

MINUTES OF CASS COUNTY JOINT WATER RESOURCE DISTRICT MEETING
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
MARCH 27, 2025
8:30 A.M.

A meeting of the Cass County Joint Water Resource District (CCJWRD) was held on March 27, 2025, at 8:30 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-Treasurer; Amy Hepper, Accountant; Elizabeth Smith, Administrative Assistant; Rita Nelson, Accounting Assistant; Sean Fredricks, Chris McShane, Luke Andrud, and Katie Schmidt, Ohnstad Twichell, P.C.; Kurt Lysne, Lyndon Pease, Levi Hanson, and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman; Duane Breitling, Cass County Commissioner; Jodi Smith, Metro Flood Diversion Authority (MFDA); Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Katie Laidley, SRF Consulting Group, Inc.; Peggy Harter, Jacobs; Dale Ahlsten and Scott Stenger, ProSource Technologies, LLC; Oly Olafson and Wade Whitworth, HDR, Inc.; Doug Johnson, DKJ Appraisal LLC; Shawn Morten, Dakota Helicopters, Inc.; Tammy Larson, Larson Helicopters LLC; Leo Richard, Stanley Township property owner; and Mark Prindiville, Horace Resident.

Approval of agenda

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

Minutes

It was moved by Manager Melvin, seconded by Manager Gust, and unanimously carried to approve the minutes of the February 27, 2025, 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 negotiation of settlement agreements for existing eminent domain actions, completion of appraisal reports for Christine-area flowage easements and Horace Mobility Improvements, disposal of Project lands deemed excess, and staking the farmable areas adjacent to active construction sites.

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, and negotiating with landowners for the Sheyenne River Benching Project and flowage easements in Christine.

Mr. Dodds stated there are parcels that have been deemed excess land regarding the Metro Flood Diversion Project that are not pending sale. Mr. Dodds presented a proposal from Pifer's to market and auction the properties. The Metro Flood Diversion Authority Land Management Committee approved this proposal at their recent meeting.

Mr. Dodds stated OIN 1899 has been deemed excess property by the Metro Flood Diversion Authority Executive Director and requested the Board approve listing the property for sale.

A motion was made by Manager Gust and seconded by Manager Weston to declare OIN 1899 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.

Discussion was held on OINs 7234B-7234D regarding the Metro Flood Diversion Project. Mr. Dodds noted the Metro Flood Diversion Authority Land Management Committee has recommended the properties be deemed as excess land following the *Policy on the Disposition and Management of Comprehensive Project Lands*. Neighboring landowners have expressed interest in purchasing their portion of the properties.

A motion was made by Manager Gust and seconded by Manager Weston to declare OINs 7234B-D 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.

Mr. Dodds stated that the ballast and other material need to be removed from the former railroad corridor on OIN 7247. The property is now owned by James Danielson. An Access Agreement is needed to complete the necessary work.

A motion was made by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Access Agreement* with James Danielson for OIN 7247 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Appraisal review and approval

Doug Johnson reviewed various appraisals regarding the Metro Flood Diversion Project.

It was moved by Manager Gust and seconded by Manager Melvin to approve the appraisals for the following properties as an estimate of just compensation for acquisition of property regarding the Metro Flood Diversion Project:

- OIN 8690 with an effective date of January 3, 2025

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- OIN 8688 with an effective date of February 13, 2025
- OIN 8707 and 8716 with an effective date of February 13, 2025
- OIN 1375 and 1523 with an effective date of January 29, 2025

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Acquisition review and approval

A motion was made by Manager Melvin and seconded by Manager Weston to approve the *Resolution of Necessity* for acquisition of property in the Sheyenne Benching area 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 Steen to approve the respective appraisals as just compensation offers and to authorize the Water Resource District attorneys and staff to proceed with formal negotiations and subsequent steps required under Section 61-16.1-09 and Chapter 32-15 of the North Dakota Century Code to acquire the necessary property rights from the following landowners in, on, over, across, and through the following OINs to accommodate the Sheyenne River Benching Project, with an acquisition deadline of December 1, 2025:

- OIN 1199X
- OIN 1205
- OIN 1206
- OIN 1209
- OIN 1210
- OIN 7235
- OIN 9346
- OIN 9351

Upon roll call vote, the motion carried unanimously.

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

It was moved by Manager Weston and seconded by Manager Melvin to approve relocation and replacement housing payments for the following regarding the Metro Flood Diversion Project:

- OIN 9993 and 9994, as outlined in the letter dated March 13, 2025
- OIN 9993 and 9994 (tenants), as outlined in the letter dated March 27, 2025
- OIN 1112 and 1113, as outlined in the letter dated March 13, 2025
- OIN 8386, as outlined in the letter dated March 18, 2025
- OIN 1972, as outlined in the letter dated March 18, 2025

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Property management

A motion was made by Manager Gust and was seconded by Manager Weston to approve the 2025 *Cash Crop Lease Agreement* for OIN 1097Y regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Cass County Electric Cooperative Easements

Peggy Harter discussed the Easement requests from Cass County Electric Cooperative on OINs 8518, 9347, and 9993. The current electric utilities on the properties need to be relocated for the Metro Flood Diversion Project. The existing easements will be released following recording of the new easements.

A motion was made by Manager Melvin and seconded by Manager Weston to approve and authorize the Chairman to sign the *Utility Easements* with Cass County Electric Cooperative on OINs 8518, 9347, and 9993 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

AAB Addition Site Amenities Plan

A motion was made by Manager Gust and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Site Amenities Plan* for the AAB Addition regarding the Metro Flood Diversion Project. 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 ongoing 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)

It was moved by Manager Weston and seconded by Manager Gust to close the meeting at 9:21 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:

- Cass County Joint Water Resource District v. Gail J. Moe, Civ. No. 09-2024-CV-02121 (OIN 1953);
- Cass County Joint Water Resource District v. Riley Braaten, et. al., Civ. No. 09-2023-CV-00182 (OIN 5032); and
- Cass County Joint Water Resource District v. Allen and Diane Ricker, Civ. No. 09-2023-CV-03625 (OINs 872, 873, 874, and 875).

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

The executive session was attended by Managers Lougheed, Weston, Gust, Melvin, and Steen, Melissa Hinkemeyer, Amy Hepper, Elizabeth Smith, Rita Nelson, Sean Fredricks, Chris McShane, Lukas Andrud, Katie Schmidt, Rob Stefonowicz, Jodi Smith, Eric Dodds, Dean Vetter, and Oly Olafson.

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 continued

Chairman Loughheed asked if any members of the Board wished to offer any motions regarding the following matters:

- Cass County Joint Water Resource District v. Gail J. Moe, Civ. No. 09-2024-CV-02121 (OIN 1953);

Manager Steen moved to approve a settlement with Gail J. Moe (Moe), as follows:

- Moe will convey to the Cass County Joint Water Resource District (the “District”) flowage easement interests over OIN 1953, consisting of approximately 10.07 acres, as depicted in the District’s appraisal, and to be defined more fully by survey to be completed by the District.
- The District will pay Moe a total of \$850,000 upon closing of the real estate transaction contemplated under the parties’ settlement agreement, as outlined above, inclusive of the replacement housing differential payment (“RHDP”).
- Moe will vacate the property no later than December 1, 2025.
- Moe will allow the District, the Diversion Authority, and those parties’ agents to conduct a cultural resource survey following closing.
- Following the closing of the of the real estate transaction contemplated under the parties’ settlement agreement, the parties will execute and file a stipulation to dismiss the eminent domain action, Cass County Joint Water Resource District v. Gail J. Moe, Civ. No. 09-2024-CV-02121.
- The District will reimburse Moe for reasonable attorneys’ fees and costs, not to exceed \$37,000.

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

Maple River Dam - General operation and maintenance updates

Brady Woodard reported he attended the recent Highland Township meeting to discuss the Maple River Dam. The Township is satisfied with the work the Board has completed at the Dam in the last several years. The Township is requesting the Board reimburse for weed control efforts in the Township road ditches within the backwater pool area of the Maple River Dam. The Board discussed the request from the Township and decided to conduct a site visit before making a decision on the request. The Board also discussed potentially amending the *Agreement* with Highland Township regarding the Maple River Dam. The Board will continue discussion on the matter at a future meeting.

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

Mr. Lysne briefly updated the Board on the status of the RCPP Upper Maple River Watershed Plan. The NRCS recently sent the plan to the National Watershed Management Center for their review.

Sheldon Flood Protection Project No. 2019-01

Mr. Lysne briefly updated the Board on the status of the Sheldon Flood Protection Project No. 2019-01. Mr. Lysne reported that Moore Engineering, Inc. is finalizing a permit with Cass County. The Project is currently being advertised for bids.

Weed Control

Brief discussion was held on the bids received for weed control efforts in 2025 regarding Water Resource District facilities. The Board directed Mr. Woodard to discuss the products and methods in the bids with the Cass County Weed Control Officer to determine the most effective and compatible products for Water Resource District use. Shawn Morten briefly discussed Dakota Helicopter, Inc.'s 2025 weed control bid. The Board will continue discussion at the next meeting.

City of Horace Planning – Westdale Addition

The Board received and filed information regarding the Westdale Addition in the City of Horace.

Cass Rural Water Users District – Annual Meeting Proxy

A motion was made by Manager Weston and seconded by Manager Gust to authorize the Secretary to sign and return the Cass Rural Water Users District proxy for Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Gust and seconded by Manager Steen to approve Checks #15400 through 15403 and payment of the wire transfers as amended. Upon roll call vote, the following Managers voted in favor: Loughheed, Gust, Steen, Weston and Melvin. The motion passed.

Legislative updates

Mr. Fredricks reported on legislative items that impact the water resource districts including cost-share percentages, economic analyses, and an interim study regarding watershed districts.

Adjournment

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

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary