

Minutes of Meeting

Souris River Joint Water Resource Board

Thursday, May 7, 2020

A meeting of the board of directors of the Souris River Joint Water Resource Board was called to order by Chairman David Ashley at 4:00 p.m. on Thursday, May 7, 2020, by way of a WebEx conference call. The speakerphone was located in the Broadway Conference Room at Ackerman-Estvold located at 1907 17th Street SE, Minot, North Dakota, and call in information was provided on the public notice for the meeting. Joint Board members attending the meeting were Chairman David Ashley, Dan Steinberger, Dan Jonasson, Tom Klein, and Clif Issendorf. Chairman David Ashley called the meeting to order and announced that a quorum was present.

The Joint Board discussed the proposed Agenda for the meeting. Ryan Ackerman requested that item 11-C Excavation Disposal Agreement be added to the agenda.

Clif Issendorf made a motion to approve the agenda. Dan Jonasson seconded the motion. The motion passed without opposition.

The draft Minutes from the April 2 meeting were discussed.

Dan Jonasson made a motion to approve the Minutes from the April 2 Joint Board meeting. Clif Issendorf seconded the motion. The motion passed without opposition.

The Joint Board discussed the Budget Report included in the May Board Packet. Ryan Ackerman discussed the Balance Sheet as shown in the Meeting Packet.

Dan Jonasson moved to approve the Budget Report included in the May Board Packet. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman shared some information from the North Dakota Water Coalition meeting on May 6. The Resources Trust Fund revised forecast for the 19-21 biennium is \$176-283M instead of the \$433M originally budgeted; this is a 35-60% reduction in total project funding. The Project is currently budgeted \$82.5M, but adjusted to the new forecast, it is possible that it the project could receive \$33-54M from the state. All water projects may be cut proportionately. MI-5 needs additional engineering work prior to construction, so from a timing perspective, the budget may still balance.

Ryan Ackerman gave an overview of the proposed engineering contract amendments. MI-5 needs to be re-designed to avoid impacts to BNSF railway. The proposed changes are found in detail in the May Board Packet. Clif Issendorf inquired about what amount was being approved. Ryan Ackerman explained that the Joint Board would be approving costs not to exceed \$4,056,700 for Houston Engineering to redesign MI-5. Dan Jonasson noted that he felt the amounts were fair for the work proposed. Dan Steinberger inquired about three sites with radioactive waste issues. Jerry Bents explained that investigations take place in phases and the three sites were cleared of contamination.

Dan Jonasson moved to approve Houston Engineering Work Order 12 with costs not to exceed \$4,056,700 included in the May Board Packet. Tom Klein seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman explained the Barr Engineering Task Order 11. This task order would allow the engineering team to continue to administer the contracts and perform the necessary inspections for phase BU-1B in an amount not to exceed \$1,360,000. Dan Steinberger inquired about maintaining drawings and documents. Jason Westbrook explained that record drawings and documents are stored in order, so they may be accessed easily to determine the location of underground facilities or determine future modifications.

Dan Jonasson moved to approve Barr Engineering Task Order 11 with costs not to exceed \$1,360,000. included in the May Board Packet. Clif Issendorf seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman explained Barr Engineering Task Order 12. This would approve hydraulic modeling support in an amount not to exceed \$200,000. Barr Engineering is responsible for all hydraulic modeling, even for phases they have not designed.

Dan Jonasson moved to approve Barr Engineering Task Order 12 with costs not to exceed \$200,000 included in the May Board Packet. Tom Klein seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed the bills as set forth in the May 2020 Board Packet. Chairman David Ashley provided an opportunity for questions on bills. Ryan Ackerman explained the USACE bill. Additional funding in the amount of \$151,500 was needed for the Corps to continue its review of phases MI-4 and WC-1. Dan Steinberger inquired about Wagner Construction, line 315, regarding borrow site management. Jason Westbrook explained the borrow site for phases 1-3 needs to be maintained and managed for erosion, in accordance with the contract. Tom Klein asked whether the DOT was also hauling out of the same pit, and if they were paying for it. Jason Westbrook explained that he would investigate.

Clif Issendorf made a motion to approve the payment of bills in the amount of \$2,449,582.71. Dan Jonasson seconded the motion. A roll call vote was cast. The motion passed without opposition.

Jerry Bents from Houston Engineering provided the Joint Board with an update on Phase MI-1. A Project Status Report from Houston Engineering is contained in the May Board Packet. Jerry Bents indicated that Phase MI-1 construction is approximately 80% complete, with a current schedule of having the structural work completed in June 2020, and full completion of the project is expected to be June 2021.

Jerry Bents provided an update on MI-4A. City utility lines will need to be relocated in advance of the MI-4 project. 90% drawings have been submitted to the City and had a review meeting with the city. 100% submittal will be delivered next Friday and reviewed by the USACE. Construction is expected to start this fall.

Ryan Ackerman provided an update on MI-4. Senator Hoeven announced that the Senate's version of the WRDA legislation passed. It will hopefully get on the President's desk by this fall. Things are being prepared for a potential infrastructure stimulus package.

Jerry Bents provided an update on Phase MI-5 design work. Technical borings are complete and results are expected next week. Design should be completed in 18 to 24 months.

Jason Westbrook provided an update to the Joint Board regarding construction of Phase MI-2/3. A Project Status Report from Barr Engineering is contained in the May Board Packet. Jason Westbrook provided a drone video to the Joint Board. A turf specialist has been hired to help get the course playable as soon as possible. Utility work and restoration work will be the next focus. The Phase should be completed in fall 2020.

Jason Westbrook provided an update to the Joint Board regarding construction of Phase BU-1. Work will resume in late April or May. Section 404 permitting was granted, but the Joint Board is still waiting on its 408 permit, as well as two state permits. BU-1B bids have been opened. Bids range from \$15.5M to just under \$9M, and Wagner won the low bid. Colton Ave. bridge project looks good and the contracts look like they are ready to be closed.

BU-1B bid details are found in the May Board Packet. The engineer's estimate was \$10.791M. Mobilization was a large factor in the bids. Dan Steinberger inquired about line item 166, and why a quote for a temporary dam was so far off. Ryan Ackerman explained the engineers estimate was based on temporary sheet piles, not earthen material. Clif Issendorf inquired about the placement of fill material in a wetland. Ryan Ackerman assured the proper permits are in place.

Clif Issendorf made a motion to approve the Wagner bid of \$8,994,588.62 and authorize the Chairman to sign the contract documents, contingent on receipt of applicable permits. Dan Jonasson seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman requested an eminent domain action. There is a trailer park owned by the Schnaibles, and a portion of their property is needed for construction of the project. The appraised value was \$50,350, the equivalent of two mobile home lots. The appraisal was reviewed. An initial offer was made for \$50,400. A counteroffer was made for \$710,400. A second counteroffer was made from the board for \$58,750. Mr. Schnaible responded with \$456,000, and he indicated that he would no longer respond to any other counteroffers. A final offer of \$61,458 was made on April 10.

Tom Klein made a motion to authorize the Joint Board to initiate proceedings to acquire the necessary property by eminent domain. Clif Issendorf seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman provided an update on an excavation disposal agreement with the Lochthowe family. The Board will compensate the Lochthowe's \$0.50 per cubic yard, as opposed to spending \$10 per cubic yard to dispose at a suitable location, such as the Minot landfill. Dan Steinberger inquired whether the Joint Board is responsible for reclamation at the borrow site. Ryan Ackerman explained that once borrow and

disposal activities are done, the site will be reclaimed and topsoil spread by the Joint Board. The Agreements are attached to as Exhibit A and Exhibit B.

Dan Jonasson made a motion to approve an amendment to the Borrow Agreement with the Lochthowe's to include the new Excavation Disposal Agreement. Clif Issendorf seconded the motion. A roll call vote was cast. The motion passed without opposition.

Jason Westbrook provided an update to the Joint Board regarding Phase WC-1. 100% plans were submitted to USACE, which will be reviewed for Section 408 permitting. Permit packages have been submitted for state construction and sovereign lands permits. Permits should be in hand later this summer so the south levy portion can be bid.

Ryan Ackerman provided information to the Joint Board regarding a Crop Damage Agreement. This agreement would extend the terms of an existing Crop Damage Agreement to an adjacent quarter of land.

Tom Klein made a motion to approve the extended Crop Damage Agreement. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman provided the Joint Board with an update regarding the StARR Program. The program is winding down, but there are a few acquired structures that need to be demolished. McHenry County Commission would like to see that StARR program to continue.

Troy Borchard from HDR Engineering provided an update regarding Rural Bridges. A Project Status Report is contained in the May Board Packet. Sawyer site is working to get utility and right of way documents finalized, as well as finalizing design, and securing permits. The Velva site detour is under investigation. Preliminary plans have been sent to the State to get initial approvals. North Dakota has come out with a draft load rating manual, and the Joint Board's preliminary plans will be examined more closely prior to next meeting. Clif Issendorf asked about large, overloaded trucks and equipment. Troy Borchard explained that if an illegal load travels over a bridge and causes damage, if it can be proven, the insurer will pay for damage. The bridge will be designed to carry legal loads. Tom Klein asked if the bridge will be able to carry heavier loads than it currently supports. Troy Borchard stated that the design standards have increased with the increase in legal load capacity. Troy Borchard will send the draft load rating manual directly to the Board. The Mouse River Park bridge detour route is being adjusted, and will be provided to the Joint Board once completed.

The Joint Board took note of future meetings as set forth in the May Board Packet. Several important upcoming meetings were noted and discussed.

There being no further business to discuss, the meeting was adjourned.



Jack Dwyer
Legal Counsel

EXPORT MATERIAL ACCEPTANCE ADDENDUM
SOURIS RIVER JOINT BOARD
MOUSE RIVER ENHANCED FLOOD PROTECTION PROJECT
(MREFPP)

Project:	MREFPP
County:	WARD

PROJECT NUMBER/PHASE: BU - 1B & BU-1C
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Borrow Area Number: Lochthowe #1	COA Number:
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For the sum of \$1.00 and other valuable consideration, the undersigned:

Grantor(s): DONALD LOCHTHOWE TRUST			
Address(es) 4000 38TH AVE NW	City MINOT	State ND	Zip code 58703
Grantor(s): JARED J LOCHTHOWE			
Address(es) 4000 38TH AVE NW	City MINOT	State ND	Zip code 58703

Contact(s): JARED	Phone Number(s): 701-833-9523	Email(s):
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Mortgagee: None	Grantor(s) Initial(s):		
Address:	City:	State:	Zip:

Location: Junction CR 10 & CR 17	Section: 36	Township: 156N	Range: 84W
Approximate Total Export Material Cubic Yards: 90,000		Price Per Cubic Yard: \$0.50	

For themselves, their heirs, executors and assigns, hereinafter referred to as "Grantor(s)," agree to accept MREFPP Phase BU-1B & C export material consisting of overbank excavation material and former levee material that is free of rock, muck, debris, or other detritus to the following-described tract or parcel of real estate situated in Ward County, North Dakota, specifically:

S 1/2 of Ward County Parcel KK360010000000, consisting of 49 acres more or less, as shown on the attached aerial image.

Please note: contractor to construct temporary approach from site (per borrow agreement).

Grantor(s) covenant that they are seized of the property described above, and have the right to grant this export material acceptance agreement on behalf of themselves, their heirs, successors, and assigns, free of any encumbrances or other impairments preventing the acceptance of such material,

The Grantor(s) further agree(s) that SRJB and its assigns shall have full and free right of entry upon and use of said land for the purpose of accepting such material.

The Grantor(s) shall be compensated for the material accepted at the rate of \$0.50 per cubic yard.

In addition, if any material is accepted at the borrow site, SRJB or its assigns (Contractor), will perform the following:

<p>SRJB Responsibilities:</p> <p>1. Upon opening the borrow pit for export material acceptance, the SRJB (or contractor) shall make an initial payment to the Grantor(s) equal to 80% of the minimum payment.</p> <p><u>Minimum payment amount is calculated as follows:</u></p> <p style="text-align: center;">90,000 CY x \$0.50/CY x 40% (from below) = \$18,000</p> <p>=</p> <p style="text-align: center;">\$18,000 (Minimum payment) x 80% = \$14,400 Initial Payment due to Grantor(s)</p> <p>Percent of total cubic yards used for minimum payment calculation: 0-50,000 CY = 50%; 50,001-100,000 CY = 40%; >100,000 = 30%</p> <p>2. The remaining balance of the minimum payment (\$3,600) plus the remaining balance of the royalty payment (based on the total amount of export material accepted) shall be made by SRJB/Contractor within 30 days after the Contractor has obtained a pit release from the Grantor(s).</p> <p>3. Final payment will be made AFTER Pit Release is turned in and complete.</p>

It is mutually agreed between the parties hereto that the SRJB, may assign the right to exercise this option to other entities or persons to place suitable fill material from levee construction project on the land herein described, and that said assignee shall pay to the parties to whom the SRJB itself would pay for such material taken, at the same rate as the SRJB would pay if the material were exported by SRJB under this export material agreement. Assignee shall notify the Grantor(s) in writing that assignee is exercising SRJB's option and promptly present a detailed placement plan to the Grantor(s).

This option shall expire upon completion of the project, or at the end of five years, whichever comes first.



SRJB will not record this export material agreement.


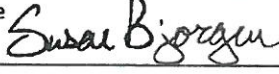
The Grantor(s) will be given written notification if this option is not approved by SRJB.

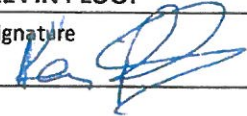
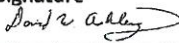
This export material agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute on and the same instrument.

EXECUTED the date last signed below

GRANTOR(S):

Landowner/Lessee (type or print) DONALD LOCHTHOWE TRUST
Signature 
Witness (type or print) Susan Bjorgen
Signature 

Landowner/Lessee (type or print) JARED J LOCHTHOWE	
Signature 	Date 5-7-2020
Witness (type or print) Susan Bjorgen	
Signature 	Date 5-7-2020

Right of Way Agent (type or print) KEVIN PLOOF	Agency SRJB	SRJB Approval (type or print) DAVID ASHLEY, CHAIRMAN	
Signature 	Date 5-7-2020	Signature 	Date 5/7/2020

AGREEMENT FOR ENTRY AND CONSTRUCTION (NO COMPENSATION)

SOURIS RIVER JOINT BOARD
 MOUSE RIVER ENHANCED FLOOD PROTECTION PROJECT
 (MREFPP)

PARCEL(S)
 (see attachment)

PROJECT NUMBER/PHASE: BU-1

Purpose of Project	Levee Borrow Material Removal		
Landowner(s)	DONALD LOCHTHOWE TRUST & JARED LOCHTHOWE		
Address(es)	4000 38th AVE NW	City	MINOT
		State	ND
		Zipcode	58703

This agreement, is between the Souris River Joint Water Resources Board, hereafter referred to as to SRJB, whose mailing address is PO BOX 1516, Minot, ND 58702, and the above-named landowner(s).

WITNESSETH that for and in consideration of the sum of one dollar, the receipt of which is hereby acknowledged, the Landowner (s) do hereby release to SRJB the right to enter upon the property of the Landowner(s) for the purpose stated above and as shown on the attached Figure.

These parcels of land are located in:

County	WARD	Section(s)	36	Township	156N	Range	84W
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This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

EXECUTED the date last signed below.

LANDOWNER(S):

Landowner/Lessee (type or print) DONALD LOCHTHOWE TRUST	
Signature <i>Donald Lochthowe</i>	Date <i>10-13-19</i>
Witness (type or print) <i>Ron Lortzen</i>	
Signature <i>Ron Lortzen</i>	Date <i>10-13-19</i>

Landowner/Lessee (type or print) JARED LOCHTHOWE	
Signature <i>Jared Lochthowe</i>	Date <i>9-30-19</i>
Witness (type or print) <i>Susan Bjorgen</i>	
Signature <i>Susan Bjorgen</i>	Date <i>9-30-19</i>

Right of Way Agent (type or print) KEVIN PLOOF	Agency SRJB
Signature <i>Kevin Ploof</i>	Date <i>9/30/19</i>

SRJB Approval (type or print) DAVID ASHLEY, CHAIRMAN	
Signature <i>David Ashley</i>	Date <i>10-3-2019</i>