

MINUTES OF CASS COUNTY JOINT WATER RESOURCE DISTRICT MEETING
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
APRIL 24, 2025
8:30 A.M.

A meeting of the Cass County Joint Water Resource District (CCJWRD) was held on April 24, 2025, at 8:30 a.m.

Present were Ken Loughheed, 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, Katie Schmidt, David Piper, and John Shockley, Ohnstad Twichell, P.C.; Kurt Lysne, Lyndon Pease, Levi Hanson, and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefanowicz, Larkin Hoffman; Duane Breitling, Cass County Commissioner; Jodi Smith, Kris Bakkegard, and Madeline Daudt, Metro Flood Diversion Authority (MFDA); Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Oly Olafson and Wade Whitworth, HDR, Inc.; Dale Alhsten, Prosource Technologies LLC; Paul Barthel and Katrina Olson, Jacobs; and Tammy Larson, Larson Helicopters LLC.

Approval of agenda

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

Minutes

It was moved by Manager Weston, seconded by Manager Melvin, and unanimously carried to approve the minutes of the April 10, 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, negotiating with landowners for the Sheyenne River Benching Project and flowage easements in Christine, and working on property acquisition for cemetery mitigation work.

Brief discussion was held on the status of the levee surrounding the city of Wolverton.

Manager Gust inquired if there are restrictions on building berms along the Diversion channel. Lyndon Pease discussed the design of the Metro Flood Diversion Project, specifically the Sheyenne River Benching Project. Berms were considered during the design process. The Board indicated discussions regarding berms could continue with the Diversion Authority Engineer.

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 Gust and seconded by Manager Weston to close the meeting at 9:13 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 matter:

- Cass County Joint Water Resource District v. Steven Craig Brakke, et al, Civ. No. 09-2024-CV-04601 (OIN 1939)

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, Luke Andrud, Katie Schmidt, David Piper, John Shockley, Rob Stefonowicz, Duane Breitling, Jodi Smith, Madeline Daudt, Eric Dodds, Dean Vetter, Ken Helvey, Katie Laidley, and Oly Olafson.

The executive session adjourned at 9:25 a.m. and the regular meeting was reconvened and opened to the public.

Metro Flood Diversion Project – Acquisition review and approval continued

Chairman Lougheed asked if any members of the Board wished to offer any motions regarding the following matter:

- Cass County Joint Water Resource District v. Steven Craig Brakke, et al, Civ. No. 09-2024-CV-04601 (OIN 1939)

Manager Steen moved to approve a settlement with Steven Craig Brakke (“Brakke”), as follows:

- Brakke will convey to the Cass County Joint Water Resource District (the “District”) flowage easement interests over OIN 1939, consisting of approximately 10.98 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 Brakke a total of \$2,400,000 (the “Purchase Price”) upon closing of the real estate transaction contemplated under the parties’ settlement agreement, as outlined above, inclusive of the replacement housing differential payment (“RHDP”).
- Brakke waives eligibility for the Rural Improvement Mitigation Program (“RIMP”), and any benefits under RIMP for which Brakke may have otherwise been eligible.
- Brakke waives eligibility for benefits related to relocation or replacement of grain storage facilities related to OIN 1939 for which Brakke may have been eligible.
- The parties will execute an escrow agreement under which the District will place \$200,000 of the Purchase Price into an escrow account to be dispersed to Brakke upon completion by Brakke of mitigation of the existing structures on or before June 1, 2026, to comply with the requirements of the flowage easement Brakke will execute regarding OIN 1939.
- The District will have the right to enter upon OIN 1939 upon execution of the parties’ settlement agreement and before closing for purposes of conducting cultural surveys.
- Brakke will vacate the property no later than June 1, 2026.
- Following the closing 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. Steven Craig Brakke, et al, Civ. No.09-2024-CV-4601.
- The District will reimburse Brakke for reasonable attorneys’ fees and costs, not to exceed \$80,000.

Manager Gust seconded the motion.

Discussion: Manager Steen asked if \$200,000 is a fair estimate to relocate the structures on this property. Mr. Dodds stated that the curing of the land is not required, and this estimate is based on cost for similar past structure relocations.

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Appraisal Review and Approval

Dean Vetter reviewed the appraisal for OIN 8696 regarding the Metro Flood Diversion Project.

It was moved by Manager Weston and seconded by Manager Melvin to approve the appraisal for OIN 8696 with an effective date of March 27, 2025, as an estimate 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 – Project updates and general topics continued

Mr. Dodds updated the Board on the status of the excess land sale of OINs 7234B-7234D regarding the Metro Flood Diversion Project. Mr. Dodds noted the landowners must respond to a letter that was sent regarding their interest in purchasing the properties by May 12, 2025. The matter will be discussed at the Metro Flood Diversion Authority Land Management Committee meeting on May 19, 2025.

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

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

- OIN 9258, as outlined in the letter dated April 17, 2025
- OIN 2016, as outlined in the letter dated April 18, 2025

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Property management

Madeline Daudt reviewed an amendment to the rental agreement for OIN 1914 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 the *Amendment to Rental Agreement Lease* for OIN 1914 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Daudt reviewed the letter for OIN 7002 regarding the Metro Flood Diversion Project. Ms. Daudt stated the property owner requested continued access to a building on the property due to the delayed cultural clearance from the Corps of Engineers.

A motion was made by Manager Steen and seconded by Manager Gust to approve and authorize the Secretary to send a letter to the tenant of OIN 7002 notifying them of their access to the building on the property until September 30, 2025, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Daudt reviewed the lease termination letter of the *Rental Agreement* for OIN 9404 regarding the Metro Flood Diversion Project.

A motion was made by Manager Steen and seconded by Manager Weston to approve and authorize the Secretary to send a letter to the tenant of OIN 9404 notifying them of the termination of the associated *Rental Agreement* effective September 1, 2025, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project - Contracting Actions

Mr. Dodds reviewed the Task Order No. 2 – Amendment 0 with The Pifer Group, Inc. Mr. Dodds noted that The Pifer Group, Inc. has a *Master Agreement for Professional Services* with the Board but a task order was suggested for retainer fees related to excess lands disposal auctions.

A motion was made by Manager Melvin and seconded by Manager Gust to approve and authorize the Chairman to sign the Task Order No. 2 – Amendment 0 with The Pifer Group, Inc. not to exceed \$20,000 pending the review and approval of the Task Order by the Water Resource District Attorney regarding the Metro Flood Diversion project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – First Amendment to Memorandum of Understanding

The Water Resource District Attorney discussed the *First Amendment to Memorandum of Understanding* between the Metro Flood Diversion Authority and the water resource districts in Cass County. The amendment contemplates post project clean up.

A motion was made by Manager Steen and seconded by Manager Melvin to approve and authorize the Chairman to sign the *First Amendment to Memorandum of Understanding* between the Metro Flood Diversion Authority, CCJWRD, and the individual water resource districts in Cass County regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Maple River Dam - General operation and maintenance updates

Brady Woodard reported that he met with JAC Predator & Large Pest Control, Inc. regarding gopher damage control at the Maple River Dam. Discussion was held on the cost of animal damage control at the Maple River Dam.

Regional Conservation Partnership Program (RCP) – Rush River Watershed

Kurt Lysne briefly updated the Board on the status of the RCP Rush River Watershed Plan. Mr. Lysne reported that Moore Engineering, Inc. is working on the modeling for the FEMA CLOMR and the construction permit with the Department of Water Resources.

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

Mr. Lysne briefly updated the Board on the status of the RCP Upper Maple River Watershed Plan. Mr. Lysne reported that Moore Engineering, Inc. is working on a letter to area property owners updating them on the status of the project.

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 stated the Cass County Flood Sales Tax Committee approved an additional \$53,000 to cover local costs above the total approved assessment amount. Mr. Lysne briefly updated the Board on the status of acquiring the additional easement area

needed for the Project. Brief discussion was held on the construction timeline of the Project. The Project is scheduled to be completed this year.

Weed Control

Brief discussion was held on the bids received for weed control efforts in 2025 regarding Water Resource District facilities. The Secretary prepared a comparison of the bids using previous years' data.

A motion was made by Manager Steen and seconded by Manager Gust to approve and authorize the Chairman to sign the Agreement with Dakota Helicopters Inc. to provide aerial and ground spraying services for weed, cattail, tree and brush control on Cass County Joint Water Resource District facilities for 2025. Upon roll call vote, the motion carried unanimously.

Chairman Loughheed requested all vendors submit itemized bids in the future.

Bills

It was moved by Manager Steen and seconded by Manager Melvin to approve Checks #15406 through 15407 and payment of the wire transfers as presented. Upon roll call vote, the following Managers voted in favor: Loughheed, Gust, Steen, Weston and Melvin. The motion passed.

Oxbow-Hickson-Bakke Ring Levee Project - Hunting

Discussion was held on the possibility of opening property owned for the Oxbow-Hickson-Bakke Ring Levee Project to hunting. Mr. Woodard discussed the matter with the Metro Flood Diversion Authority who indicated the area is still an active project site. The Metro Flood Diversion Authority will continue discussing the matter.

Adjournment

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

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary