

**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall  
Wednesday, December 14, 2016  
3:00 p.m.**

Present: Moorhead Mayor Del Rae Williams; Clay County Commission Representative Kevin Campbell; Moorhead City Engineer Bob Zimmerman; Fargo City Administrator Bruce Grubb; Fargo Division Engineer Nathan Boerboom; Cass County Commission Representative Chad Peterson; Cass County Joint Water Resource District Representative Rodger Olson; Fargo City Commission Representative John Strand; Oxbow Mayor Jim Nyhof.

Others present: Eric Dodds – AE2S; Mark Brodshaug – Cass County Joint Water Resource District (CCJWRD); Darrell Vanyo – Diversion Authority Chair.

Absent: Cass County Commission Representative Mary Scherling; Moorhead City Council Representative Heidi Durand; Clay County Commission Representative Jenny Mongeau.

The meeting was called to order by Chad Peterson. He said Mary Scherling is not able to attend this meeting because she is in Bismarck. Ms. Scherling has been appointed to the North Dakota Association of Counties Board, he stated.

Agenda Review

There were no additions or amendments to the agenda. Kevin Campbell moved the Order of Agenda be approved. Rodger Olson seconded. All the members present voted aye and the motion was declared carried.

Approve November 9, 2016 Minutes

Kevin Campbell moved the minutes from the November 9, 2016 meeting be approved. Rodger Olson seconded. All the members present voted aye and the motion was declared carried.

Project and Impact Summary Overview:

Eric Dodds reviewed summary sheets developed by the Corps and his team. The documents were shared with the congressional delegates during a recent conference call with the Corps, he said, as well as the Outreach Committee, and all of the documents will be placed on the website soon. The information tries to summarize and give a history on how the project evolved over time, how the channel was shifted from Minnesota to North Dakota in 2009, how impacts were shifted from downstream to the upstream staging area in 2010, and how efforts minimized upstream impacts in 2013. The sheet on farm impacts and mitigation outlines upstream retention areas and the agricultural risk study of impacts by the NDSU Agribusiness and Applied Economics Department, he said, as well as mitigation through flowage easements and summer flood crop insurance. He said not all events will result in a complete use of the staging area, which is a fact that sometimes

gets lost. He said Aon, the insurance company hired by the Diversion Authority to help manage risks through the P3 process, has also been asked to look at the crop insurance program. Aon concluded there is a product that the Diversion Authority could purchase to provide for the summer flood crop insurance risk, he said, and he and John Shockley are working to review a draft report. He pointed out informational sheets on Organic Farmland Mitigation and Minnesota Specific Benefits. The Corps ordered a contract for the FM Area Diversion Project Diversion Inlet Structure last week, he said, and a sheet is included that explains the structure. A notice to proceed is expected soon, he said, and once the notice is issued by the Corps, the contractor will be free to proceed. He said the expectation is that the contractor will not get mobilized and start turning ground until April of 2017.

Mr. Peterson said that with all the new faces starting up in the Legislature in Bismarck soon, having this information compiled in a portfolio to share would be valuable for those working in Bismarck.

Mr. Dodds said work is underway to assemble a legislative packet which will be available soon. He said it would be a growing packet of information which will be useful as a way to get highpoints out that are topics of discussion.

Jim Nyhof said a summary document is being prepared on Oxbow as well.

#### Flowage Easement Valuation Update:

Mr. Dodds said some activities related to flowage easements have been ongoing for several months. He said the latest round of hydraulic modeling needed to be completed to define the area where flowage easements needed to be obtained, which is now done and part of the mitigation plan. Steve Herzog, a flowage easement appraisal specialist, has been retained by the CCJWRD, he said, and he found in his research that this is more of a pioneer project than he anticipated, although similar examples have been found in Iowa and California. He said Mr. Herzog suggests working toward paired sales to gather data, which is comparing sales of farmland that has an impact from flooding with comparable land that does not have a flooding impact. He said the goal is to research whether conclusions can be drawn from market data on sales to determine if flooding impacts sales. It may be too early to tell, he said; however, there is optimism that good data will be found and conclusions can be drawn. He said it does not really matter where the paired sales were as long as the land impacted by flooding and that not impacted land are adjacent to each other. Local ag appraisers have been approached for information they may be willing to share, he said. In North Dakota, farmland sales are not recorded; however, they are in Minnesota, he stated.

In response to a question from John Strand about whether easement purchases are one-time mitigation efforts or whether they are dynamic, taking varying land and commodity prices into consideration, Mr. Dodds said the Corps has strongly advised they will require one-time upfront payments for flowage easements. He said there are factors that are difficult to predict that will need to be considered by the appraisers.

In response to a question from Mr. Strand about whether there are moratoriums on construction or structures on farm sites or properties as part of easements, Mr. Dodds said there is a floodway in the flowage easement in the staging area where there would

be no building at all. Beyond the floodway, he said, there will be a floodplain where any development would have to be done in accordance with local floodplain rules. He said if the owner goes through the LOMAR process to remove property from a floodplain, the flowage easement would not restrict it.

Rodger Olson said a one-time easement payment presents an opportunity for a land owner to decide how they want to use the funds. He said it could be for a new Cadillac or it could be put to use to mitigate possible losses by purchasing additional land or other property to supplement income from the reduction that that easement brings.

#### CCJWRD Update:

Mark Brodshaug reviewed the Land Management Summary, which, he said, now will have some graphical information incorporated. Pie charts and graphs will be included to make it easier to see progress at a glance, he said. Appraisals are starting and will be approved for Phase 1 properties, he said. Bids were opened for removal of eleven homes in Oxbow, he said, and the contract award will be discussed at the CCJWRD meeting. There continues to be interest in early buyouts, he said, and a number are in the works. He said it is much easier to negotiate with people when they are ready to make a move.

#### *Diversion Channel Phase 1:*

Mr. Dodds said Phase 1 includes about 90 properties and work has been underway for several months to acquire these properties. Surveys are done and appraisals have started on all the properties, and four of the first appraisals need to be taken to CCJWD for authorization before presenting them to property owners, he said. About a half dozen or so appraisals are done but undergoing some modifications, he said, and the rest are expected in the next couple months with all to be delivered by mid-February. He said the first appraisals that came back on ag land were roughly \$5,000.00/acre, a bit less than what was seen previously.

In response to a question from Mr. Strand about how the resolve of landowners who cannot shake the land values having just bounced off historic highs versus today's prices will be addressed, Mr. Dodds said the professional land agents will meet with property owners and develop a relationship and present appraised amounts. He said negotiating is part of the process of acquisitions and reconciling land values will be an issue. He said he has heard from ag lenders that the ag community is fortunate to have had good yields the past few years; however, farm prices are terrible and some folks may be happy with valuations in the \$5,000.00 range.

Mr. Brodshaug said it is important to follow the market up and down and not set an amount to stay with. He said projections are that farm prices will continue to drop some in the next year or two and it is hard to predict when it may rise again.

In response to a question from Mr. Nyhof about whether there is a way to relay to the homebuilders that waiting longer will increase the burden related to construction costs, Mr. Brodshaug said caution must be taken in making predictions in costs and values.

Mr. Olson said things could go the other way too. There is getting to be quite a supply in Fargo, he said, and that could affect builders.

### *Monitoring Sites:*

Mr. Dodds pointed out a map identifying monitoring sites for the project. There are some sites on the Minnesota side that have been tabled for now, he said, due to the status with the DNR. He said as part of the federal Environmental Impact Statement (EIS) the Corps led agency meetings over several years that included agencies from Fish and Wildlife, Game and Fish, DNR, etc. Those agencies got together to identify and work towards a mitigation plan to monitor environmental and biotic impacts caused by the project, he said. The Corps, he said, has asked that the process to secure property rights for a variety of monitoring sites across the area begin. He said the CCJWRD will be asked to task one of the land firms to reach out to property owners to secure easements on these property sites. He said on a recurring basis over approximately the next 5 years, the Corps will monitor and measure different biotic conditions at each of the locations to establish a database. He said there are quite a few properties involved and it is a pretty substantial effort to establish property rights although the sites are relatively minor and the impact is relatively minor.

### *Drayton Dam Mitigation Project:*

Mr. Dodds said the Drayton Dam Fish Passage Mitigation Project is a mitigation project associated with the FM Area Diversion project. He said he attended a meeting yesterday in Cavalier with the Pembina County Water Resource District, Sean Fredericks, Dan Jacobson, Elliot Stefanik from the Corps and Jamison Wendel from the DNR about the project. He said this is a project where there is a low head dam on the Red River, the last one, and the DNR and others have long identified it as one they would like to remove for fish passage purposes and safety issues. He said the Pembina County Water Resource District and the City of Pembina support the project. The acquisition of property rights is relatively minor, he said; however, due to it not being in the local geography nor in CCJWRD's territory, outreach is important. He said the project removes the current dam and construction of a different style low head dam upstream a couple of hundred feet. The new style will be similar to what is in Fargo on the Red River or in the Hickson/Oxbow area where there are cut-off walls and a rock rapids approach where fish can migrate up and down, he said. As far as timing, he said, the Corps requested funding for it in their FY2017 budget and likely will not know until after April; however, they are anxious to get the project started.

### Other Business:

In response to a question from John Strand about whether alternates are assigned if a member cannot attend a meeting, Eric Dodds said the committee charter includes provisions that allow or encourage finding a proxy if a member is unable to attend.

Rodger Olson moved the meeting adjourn. Bob Zimmerman seconded the motion. All the members present voted aye and the motion was declared carried.

The meeting adjourned at 3:48 p.m.