

**GARRISON DIVERSION CONSERVANCY DISTRICT**

**RED RIVER VALLEY COMMITTEE**

**Video Conference  
September 19, 2022**

Garrison Diversion Conservancy District's Red River Valley Committee met by video conference on September 19, 2022. The meeting was called to order by Chairman Greg Bischoff at 4 p.m.

**DIRECTORS PRESENT**

Board Chairman Alan Walter  
Committee Chairman Greg Bischoff  
Director Jay Anderson  
Director Roger Fenstad  
Secretary Duane DeKrey

**MEMBERS ABSENT**

Director Bill Krivarchka

**OTHERS PRESENT**

Steve Metzger, Director, Foster County, Garrison Diversion Conservancy District, Carrington, North Dakota  
Dave Anderson, Director, Pierce County, Garrison Diversion Conservancy District, Rugby, North Dakota  
Kip Kovar, District Engineer, Garrison Diversion Conservancy District, Carrington, North Dakota  
Merri Mooridian, Administrative Officer, Garrison Diversion Conservancy District, Carrington, North Dakota  
Kimberly Cook, Communications Director, Garrison Diversion Conservancy District, Carrington, North Dakota  
Lisa Schafer, Executive Assistant, Garrison Diversion Conservancy District, Carrington, North Dakota  
Cindy Hewitt, Accounting Specialist, Garrison Diversion Conservancy District, Carrington, North Dakota  
Ashley Reisenauer, Accounting, Garrison Diversion Conservancy District, Carrington, North Dakota  
Tami Norgard, Vogel Law, Fargo, North Dakota  
Nick Suma, Vogel Law, Fargo, North Dakota  
Steve Burian, Burian & Associates, Fargo, North Dakota  
Paul Boersma, Black & Veatch, Milwaukee, Wisconsin  
Kurt Ronnekamp, Black & Veatch, Kansas City, Missouri  
Cory Chorne, Advanced Engineering & Environmental Services, Bismarck, North Dakota

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

## **CONSIDERATION OF MINUTES**

**Motion by Director Walter to dispense with a reading of the August 3, 2022, Red River Valley Committee minutes and approve them as distributed. Second by Director Fenstad. Upon roll call vote, motion carried.**

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

**Defective Flooring** - - Paul Boersma, Black & Veatch, provided a PowerPoint presentation as a review of the defective flooring situation at the Missouri River Intake outlining the following:

1. What was designed and by whom, under which contract
2. Why some design was delegated to the contractor
3. What happened during construction and when
4. Why was work re-assigned from ICS to Michels-Tunneling
5. If Michels Tunneling continues the work, who has warranty responsibility

Mr. Boersma said there are two different contracts. One is the wet well contract referred to as Contract No. 1. There is also a river intake contract referred to as Contract No. 2. ICS, Inc. (ICS) is the prime on Contract No. 1, with Michels Foundations as a subcontractor. Michels Tunneling is the prime on Contract No. 2, but they also have Michels Foundations as a subcontractor.

ICS, in turn, delegated the design to Michels Foundations. Black & Veatch did review and accept the contractor's design.

Mr. Boersma indicated some of the design was delegated because, strictly speaking, it is not part of the final element of the structures. The secant piles and the plugs were part of the overall excavation support. How those secant piles and the plug got built depended upon the means and methods of the overall contractor.

Mr. Boersma commented when thinking of the overall program in terms of the pipeline, treatment facilities and pump stations, not many elements will have design delegated to the contractor, but the secant piles, the plug, and the cofferdam, as part of Contract No. 2, were really delegated parts for that reason.

Mr. Boersma reminded the committee Michels Foundations, under contract to ICS, completed the secant piles in the spring of 2021. ICS then poured a nine-foot plug, which had been designed by Michels. Then ICS poured a one-foot cap on top of the plug. Again, the cap was designed by Michels. Shortly after the one-foot cap was poured, heaving problems were noted by Advanced Engineering & Environmental Services (AE2S).

There were two options to address the heaving problem. Option 1 was to instruct ICS to repair/replace the heaved floor. Option 2 was to transfer repairs to Contract No. 2.

Mr. Boersma said if time had not been an issue, Option 1 would have been chosen. However, because of the need to turn the wet well over to Michels Tunneling since they were mobilizing on-site and preparing to set up for tunneling and begin the cofferdam, Black & Veatch recommended assigning the one-foot cap repairs to Michels under Contract No. 2.

Mr. Boersma next reviewed the language directly from the contract regarding contractor's warranty, which states the contract warrants and guarantees to honor that all the work will be done in accordance with the contract documents and will not be defective. If, within one year after the date of substantial completion, any work is found to be defective, the contractor will promptly and without cost to the owner correct the defective work.

Mr. Boersma stated both contracts have the same warranty and correction period language, so transferring the repair of the cap from one contract to another does not change the correction period. The decision was made to effectively accept defective work, which is allowable under the contract, and reduce payment to ICS.

Mr. Boersma stated due to the pressure to keep the project moving forward, the contract did not have the normal one-year correction period, and a decision was made to reduce ICS's contract by \$219,127.25. That amount was added to the Michels contract.

Mr. Boersma noted ICS does not currently agree to the \$219,127.25 reduction in their contract. He added the engineering team and Garrison Diversion have been through many discussions with ICS and Michels in order to determine a fair amount, and this is about as fair as it can get.

Michels Tunneling, in turn, has agreed to complete the additional work for \$219,127.25.

Kurt Ronnekamp, Black & Veatch, reported Michels is looking to start that work this week.

Kip Kovar, District Engineer, Garrison Diversion, informed the committee these change orders were previously approved by the committee. No further recommendation is needed today. The purpose of this meeting is to reaffirm the committee's approval on this issue.

Director Fenstad asked for clarification on the planned work.

Mr. Boersma said the original plan was to install a one-foot cap for the tunneling crew to work off of. Then two feet was to be added to the cap while they added the two-foot liner around the perimeter of the shaft. The defective one-foot cap will be removed, and Michels will install a composite three-foot cap, including the one foot of original work being replaced and then two feet of work that was planned. Black and Veatch did the final design of the three-foot cap. That three-foot cap is now going to be part of the finished floor/structure of the overall wet well composite, meaning it will be designed and poured as a single, integrated structure.

Mr. Ronnekamp added the three-foot slab will be pinned to the nine-foot plug. There will be vertical rebar epoxied into the plug extending up into the three-foot slab pinning it together.

Mr. Boersma also explained the long-term liability precautions being taken and warranty implications regarding the three-foot cap relating to stability.

### **Extension Pipeline**

Mr. Kovar reported that he, Duane DeKrey, Secretary, and Steve Burian, Burian & Associates, met with Washburn's City Council recently. The question was asked, regarding the potential extension pipeline from the Missouri River Intake going over to Washburn, who would own, operate and maintain the pipeline. In the Project Participation Agreement (PPA) as currently written, Garrison Diversion will be the owner and operator of all extension pipelines.

Mr. Kovar said he believes this is the direction the Garrison Diversion board wanted to head but also said we would be flexible. If someone came to the board with a request to own their extension pipeline, it would be taken under consideration.

The other question asked concerned an extension pipe break. If a pipe break were to occur, who pays the bill?

Mr. Kovar said there will need to be further conversation in regard to who is responsible for such an expense.

Mr. Burian commented this is an issue which needs addressed. It would be nice to clarify what approach would be used if a major break were to happen on an extension pipeline and who will pay the bill. A formal response should be sent to Washburn once this has been determined.

Tami Norgard, Vogel Law, said the PPA currently states Garrison Diversion will own, operate, design, construct and repair all branch pipelines subject to the agreement that the user (whoever is benefitting from the pipeline) will reimburse Garrison Diversion. Garrison Diversion would repair the pipeline break, but the user will pay for the construction and repair unless another arrangement is negotiated. The PPA also indicates the user is free to ask the State Water Commission to cost share this expense.

Chairman Bischoff stated this question also needs to be addressed with the Lake Agassiz Water Authority (LAWA) Board. From Garrison Diversion's perspective, it may not matter since Garrison Diversion would not be paying the bill.

Mr. Burian gave the example of a rural water district having a pipeline break in one corner of the district, clearly you do not go back to the corner and try to allocate costs. One of the advantages of being a regional water system is to have the costs spread out among everyone.

Mr. Burian said going to the LAWA Board is the next step. Thoughts from the Red River Valley Committee are being sought first.

Chairman Bischoff agreed the regional approach is better than the specific line.

Director Anderson feels it needs to fit into the whole operating costs of the project, and wherever there is a leak or a break, it gets fixed as a whole.

Director Fenstad commented having a format set up in the event there is a pipeline break will help. The regional approach is the right way to go. The individual user would struggle to pay the bill.

Mr. Burian suggested there may also need to be some sort of phasing or reserve mechanism used if Washburn is the only user on the system for a while.

There being no further business to come before the committee, the meeting was adjourned at 5:05 p.m.

(SEAL)

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Greg Bischoff, Chairman

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Duane DeKrey, Secretary