

Barnes County Water Resource District
PO Box 306
Valley City, ND. 58072
701-845-8508

Emergency Meeting
09/26/2011
7:30 AM

Barnes County Highway Department Conference Room

Present: Chairman, Jeff McMillan
Manager, Pat Hurley
Manager, Duane Lettenmaier

Chairman McMillan called the meeting to order.

The Secretary read the following emergency declaration.

**BARNES COUNTY WATER RESOURCE DISTRICT
RESOLUTION OF EMERGENCY REGARDING
HIGHWAY 1 CROSSING IMPROVEMENT PROJECT**

WHEREAS, the Barnes County Water Resource District (the "District") is a North Dakota water resource district and political subdivision under Chapter 61-16.1 of the North Dakota Century Code.

WHEREAS, North Dakota State Highway 1 is a highway owned, operated, and maintained by the North Dakota Department of Transportation ("NDDOT").

WHEREAS, a certain portion of Highway 1 near Eckelson Lake in Barnes County, North Dakota, is currently at risk of complete inundation due to flooding of Eckelson Lake and nearby watercourses and drains.

WHEREAS, the flooding in the area is so substantial Highway 1 is at risk of complete inundation, and spring runoff will most likely result in complete inundation, which could cause substantial transportation safety hazards and significant damages to Highway 1.

WHEREAS, if the water surface elevations in the area continue to increase, in addition to interruptions of public transportation and safety hazards to the general public, NDDOT would most likely have to close Highway 1, a safety measure that would limit emergency vehicle access

to properties in the area and that would otherwise disrupt transportation and commerce in the region and in the State.

WHEREAS, the District and NDDOT have discussed the possibility of constructing a crossing improvement through Highway 1 near Eckelson Lake to protect Highway 1, and to avoid the prospect of inundation in the fall of 2011 and during spring runoff in the spring of 2012.

WHEREAS, NDDOT has agreed to reimburse the District for the total costs associated with the construction of improvements to the Highway 1 crossing, including construction, excavation, culvert placement of three 54" culverts, backfill, paving design, utility relocations, and other related items (the "Project").

WHEREAS, the risks to safety and property increase as the water surface elevations in Eckelson Lake and surrounding watercourses and drains increase, and, with that in mind, the District and NDDOT have both determined construction of the Project as soon as possible is necessary.

WHEREAS, failure to construct the Project as soon as possible, and before winter, could threaten the health, safety, and welfare of Barnes County residents, and could otherwise disrupt transportation and commerce in the region and in the State.

WHEREAS, under normal circumstances, before awarding a construction contract for a public improvement in excess of \$100,000, the District must first publicly advertise for bids and award a contract to the lowest responsible bidder, in accordance with Chapter 48-01.2 of the North Dakota Century Code.

WHEREAS, in accordance with N.D. Cent. Code § 48-01.2-04(2), the District may dispense with public bidding and advertisement requirements if an emergency exists, and may contract for the construction of a public improvement without seeking bids if necessary in an emergency situation.

WHEREAS, the flooding situation in the Eckelson Lake area, and the resulting risks to Highway 1, was a generally unexpected occurrence that requires immediate action to protect residents who live in the vicinity; to ensure adequate emergency access to properties in the vicinity; to protect private properties, roads and highways, and surrounding properties and communities from additional damages; to protect NDDOT's Highway 1 right of way; to ensure safe transportation and commerce in the region and in the State; and to otherwise protect the public health, safety, and welfare in light of the flood emergency situation quickly emerging.

WHEREAS, publicly bidding the Project would require an additional three to four weeks under the public bidding requirements in Chapter 48-01.2 of the North Dakota Century Code; in light of the safety and property interests at risk, and in light of the time-sensitive nature involved in seeking a solution, delaying the Project would not be reasonable or prudent.

NOW THEREFORE, BE IT RESOLVED, that the flooding in the Eckelson Lake area, and

the resulting risks to Highway 1, is an emergency situation in Barnes County that threatens the public health, safety, and welfare.

BE IT FURTHER RESOLVED, that it is necessary for the District to construct the Project to protect residents who live in the vicinity; to ensure adequate emergency access to properties in the vicinity; to protect private properties, roads and highways, and surrounding properties and communities from additional damages; to protect NDDOT's Highway 1 right of way; to ensure safe transportation and commerce in the region and in the State; and to otherwise protect the public health, safety, and welfare.

BE IT FURTHER RESOLVED, that in light of the emergency situation, the risk to NDDOT Highway 1 right of way, and the risk to public safety and property, it is necessary for the District to enter into an agreement with NDDOT regarding construction of the Project, and to ultimately procure a contractor for construction of the Project without seeking bids in accordance with Section 48-01.2-04(2).

BE IT FURTHER RESOLVED, that the District's engineer for the Project, Moore Engineering, Inc., will solicit reputable contractors in the area and obtain reasonable bids to promptly construct the Project.

BE IT FURTHER RESOLVED, that the District's engineer for the Project will review bids received, and will submit the bids, along with a recommendation, to the District for consideration regarding which contractor or contractors the District should procure for purposes of constructing the Project.

Manager Hurley moved to declare an emergency at the intersection of the Eckelson Lake Natural outlet and State Highway #1. Manager Lettenmaier seconded the motion. All were in favor. The motion carried. Discussion was held on solution of bids.

Being no further business, Manger Hurley moved to adjourn the meeting. Manager Lettenmaier seconded the motion. All were in favor. The motion to adjourn carried.

Respectfully submitted,



Jamie Smith
Secretary
Barnes County Water Resource District