

**FLOOD DIVERSION BOARD OF AUTHORITY
JANUARY 21, 2014 – 1:30 PM**

1. MEETING TO ORDER

A special meeting of the Flood Diversion Board of Authority was held Tuesday, January 21, 2014 at 1:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Mary Scherling; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo Mayor Dennis Walaker; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Pat Zavoral; Clay County Administrator Brian Berg; Bruce Spiller, CH2MHill; Brett Coleman, Project Manager, Corps of Engineers (via conference call); and Fargo City Attorney Erik Johnson.

2. MINUTES APPROVED

MOTION, passed

Mr. Walaker moved and Ms. Otto seconded to approve minutes from the December 19, 2013, meeting as presented. Motion carried.

3. MINNESOTA DNR CONTRACT AMENDMENT

Keith Berndt said staff was authorized at the last meeting to negotiate a contract with the Minnesota Department of Natural Resources (DNR) for an Environmental Impact Statement (EIS) at an estimated cost of \$750,000. He said now that scoping is complete, the more exact figure is available and this special meeting was called to authorize the cost increase. He said negotiations with the DNR have resulted in an estimated contract of \$1,146,618, an increase of nearly \$400,000.

In response to Mr. Pawluk's question about whether the increase may be because the DNR seems opposed to the project, Bruce Spiller said the figures do not appear to be inflated. He said originally \$750,000 was in the contract as a placeholder, even before the scoping process was started. Following the scoping process, he said, a supplemental Environmental Assessment (EA) was completed from which they were able to compile a more complete figure for negotiations; however, that was not available at the time of the last meeting so the number approved was the only figure available at that time.

Mark Bittner said he sat in on the EIS meetings and it appears to him they are intent on following Minnesota laws.

In response to a question from Rodger Olson about whether all federal projects go through this type of review by the states and if the Diversion Authority is bound by this EIS, Mr. Coleman said the Corps works with states for the permits required.

He said Minnesota issues their requirements and the Corps works with the sponsors to help complete the permit application process.

MOTION, passed

Ms. Otto moved and Mr. Campbell seconded to approve a contract amendment with the Minnesota DNR for EIS preparation in the estimated amount of \$1,146,618. Motion carried.

4. EXECUTIVE SESSION

Erik Johnson asked that the Board meet in executive session in the River Room for a discussion with legal counsel on the lawsuit filed by the Richland-Wilkin Joint Powers Authority v. Diversion Authority.

MOTION, passed

Mr. Walaker moved and Mr. Wimmer seconded to meet in executive session to discuss pending litigation based on North Dakota Century Code Section 44-04-19.1, the exception allowed for attorney consultation and/or negotiation strategy or instructions. On roll call vote, the motion carried unanimously.

The Flood Diversion Board members, administrative staff and legal counsel moved to the River Room for the executive session at 1:39 PM, and returned to the meeting at 2:31 PM.

5. NEXT MEETING DATE

The next meeting will be held on Thursday, February 13, 2014 at 3:30 PM.

6. ADJOURNMENT

MOTION, passed

On a motion by Mr. Pawluk, seconded by Ms. Otto, and all voting in favor, the meeting was adjourned at 2:33 PM.