

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MARCH 24, 2022

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on March 24, 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 Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman Attorneys; Eric Dodds, Dean Vetter, Sabrina Tusa and Hope Records, AE2S; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, Lee Kaffar and Wade Whitworth, HDR, Inc.; Ken Helvey and Lisa Kilde, SRF Consulting Group, Inc.; Davon Hutchinson, Ulteig Engineers, Inc.; Mary Scherling and Duane Breitling, Cass County Commissioners; Joel Paulsen, Diversion Authority Executive Director; Jodi Smith, Diversion Authority Director of Lands; John Albrecht, Jacobs; Matt Stamness, Cass County Highway Department; Lynn Mesteth, Dwyer Law Office, PLLC; Igor Lenzner, Rinke Noonan; Leo Richard and Gene Sauvageau, Stanley Township property owners; and Brett and Heidi Odegaard, Pleasant Township property owners .

Agenda

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

Minutes

It was moved by Manager Weston, seconded by Manager Olson and unanimously carried to approve the minutes of the March 10, 14, 15 and 16, 2022, meetings.

Metro Flood Diversion Project – property owner negotiation / discussion

Igor Lenzner commented on negotiations on OIN 2014 regarding the Metro Flood Diversion Project. Mr. Lenzner noted the property owners have obtained their own appraisal and are hoping to begin the relocation of their farm headquarters this year. Mr. Lenzner discussed the potential tax implications regarding the Rural Impact Mitigation Program (RIMP). Jodi Smith indicated the Metro Flood Diversion Authority staff continues to work on the RIMP process and encouraged Mr. Lenzner to explore creative solutions regarding OIN 2014 regarding the Metro Flood Diversion Project. Ms. Smith indicated

more information will be available in the future regarding the RIMP process in relation to farmstead relocations regarding the Metro Flood Diversion Project. Eric Dodds also noted the property owners' appraisal regarding OIN 2014 was received recently and is currently being reviewed.

Metro Flood Diversion Project – project updates and general topics

Discussion was held on availability of stockpiled materials to the public from construction of the metro Flood Diversion Project. Mr. Dodds indicated the Metro Flood Diversion Authority signed Memorandums of Understanding (MOU) with various entities and those MOU's discuss stockpiled materials in more detail. The public would need to contact their respective township or city and inquire about the availability of stockpiled materials within that township or city.

Mr. Dodds reviewed the *Property Acquisition Status Report* regarding the Metro Flood Diversion Project.

Mr. Dodds reported on the open house informational meetings tailored to North Dakota properties where flowage easements are needed for the Metro Flood Diversion Project that were held on the evenings of March 14-16, 2022. Ms. Smith reported the meetings were well attended and there was meaningful dialogue with property owners regarding flowage easements and mitigation programs for the Metro Flood Diversion Project. The Land Agents were also present at the meetings to meet and converse with property owners.

Mr. Dodds reported work is ongoing regarding Metro Flood Diversion Project asset lands. Brief discussion was held on the concept of land trades.

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

Metro Flood Diversion Project – appraisal / RHDP review / approval

It was moved by Manager Gust and seconded by Manager Weston to approve the appraisal for OIN 1968, with an effective date of February 17, 2022, as an estimate of just compensation for acquisition of property regarding the Metro Flood Diversion Project. Upon roll call vote, the following Managers voted in favor: Jacobson, Lougheed, Weston and Gust. Manager Olson was absent. The motion carried.

Metro Flood Diversion Project – acquisition review / approval

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

It was moved by Manager Lougheed and seconded by Manager Gust to approve the *Temporary Construction Easement* for OIN 1218X regarding the Metro Flood Diversion Project. Upon roll call vote, the following Managers voted in favor: Jacobson, Lougheed, Weston and Gust. Manager Olson was absent. The motion carried.

It was moved by Manager Lougheed and seconded by Manager Weston to approve the *Temporary Construction Easement* for OIN 8922 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Weston to approve the *Purchase Agreement* for OINs 1582 and 1589 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Land Agent reports

Oly Olafson, Wade Whitworth, Ken Helvey, Scott Stenger and Davon Hutchinson reported on activities, meetings and discussions with various property owners regarding the Metro Flood Diversion Project.

The Board thanked all those involved with the recent open house informational meetings regarding flowage easements needed for the Metro Flood Diversion Project.

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

A motion was made by Manager Lougheed and seconded by Manager Gust to approve the relocation and replacement housing payment for OIN 220, as outlined in the letter dated March 18, 2022, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

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 Olson to approve the 2022 *Cash Crop Lease Agreement* for OINs 6, 8, 9 and 11-22 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Gust and seconded by Manager Olson to approve the revised 2022 *Cash Crop Lease Agreement* for OINs 510Y, 590Y, 2376Y, 2377Y and 2378Y regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Weston to approve the revised 2022 *Cash Crop Lease Agreement* for OIN 815Y regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Discussion was held on notifying property owners of property acquired by the Water Resource District through quick-take eminent domain about 2022 construction activity regarding the Drain #27 Wetlands Restoration Project and Southern Embankment – Reach 2A of the Metro Flood Diversion Project. Mr. Vetter indicated the contractors may not begin construction in these areas until later this summer and will be primarily working on the construction of the weir for the Drain #27 Wetlands Restoration Project near Cass County Highway 14 where native vegetation will be planted. Thus, it is recommended the

property owners of property acquired by the Water Resource District through quick-take eminent domain farm the properties and crop damages will be paid at a fixed rate for any areas that are disturbed by contractors regarding construction of the Drain #27 Wetlands Restoration Project and Southern Embankment – Reach 2A of the Metro Flood Diversion Project.

A motion was made by Manager Lougheed and seconded by Manager Olson to authorize the Secretary-Treasurer to send letters to property owners of the following properties acquired through quick-take eminent domain notifying them of 2022 construction activity regarding the Metro Flood Diversion Project:

- OINs 27N and 1083N
- OINs 1087N and 1093N
- OINs 1108N, 1109N and 1110N
- OIN 1098N

Upon roll call vote, the motion carried unanimously.

Mr. Vetter noted tenants of properties owned by the Water Resource District in the Drain #27 Wetlands Restoration Project and Southern Embankment – Reach 2A project work limits will be restricted to planting soybeans. If these areas are disturbed by the construction activities, the Diversion Authority has agreed to refund the original lease payment and in addition reimburse average input costs per acre for the crop to the tenant.

A motion was made by Manager Lougheed and seconded by Manager Weston to approve the following regarding haying and weed control for the Metro Flood Diversion Project:

- *License Agreement* for OINs 1091X and 1097N
- *License Agreement* for OINs 1889 and 1990

Upon roll call vote, the motion carried unanimously

Mr. Vetter noted the contractor has been given a *Notice to Proceed* to remove structures on four sites regarding the Metro Flood Diversion Project. Contractors will also be completing archaeological, historical and cultural surveys on one site.

Braun Intertec Corporation recently conducted hazardous materials sampling on three sites in North Dakota regarding the Metro Flood Diversion Project. The results of the sampling are needed before the structures on the sites can be removed.

It was moved by Manager Gust and seconded by Manager Olson to authorize the Secretary-Treasurer to sign and submit the Cass Rural Water Users District Proxies for properties acquired for the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Maple River Dam – 2021-2022 tree removal

Brady Woodard updated the Board on tree removal in the backwater pool of the Maple River Dam. The contractor completed the project last week and the optimal weather conditions allowed the contractor to complete a significant amount of work.

Maple River Dam – spring melt

Mr. Woodard reported there are two roads currently closed in the Maple River Dam backwater pool area due to the elevation of the water. The third road is open at this time and is being closely monitored. Mr. Woodard noted new lights for the Maple River Dam road closure barricades were recently delivered and have been installed.

Mr. Lysne discussed the current water elevation at the Maple River Dam and potential future conditions. Mr. Lysne also noted the contractor that completed the tree removal project at the Maple River Dam was able to remove or burn the trees from the project so there is no debris remaining.

Regional Conservation Partnership Program

Kurt Lysne stated Moore Engineering, Inc. is proceeding with project design and recently held public meetings with City of Amenia officials, the North Dakota Department of Transportation and the Cass County Highway Department regarding the RCPP – Rush River Watershed Plan design. The feedback from the meetings will be taken into consideration as project design continues. Final project design is due in September 2022. Brief discussion was held on locating a larger meeting space for any future public meetings regarding the project.

Mr. Lysne reported the exception request letter for the benefit-cost ratio for the RCPP – Upper Maple River Watershed Plan has been submitted to the National Watershed Management Center. If the exception request is granted, the National Watershed Management Center will review the Plan.

2023 Water Development Plan – request from the North Dakota Department of Water Resources (NDDWR) / State Water Commission to identify potential water development projects, the timing of their implementation and estimated costs

Mr. Lysne briefly reviewed a list of Cass County Joint Water Resource District projects to submit to the NDDWR for the 2023 Water Development Plan. The final list of projects to submit for the 2023 Water Development Plan will be brought to a future meeting for consideration.

Legislative updates

Sean Fredricks updated the Board on legislative items regarding water resource districts.

Bills

It was moved by Manager Lougheed and seconded by Manager Gust to approve the payment of Checks #15099 through #15100 and the wire transfers, as presented. Upon roll call vote, the following Managers voted in favor: Jacobson, Olson, Lougheed, Weston and Gust. Upon roll call vote, the motion carried unanimously.

Adjournment

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

APPROVED:

Dan Jacobson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer