

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
DECEMBER 19, 2024
9:00 A.M.

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on December 19, 2024, at 9:00 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; Sean M. Fredricks, Chris McShane, and Lukas Andrud, Ohnstad Twichell, P.C.; Rob Stefonowicz, Larkin Hoffman; Brady Woodard, Levi Hanson, and Josh Hassell, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Blaine Laaveg, Cass County Highway Department; 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.; Oly Olafson, Wade Whitworth, and Kelsey Lee, HDR, Inc.; Paul Barthel and Katrina Olson, Jacobs; Doug Johnson, DKJ Appraisal LLC; William Haase, Brian Kietzmann, and Michael Sedlacek, North Dakota Game & Fish Department; and Leo Richard, Stanley Township property owner.

Approval of agenda

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

Minutes

It was moved by Manager Steen, seconded by Manager Weston, and unanimously carried to approve the minutes of the November 14 and December 4, 2024, meetings, as presented.

Metro Flood Diversion Project – Project updates and general topics

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

Paul Barthel updated the Board on construction progress of the Metro Flood Diversion Project. The Cass County Highways 4 and 31 bridge was opened shortly before Thanksgiving. The Drain #29 and #30 inlets are functional all the way to the Red River.

The P3 developer is hoping to open the Cass County Highway 32 bridge yet this year. Mr. Barthel stated most construction is wrapping up for the winter, however excavation of the Diversion Channel south of I-94 plans to continue through the winter as long as it is safe to do so. Work will also continue on the aqueduct structures as weather allows. The Corps of Engineers' projects are paused for the winter. The first gate on the Red River Control Structure is complete and the second gate is being assembled as weather allows. The Corps of Engineers recently bid reaches 3 and 5 of the Southern Embankment.

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

Mr. Dodds reported that the land agents are assisting with relocation and advisory services, processing Rural Impact Mitigation Program reimbursement requests, assisting with mediations and settlement negotiations, preparing to receive appraisals and make offers for the Sheyenne River Benching Project, and are starting to make offers for flowage easements in Christine.

Oxbow-Hickson-Bakke Ring Levee Project – Utility Easement for Cass County Electric Cooperative (CCEC) on OIN 8857

Mr. Barthel stated CCEC needs to relocate an underground power line ahead of the remaining construction of the Oxbow-Hickson-Bakke Ring Levee Project. Once this easement is granted, CCEC will vacate the existing easement.

A motion was made by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Utility Easement* with Cass County Electric Cooperative for the relocation of an underground power line on OIN 8857 regarding the Oxbow-Hickson-Bakken Ring Levee Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – AAB Addition

Mr. Barthel discussed the *Application for Zoning Map Amendment (Zoning Change)* for the AAB Addition regarding the Metro Flood Diversion Project. Mr. Barthel stated the City of Fargo has requested that the AAB Addition zoning be changed from Agricultural to Public/Institutional, which is the standard zoning within the City of Fargo for property of public entities.

A motion was made by Manager Steen and seconded by Manager Melvin to approve and authorize the Secretary to sign the *Application for Zoning Map Amendment (Zoning Change)* and payment of the \$300 filing fee to the City of Fargo for the AAB Addition regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Excess lands

Luke Andrud indicated OINs 546Y and 7253 have been deemed excess property by the Metro Flood Diversion Authority Co-Executive Directors and Cass County has expressed interest in purchasing some right of way on these parcels.

A motion was made by Manager Steen and seconded by Manager Gust to approve the Purchase Agreement for OIN 546Y with Cass County in the amount of \$11,800 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Weston and seconded by Manager Melvin to approve the Purchase Agreement for OIN 7253 with Cass County in the amount of \$6,765 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Appraisal review and approval

A video was shown of an overview of the Sheyenne River Benching Project and the benefits of river benching. Right of way will be needed for the project.

Doug Johnson discussed various appraisals regarding right of way for the Sheyenne River Benching Project and flowage easements in the City of 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 1205 with an effective date of October 4, 2024
- OIN 1209 with an effective date of October 17, 2024
- OIN 9345 with an effective date of October 17, 2024
- OIN 9346 with an effective date of October 17, 2024
- OIN 1199X with an effective date of October 17, 2024
- OIN 9351 with an effective date of October 17, 2024
- OINs 1210 and 7236 with an effective date of October 17, 2024
- OIN 1524 with an effective date of October 10, 2024
- OIN 8773 with an effective date of October 10, 2024
- OINs 8697, 8698, 8699, 8700, 8701, and 8702 with an effective date of November 18, 2024
- OIN 1513 with an effective date of October 10, 2024
- OINs 1461 and 1463 with an effective date of October 10, 2024

Upon roll call vote, the motion carried unanimously.

Ken Helvey discussed appraisal waivers for OINs 1476 and 2006 regarding the Metro Flood Diversion Project.

A motion was made by Manager Gust and seconded by Manager Melvin to approve the

appraisal waiver valuations for OINs 1476 and 2006 as estimates 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 – Relocation and RHDP reimbursement review and approval

It was moved by Manager Steen and seconded by Manager Gust to approve the relocation and replacement housing payments for the following properties, regarding the Metro Flood Diversion Project:

- OINs 1087, 1095, 1093, and 5002, as outlined in the letter dated December 3, 2024
- OIN 5002, as outlined in the letter dated October 28, 2024
- OIN 2010, as outlined in the letter dated December 4, 2024
- OINs 1112 and 1113, as outlined in the letter dated December 5, 2024
- OIN 2014, as outlined in the letters dated December 12 and 19, 2024
- OIN 1093X, as outlined in the letter dated December 12, 2024
- OIN 1972, as outlined in the claim dated December 12, 2024

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Property management

Madeline Daudt discussed various farmland leases regarding the Metro Flood Diversion Project.

A motion was made by Manager Melvin and seconded by Manager Weston to approve the 2025 *Cash Crop Lease Agreements* on the following properties regarding the Metro Flood Diversion Project:

- OINs 221Y, 222Y, and 1185Y1
- OIN 233Y
- OINs 507Y, 508Y, 510Y, 590Y, 2376Y, 2377Y, and 2378Y
- OINs 511Y, 512Y, 884Y, 885Y, and 897Y
- OINs 523Y, 935X, and 937Y
- OIN 524Y
- OINs 530Y, 2372Y, and 9182Y
- OINs 546Y, 900Y, 2368Y, and 8359Y
- OINs 561Y, 1169X, 1200X, 2366Y, 2367Y, and 8852Y
- OINs 571Y, 572, 573Y, 574Y, 724Y, 728Y, 729Y, 1166Y, 1168Y, 1171Y, 2363Y, and 2363Y1
- OIN 1089Y
- OIN 1124
- OIN 1221Y
- OIN 1979
- OINs 1990 and 2182
- OINs 9162, 9163, 9164, and 9165

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Extension to Rental Agreement* with Penny Cirks regarding the extension of the lease on OIN 9258 until March 31, 2025. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Steen to approve and authorize the Chairman to sign the *Amendment to Rental Agreement Lease* with Kent Westby and Bernice Cossette-Westby regarding the extension of the lease on OIN 8386 until January 17, 2025. Upon roll call vote, the motion carried unanimously.

Ms. Smith briefly discussed the *Tree Removal Agreement* with the property owners of OIN 25Y to source and remove trees and shrubbery from the property to be used for the Sheyenne River Benching Project. There is no cost associated with the *Agreement*.

Manager Steen moved to approve and authorize the Chairman to sign the *Tree Removal Agreement* with the property owners of OIN 25Y, to source and remove trees from the property for the Sheyenne River Benching mitigation project regarding the Metro Flood Diversion Project. Manager Gust seconded the motion. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – FMD Stanley Second Subdivision

Mr. Dodds reviewed the FMD Stanley Second Subdivision plat and associated subdivision application. Mr. Dodds stated this subdivision is within the city of Horace jurisdiction.

A motion was made by Manager Gust and seconded by Manager Melvin to approve and authorize the Chairman to sign the FMD Stanley Second Subdivision plat and submit the associated subdivision application to the City of Horace regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Arrowwood Fourth Addition and River Bend Fourth Subdivision plats – OIN 7248 and 7249

Mr. Dodds stated OINs 7248 and 7249, which are excess abandoned railroad properties purchased by the Water Resource District for the Metro Flood Diversion Project, are being split and purchased by the respective adjacent property owners. The Water Resource District is re-platting Arrowwood Fourth Addition and River Bend Fourth Subdivision accordingly.

A motion was made by Manager Melvin and seconded by Manager Weston to approve and authorize the Chairman to sign the Arrowwood Fourth Addition and River Bend Fourth Subdivision plats and submit the associated subdivision applications to the City of Horace regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – I-29 Road Raise Temporary Construction Easement releases

Mr. Dodds reported the Corps of Engineers has completed construction of the I-29 Road Raise component of the Metro Flood Diversion Project. The Corps of Engineers has now released their contractor from being responsible for the Temporary Construction Easement areas for that project. The Metro Flood Diversion Authority has since communicated with the property owners of the Temporary Construction Easement areas that the Temporary Construction Easements are now released and the property owners are once again responsible for those areas of their properties.

Metro Flood Diversion Project – OIN 1948 amended settlement

Manager Gust moved to amend the 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.
- Cossette will vacate the buildings and building site on OIN 1948 no later than December 2, 2025.

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

Metro Flood Diversion Project – HB Construction dewatering plan

Mr. Barthel stated one of the contractors for the Southern Embankment, HB Construction, needs to dewater the site in the spring to continue construction. HB Construction has used a dewatering plan in previous years that has been approved by the Water Resource District. HB Construction plans to continue utilizing the same dewatering plan when they continue work next spring. The Board had no objections to the HB Construction dewatering plan for construction of the Southern Embankment regarding the Metro Flood Diversion Project.

Maple River Dam - General operation and maintenance updates

Brady Woodard updated the Board on the activities at the Maple River Dam. Mr. Woodard reported the contractor for the Maple River Dam tree and debris removal project in the backwater pool of the Maple River Dam plans to begin the project soon.

Maple River Dam – Hunting discussion with the North Dakota Game & Fish Department

Discussion was held with the North Dakota Game & Fish Department regarding hunting on Water Resource District properties at the Maple River Dam and surrounding area. The Board discussed the properties typically available for hunting. The Board indicated they would like to have a point of contact in the future if they decide to open properties to hunting again. The North Dakota Game & Fish Department indicated they would be willing to continue answering questions and assisting where they can, and would be willing to help with making and installing signage on properties opened to hunting. The Board will continue this discussion at a future meeting and will invite the North Dakota Game & Fish Department back to a future meeting.

Maple River Dam – Emergency Action Plan update

Mike Opat reported the North Dakota Department of Water Resources approved cost-share for the surveying task regarding the Maple River Dam Emergency Action Plan update.

It was moved by Manager Weston and seconded by Manager Steen to approve and authorize the Chairman to sign *Amendment I to the Agreement for Cost-Share Reimbursement* with the State Water Commission and direct Mr. Opat to prepare a Task Order with Houston Engineering, Inc. regarding the Maple River Dam Emergency Action Plan update. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program (RCPP) – Rush River Watershed

Josh Hassell updated the Board on cost-share for the Conditional Letter of Map Revision and permitting for the RCPP – Rush River Watershed Project. Mr. Hassell noted the Project design is being reviewed by the Natural Resources Conservation Service (NRCS). The design will move forward to the National Watershed Management Center for review soon.

It was moved by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Agreement for Cost-Share Reimbursement* with the State Water Commission regarding the Conditional Letter of Map Revision (CLOMR) and permitting for the RCPP – Rush River Watershed Project. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program (RCPP) – Upper Maple River Watershed

Mr. Hassell briefly updated the Board on the status of the RCPP Upper Maple River

Watershed Plan. Mr. Hassell is working with the NRCS to answer any questions they have as they work to update the cultural report in the Plan. The NRCS will then forward the Plan to the National Watershed Management Center for their review.

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. Woodard reported they have met with all the landowners and are moving forward with the final design for the Project.

Review of contract for legal services

A motion was made by Manager Gust and seconded by Manager Melvin to reaffirm the agreement with Ohnstad Twichell, P.C. for legal services and approve the 2025 billing rates presented for Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

2025 regular meeting dates

The Board discussed its regular meeting dates, times and places for the year 2025. It was moved by Manager Steen and seconded by Manager Melvin to adopt the following Resolution. Upon roll call vote, the following Managers voted in favor: Weston, Steen, Melvin, Gust. The following Managers voted against the motion: Lougheed. Chairman Lougheed stated the motion passed.

RESOLUTION

BE IT RESOLVED, that the Cass County Joint Water Resource District does hereby set the second and fourth Thursdays of January through October, November 20 and December 18 at 8:30 a.m. at the Cass County Highway Department, 1201 Main Avenue West, West Fargo, North Dakota, as its regular meeting dates, time and place for the year 2025.

BE IT FURTHER RESOLVED, that the Secretary be and she hereby is directed to forward a copy of said schedule of meetings to the Cass County Auditor and post said schedule at the Water Resource District's principal office and the location of the scheduled meetings, all in accordance with the provisions of Section 44-04.20 as amended.

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary

DocuSign

The Director suggested purchasing a standard subscription to DocuSign as a tool for Managers to utilize for ease of signing documents.

A motion was made by Manager Steen and seconded by Manager Melvin to approve the purchase of a standard DocuSign subscription, not to exceed \$300. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Steen and seconded by Manager Gust to approve payment of Checks #15382 through #15390 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.

Adjournment

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

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary