

Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – May 22, 2025

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on May 22, 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; Duane Breitling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Lisa Borgen, Moorhead City Council; Ken Loughed, Cass County Joint Water Resource District; Dave Piepkorn, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner and Denise Kolpack, Fargo City Commissioner.

Special guests in attendance: Representative Greg Stemen, Representative Kristin Roers and Jessica Lee, State Director for Senator Hoeven.

Member(s) absent: Jim Kapitan, Cass County Commissioner and Shelly Carlson, Mayor, City of Moorhead.

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 APRIL 24, 2025, MEETING

MOTION PASSED

Mr. Ebinger moved to approve the minutes from the April 24, 2025, meeting and Ms. Kolpack seconded the motion. On a voice vote, the motion carried.

3. APPROVE THE ORDER OF THE AGENDA

MOTION PASSED

Mayor Dardis moved to approve the order of the agenda as presented and Mr. Ebinger seconded the motion. On a voice vote, the motion carried.

4. APPROVE THE CONSENT AGENDA

MOTION PASSED

Ms. Kolpack moved to approve the consent agenda and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried

5. EXECUTIVE DIRECTOR UPDATE

Mr. Benson reported that there has been no word on the funding request from the State of Minnesota. The legislature will be holding a special session regarding a \$700,000,000 bonding bill. If we were to receive any funds from the bill, it is unlikely that it would be the full \$60,000,000.

Mr. Benson also reported that Justin Fisher will be starting as the Director of Lands and Compliance on June 16th.

6. GENERAL COUNSEL UPDATE

a. Technical Dispute Review Board Update

Mr. Shockley reported that the TDRB members all have been appointed, and we are in the process of finalizing the formation. The agreement will be with the three TDRB members, the Authority and RRVA.

The TDRB will be a board that hears disputes between two parties that have potential conflicts, and this could create a conflict for Mr. Shockley to assist the TDRB in maintaining compliance with the open meeting laws. Due to the potential conflict, Mr. Shockley is proposing that Mr. Howard Swanson, former City of Grand Forks City Attorney, be retained as independent council for the TDRB for the sole purpose of assisting them with open meeting compliance.

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. Completion date is 30 June 25. Operating machinery corrections complete. Final inspections and training upcoming. Turnover to Sponsors for OMRRR anticipated in July 2025.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 98% complete. Completion date is 6 August 2025. Operating machinery corrections, final inspections and training upcoming. Turnover to Sponsors for OMRRR anticipated in September 2025.

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. East and west dam wall and approach apron construction continues. Gate machinery is on site and will be installed once mechanical platform bridge complete.

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. Contractor digging inspection trench. Contract completion date is 24 September 2025.

Reach SE-1B: 31% complete. CR16/17 intersection closed to allow completion of road work and tie in of embankment to the Diversion Inlet Structure. Contract completion date is 13 March 2026.

Reach SE-2B: 45% complete. Contractor preparing to place embankment. Contract completion date is 23 August 2026.

Forest Mitigation #1: Contractor is planting. Contract completion date is 31 Dec 2028.

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

7 FY2025 Contract Awards - Construction

SE-3: Contractor stripping topsoil. Contract completion date is 11 September 2026.

SE-5: Contractor is mobilizing and stripping topsoil. Contract completion date is 8 August 2026.

Forest Mitigation #2: Contractor is planting. 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:

Misc. Highlights

- Channel Excavation
- BNSF Hillsboro
- I-29
- Maple River Aqueduct
- Authority Administration Building
- Red River Structure

30 to 60 Day Outlook

- CR-10 and CR-20 Crossings
- Drain 21C Inlet
- SE-5

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period April 1 to April 30, 2025. He reported that there was one minor recordable incident requiring first aid and there were no other incidents to report.

d. P3 Monthly Update

Mr. Bakkegard highlighted the compliance section in the April P3 monthly update.

Environmental Compliance

2024 Section 404 Permit Special Condition M:

- Rush River: has been accepted by USACE
- Maple River: awaiting acceptance of RFCs then will submit documentation and for USACE approval
- Sheyenne River: awaiting acceptance of RFCs then submit documentation and for USACE approval

The eagles have returned to the nest near the Sheyenne River Aqueduct and continue to exhibit incubating activity: monthly monitoring reports are being submitted to USFWS as required.

Permanent Native Vegetation

Erosion control seeding began as needed. Permanent planting/seeding work is suspended until conditions allow sometime later this spring. USACE approved the 2025 seed mixes on March 5, 2025.

2024 404 Permit – At MFDA's request on March 19, 2025, USACE issued an amendment letter on April 11, 2025, to the 2024 Section 404 Permit that removed the tree cutting restrictions for the change in the Northern Long-Eared Bat range; and also addressed corrections to the wetlands mitigation acreages (approximately one acre).

Sheyenne River Sovereign Lands Permit - RRVA submitted their supplemental information on October 6, 2024, and we are awaiting NDDWR's issuance of the permit. RRVA informed the Authority, during the January 14, 2025, Environmental Biweekly meeting, that NDDWR is waiting for resolution of the maintenance method at the Sheyenne River Aqueduct before issuing this permit. No change.

Cultural Monitoring

Cultural monitoring occurred this month on April 1, 2025, at Site 14/TR-9 (Sheyenne River) and is anticipated to restart at Sites 14/TR-9 and Site 5/TR-5 (Maple River) dependent on site conditions and work schedules.

Mussel Salvage

The Authority requested RRVA's draft RFP for mussel and fish salvage; RRVA is on-boarding a subcontractor, a meeting was held with USACE regarding anticipated procedures, and the first part of their work is to prepare a draft scope for this work which is anticipated to be received next month. RRVA is considering preventative nets, no new word on this consideration.

Spills, Contamination and Hazardous Materials

On 15-Apr-25 a mini-excavator had a hydraulic line break near the Sheyenne River Aqueduct of about 0.5 gallons of hydraulic fluid; proper procedure was followed. RRVA reported on February 26, 2025, that a preliminary lab report indicates the presence of asbestos, a CERCLA hazardous material, in structures at OIN 1199N (near the Sheyenne River) and is reaching out to NDDEQ to determine the requirements for proper management and disposal, these details will be sent to us along with final lab reports. - no change.

Environmental Nonconformances (NCRs)

This Month one environmental NCR was opened, NCR-00423 for 18 SWPPP corrective actions not completed within 24 hours of discovery (see February 2025 MECR) and none were closed.

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

e. May 2025 Drone Video

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

8. COMMUNICATIONS TEAM UPDATE

Ms. Harter provided the following communications update:

Outreach Products

Media Relations:

- April construction update
- Letters to the Editor (The Forum and Star Tribune)

Events:

- Collateral materials for D.C. trip
- Correspondence to MN committees

Materials:

- Faces of the Diversion: Bruce Geske
- The Diversion Current: Education

Awards:

- North Dakota Professional Communicators awarded to MFDA projects produced in 2024
 - Twelve 1st place awards (advancing to national competition)
 - Four 2nd place awards
 - Two 3rd place awards

Public Relations:

- Personality profile on Jason Benson

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
- 59.3% completion in the UMA Footprint
- 95.3% of the parcels in the Southern Embankment have been acquired
- 59.3% 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 5 parcels / 3 owners in the UMA
- 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
 - Continuing efforts to dispose of the abandoned Rail Corridor in Horace, ND
- Completed Plats of Diversion Channel lands in Five (5) of the Seven (7) Townships

b. OINs 7234B, 7234C and 7234D Sales of Excess Land Update

Mr. Dodds provided an update on the above-referenced OINs:

Letters were sent to 28 adjacent landowners, and we have received Notice of Intent to Purchase forms from nearly all adjacent landowners.

Based on this feedback, MFDA staff and consulting teams intend to proceed with surveying the property, preparing purchase agreements, preparing a plat to subdivide the property and join the subdivided lots with the existing adjacent parcels, and rezone the subdivided lots to match the zoning of the existing adjacent parcels. The platting will be reviewed with the adjacent landowners and the City of Horace, to confirm future parcel boundaries and right-of-way dedications, and the platting and rezoning will be subject to approval by the City of Horace. This work is expected to take several months. The sale of the properties will include a small administration fee charged to each landowner to offset a portion of the costs associated with preparing the plat and closing documents.

10. FINANCE UPDATE

a. Sales Tax Update 2024 Collections

Mayor Dardis reported that all the contracting items that were presented were approved. The May bills payable totaled \$2,136,581, and the current grand total net position is \$338,232,087. A Legacy fund draw for \$42,000,000 was received and the remaining balance is \$42,237,000. The net sales tax income was 9.4%.

MOTION PASSED

Mayor Dardis moved to approve the finance report and Ms. Kolpack seconded the motion. On a roll call vote, the motion carried.

11. OTHER BUSINESS

Mr. Grindberg reported that he and Mr. Benson were in Washington D.C., for the Chamber meeting and met with Secretary of Homeland Security, Kristi Noem, regarding the FEMA floodplain remapping.

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

Mayor Mahoney moved to go into executive session and Ms. Kolpack seconded the motion. On a voice vote, the motion carried.

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

The executive session concluded at 4:59 PM and a quorum of the board returned to the City Commission Chambers at 4:59 PM.

13. NEXT MEETING

The next meeting will be on June 26, 2025.

14. ADJOURNMENT

Mr. Campbell moved to adjourn and Ms. Kolpack seconded the motion. The meeting adjourned at 5:00 PM.