

Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – April 24, 2025

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on April 24, 2025. The following members were present: Bernie Dardis, Mayor, City of West Fargo; Dr. Tim Mahoney, Mayor, City of Fargo; Chuck Hendrickson, Moorhead City Council; David Ebinger, Clay County Commissioner; Jim Kapitan, Cass County Commissioner; Duane Breitling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Lisa Borgen, Moorhead City Council; Rick Steen, Cass County Joint Water Resource District; Dave Piepkorn, Fargo City Commissioner and Shelly Carlson, Mayor, City of Moorhead; Kevin Campbell, Clay County Commissioner and Denise Kolpack, Fargo City Commissioner.

Member(s) absent: no members were absent.

1. CALL TO ORDER

Mr. Grindberg called the meeting to order at 3:30 PM. Roll call was taken, and a quorum was present.

2. APPROVE THE MINUTES FROM THE MARCH 27, 2025, MEETING

MOTION PASSED

Mr. Steen moved to approve the minutes from the March 27, 2025, meeting and Ms. Kolpack seconded the motion. On a voice vote, the motion carried.

3. APPROVE THE ORDER OF THE AGENDA

MOTION PASSED

Ms. Kolpack moved to approve the order of the agenda as presented and Mr. Kapitan seconded the motion. On a voice vote, the motion carried.

4. APPROVE THE CONSENT AGENDA

MOTION PASSED

Mayor Carlson moved to approve the consent agenda and Mr. Steen seconded the motion. On a roll call vote, the motion carried

5. EXECUTIVE DIRECTOR UPDATE

Mr. Benson reported that a community informational meeting was held in Horace on April 15, 2025, to discuss the upcoming road closures on County Roads 16 & 17. Staff from the sheriff's department, emergency management and fire personnel were in attendance as well.

Mr. Benson also reported that project-related meetings are being held with Ms. Terry Williams and Mr. Karl Jansen from the USACE and the dialogue has been productive.

Governor Walz visited Moorhead, and a meeting was held at the Hjemkomst to discuss the critical need for the \$60.4 million funding request that would provide for the completion of the City of Moorhead in-town projects as well as projects in Wolverton, Comstock and Georgetown. Governor Walz was very supportive of the Project and the need for funding.

6. GENERAL COUNSEL UPDATE

a. Technical Dispute Review Board Update

Mr. Shockley reported that Mr. Randell Hafner, JD, has been appointed to the TDRB by the developer. Recruitment continues for a chair and five individuals will be interviewed for the chair position. The composition of the TDRB is made up of attorneys, ensuring a higher level of knowledge operating within the open meeting parameters. The meetings will tentatively be held in the Cass County Commission Chambers and will consume more time than anticipated and additional funding will be needed.

b. Mr. Joel Paulsen's Separation Agreement

On April 21, 2025, Judge Van de Streek ruled from the bench to disqualify Mr. Paulsen from serving as an expert witness for the landowners in the ongoing CCJWRD eminent domain cases. On April 23, 2025, the Authority representatives participated in a mediation with Mr. Paulsen to attempt to enforce the terms and conditions of his Separation Agreement without having to go to court. The mediation was unsuccessful.

MOTION PASSED

Mayor Carlson moved to authorize the Executive Director to take any and all actions necessary, up to and including directing Counsel to immediately commence litigation to enforce the terms and conditions of the Separation and Release Agreement with Mr. Paulsen. Mr. Breitling seconded the motion and on a roll call vote, the motion carried.

7. PROJECT UPDATES

a. USACE Project Update

Ms. Williams provided the following USACE update:

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Construction completion date is currently 30 June 25. Schedule for remaining work: 2025: Complete operating machinery corrections; commissioning and training.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 98% complete. Revised construction completion date is 6 August 2025. Schedule for remaining work: 2025: Complete operating machinery corrections; commissioning and training.

3 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 74% complete. Construction completion date is 29 April 2026. Tainter gate #3 welding, bridge assembly, and concrete placements for approach apron and dam walls continues.

4 Southern Embankment – Reach SE-2A - Construction

Construction is 76% complete but continues to be behind schedule. Scheduled completion date of 13 October 2024 was not met. Revised schedule and completion date pending.

5 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract for wetland establishment. Completion date is 1 December 2027. Contractor replanting areas disturbed by adjacent producers.

6 FY2024 Contract Awards - Construction:

OHB Ring Levee: 50% complete. Contract completion date is 24 September 2025.

Reach SE-1B: 31% complete. Contract completion date is 13 March 2026.

Reach SE-2B: 45% complete. Contract completion date is 23 August 2026.

Forest Mitigation #1: Contractor to remobilize late April. Contract completion date is 31 Dec 2028.

Reach SE-4: 5% complete. Contract completion date is 3 June 2026.

7 FY2025 Contract Awards – Construction

SE-3: Contractor anticipates mobilizing late April. Contract completion date is 11 September 2026.

SE-5: Contractor anticipates mobilizing early May. Contract completion date is 8 August 2026.

Forest Mitigation #2: Contractor to mobilize late April. Contract completion date is 31 Dec 2029.

8 I-29 Raise – Operations and Maintenance (OMRRR)

Turnover to MFDA occurred on 20 December and preparation of O&M documents is ongoing.

9 Drayton Dam Mitigation Project Design - Operations and Maintenance (OMRRR)

Turnover to MFDA for O&M occurred on 28 Nov 2023. OMRRR manual coordination continues.

b. SWDCAI Project Update

Mr. Bakkegard provided an update of the construction map that shows current work in progress, 30 and 60 day projected progress:

New Features Under Construction

- CR-16/17 Drain Inlet

30 to 60 Day Outlook

- Channel Reach 14
- Authority Administration Building
- SE-3
- SE-5

Misc. Highlights

- MP-1 – Minnkota Power
- CR-81 Crossing
- I-94 Crossing
- CR-14 Crossing
- Sheyenne River Aqueduct

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period March 1 to March 31, 2025. He reported that there was one minor recordable incident and there were no other incidents to report.

d. P3 Monthly Update

Mr. Barthel highlighted the PMC March P3 summary report:

Progress:

Construction of the SWDCAI is approximately 60% complete based on Earned Value from RRVA's latest Schedule Submittal. The work during the reporting period is summarized below.

- **General:** Work project wide has been constrained this period by adverse weather. However, remobilization ramped up towards the end of the reporting period.
- **Aqueducts:** Maple River Aqueduct – Rebar to wingwalls #1 and #2. Erecting formwork to sections of wingwalls #7 and 8. Placing concrete to sections of wingwall #3 and vehicle barrier to wingwall #7. Driving sheet piles to the spillway. Sheyenne River Aqueduct – Placing gravel and geogrid and epoxy coated rebar to section 3 and 4 and placing concrete to Sections 2 and 4 of the flume floor foundation. Erecting Epoxy coated rebar to the west abutment wingwall and piers 1 and 2. Formwork for stage 1 of wingwall #3.
- **Stormwater Diversion Channel:** Localized work to Maintenance Road/Trail in Reaches 1 and 4. Excavation to main channel in Reaches 12 and 13.
- **Interstate Crossings:** I-29 - Erecting formwork to Northbound bridge deck.

- **County Road Crossings:** CR 81 Crossing: Placing concrete to south abutment wingwalls. CR 22 Crossing: erecting formwork for end walls. CR 20 Crossing: Work to Texas Corral rail vehicle barrier. 38th St Crossing: Placing concrete for vehicle barrier, stem walls and sleeper slabs. 32nd Ave Crossing: Installation of formwork to wing-walls and overhangs for all spans. CR 6 Crossing: placing concrete to pier cap #1. Rebar and concrete to west abutment wingwalls. CR 14 Crossing: Placing concrete to pier cap #2. Erecting formwork and placing concrete to east abutment and wing-walls. CR 16/17 Crossing: Dewatering and placing formwork, rebar and concrete for pile cap at pier #2.
- **Hydraulic Structures:** Rush River Inlet: Driving sheet piles and H-piles for abutments and piers. Raymond North Township Drain Inlet: Placing 72" reinforced concrete pipe and backfill. Drain 14B Drain Inlet: installing rebar, erecting formwork and placing concrete for headwalls.
- **Diversion Outlet:** Investigations continue for compliance issues.
- **Railroad Crossings:** BNSF Hillsboro Railroad Crossing: Erecting formwork and placing concrete to piers #2, #5 and #6. Sanding and gridding completed concrete. Placing concrete to north abutment wingwalls and south abutment pier cap. BNSF Prosper Railroad Crossing: Drilling cores for girder concrete pedestal preparation. BNSF K.O. Railroad Crossing: driving H-piles to east abutment and west abutment.
- **Roadways:** no activity this period
- **Authority Administration Building (AAB):** no construction work this period.

Observed progress during the reporting period and percentage complete for each buildable unit (BU) is set forth in Attachment A – Construction Progress by Buildable Unit.

General Administration

Significant preparation is ongoing for the first Interim Completions including records reviews and walk-throughs for punch lists. Unresolved Nonconformances and Noncompliance Events, unresolved major defects, submittal of records, and missing lien waivers continue to cause delays in Certification of Interim Completion. Large amounts of staff time are taken up with correspondence exchange on meritless commercial issues. Note: Overall Percent Complete is based on the RRVA February 2025 PSSU submitted on March 14, 2025, and is calculated based on Earned Value (EV).

Please reach out to Mr. Barthel if you have any questions regarding the report.

e. April 2025 Drone Video

A video highlighting the progress that has been achieved since March 2025 was viewed.

8. COMMUNICATIONS TEAM UPDATE

Ms. Willson provided the following communications update:

Outreach Products

Media Relations:

- March construction update

Events:

- Collateral materials for Gov. Walz visit

Materials:

- Faces of the Diversion: Dr. Bob Zimmerman
- The Diversion Current: History/Need

9. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Mr. Dodds provided the following property acquisition status report:

- 98.4% completion in the Construction Footprint
- 58.5% completion in the UMA Footprint
- 95.3% of the parcels in the Southern Embankment have been acquired
- 58.5% of the parcels in the Upstream Mitigation Area have been acquired
- 77.6% of the Environmental Easements have been signed
- 100.0% completed: Stormwater Diversion Channel; Oxbow-Hickson-Bakke levee; in-town levees and the Drayton Dam mitigation

Key Activities:

- Continued negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed on 2 parcels / 2 owners in the UMA and Sheyenne River Benching area of the Project
- Completing appraisal reports for Christine area flowage easements and Horace Mobility Improvements
- Continuing the process of disposing of Excess Lands
 - 43 parcels / 739.92 acres have been approved as Excess Lands
 - 12 parcels / 265.85 acres are moving through the Policy
 - 31 parcels / 474.07 acres have been sold or pending closing
- Completed staking of farmable areas adjacent to active construction sites along the SEAI
- Issued vacate notices for occupied Minnesota properties

10. FINANCE UPDATE

a. Sales Tax Update 2024 Collections

Mayor Dardis reported that the April bills payable totaled \$2,252,028, and the current grand total net position is \$312,918,337. Mayor Dardis also reported that the MOU and TCE along with the contracting action, were all approved.

11. OTHER BUSINESS

There was no other business to report.

12. CLOSED EXECUTIVE SESSION

Closed executive session pursuant to N.D.C.C. § 44-04-19.2 and N.D.C.C. § 44-04-19.1 (2) and (9) for attorney consultation with General Counsel regarding an update of the status of the on-going compensation event claims and to provide negotiations direction regarding such claims relating to the Project Agreement for the Storm Water Diversion Channel and Associated Infrastructure.

MOTION PASSED

Ms. Kolpack moved to go into executive session and Ms. Borgen seconded the motion. On a roll call vote, the motion carried.

The board retreated to the Red River Room at 4:01 PM.

The executive session concluded at 5:22 PM and a quorum of the board returned to the City Commission Chambers at 5:23 PM

13. NEXT MEETING

The next meeting will be on May 22, 2025.

14. ADJOURNMENT

Mayor Carlson moved to adjourn, and Ms. Borgen seconded the motion. The meeting adjourned at 5:24 PM.