

MINUTES OF CASS COUNTY JOINT WATER RESOURCE DISTRICT MEETING
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
JANUARY 23, 2025
8:30 A.M.

A meeting of the Cass County Joint Water Resource District was held on January 23, 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; Elizabeth Smith, Administrative Assistant; Rita Nelson, Accounting Assistant; Sean M. Fredricks, Chris McShane, Lukas Andrud, and Katie Schmidt, Ohnstad Twichell, P.C.; Kurt Lysne and Lyndon Pease, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman; Duane Breitling, Cass County Commissioner; Jason Benson, Cass County Engineer; Jodi Smith, Jessica Warren, and Madeline Daudt, Metro Flood Diversion Authority (MFDA); Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Scott Stenger, 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; Terry Sauvageau and Leo Richard, Stanley Township property owner; and Jackie Goldader and Michael Redlin, Fargo.

Approval of agenda

It was moved by Manager Steen, 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 January 9, 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 regarding property rights acquisition, disposal of Project lands deemed excess, Christine area flowage easements, the Sheyenne River Benching Project, release of Temporary Construction Easements, and continued work on farmland leases for 2025.

Mr. Dodds reported the land agents for the Project continue to provide relocation advisory services, process reimbursements for Rural Impact Mitigation Program loans, and negotiate with property owners regarding acquisition of property rights for the Sheyenne River Benching Project and Flowage Easements in the City of Christine.

Mr. Dodds stated there is a prospective buyer for OIN 2185 that is currently for sale as it has been deemed excess property regarding the Metro Flood Diversion Project. The property is currently encumbered by a Flowage Easement. The prospective buyer submitted a work plan as they intend to use the property as a vegetable garden. The prospective buyer included a field approach to OIN 2185 in their work plan, however the Corps of Engineers is not supportive of the field approach detailed in the work plan. The prospective buyer is still interested in purchasing the property without the field approach access to the property.

A motion was made by Manager Steen and seconded by Manager Gust to approve the work plan without the field access approach submitted by the prospective buyer of OIN 2185 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Dean Vetter reported the Temporary Construction Easements on OINs 224X and 226X regarding the Metro Flood Diversion Project are nearly expired and have been released back to the property owner as the easements are no longer needed and the property owner asked for the release.

Metro Flood Diversion Project – Appraisal review and approval

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

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

- OINs 1514 and 1570 with an effective date of October 10, 2024
- OINs 8710 and 8711 with an effective date of November 18, 2024
- OIN 1455 with an effective date of October 10, 2024
- OIN 1462A with an effective date of October 10, 2024
- OIN 1468 with an effective date of October 10, 2024
- OIN 1491 with an effective date of October 10, 2024
- OINs 8691 and 8693 with an effective date of September 12, 2024
- OIN 8705 with an effective date of January 3, 2025
- OIN 8727 with an effective date of January 3, 2025
- OIN 1206 with an effective date of October 17, 2024
- OIN 7235 with an effective date of November 8, 2024

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project - Acquisition review and approval

Mr. Vetter discussed an *Amendment to Farming Access Agreement* to provide access to OINs 1195X and 1196X. The field access construction was originally intended to be complete before this winter, however the contractor was unable to complete the project. The *Amendment* extends the project deadline to May 31, 2025. Mr. Vetter noted the contractor knows the tenant of OINs 1195X and 1196X and will work with the tenant regarding timing of the project in relation to spring planting.

A motion was made by Manager Steen and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Amendment to Farming Access Agreement* for OINs 1195X and 1196X regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ken Helvey discussed a counteroffer for acquisition of a Flowage Easement on OIN 8773.

A motion was made by Manager Steen and seconded by Manager Gust to approve the *Purchase Agreement* for OIN 8773 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Lukas Andrud stated the property owner of OIN 1891 wishes to remain on the property until August 1, 2025, which was part of the negotiations with the property owner. The previous Board motion inadvertently did not include that language.

Manager Gust moved to approve an amended settlement with Rodney and Cherie Mathison, as follows:

- The Mathisons will convey to the Cass County Joint Water Resource District (the "District") flowage easements interests over OIN 1891, consisting of approximately 17.45 acres, as defined by survey.
- The District will pay the Mathisons a total of \$755,000 upon closing of the real estate transaction contemplated under the parties' settlement agreement for OIN 1891, as outlined above, inclusive of the RHDP.
- The District will have the right to enter upon OIN 1891 upon execution of the parties' settlement agreement and before closing for purposes of conducting cultural surveys.
- The District will reimburse the Mathisons for reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, which may include residential moving and closing costs.
- 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 Cass County Joint Water Resource District v. Rodney Mathison and Cherie Mathison, et al, Civ. No. 09-2024-CV-02120.
- The District will reimburse the Mathisons' reasonable attorneys' fees and costs, not to exceed \$40,000.

- The Mathisons will vacate the property no later than August 1, 2025.

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

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

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

- OIN 2016, as outlined in the letter dated December 12, 2024
- OIN 8386, as outlined in the letter dated January 23, 2025
- OINs 9993 and 9994, as outlined in the letter dated January 23, 2025
- OIN 840, as outlined in the letter dated January 23, 2025
- OIN 1912, as outlined in the letter dated December 17, 2024

Upon roll call vote, the motion carried unanimously.

Discussion was held on having a consent agenda for relocation and RHDP reimbursement requests in the future.

Wade Whitworth briefly reported the former property owners of OIN 8386 have relocated to their new home.

Metro Flood Diversion Project – Property management

Madeline Daudt discussed the lease termination of the *Rental Agreement* for OINs 2016 and 831 regarding the Metro Flood Diversion Project. The structures on the properties will be removed as the properties are located in the Upstream Mitigation Area of the Metro Flood Diversion Project.

It was moved by Manager Steen and seconded by Manager Gust to approve and authorize the Secretary to send a letter to the tenant of OIN 2016 notifying them of the termination of the *Rental Agreement* effective July 1, 2025, and the tenant of OIN 831 notifying them of the termination of the *Rental Agreement* effective May 1, 2025. Upon roll call vote, the motion carried unanimously.

Ms. Daudt discussed a proposed *License Agreement* for property maintenance of OIN 1899 regarding Metro Flood Diversion Project. The Agreement will allow the Metro Flood Diversion Authority to remove the property from a mowing contract, which is cost-saving for the Project. A motion was made by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *License Agreement* with Randy Lacher for property maintenance of OIN 1899 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously

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

- OINs 27N, 816Y2, 817Y2, 817Y3, 822Y2, 823Y, 1082, 1083X, 1086X, 1906, and 1097Y
- OINs 1075Y and 1078X

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Contracting actions

Jessica Warren reviewed *Task Order No. 3 – Amendment 0* with Tinjum Appraisal Company, Inc. for appraisal services regarding the Metro Flood Diversion Project.

A motion was made by Manager Steen and seconded by Manager Gust to approve and authorize the Chairman to sign *Task Order No. 3 – Amendment 0* with Tinjum Appraisal Company, Inc. 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 Steen to close the meeting at 9:07 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. Gary L. Redlin, et al, Civ. No. 09-2024-CV-02157 (OIN 2002);
- Cass County Joint Water Resource District v. Nancy Rae Johnson, Justin A. Johnson, et al, Civ. No. 09-2024-CV-02122 (OINs 2039 and 2041)

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, Elizabeth Smith, Sean Fredricks, Chris McShane, Lukas Andrud, Katie Schmidt, Rob Stefonowicz, Jodi Smith, Jessica Warren, Madeline Daudt, Eric Dodds, Dean Vetter, Sabrina Tusa, Scott Stenger, Ken Helvey, Katie Laidley, and Wade Whitworth.

The executive session adjourned at 9:41 a.m. and the regular meeting was reconvened and opened to the public.

Metro Flood Diversion Project – Acquisition review / approval continued

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

- Cass County Joint Water Resource District v. Gary L. Redlin, et al, Civ. No. 09-2024-CV-02157 (OIN 2002);
- Cass County Joint Water Resource District v. Nancy Rae Johnson, Justin A. Johnson, et al, Civ. No. 09-2024-CV-02122 (OINs 2039 and 2041);

Manager Steen moved to approve a settlement with Gary L. Redlin and Patricia M. Redlin (the “Redlins”), and Redlin Engine Design, LLC, as follows:

- The Redlins will convey to the Cass County Joint Water Resource District (the “District”) OIN 2002 in fee simple, consisting of approximately 9.21 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 the Redlins a total of \$1,200,000 upon closing of the real estate transaction contemplated under the parties’ settlement agreement, as outlined above, inclusive of the replacement housing differential payment (“RHDP”).
- The District will have the right to enter upon OIN 2002 upon execution of the parties’ settlement agreement and before closing for purposes of conducting cultural surveys.
- The District will reimburse the Redlins for reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, which may include residential moving and closing costs.
- 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. Gary L. Redlin, et al, Civ. No. 09-2024-CV-02157.
- The District will pay Redlin Engine Designs, LLC (the “LLC”), a tenant in one of the buildings located on OIN 2002, a reestablishment payment of \$50,000.00 upon closing of the real estate transaction contemplated under the District’s settlement agreement with the Redlins, and the District will reimburse the LLC for additional reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, which may include business relocation and reestablishment costs.
- The Redlins and the LLC will lease back OIN 2002 for \$500 per month through January 15, 2026, in accordance with the terms of a written lease the parties will execute in conjunction with execution of the parties’ settlement agreement.
- The District will reimburse the Redlins and the LLC for reasonable attorneys’ fees and costs, not to exceed \$35,000.

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

Manager Weston moved to approve a settlement with Nancy Rae Johnson and Justin A. Johnson (the “Johnsons”), as follows:

- The Johnsons will convey to the District flowage easements interests over OINs 2039 and 2041, consisting of approximately 15.9 acres, as defined by survey.

- The District will pay the Johnsons a total of \$605,000 upon closing of the real estate transaction contemplated under the parties' settlement agreement for OIN 2039 and 2041, as outlined above, inclusive of the RHDP.
- The District will have the right to enter upon OINs 2039 and 2041 upon execution of the parties' settlement agreement and before closing for purposes of conducting cultural surveys.
- The District will reimburse the Johnsons for reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, which may include residential moving and closing costs.
- Johnsons will vacate the property no later than January 15, 2026.
- 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. Nancy Rae Johnson, Justin A. Johnson, et al, Civ. No. 09-2024-CV-02122.
- The District will reimburse the Johnsons' reasonable attorneys' fees and costs, not to exceed \$25,000.

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

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 has been working on the project for about a month and the project is going very well. Mr. Woodard asked the Board to consider approving an additional \$50,000 for the contractor to continue the project.

A motion was made by Manager Steen and seconded by Manager Gust to direct the Water Resource District Attorney to draft an amendment to the Agreement with the contractor not to exceed \$50,000 for continued tree and debris removal at the Maple River Dam.

Discussion: The Board discussed concerns of the potential for fires from the stacking of trees and debris surrounding the Maple River Dam. Mr. Woodard stated fires are not a big risk at this time. Moore Engineering, Inc. also monitors the Maple River Dam and surrounding Water Resource District properties and stays in communication with surrounding property owners and the local fire department.

Upon roll call vote, the motion carried unanimously.

Mr. Woodard noted the Maple River Dam archaeologist is highlighting the Maple River Dam at an international conference for the great work that is being done at the environmentally sensitive sites at the Dam.

Maple River Dam – Emergency Action Plan update

A motion was made by Manager Steen and seconded by Manager Melvin to approve and authorize the Chairman to sign *Task Order No. 1* 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 (RCP) – Rush River Watershed

Mr. Lysne updated the Board on cost-share for the Conditional Letter of Map Revision and permitting for the RCP – Rush River Watershed Project. Mr. Lysne noted the Project design continues to be reviewed by the Natural Resources Conservation Service (NRCS). The NRCS is nearly complete with their review and has indicated funding should be available through the NRCS for project construction, however funding is not guaranteed.

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. The NRCS is making small adjustments to the Plan. Once the NRCS is complete with their adjustments to the Plan, they will then forward 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 Moore Engineering, Inc. is finalizing the project plans, then the project will be advertised for bids. Construction should be ready to begin this spring when conditions allow.

Administrative Items

Sean Fredricks noted in light of the resignation of the Treasurer, the Board needs to appoint a Treasurer of the Cass County Joint Water Resource District.

A motion was made by Manager Gust and seconded by Manager Melvin to appoint Melissa Hinkemeyer as Treasurer of the Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

Discussion was held on staff salary adjustments for 2025, as recommended by the Human Resources Committee. The Committee recommended a 3% cost of living adjustment and a step increase determined by the Cass County salary matrix.

A motion was made by Manager Weston and seconded by Manager Gust to approve staff salaries for 2025, as recommended by the Human Resources Committee. Upon roll call vote, the motion carried unanimously.

Manager Steen inquired about advertising for the Accountant/Treasurer position. The Director indicated she will be advertising for the full-time permanent Accountant/Treasurer position very soon and is currently working with an agency to look for a temporary accountant.

Bills

It was moved by Manager Steen and seconded by Manager Melvin to approve Checks #15391 through #15397 and payment of the wire transfers as presented. Upon roll call vote, the following Managers voted in favor: Lougheed, Gust, Steen, Weston and Melvin. The Chairman declared the motion passed.

Discussion was held on the missing propane tank that the Water Resource District was billed for regarding the Metro Flood Diversion Project. The Water Resource District Engineers will look into the matter as they are involved in the demo contracts for the Metro Flood Diversion Project.

Adjournment

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

APPROVED:

Ken Lougheed
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary