

MINUTES OF VIRTUAL / CONFERENCE CALL SPECIAL MEETING
RUSH RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
JUNE 18, 2024
9:00 A.M.

A virtual / conference call special meeting of the Rush River Water Resource District was held on June 18, 2024, at 9:00 a.m.

Present were Chairman William A. Hejl; Manager Richard Sundberg; Manager Jacob Gust; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Levi Hanson, and Brady Woodard, Moore Engineering; Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Kyle Litchy, Cass County Highway Department; Tom Fuchs, Metro Flood Diversion Authority; and Dane Larsen Raymond Township property owner.

Approval of agenda

It was moved by Manager Sundberg and seconded by Manager Gust to approve the agenda, as presented. Upon roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Gust and seconded by Manager Sundberg to approve the minutes of the May 21, 2024, meeting, as presented. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Rush River and Lower Rush River (Drain #2) transitions

Tom Fuchs stated Kris Bakkegaard, Metro Flood Diversion Authority Director of Engineering, will follow up with the Board once he finds out if there is budget available to construct a new low water crossing on 105th Street N for the Lower Rush River (Drain #2) transition to the Diversion Channel of the Metro Flood Diversion Project.

Kurt Lysne reviewed the transition project from the Rush River to the Diversion Channel of the Metro Flood Diversion Project. Brady Woodard is discussing the proposed project with Berlin and Harwood Townships ensuring that the Townships and area property owners have no concerns regarding the transition project design. The current design includes removing the existing, unused, and deteriorated low water crossing near 167th Avenue SE and replacing it with a graded rock control structure to mitigate high water velocities.

Mr. Lysne noted no action is needed regarding the Rush River and Lower Rush River (Drain #2) transitions projects to the Diversion Channel of the Metro Flood Diversion Project. The Water Resource District Attorney is currently drafting an amendment to the *Memorandum of Understanding* between the Metro Flood Diversion Authority and the Water Resource District.

Drainage concern on the west side of the Diversion Channel of the Metro Flood Diversion Project

Mr. Woodard stated he met with ASN Constructors regarding a drainage concern from a property owner on the west side of the Diversion Channel of the Metro Flood Diversion Project. It was determined there was a blocked culvert that has since been cleaned out and ASN Constructors is working on pumping water from the area. Moore Engineering, Inc. will continue to monitor the situation.

Metro Flood Diversion Project – Drain #30 transition – Application for Surface Drain No. 6328

The Board and the Metro Flood Diversion Authority are currently discussing Drain #30 inlet tie-in and transition components regarding the Metro Flood Diversion Project. The Board previously submitted a surface drain permit application to the North Dakota Department of Water Resources (NDDWR) regarding *Application for Surface Drain No. 6328* for the project. NDDWR recently completed its review of the project and application and concluded the project is not “of statewide or interdistrict significance.” NDDWR forwarded a *Record of Decision* dated June 4, 2024 (the “ROD”) to the Board; the Board must now consider and process the application.

Under Section 89-02-01-09.1(2), once the Board receives DWR’s ROD, the Board’s first step is to determine if “public and private interests would be better served by a specific public meeting to consider the project.” In this case, the Board does not anticipate any downstream impacts; Drain #30 will discharge into the Diversion and the Diversion Authority is acquiring all requisite right of way along the project. Ultimately, the Board concluded a formal hearing is not necessary.

Under Section 89-02-01-09.2 of the Administrative Code and Section 61-32-03 of the North Dakota Century Code, the Board must ultimately determine if the project will result in downstream impacts and, if so, the Board must obtain downstream Flowage Easements from impacted downstream parties as a condition to any approval of *Application No. 6328*, under Section 61-32-03. The Board reviewed Kurt Lysne’s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. Mr. Lysne concluded the project will not result in any downstream impacts and the Board concurred.

Manager Gust moved to adopt Moore Engineering, Inc.’s responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code; to conclude the project will not result in adverse downstream impacts; to conclude no hearing is necessary; to approve *Application for Surface Drain No. 6328* regarding the Cass County Drain No. 30 Diversion inlet tie-in and transition, subject to any conditions attached by the Department

of Water Resources; and to authorize the Secretary-Treasurer to sign *Surface Drain Permit No. 6328*. Manager Sundberg seconded the motion. Upon roll call vote, the motion carried unanimously.

Mr. Lysne stated the construction of Drain #30 inlet tie-in and transition components will require acquiring certain real property interests for purposes of constructing, managing, operating, and maintaining the project. The Board discussed valuation of right of way needed for the project.

Manager Gust moved and Manager Sundberg seconded to offer \$9,350 per acre for right of way needed for the Drain #30 inlet tie-in and transition to the Diversion Channel of the Metro Flood Diversion Project, contingent upon approval by the Metro Flood Diversion Authority. Upon roll call vote, the motion carried unanimously.

Rush River – future bridge replacements

Kyle Litchy reported the Rush River crossing between Sections 29 and 30 in Harwood Township will be more expensive than anticipated. The crossing will need to be much longer than estimated due to the amount of cover needed for the crossing.

Mr. Litchy also asked the Board their preference on the order of construction of Rush River crossing replacements between Sections 29 and 32 and Sections 32 and 33 in Rush River Township. The Board asked Mr. Litchy to inquire with Rush River Township regarding their preference on the order of the replacements of the crossings. Rush River Township officials will also be invited to the next Water Resource District meeting to continue discussion on the crossing replacements.

Rush River / Lower Rush River - flattening of side slopes

Discussion was next held on the proposed comprehensive side slope flattening project regarding the Rush River and Lower Rush River. Mr. Lysne discussed the modeling results of flattening the side slopes on the Rush River from the Diversion Channel upstream. The modeling shows reduced water surface elevations but increased flow rates into the Diversion Channel of the Metro Flood Diversion Project. The Board directed Moore Engineering, Inc. to discuss the possibility of increased flows from the Rush River / Lower Rush River into the Diversion Channel with the Corps of Engineers to gather their feedback on the proposed project. The Board also discussed various design options including construction of lateral between the Rush River and Lower Rush River. Moore Engineering, Inc. will bring back more information on the matter to a future meeting for continued discussion.

Temporary Water Permit for ASN Constructors from the Rush River in the NE 1/4 of Section 25 in Berlin Township

The Board received and filed a *Temporary Water Permit* for ASN Constructors from the Rush River in the NE 1/4 of Section 25 in Berlin Township.

Temporary Water Permit for ASN Constructors from the Lower Rush River in the SE 1/4 of Section 2 in Raymond Township

The Board received and filed a *Temporary Water Permit* for ASN Constructors from the Lower Rush River in the SE 1/4 of Section 2 in Raymond Township.

Cass County Joint Water Resource District (CCJWRD) report

Manager Gust discussed concerns regarding the construction status of bridges near Harwood for the Metro Flood Diversion Project. Tom Fuchs noted the developer of the Diversion Channel is coordinating with Burlington Northern Santa Fe Railway Company on the completion of the railroad bypass in that area which has delayed the progress of the bridge work near Harwood. Mr. Fuchs stated within the last couple of weeks, the bridge work at the highway and railroad bridges have proceeded forward and the earliest completion date is the Fall of 2025, which is within the scheduled completion timeline.

Red River Joint Water Resource District (RRJWRD) report

Manager Sundberg briefly discussed the RRJWRD Full Board meeting held in Pembina County, and the upcoming Red River Retention Authority Partner Summit scheduled for July 31, 2024, in East Grand Forks, Minnesota. Managers are invited to register for and attend the Summit.

Sean Fredricks provided a brief legislative update regarding water resource districts.

Treasurer appointment

The Secretary recommended the Board consider transferring the title of Treasurer of the Rush River Water Resource District to the Accountant, Leilei Bao, as Ms. Bao has completed training and is excelling in her role.

It was moved by Manager Gust, seconded by Manager Sundberg, and unanimously carried to appoint Leilei Bao as Treasurer of Rush River Water Resource District.

2025 budget and 2024 maintenance levy assessments

The Board discussed the 2025 budget. A motion was made by Manager Sundberg and seconded by Manager Gust to approve the Rush River Water Resource District 2025 budget. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Sundberg and seconded by Manager Gust to approve the Rush River Water Resource District 2024 maintenance levy assessments, at the following levels:

- Drain #29 (agriculture): \$1.50
- Drain #29 (developed): \$1.50
- Drain #29A: \$0.25
- Drain #30: \$0.25
- Drain #52: \$4.00
- Rush River - ag: \$4.00
- Rush River – non-ag: \$4.00
- Drain #67: \$4.00

- Drain #70: \$1.00
- Drain #72: \$1.00
- Drain #74: \$2.00

Upon roll call vote, the motion carried unanimously.

2023 Audit

The Secretary briefly discussed the final 2023 Audit report of the Rush River Water Resource District.

Manager Sundberg moved, and Manager Gust seconded to approve the 2023 Audit of the Rush River Water Resource District. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Gust and seconded by Manager Sundberg to approve the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Hejl, Gust, and Sundberg. The motion carried unanimously.

State Water Commissioner-hosted meeting – Upper Red River Basin

Chairman Hejl reported he attended the State Water Commissioner-hosted meeting regarding the Upper Red River Basin on June 17, 2024, held at the Dr. James Carlson Library, Fargo. Chairman Hejl noted there were numerous planned upcoming projects throughout the Basin presented to the Commissioners during the meeting.

Adjournment

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

APPROVED:

William A. Hejl
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary