

**GARRISON DIVERSION CONSERVANCY DISTRICT****RED RIVER VALLEY COMMITTEE**

**Fargo City Hall  
Fargo, North Dakota**

**July 13, 2023**

A meeting of Garrison Diversion Red River Valley (RRV) Committee was held on July 13, 2023, in Fargo. The meeting was called to order by Chair Ken Vein at 12:15 p.m.

**MEMBERS PRESENT**

Board Chairman Alan Walter  
Committee Chairman Ken Vein  
Director Jay Anderson  
Director Greg Bischoff  
Director Jason Seigert (by video conference)  
Secretary Duane DeKrey

Garrison Diversion staff members and others were also present. A copy of the registration sheet is attached to the minutes as Annex I.

The meeting was recorded to assist with compilation of the minutes.

**BOARD POLICY****Red River Valley Committee and General Manager Authorities**

Duane DeKrey, Secretary, referred to a copy of the minutes from the April 2016 Board of Directors meeting. At that time, the board approved a resolution regarding board policy changes, including the authorities of the Red River Valley Committee, such as spending authority, decision making, permit applications, contractor prequalification, land owner claims and condemnation, as well as the spending authority of the general manager.

Mr. DeKrey said this information is a reminder to the committee as to the spending authority allowed to the RRV Committee, which is five percent of the contract total or \$100,000 per contract, whichever amount is greater; and the general manager, which is \$75,000.

**Preconstruction Activities**

Kip Kovar, District Engineer, Garrison Diversion, reported with Contract 5C, there is an overhead powerline to relocate and bury. This contract is being prepared for bids; however, the work with the powerline needs to be done ahead of time so the contractor is not dealing with this issue when they mobilize.

Mr. Kovar also reported an easement has been negotiated with a landowner to remove trees on the landowner's property. The cost for this is approximately \$8,000.

The last preconstruction activity concerns Contract 6B and possibly Contract 6A. A manhole located right along the road contains fiber optics which needs to be relocated. The cost is approximately \$30,000.

Mr. Kovar said these preconstruction activity costs all fall within the general manager's authority of approval. They are being provided for the committee's information.

Chairman Vein said he agrees with the general manager's approval on these items, but he appreciates keeping the committee informed on these decisions.

## **RED RIVER VALLEY WATER SUPPLY PROJECT (RRVWSP)**

### **Work Plan and Construction Update**

#### **Transmission Pipeline East, Contract 5B**

Mr. Kovar provided an update on Transmission Pipeline, Contract 5B, near Carrington, stating to date, nearly 2,000 feet of pipeline has been installed. A second pipeline crew will arrive on July 17, and a third pipeline crew is expected August 7. The third crew will work night shifts, using the second crew's equipment.

### **Work Change Directive No. 2**

Mr. Kovar referred to Work Change Directive No. 2 included with the meeting materials, explaining this was issued by Garrison Diversion rather than the contractor. This work change directive will provide stabilization for all soil stockpiles and weed control for the stockpiles and the areas that were disturbed. The cost is \$38,227.50.

### **Change Order No. 3**

Mr. Kovar referred to Change Order No. 3 included with the meeting materials, which covers additional costs incurred by the contractor for revised dewatering discharge locations to avoid flooding/excessive ponding on land adjacent to the permanent easement. The cost is \$288,600.86.

Mr. Kovar explained Garney Companies originally submitted a combined change order for last year and this year totaling \$2 million for dewatering. This change order was broken into two pieces, and the \$288,600.86 is for 2022 expenses. At the end of 2023, there will be another change order for this year's expenses. These are anticipated to be slightly under \$1 million.

Mr. Kovar explained the struggle with dewatering and the distance involved with pumping in several locations. For future contracts, the language has been changed, calling out the exact locations for discharging water.

**Motion by Director Bischoff to recommend approval of Change Order No. 3 on Task Order 5532, Contract 5B, RRVWSP Transmission Pipeline East, in the amount of \$288,600.86 to the full board. Second by Director Walter.**

Paul Boersma, Black & Veatch, added Garney is a large and reputable national pipe contractor. Last year was not a good year for Garney. There was a ton of water when the crew arrived on the construction site. A large volume of surface water dewatering was needed just to move their equipment at the site. Then they started to dig the trench down and hit a huge amount of groundwater, which caused a soupy mess. Garney is dealing with a lot of surface water in the trench, which is making pipe installation slow. They were hoping to pump the water onto the side of the easement, but they cannot do that. The pipe has to be run, in some cases, thousands of feet down the easement until they get to a flowing waterway. The change order for last year is specifically for the additional piping needed to get the water to a flowing waterway. The change order to be negotiated this year is for the same thing. It is not for the actual dewatering; it is for how far they have to run the discharge piping.

Mr. Boersma believes Garney will come back at some point with additional change orders. It is important for this committee to understand this change order is for the discharge piping, and that is the extent of what Garney is asking for. It is a reasonable request. The same spec language is used by Black & Veatch all over the country, and there has never been an issue with it before. This is the prairie pothole region, and, in most parts of the country, dewatering can be done within a few hundred feet and there is somewhere to put the water so it runs away from the site. In fairness to Garney, they did not anticipate having to run the pipe thousands of feet to get the water away from the excavation site.

Mr. Boersma added in Contracts 5C, 5D and 6A, the plan is to include specific language regarding the location of dewatering pipes.

**Upon roll call vote, the following directors voted aye: Anderson, Bischoff, Siegert, Vein and Walter. Those voting nay: none. Motion carried.**

### **Fiber Relocation**

Mr. Kovar said this item was covered under the general manager's authority. Under Contract 5B, Dakota Central mislocated their line on the contract specifications. They had the easement for the project, so it is up to Garrison Diversion to relocate the fiber optics. The cost is \$14,000 to relocate a mile of fiber at the construction site. No action is needed from the committee.

### Financial Update

#### **Bond Attorney Engagement Letter**

Merri Mooridian, Deputy Program Manager, RRVWSP Administration, Garrison Diversion, referred to the engagement letter received from Fryberger Law Firm, explaining Mia Thibodeau, who served as prior bond counsel for Garrison Diversion, is back on board to assist with the issuance of a \$60 million revenue bond and to review the Series D Interim Finance Agreement for the RRVWSP.

Ms. Thibodeau's primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds and review the RRVWSP Series D Interim Financing agreement. The estimated fee for the review of Series D is \$4,000-\$5,000. In addition, all out-of-pocket expenses are to be reimbursed, which are estimated at \$150-\$250.

If for any reason, the financing is not consummated or is completed without the rendition of bond counsel opinion, bond counsel will be compensated at their hourly rates (\$125-\$350) for time spent plus out-of-pocket expenses.

Ms. Mooridian stated this issue has been discussed with the officers of the board, and since it involved extra time to get approval from the attorney general's office to retain Ms. Thibodeau, the general manager was authorized to sign the engagement letter to obtain Ms. Thibodeau's services. It was then to be brought to the RRV Committee for their information or approval.

Chairman Vein asked if Ms. Thibodeau has begun her responsibilities as bond counsel.

Ms. Mooridian replied Ms. Thibodeau has been involved in all of the discussions regarding Series D.

Tami Norgard, Vogel Law, commented Garrison Diversion retained Ms. Thibodeau in the past. She was part of the Series C Interim Finance Agreement as bond counsel. Because of the tight timeline and the fact Garrison Diversion has already gone through this process when previously retaining Ms. Thibodeau, Ms. Norgard advised there would not be a problem quickly adding her back on as bond counsel.

#### **RRVWSP Task Order 8510 – 2023-2025 Biennium Financial Planning Support**

Ms. Mooridian referred to Task Order 8510, which is for the 2023-2025 financial planning support in the amount of \$590,000. This was reviewed by the LAWA (Financial Advisory Committee (FAC) and recommended to the LAWA board, which they approved at their meeting today.

Ms. Mooridian said most of the RRV Committee members were present at the LAWA board meeting when Task Order 8510 was reviewed earlier today. The purpose of this task order is to continue to develop and refine project funding and financing plans with specific focus on updating financial models, continued analysis of end user financial considerations and supporting updates of funding and financial provisions within the Project Participation Agreement (PPA), ongoing funding and financial outreach discussions and finalizing financial services related to PPA exhibits, as well as continued support of the LAWA FAC.

**Motion by Director Walter to approve RRVWSP Task Order 8510, 2023-2025 Biennium Financial Planning Support in the amount of \$590,000. Second by Director Bischoff. Upon roll call vote, the following directors voted aye: Anderson, Bischoff, Siegert, Vein and Walter. Those voting nay: none. Motion carried.**

#### **INSURANCE ADVISOR SERVICES**

Ms. Mooridian reported the insurance advisor contract between Garrison Diversion and Aon has expired. We have been looking to renew this contract for the owner's representative, but when it came time to sign the contract with Aon, they wanted to also be Garrison Diversion's broker.

Ms. Mooridian stated previously, the board has been adamant the company providing insurance advisory services to Garrison Diversion cannot also be the broker. This was kept in the contract to be renewed, and Aon indicated they would still be the owner's representative for approximately \$25,000; however, as the process moved forward and the key individuals

who were to be the owner's representatives discovered they could not also provide the broker services; they were unavailable as advisers.

Ms. Mooridian added the previous three-year contract with Aon was approximately \$90,000.

Ms. Mooridian commented Ms. Norgard has been in touch with Willis Towers Watson (WTW), and they have indicated they would be Garrison Diversion's insurance consultant at a cost of \$75,000 for year one, \$79,000 for year two and \$83,000 for year three.

Ms. Norgard has also had conversations with Hub International to discuss potential insurance advisory services. They have indicated they would like to provide insurance services to Garrison Diversion but also indicated they would like to be the broker, which Garrison Diversion is against.

Ms. Norgard said it may be helpful to have a video conference call with Hub and get answers to the questions from the committee.

Mr. Boersma encouraged Garrison Diversion to reach out to some peer organizations that are constructing water supply programs to find out what type of insurance program(s) they use. He added Black & Veatch could provide some contacts.

Ms. Mooridian asked how the committee would like to move forward and if they would like to set up a video conference meeting with Hub and, if so, who should be included on the call.

Chairman Vein suggested Ms. Mooridian work with Ms. Norgard and Mr. Boersma to come up with a plan.

#### **OTHER BUSINESS**

There being no further business to come before the committee, the meeting adjourned at 1:30 p.m.

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Ken Vein, Chairman

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Duane DeKrey, Secretary

