

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, December 18th, 2025, 1:00 p.m.

Clay County Courthouse, Third Floor Meeting Rooms

In Person Meeting with Microsoft Teams Option Available

MINUTES

1) CALL TO ORDER

The meeting was called to order by Chair Campbell at 1:00 p.m.

2) ROLL CALL

City of Moorhead: Mayor Shelly Carlson

Council Member Lisa Borgen

Clay County: Commissioner Kevin Campbell

Commissioner Jenny Mongeau

BRRWD: Member Gerald Van Amburg – Joined at 1:01 p.m. via virtual technology
at: 4518 5th St South Moorhead, MN 56560.

Others Present or on Microsoft Teams:

Madeline Daudt, Land Specialist, Heidi Riddle, Compliance Specialist, Justin Fisher Lands & Compliance Director, Jason Benson, Executive Director, Diversion Authority

Attorneys, Chris McShane, Lukas Andrud, Kathryn McNamara & John Shockley, Ohnstad Twichell Law

Eric Dodds, AE2S

Dale Ahlsten, ProSource

Katie Laidley, Ken Helvey, SRF Consulting

Stephen Larson & Sarah Hellem, Clay County staff

Council Member Hendrickson

Paul Barthel, Jacobs

3) APPROVAL OF AGENDA

Mayor Carlson moved, and Commissioner Mongeau seconded, to approve the agenda. Motion carried.

4) APPROVAL OF MINUTES

Council Member Borgen moved, and Mayor Carlson seconded, to approve the minutes from November 20th, 2025. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. 2026 Meeting Calendar

Madeline Daudt, Diversion Authority, presented the meeting calendar for 2026 and stated the MCCJPA Board will continue with the same schedule of the fourth Thursday of every month at 1:00 p.m. at the Clay County Courthouse, with the exception of months November and December due to the holidays. For months November and December, the meeting will fall on the third Thursday of the month at 1:00 p.m.

b. Property Acquisition Status Report

Justin Fisher, Diversion Authority, referred to the packet and discussed the map pertaining to the MCCJPA Acquisition Status and stated property rights have been attained on 175 parcels; 55 parcels are pending value; 2 parcels have flowage easements signed; 6 parcels are in eminent domain; 2 parcels have a railroad agreement pending; and 9 parcels are in negotiation. The property acquisition progress was discussed with the construction footprint being 98.4% complete, with no change from the previous month. The upstream mitigation area (UMA) footprint is at 64.2% complete, with an increase of 0.9% from last month. The Property Acquisition Progress by Location includes the Southern Embankment being 95.3% complete, with no change from last month, UMA being 64.2% complete, with an increase of 0.9% from last month, and the Environmental Monitoring Easement being 79.1% complete. The Drayton Dam, In-Town Levees, Stormwater Diversion Channel, and Oxbow Hickson-Bakke are 100% complete. The Property Acquisition Progress by MCCJPA is 72.7% complete, with no change from last month. The Southern Embankment & Associated Infrastructure is 80% complete, with no change from last month, the Upstream Mitigation Area is 68.1% complete, with no change from last month, the UMA – Wolverton remains at 7.1%, with no change, and the Environmental Monitoring Easements is 86.3% complete, with no change from last month. The Landowner Overview shows owner groups and parcels broken down for the construction and UMA footprint with 98% of the owner groups complete for the Construction Footprint and 65.8% for the UMA Footprint.

The key activities are to continue negotiating settlement agreements for existing eminent domain actions: completed the first three eminent domain trials in Cass County, completed site inspections of Minnesota properties, negotiated many settlements since completing the first trial, and there are 10 pending settlement offers with property owners. In the last month we've successfully closed on 5 parcels/3 owners, in the UMA. We're continuing the process of disposing of excess lands: 49 parcels/781.74 acres have been approved as excess lands, 6 parcels/40.10 acres are moving through the policy, and 43 parcels/741.64 acres have been sold or are pending closing. There are 20,773 acres of flowage easements that have been acquired, and 6,317 acres are outstanding. A scope of work has been developed to finalize the MFDA's crop loss program. We're working to develop a detailed plan for the MFDA's post-operation debris clean-up and restoration program for private lands. And all the leases for the 2026 farming year have been sent out.

The Land Agent Reports for the Minnesota side of the project include providing relocation advisory and claim preparation services to people that are moving, providing final walk-through assistance as needed, processing RIMP reimbursement requests, assisting with mediations and settlement negotiations, and conducting negotiations for Wolverton flowage easements.

Commissioner Mongeau discussed the post operation debris clean-up plan and stated to let her know if any insight from the rural farmers is needed, as the plan continues to develop, because there could be some complexity regarding how it will actually work. Mr. Fisher stated any insight would be greatly appreciated. We recognize the importance of getting things cleaned up, and we don't want there to be any delays. We want to serve in the capacity to help no matter what. If the landowner wants to take on the responsibility for clean-up, the MFDA could help financially, or we can find ways to get contractors on site, which is what we're working on, to expedite that process and not be an encumbrance on the landowners. Commissioner Mongeau asked if it was still a 10-day timeline. Mr. Fisher confirmed that was correct. Eric Dodds, AE2S, stated over the last several years we've got a core group of

producers that operate in the UMA and we've been using that group to provide input on both the crop loss program and the post-operation debris clean-up program. They've provided some meaningful input so far, and they've all been pretty clear that they don't want others on their farm fields. Therefore, we're trying to put together a program that provides everyone the flexibility that's needed. We do have commitments to establish a sub-committee with the producers from the UMA, and lay down a timeline for that, to advancing those discussions. Commissioner Campbell followed up on the 10-day timeline and stated he believed that timeline was meant to be a commitment on part of the Diversion Authority, but doesn't think the timeline should be set in stone, especially if you have some producers who want to hold off until the conditions are better. Mr. Dodds stated one of the things we're framing out in the program is a right of entry process, where the landowner or producer can give notice of when they want people out of their fields.

Commissioner Campbell asked if the Environmental Monitoring Easements were requirements made by the USACE. Mr. Fisher stated that was correct. Commissioner Campbell referenced the packet and the Environmental Monitoring Easements completion of 86.3% and asked if the original number that was required had been reduced. Mr. Dodds stated originally the USACE asked for over 500 sites. Through negotiations with the USACE, we were able to get that number down to roughly 430 sites, and we've acquired almost 80% of those. This program is now led by the Diversion Authority, and we've concluded that we have enough sites to accomplish the environmental monitoring that is needed. Commissioner Campbell asked if we would ever see the 86.3% become 100%. Mr. Fisher stated probably not, because they're in a position where they most likely won't need to acquire more.

c. MN Litigation Action Update

Chris McShane, Ohnstad Twitchell, stated site visits took place about three weeks ago, which covered several properties that are in Eminent Domain. There were some properties that didn't get visited due to weather, but everything has been staked by the surveyors, so those will be finished up this spring. The first installment of Commissioner hearings will be held on January 15, 2026, and January 16, 2026. We'll present the details of the project and the devaluation component of the flowage easements. This will include the umbrella for all of the properties, so we don't have to have repetitive information being presented to the Commissioners each time. The hangup has been the landowners' appraisals. They need to have them done before they can schedule a Commissioner hearing.

Mr. McShane stated we did have the final Eminent Domain action in Wilkin County. We were able to avoid having a hearing because we entered into an agreement with the landowner and their attorney for public use and necessity, meaning we'll be able to use Eminent Domain. That order didn't convey immediate possession. We're trying to work on some access issues with that particular property where the road to the property is flood prone already and will still be in flood prone in the after condition. So we're trying to figure out if that landowner wants to stay there or relocate.

d. OIN 1665, OIN 1802, OIN 1792, OIN 1793 Excess Land Recommendation

Mr. Fisher requested approval to move OINs 1665, 1802, 1792, and 1793 into the Excess Land Policy and stated this was presented to the Land Management committee yesterday and there was good discussion. These were owned by 4 unique property owners, and over time, we've mitigated these properties. All buildings have been removed with the exception of a gazebo on OIN 1792, which will be removed in the near future. As part of that presentation to the Lands Committee, it was recommended to join these parcels as one, and then begin the actual excess lands policy. We know that the past owners have interest in repurchasing this back,

however, the concern being, that if OIN 1792 doesn't get purchased, it would almost become landlocked, and we would have to manage and find ways to get rid of this excess land that is no longer needed for the project. The initial plan was to bring this forward as one parcel, and after yesterday's Lands Committee meeting, there is potential for this. We would present this to the past landowners as such, after it goes through the process of the Excess Lands Policy. If we don't come up with an agreement with the prior landowners, we would look at breaking the parcel back into individual parcels. Combined, this would be 22.37 acres and a total sale price of \$111,000, which comes out to \$5,000 per acre.

Commissioner Campbell asked about the \$5,000 per acre being the standard appraised value on land that's in zone 1. Mr. Fisher stated in zone 1 we've consistently used that value for re-sale to know that it has a flowage easement assigned to it. Mr. Dodds stated a full appraisal has not been done on this, and the \$5,000 rate is what we've seen and used for non-tillable lands in the UMA. For the tillable lands we're probably more in the \$7,000/ \$7,500 per acre area.

Commissioner Campbell discussed his concern regarding the proposal that was presented to the Lands Committee about grouping the 4 parcels together, as it doesn't coincide with the Excess Lands Policy. Part of this policy allows the previous owners the right to buy those parcels back. If these parcels get grouped together to make one large parcel, that leaves the potential for certain landowners to not have the opportunity to re-purchase their previous property. Commissioner Campbell further stated one of the recommendations at the Lands Committee meeting was to have all previous landowners collectively re-purchase the conjoined parcel. If those parties don't agree to that, then the property would come back to the Lands Committee. Commissioner Campbell stated he's struggling with the idea of these parcels being grouped together as one. Commissioner Mongeau stated she was also opposed to this and is struggling with grouping the parcels together into one purchase. It's not fair to ask the landowners to pull funds together to buy this back. Council member Borgen stated she agreed that they shouldn't group these parcels together, and believes the Excess Lands Policy should be followed, and offer the re-purchase of each individual parcel back to the original landowner. Commissioner Campbell stated that he thinks the chances of all 4 landowners agreeing to do what's suggested won't be successful.

Commissioner Campbell stated he is in the opinion that these parcels should not be conjoined into one, as we need to uphold what we've told the landowners. This route could be easier for the Diversion Authority in terms of recouping dollars, but that's not what our hierarchy of going back on a process for excess lands is about. Mr. Fisher stated the idea of combining the parcels is not about recouping money, but for long-term maintenance management of parcels that we may not be able to get rid of. For instance, OIN 1792, we would either have to look at bringing on a 30-foot access easement to come off the North/South road over to the West, or we would be held with a landlocked piece of land. Mr. Fisher stated this isn't a deviation of what we're seeking, as this has happened with some lands on the ND side of the project, but it is different to this scenario. Mr. Fisher stated he does understand protecting the landowners' rights of first offer.

Commissioner Mongeau stated part of her concern is that when the land was purchased and the policy was created, it was not communicated to the prior owners that they could have a chance at purchasing the land back, but it would have to be pulled back with the other adjacent owners.

Council member Borgen suggested following the policy first, and if those landowners don't

want to re-purchase, then combine OIN 1792 with OIN 1793, to avoid the landlocked scenario.

Mayor Carlson asked for clarification on what's being asked of the Board today. Commissioner Campbell stated the action that is needed today is to declare these parcels as excess lands, and that's it.

Mayor Carlson moved, and Council Member Borgen seconded, with one descending vote (Commissioner Mongeau) the Board approved OINs 1665, 1802, 1792, and 1793 to begin the process to dispose of the Excess Land and to follow the Excess Lands Policy. Motion Carried.

7) RELOCATION REIMBURSEMENT

a. OIN 1252 Kragerud Reimbursement Request

Katie Laidley, SRF, stated this is a reimbursement request for OIN 1252. This is a combination of moving payments and closing costs.

Commissioner Mongeau moved, and Council Member Borgen seconded, to approve the reimbursement request for OIN 1252 in the amount of \$23,070.33. Motion Carried.

8) CONTRACTING ACTIONS

a. Contracting Actions for MCCJPA

Mr. Dodds stated this is for five different contracting actions which are Master Service Agreements (MSA) for the contracts in the table below. All have been prepared and reviewed by the legal team, and have been brought through the Diversion Authorities approval process.

Contract Title	Reason for Contracting Action
Crown Master Services Agreement	Extend MSA terms out to December 31, 2027
Patchin Messner Master Services Agreement	Extend MSA terms out to December 31, 2027
Pifers Master Services Agreement	Extend MSA terms out to December 31, 2028
ProSource Master Services Agreement	Extend MSA terms out to December 31, 2028
SRF Master Services Agreement	Extend MSA terms out to December 31, 2028

Mayor Carlson moved, and Council Member Borgen seconded, to approve the contracting actions as presented. Motion Carried.

9) LAND MANAGEMENT

a. 2026 Farmland Leases

Ms. Daudt requested approval of the below farmland leases for 2026.

<u>Minnesota Leases</u>				
OIN	Tenant	Acres	Term	Board
1650X2	Mark Askegaard	3.03	2026	MCCJPA
1840Y	Richard Lewis	3.58	2026	MCCJPA
1811	Lynn Brakke	131.32	2026	MCCJPA
255X, 256Y2, 253Y2, 253Y3, 1638Y, 1850X2	Brakke Farms LLC	105.57	2026	MCCJPA
249X2, 251Y	Aaron/Shane Brakke	17.88	2026	MCCJPA

Council Member Borgen moved, and Mayor Carlson seconded, to approve the farmland leases as presented. Motion Carried.

10) OTHER BUSINESS

a. BNSF Easement Agreement

Paul Barthel, Jacobs, stated this is a result of several years of work between the BNSF Railroad, the USACE and the Diversion Authority. As part of the SE-5 project, the Southern Embankment crosses the BNSF Right of Way. This is an easement from BNSF to secure the rights to operate and maintain the SEAI in this area. It is basically a 100' by 100' easement that is split between Clay County on the north side of CR 50 and Wilkin County on the south side of CR 50. The language in this easement was reviewed and approved by BNSF, the USACE and the MFDA. Along with signed the document, there is also a small fee of \$7,500.00 that is needed.

Mayor Carlson asked for confirmation that this is a one-time easement acquisition fee and then it's in perpetuity. Mr. Barthel stated that was correct.

Mayor Carlson moved, and Council Member Borgen seconded, to approve the easement between BNSF, USACE, and the MFDA. Motion Carried.

11) ADJOURN

The meeting was adjourned at 1:43 p.m.

Stephen Larson, MCCJPA Secretary