann Cossette (OIN 1948); and
- Cass County Joint Water Resource District v. Rodney A. Mathison, Cherie K. Mathison, et al, Civ. No. 09-2024-CV-02120 (OIN 1891).

Manager Weston moved to approve a settlement with Marjorie Cossette limited to the building site on OIN 1948, as follows:

- Cossette will convey to the Cass County Joint Water Resource District (the "District") flowage easement interests over the existing building site on OIN 1948, consisting of approximately 3.8 acres, as shown in the appraisal, and to be defined more fully by survey to be completed by the District.
- The District will pay Cossette a total of \$697,500 upon closing of the real estate transaction contemplated under the parties' settlement agreement, as outlined above, inclusive of the replacement housing differential payment ("RHDP").
- Following the closing of the real estate transaction contemplated under the parties' settlement agreement, and following payment to Cossette, the parties will execute and file a stipulation to amend the Complaint in the eminent domain action, Cass County Joint Water Resource District v. Marjorie Cossette, Civ. No. 09-2024-CV-03292; the amendment of the Complaint will acknowledge the voluntary acquisition of a flowage easement encumbering the 3.8-acre building site, as determined by survey.
- The District will reimburse Cossette for reasonable attorneys' fees and costs, not to exceed \$28,000.

Manager Gust seconded the motion. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Property management

Mr. Dodds discussed an assignment of easements associated with OIN 9769 and OIN 9770 to the City of Fargo regarding the Metro Flood Diversion Project. The easements are located within the City of Fargo boundaries.

A motion was made by Manager Weston and seconded by Manager Gust to approve and authorize the Chairman to sign the *Assignment of Easement* associated with OIN 9769 and OIN 9770 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

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

It was moved by Manager Gust and seconded by Manager Steen to approve the relocation and replacement housing payment for OIN 8386, as outlined in the letter dated November 14, 2024, 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 the relocation and replacement housing payment for OINs 1087, 1093, and 1095, as outlined in the letter dated October 28, 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 November 4, 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 Melvin to approve the relocation and replacement housing payment for OINs 818 and 1916, as outlined in the letter dated October 28, 2024, 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 the relocation and replacement housing payment for the tenant of OIN 840, as outlined in the letter dated November 14, 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 1898, as outlined in the letter dated November 14, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Property management continued

Ms. Smith gave an update on the recommended farmland rental rates for 2025. Ms. Smith recommends the Board approves a rate of \$150/acre in 2025 for properties north of I-94 and \$165/acre for farmland leases that are located south of I-94 not affected by poor production or construction access issues.

A motion was made by Manager Melvin and seconded by Manager Weston to approve the recommended farmland rental rates for 2025 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Smith indicated there is a person interested in removing some materials from OINs 7234A, 7234E, and 7234F regarding the Metro Flood Diversion Project. There is no cost to the Board for the removal of the materials.

A motion was made by Manager Melvin and seconded by Manager Weston to approve and authorize the Chairman to sign the *Materials Removal Agreement* regarding OINs 7234A, 7234E, and 7234F regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Contracting actions

Jessica Warren reviewed *Task Order No. 6 – Amendment No. 8* with Crown Appraisals, Inc. regarding the Metro Flood Diversion Project.

A motion was made by Manager Weston and seconded by Manager Steen to approve and authorize the Chairman to sign *Task Order No. 6 – Amendment No. 8* with Crown Appraisals, Inc. in the amount of \$24,000 regarding appraisal services for the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Maple River Dam - General operation and maintenance updates

Brady Woodard updated the Board on the activities at the Maple River Dam. Mr. Woodard discussed the tillable acres and pasture land rented in the backwater pool area of the Maple River Dam. Mr. Woodard will be meeting with the tenants soon to verify the low ground acreage harvested this year as per the *Lease Agreements* with the tenants and begin discussions on leasing the properties in 2025. Mr. Woodard also noted animal damage control efforts are ongoing at the Maple River Dam.

Discussion was held on tree removal efforts in the backwater pool area of the Maple River Dam for 2024-2025. It was moved by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Agreement* with Industrial Builders, Inc. for the 2024-2025 Maple River Dam Tree Removal Project in the backwater pool of the Maple River Dam, not to exceed \$100,000. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program (RCPP) – Rush River Watershed

Kurt Lysne indicated cost share requests were submitted to the State Water Commission and Cass County Flood Sales Tax Committee regarding the RCPP – Rush River Watershed Project. The Cass County Flood Sales Tax Committee will review the request at their November 18th meeting.

Sheldon Flood Protection Project No. 2019-01

Levi Hanson briefly updated the Board on the status of right of way acquisition for the Sheldon Flood Protection Project No. 2019-01. Mr. Hansen noted all right of way has been secured for the Project. There will be a meeting scheduled with the Sheldon Addition residents to update them on the Project. Once final design is completed the project will be advertised for bids.

A motion was made by Manager Weston and seconded by Manager Gust to authorize Moore Engineering, Inc. to complete final design and advertise the Sheldon Flood Protection Project No. 2019-01 for bids. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Steen and seconded by Manager Weston to approve payment of Checks #15375 through #15381 and the wire transfers as amended. Upon roll call vote,

the following Managers voted in favor: Lougheed, Gust, Steen, Weston and Melvin. The Chairman declared the motion passed.

2024 Audit

The Secretary and Treasurer discussed a proposal from Widmer Roel PC regarding 2024 audits of the Cass County Water Resource Districts. The Secretary noted there have recently been some staff changes at the North Dakota State Auditor’s Office that could potentially affect their ability to complete the 2024 audit of the Cass County Water Resource Districts. The Board directed the Secretary and Treasurer to contact the North Dakota State Auditor’s Office to discuss if they have the ability to continue conducting audits of the Cass County Water Resource Districts.

Adjournment

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

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary