

**LAKE AGASSIZ WATER AUTHORITY**

**BOARD OF DIRECTORS**

**City Commission Chambers  
Fargo, North Dakota  
November 27, 2024**

A meeting of the Lake Agassiz Water Authority (LAWA) board of directors was held at the City Commission Chambers, Fargo, ND, on November 27, 2024. The meeting was called to order by Chair Mahoney at 9:30 a.m.

**MEMBERS PARTICIPATING**

Chair Timothy Mahoney  
Vice Chair Brandon Bochenski  
Director LaVonne Althoff  
Director Rick Bigwood  
Director Bill Bohnsack (by video conference)  
Director Ann Broussard  
Director Dave Carlsrud  
Director Tom Erdmann (by video conference)  
Director Mark Johnson  
Director Jim Schmaltz  
Director Keith Nilson  
Alternate Marc Pritchard for Director Travis Schmidt  
Associate Member Bernie Dardis  
Secretary Duane DeKrey

**MEMBERS ABSENT**

Associate Member Jim Moe  
Associate Member Brett Lambrecht  
Associate Member Carol Siegert

Garrison Diversion staff and others attended. A copy of the registration sheet is attached to these minutes as Annex I.

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

**APPROVAL OF AGENDA**

**Motion by Director Schmaltz to approve the board meeting agenda. Second by Director Nilson. Upon voice vote, motion carried.**

## **CONSIDERATION OF MINUTES**

**Motion by Director Althoff to approve the September 25, 2024, LAWA Board minutes as distributed. Second by Alternate Pritchard. Upon voice vote, motion carried.**

## **FINANCIAL REPORT**

**2024 Budget Analysis Statement** - - Ashley Reisenauer, Garrison Diversion, reviewed the Budget Analysis Statement for the period of January 1, 2024, to October 31, 2024, a copy which is attached to these minutes as Annex II.

Ms. Reisenauer stated total income through October is \$33,300. Expenses are \$121,997.

The total bank balance at the end of October was \$292,153.

Ms. Reisenauer also called attention to the bills paid since the last board meeting, which are highlighted in yellow on the statement.

Vice Chair Bochenski asked why the bills that are paid for consultants do not come before the LAWA board since LAWA pays 25 percent. He would like to see these in the future.

Kip Kovar, Deputy Program Manager, RRVWSP Engineering, asked if he is asking to see all of the construction receipts.

Vice Chair Bochenski said he thinks LAWA should see where the payments are going. They do not see the contracts or dollars that are being spent on those contracts. Ultimately, it ends up in a situation where Garrison Diversion has pass through money coming from the state, and LAWA does not have oversight on where the bills are being paid, which puts LAWA in a tough spot because they are undereducated when it comes to decision making.

Bruce Grubb, City of Fargo, commented the invoices appearing in yellow come directly to him, he goes through and reviews those with the consultants on LAWA's behalf, and they are then checked and initialed, but there is no reason the invoices could not come to the board first. It is a timely method in order to get the invoices turned around and paid. It has just been a matter of practice.

Vice Chair Bochenski said the invoices shown on this statement in the board packets are just LAWA related. He is talking on the project itself, and LAWA is not seeing those. A shift was made to use more in-state consultants, and he would like to see if that is playing out the way it was planned. These costs shown here are insignificant compared to the project costs.

Chair Mahoney added with the FM Diversion Authority, there is a master budget sheet and they see where the money is being spent. It would be nice to see something like that. It would also provide a sense of where we are at with the budget.

Vice Chair Bochenski suggested starting with a list from 2024 and then go from there. He suggested having that put together by the next meeting.

Mr. Kovar said he would take care of that.

**Motion by Vice Chair Bochenski to approve the Budget Analysis Statement for the period of January 1, 2024, through October 31, 2024. Second by Director Carlsrud. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard,**

**Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting nay: none. Motion carried.**

**Summary of Dues Paid** - - Ms. Reisenauer stated the table listing membership dues received for 2024 can be found in the meeting packet for the board's referral.

## **COMMITTEE REPORTS**

**Financial Advisory Committee (FAC)** - - Maureen Storstad, Co-Chair, LAWA FAC, reported the committee met on November 19 in Grand Forks. At that time, they were provided an update on the newly proposed Assurance Policy, including a review of draft financial terms and conditions and revisions to the Memorandum of Commitment (MOC).

A review was also provided regarding participation in the Series D2 Interim Finance Agreement. A progress report on the planned updates to financial modeling for Series D2, E and F was also provided.

The D2 participation window is now closed. Series E debt issuance was issued in September, which includes Grand Forks and Fargo. Moving forward all remaining commitments will be included in the Project Participation Agreement (PPA) with a true-up for the past series financings to be incorporated into Series F.

### **Assurance Policy Update**

Brent Bogar, Consultant, LAWA, stated Grand Forks and Fargo came up with idea for an assurance for the small systems where they will basically guarantee to acquire a small system's nomination if, in the future, that small system determines they no longer need the nomination.

Mr. Bogar highlighted the assurance policy and said language describing the assurance policy will be incorporated into the PPA.

### **Assurance Policy Highlights:**

- >Participant eligible to have nominations and financial commitment assumed by LAWA or LAWA member entity
- >Limited to 10 years from Project start-up
- >Reimbursement of principal contributions to point of assumption
- >Fargo and Grand Forks committed to policy proportionally
  - Potential assignment to other Participants

Mr. Bogar said the assurance policy will repay any of the small systems if they choose to get out of the project. They will receive principal payments paid toward the debt, but no interest money will be reimbursed.

**Technical Advisory Committee (TAC) Operational Planning Subcommittee (OPS)** - - Dan Portlock, Chair, LAWA TAC OPS, reported the committee met on November 26 at which time they were provided updates on work being done with the water control manual updates.

For Lake Traverse, two rounds of comments have been sent in. The third round of comments are due the end of November. There has been some feedback from the Corps of Engineers. In the next

round of comments, they will ask the Corps of Engineers to strive to balance the releases when possible between the two reservoirs.

For the Lake Ashtabula water control manual update, one round of comments has been submitted along with performance indicators. The top five comments were 1) minimum release requirements, 2) passing project flows, 3) release protocols and coordination with project stakeholders, 4) drought management and contingency plans and 5) holding off on drawdowns during drought. A draft report is expected in May of 2025.

Mr. Portlock reported the subcommittee also reviewed the preliminary layouts and locations of the biota water treatment plant near the McClusky Canal for the Eastern North Dakota Alternate Water Supply (ENDAWS), as well as the technology that will be involved. The subcommittee will be providing input related to the design.

Director Carlsrud asked will there be power available at the biota water treatment plant location.

Duane DeKrey, Secretary, replied the engineering team is currently working on power. Both the Western Area Power Administration (WAPA) and Verendrye Electric need a five-year lead to get power to the location. Hopefully, it will all be in place when the rest of the system is completed.

## **RED RIVER VALLEY WATER SUPPLY PROJECT UPDATE**

**Construction Update** - - Mr. Kovar shared photos and reported on the RRVWSP construction contracts.

Mr. Kovar shared a map of the construction site locations, stating Contract 5A is complete, Contracts 5B, 5C and 5D are active. Construction will be moving over to Contracts 6 and 7 in the near future. Contracts 1-3 and 4 will come later.

### **Contract 5B**

Contract 5B is behind schedule. The contractor, Garney Construction, has all the pipe in the ground but will have to return next year to perform restoration and plumb some of the vaults. Hydrostatic testing will also need to be done next year.

### **Contract 5C**

Oscar Renda Contracting is the contractor on Contract 5C. This is an eight-mile pipeline contract which is at 45 percent completion. Oscar Renda has two crews working.

### **Contract 5D**

Carstensen Contracting is the contractor on Contract 5D. The contract is for ten miles of pipe, which is 41 percent complete.

Overall, approximately 17.8 miles of pipeline is installed for the entire project. This year alone 11 miles of pipe was installed

Photos were shared of constructions activities at the three active construction sites and easement restoration.

Mr. Kovar said in summary, approximately \$260 million in construction contracts has been awarded. By mid-2025, more than 100 miles of pipeline will be 100 percent designed on the RRVWSP.

**Work Plan Update** - - Mr. Kovar referred to the RRVWSP Work Plan Update dated November 19, 2024, included in the meeting packet. This is a summary of the RRVWSP construction contracts consisting of ongoing construction projects and costs. A copy of the update is attached to these minutes as Annex III.

### Red River Valley Transmission Pipeline, Contract 6A

#### **Bid Summary**

Mr. Kovar informed the board bid opening for RRVWSP, Red River Valley Transmission Pipeline, Contract 6A, took place on November 7, 2024. A total of three bids were received: 1) Carstensen Contracting, Inc., 2) Harper Brothers Construction, LLC and 3) Oscar Renda Contracting, Inc.

Mr. Kovar added there was a base bid for 4.8 miles of 72-inch pipeline, along with alternative one adding 1.3 miles and alternative two adding 1 mile. This comes to a total of 7.1 miles of 72-inch pipe.

Mr. Kovar stated the engineer's estimate was \$54,512,981. Carstensen Contracting, Inc. was the apparent low bidder at \$52,512,981.

#### **Recommendation of Award**

Paul Boersma, Black & Veatch (BV), stated Contract 6 moves further east of Carrington. Contract 6A picks up where Contract 5C leaves off. It is about 7 to 7.3 miles of pipe with no trenchless crossings. It does include a large isolation valve.

Mr. Boersma reminded the board of the prequalification process of contractors. Seven contractors were prequalified with three of these contractors bidding on Contract 6A.

Mr. Boersma reviewed the bid results according to financial context and programmatic costs.

Biennium budget for Contract 6A	\$45,000,000
Recommended Award Base and Alternatives	\$52,528,500

Mr. Boersma commented there have been savings on existing construction contracts and design contracts. There is also money kept in contingency of which a portion could be shifted. Effectively, the funding difference of \$7,528,500 can come through these sources for Contract 6A.

Mr. Boersma stated as a review, we are dealing with a programmatic budget of January 2024 dollars of \$1.260 billion.

Shawn Gaddie, Advanced Engineering and Environmental Services (AE2S), said they would like everyone to understand the context of how programmatic costs are being looked at. When putting together the basis of the legislative intent, we talk about current year's dollars and where the estimates are at. Then when looking forward, legislative intent was based upon indexed dollars. To be clear as we move forward, we are expecting all of the pipeline costs and various facilities' costs

to continue to index forward based on inflation. If we looked at the legislative intent priorly approved, our total programmatic estimate right now is around \$1.4 billion.

Mr. Gaddie said the pipeline costs per mile are coming in a little higher than what have been the basis in the 2024 dollar amount. That is to be expected because when a contractor is putting together a bid, they are almost always indexing those costs forward to their midpoint of construction. In all reality, what we are seeing in the bid costs for Contract 6A are likely indexed forward to around a 2026 dollar type of timeframe. The costs per mile would be expected to come in a bit higher than what we are seeing. He pointed out rather aggressive inflation assumptions were imbedded into the legislative intent request.

Right now, in 2024 and in 2025, a five percent annual inflation assumption is still being carried within the overall programmatic estimates. That was the basis of legislative intent. They are in the process of bringing this estimate, which was done in 2022, back to an apples-to-apples comparison from what we are now seeing in the bid for Contract 6A and what has been seen in the past couple of bids to make sure they are on track on the complete comparison.

Mr. Gaddie said to be clear, there were inflationary assumptions built in. They are in the process of comparing that. In the next month, they will be able to share an updated 2025 value for the overall program and compare that to what the legislative intent was based upon and the overall programmatic costs of the \$1.4 billion.

Mr. Boersma said four appreciable sections of pipeline (5B, 5C, 5D and 6A) have now been bid. These were bid at various times, but they have tried to normalize the costs in terms of January 2025 costs. He reviewed the range of costs per mile of pipeline installation on these segments shown in the table below. On average, they are seeing an awarded cost of about \$7 million per mile. The current programmatic costs are based on an assumption of \$6.3 million per mile.

Some upward cost pressure is being seen on pipeline costs. If the \$7 million per mile holds true as an average cost for the pipeline that is remaining to bid, there will be an approximate \$75 million upward cost pressure on the bottom line programmatic cost estimate. That is a cost increase of about 5.5 percent.

The engineering team is aggressively eliminating some of the trenchless crossings and hopes this will allow for some cost savings on the project.

PIPE SEGMENT	COST/MILE (IN JANUARY 2025 \$)	COMMENT
Segment 5B	\$6.6	Includes past and expected change orders.
Segment 5C	\$8.6	Based on awarded bid, not low bid.
Segment 5D	\$6.2	
Segment 6A	\$6.8	
Average	\$7.0	
Programmatic Cost Assumption for 2025 and Forward	\$6.3	Impact – Approximately \$75M upward cost pressure on programmatic cost (5.5%).

An updated programmatic cost estimate will be provided at the next meeting. As a quick preview before approving Contract 6A, no problematic cost changes are seen, but BV is seeing cost changes which needed to be pointed out to the board.

### **Notice of Award**

Mr. Boersma stated based on the monies available to fund Contract 6A and the bid results being consistent with previous bids in the engineer's estimate, BV recommends, based on Carstensen's prequalifications and low bid, that Carstensen be awarded the base bid plus alternates one and two on Contract 6A in the amount of \$52,28,500. A copy of B&V's recommendation letter is attached to these minutes as Annex IV.

**Motion by Vice Chair Bochenski to award the base bid plus alternates one and two on the RRVWSP Red River Valley Transmission Pipeline, Contract 6A, to Carstensen Contracting, Inc. in the amount of \$52,528,500. Second by Director Broussard. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

### **Contractor's Agreement**

Mr. Kovar referred to the contractor's agreement, stating this is provided for the board's information. The contractor's agreement is signed by the contractor verifying the contractor will stick to the items of the bid as well as verifying the plans and specifications. It also certifies and acknowledges the required documentation.

### **Notice to Proceed**

Mr. Kovar said once the contractor returns all of the proper documentation to Garrison Diversion, a notice to proceed with the construction contract needs to be issued.

**Motion by Director Nilson authorizing the general manager to move forward with the Notice to Proceed on RRVWSP Red River Valley Transmission Pipeline, Contract 6A, pending submittal of the contractor's documentation. Second by Director Johnson. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

**2023-2025 Biennium Work Plan/Budget** - - Mr. Kovar reviewed the updated 2023-2025 Biennium Work Plan totaling \$246 million dated November 14, 2024. The highlighted items are being reduced, including Garrison Diversion's budget, number of tunnels, revision of additional end user outreach and contingency reduction. Reducing these items allowed for funding of Contract 6A.

A copy of the 2023-2025 Draft Work Plan is attached to these minutes as Annex V.

Chair Mahoney asked if the pipeline for the City of Washburn is included in this work plan.

Mr. Kovar replied Washburn is not in this work plan.

Chair Mahoney asked when would that be built.

Mr. Kovar stated there is some remaining contingency money or new biennium money would be available by July.

**Motion by Director Schmaltz to approve the revised 2023-2025 RRVWSP Biennium Work Plan dated November 14, 2024. Second by Director Bigwood. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

**Program Schedule** - - Mr. Kovar reviewed the RRVWSP Program Schedule dated November 14, 2024.

**User Engagement Update** - - Steve Burian, Burian & Associates, provided a PowerPoint presentation as a recap of where things stand on overall project capacity in regard to RRVWSP prospective users as of November 22, 2024. There has been a total of 65 user meetings held to date.

Mr. Burian said with the October 25 deadline for Series D2 financing, there was a small flurry of users that committed to the RRVWSP. The seven users included in Series D2 are Carrington, Cooperstown, Fargo, Grand Forks, Hillsboro, Mayville and Valley City.

The user assurance policy recently introduced has been the final piece giving many users the confidence to sign the revised MOC, which does not include the Series D2 financing.

For all the users that were included in the 2016 Development Agreement, there was originally 159.23 cfs obligated. Of those, we have 154.28 cfs currently signed up or are optimistic. With the MOC revision, there are two county additions (Sargent and LaMoure). On top of that, a lot of leg work has been done in the southeast counties, and it appears Dickey and Richland Counties will be nominating. McLean-Sheridan Rural Water District voted yesterday to nominate for .42 cfs.

Total nominations at this time, with county additions, are around 159-160 cfs.

Meetings are also coming up with Ransom County, Wahpeton, Washburn and Traill County. The northeast regional users will be meeting during the Water Users annual conference in December.

## **Financial Update**

### Federal Funding Update

#### **S.4996**

Duane DeKrey, Secretary, reported S.4996 passed the Energy and Natural Resources Committee on November 19, 2024. This bill includes \$454 million (indexed) to complete the McClusky and Missouri River North Alternative for the ENDAWS Project. The process is to attach it to another bill. It then moves to the Senate legislative calendar for final action.

### Series D2 Financing Agreement

Mr. Gaddie said the first version of the MOC had an October 25 deadline for any system that wished to be included in the Series D2 financing agreement. As reported earlier, Fargo, Grand Forks, Carrington, Cooperstown, Hillsboro, Mayville and Valley City approved the MOC by the deadline.

The importance of the D2 financing is it provides the local share to access the state's cost share allowing for \$45 million to be available to pay for Contract 6A.

The goal is to have the financing component completed over the course of December in order to be ready to make the first draws on Contract 6A.

The table below shows the allocation percentage of D2 for the participating systems in the \$11.3 million loan, which is needed for the local 25 percent cost share to award the next pipeline construction contract (6A).

SERIES D2 PARTICIPANT	SERIES D2 ALLOCATION PERCENTAGE	SERIES D2 PRINCIPAL ALLOCATION
Carrington / Carrington JDA	0.81%	\$90,979
Cooperstown	0.52%	\$58,582
Fargo / WF / CRWD	74.70%	\$8,443,353
Grand Forks / EGF	16.13%	\$1,823,370
Hillsboro	1.19%	\$135,046
Mayville	1.19%	\$135,046
Valley City	5.45%	\$616,064
<b>Total</b>	<b>100.00%</b>	<b>\$11,302,440</b>

Mr. Gaddie reviewed the updates to Series D2, E and F financing agreements.

### Key Updates

- **SERIES D2** participation window is now closed with participants determined
- On-going MOC execution will no longer have a financial commitment
- Small **SERIES E** debt issuance was approved at September LAWA to match MR&I dollars (Fargo and Grand Forks only)
- Moving forward, all remaining user commitments will be included in the PPA with a true-up of all past series financings into **SERIES F** financing
- **SERIES F** financing will not likely see any payment obligation come due until first quarter of 2028
- Financial model is being updated to reflect above details

Mr. Gaddie stated the table below shows how work is transpiring across the various series financing listing the participation amount, who is included and how that has changed over time as we have reached the point of D2 where we are now expanding that list. With the PPA execution, all users will be trued-up in Series F, which is associated with the project's 2025-2027 work plan. There is a

remaining amount of \$183,980,000. It is projected there will be a Series G and I to cover this, which is tied to the legislative intent for the 2027-2033 timeframe.

SERIES	A	B	C	D1	D2	E	F	G-I REMAIN- DER
Biennium	17-19	19-21	21-23	23-25	23-25	23-25	25-27 (PPA)	27-33
Principal Amount (nominal \$)	\$1,444,444	\$1,875,000	\$22,425,000	\$48,697,560	\$11,302,440	\$1,500,000	\$73,700,000	\$183,980,000
Participants	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks</li> </ul>	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks</li> </ul>	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks</li> <li>• GDCD</li> </ul>	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks</li> </ul>	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks</li> <li>• Carrington</li> <li>• Cooperstown</li> <li>• Hillsboro</li> <li>• Mayville</li> <li>• Valley City</li> </ul>	<ul style="list-style-type: none"> <li>• Fargo</li> <li>• Grand Forks to Match Federal MR&amp;I</li> </ul>	<ul style="list-style-type: none"> <li>• TBD and Prior Series True-up with PPA</li> </ul>	<ul style="list-style-type: none"> <li>• TBD</li> </ul>

### Memorandum of Commitment Approvals

Mr. Gaddie referred to the MOCs included with the meeting materials, stating the financing team is aggressively trying to adhere to the schedule that was originally outlined. Some things have been pushed a bit, but they should get all of these finalized by December. Four of the five MOCs have been approved. A Small Systems Amendment also needs to be approved and signed by these five systems, which needs to be presented to Garrison Diversion's Executive Committee in order to pass the bond resolution. The goal is to be able to make the draw in time to meet the deadline set by the Bank of North Dakota (BND) and the State Water Commission on what they approved for the D2 financing.

The MOCs before the board today for approval are for Carrington, Cooperstown, Hillsboro and Mayville. It was always considered that Fargo and Grand Forks would come later as they work this through their various council and commission processes. The Valley City MOC is being finalized. It will be worked through the D2 amendments at the same time.

**Motion by Director Broussard to approve the RRVWSP Memorandum of Commitment by and between LAWA, Garrison Diversion and the cities of Carrington, Cooperstown, Hillsboro and Mayville. The Memorandum of Commitment for Fargo, Grand Forks and Valley City are approved contingent upon approval by each city's commission/council. Second by Director Schmaltz. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

### Legislative Update

Mr. Bogar reported there is a working group made up of LAWA and Garrison Diversion leadership preparing for the upcoming legislative session. The two main items going into the session include

the funding request following the legislative intent plan from last session in the amount of \$221 million for the 2025-2027 biennium, along with support for the local financing programs, which are the BND/Water Infrastructure Revolving Loan Fund and the \$73.3 million for the local project share. In addition, bills that could impact the RRVWSP will be tracked.

### **Key Messages**

1. Substantial Amount of Work Completed
2. Assurance Program Creates Safety Net for Small Systems
3. State Funding is Critical
4. Focused on Core Pipeline with Eye on the Future (branch pipelines)

Associate Member Dardis said it is critical that inflation creep be included in legislative handouts regarding RRVWSP costs.

### **UNFINISHED BUSINESS**

**City of Washburn/Rainbow Energy Update** - - Director Broussard, who is the manager at McLean-Sheridan Rural Water District, reported a small contingency met in Jamestown a few weeks ago with representatives from the City of Washburn to review the MOC, Series D information and their branch pipeline. Because of the Assurance Policy, they were able to separate that out and explain right now the important part is the MOC. There is no financial obligation. It is just Washburn's commitment to the project up to the point we are already at. The information was well received, and she plans to meet with them again next week to help them prepare their presentation to their city commission on December 9.

**LAWA Bylaws Revisions** - - Katie Schmidt, Ohnstad Twichell, reviewed the discussion items being proposed as changes to the LAWA bylaws. The first one is to change the composition of the board of directors. Currently, 12 entities comprise the board of directors. The proposed bylaw would be to add one more city that has a population greater than 40,000 east of Highway 2 and South of Highway 200. If the board would like to make that bylaw change, it will require a statutory amendment.

Vice Chair Bochenski stated the board is trying to balance board member representation as it gets further into the weighted voting. It is clear West Fargo needs to be included and have a voice at the table. There are already 12 members. The conversation was about eliminating one of the other members or adding another. It seemed to make sense to have 13 members.

**Motion by Director Carlsrud to approve increasing the number of LAWA board members to 13. Second by Vice Chair Bochenski. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

The second consideration in the bylaws is to change to weighted voting. Currently, every director is entitled to one vote. The proposed bylaw change would make it based upon the percentage of nomination of that entity prepared to the total nomination. There would be a cap at 48 percent of the vote regardless of percentage of nomination compared to the whole. Language was added stating there must be at least four director votes to pass.

Chair Mahoney asked that the percentage of the entities on the LAWA board be calculated in order to provide a better understanding of how weighted voting will look and have that be presented at the next board meeting.

Director Carlsrud said, as a group, we certainly need to have proper representation of the small and large users for the project moving forward. Clearly that should be our goal.

Ms. Schmidt said the next thing for consideration is super majority vote items. Currently, this is not in the bylaws. The proposed bylaw is:

- A supermajority vote = 2/3 of weighted vote and at least six (6) director votes to pass
  - Engagement of an executive director
  - Termination of an executive director
  - Approval of PPA
  - Approval of Project financial plan
  - Amendment of the bylaws
  - Removal or withdrawal of a Member Entity
  - Issuance of any debt obligations by LAWA

Ms. Schmidt said the next item is committee composition.

#### Finance Committee

The current bylaw authorizes the chair to appoint members.

The proposed bylaw is

- Two individuals from a city with a population greater than 40,000 located east of state highway 1 and north of state highway 200
- Three individuals from a city with a population greater than 40,000 located east of state Highway 1 and south of state Highway 200
- Four individuals to be determined
- Committee members are not limited to Board of Director representatives

Ms. Schmidt added language regarding the committee composition for the Technical Committee is the same as the Finance Committee. The board should decide how they would like these two committees comprised.

Greg Bischoff, Garrison Diversion, asked if language could be added in for county representation.

Ms. Schmidt said it certainly can. Right now, the statute determines who comprises as member entities. That could be part of the conversation as they look to make a legislative change for the board of directors.

**Common Interest Agreement** - - Mr. DeKrey commented as common interest between Garrison Diversion and LAWA with property acquisition and landowner negotiations regarding the RRVWSP,

a Common Interest Agreement was developed by Vogel Law Firm and Ohnstad Twichell, which provides for sharing information, strategy and documents concerning the parties. The agreement is made between the two counsels acting for themselves and on behalf of their clients. As result, a LAWA representative may be included in Garrison Diversion's executive sessions relating to property acquisition. A copy of the agreement is attached to these minutes as Annex VI.

Bennett Johnson, Vogel Law Firm, said it is his understanding that Tami Norgard, Vogel Law Firm, and Katie Schmidt, Ohnstad Twichell, have been in communications regarding this agreement. This would allow LAWA members to join executive session as it relates to claims and acquisition for property rights.

Ms. Schmidt said it also allows for sharing of information between the two law firms regarding this information.

**Motion by Vice Chair Bochenski to approve the Common Interest Agreement between Vogel Law Firm and Ohnstad Twichell acting for themselves and on behalf of their respective clients, Garrison Diversion and Lake Agassiz Water Authority. Second by Director Nilson. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

**Terry Effertz Lobbying Services** - - Mr. DeKrey informed the board Mayor Mahoney had approached Garrison Diversion about sharing Terry Effertz's lobbying services during the legislative session. Garrison currently pays her \$60,000 a year. If LAWA is interested in retaining her services in conjunction with Garrison Diversion, their portion would be 25 percent or \$15,000.

**Motion by Director Schmaltz to approve sharing the annual costs (\$60,000) for Terry Effertz's lobbying services. Garrison Diversion shall be responsible for 75 percent and LAWA 25 percent. Upon roll call vote, the following directors voted aye: Althoff, Bigwood, Bochenski, Bohnsack, Broussard, Carlsrud, Erdmann, Johnson, Mahoney, Nilson and Schmaltz. Alternates voting aye: Pritchard. Those voting no: none. Motion carried.**

The meeting adjourned at 11:25 a.m.

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Timothy Mahoney, Chair

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Duane DeKrey, Secretary

REGISTRATION

LAWA Board Meeting  
Fargo Commission Chambers  
November 27, 2024

NAME	ADDRESS
Lisa Achauer	GDCD
Kumbuly Cook	GDCD
Ken Vein	GDCD
Keith Myklebust	EAST Grand Forks Water & LIGHT
BEVAN JOHNSON	EGF WFL
Steve Hansen	Southeast Water User
Brent Brinkman	CRWD
Greg Baschoff	GDCD
Dave Piepouren	Fergus
Brent Bogar	AECS
Dan Postack	CITY OF FARGO
Rick Bigwood	MER Water
Keith Nilson	WRWD
Jim Schwartz	FARW
BERNICE DARDIS	West Fargo
Dove Carlstad	Valley City
Ann Broussard	McLean Sheridan Rural Water
Halbome AHOFF	SE Water
Shawn GARDIG	AECS
Todd Feland	City of GF
Bruce Granbb	City of Fargo
Steve L Burian	Burian + Associates
Kip Koyen	GDCD
Marc Ritchard	Moorhead Public Service
Mark Johnson	CRW
Kate Schmitt	OT
Brandon Bahrensko	city of Grand Forks
Tim Mshoney	city of Fargo

REGISTRATION

LAWA Board Meeting  
Fargo Commission Chambers  
November 27, 2024

NAME	ADDRESS
Duane DeKrey	GDCD
<del>Bruce Scherr</del>	Veget Law Firm
Say Paul Anderson	GDCD Vice Chairman
On Line	
Jarret Bauer	Garrison Diversion
Sabrina Scherr	Garrison Diversion
Betsy Seaver	Burian & Associates
Troy Hall	City of Fargo
Kristina Dick	City of Lisbon
Dennis Miranowski	City of Wahpeton
Tom Erdmann	Lake Agassiz Water Authority
Paul Boersma	Black & Veatch
Maureen Storstad	City of Grand Forks
Al Grasser	City of Grand Forks
Bill Bohnsack	Lake Agassiz Water Authority
Dave Anderson	Garrison Diversion
Ashley Reisenauer	Garrison Diversion
Joe Nett	Dept. of Water Resources
Jason Siegert	Garrison Diversion
Jeff LeDoux	Garrison Diversion



2024

For the period of January 1, 2024 - Oct 31, 2024

<b>Income</b>	<b>2024</b>	<b>Actual as</b>	<b>8.31.24</b>	<b>Balance of Budget</b>
Dues Income	\$ 30,000.00	\$ 33,300.00		\$ (3,300.00)
Miscellaneous	\$ -	\$ -		\$ -
Cost Share-Interim Finance	\$ 50,000.00			\$ 50,000.00
<b>Total Income</b>	<b>\$ 80,000.00</b>	<b>\$ 33,300.00</b>		<b>\$ 46,700.00</b>
<b>Expenses</b>				
Dues Expenses	\$ 6,500.00	\$ 6,315.00		\$ 185.00
Accounting	\$ 7,875.00	\$ -		\$ 7,875.00
Directors Expense	\$ 500.00	\$ -		\$ 500.00
Insurance	\$ 550.00	\$ 461.00		\$ 89.00
Construction	\$ -	\$ -		\$ -
Engineering	\$ 50,000.00	\$ -		\$ 50,000.00
Property Acquisition/Easements	\$ -	\$ -		\$ -
Adm/Legal/Financial/Pro Service	\$ 141,500.00	\$ 115,221.73		\$ 26,278.27
<b>Total Expenses</b>	<b>\$ 206,925.00</b>	<b>\$ 121,997.73</b>		<b>\$ 84,927.27</b>
<b>Net Income (Loss)</b>	<b>\$ (126,925.00)</b>	<b>\$ (88,697.73)</b>		<b>\$ (38,227.27)</b>

**Account Activity**

Beg. Bank Balance 1-1-2024		\$ 380,851.56
Income Received		\$ 33,300.00
<b>Total Funds Available</b>		<b>\$ 414,151.56</b>
Ck#1243 Ohnstad Twichell	\$ 4,800.00	
Ck#1244 ND Water Coalition	\$ 1,000.00	
Ch#1245 ND Water Users	\$ 5,000.00	
Ch#1246 Ohnstad Twichell	\$ 4,675.50	
Ch#1247 Ohnstad Twichell	\$ 5,656.50	
Ch#1248 ND Rural Water Systems	\$ 315.00	
Ch#1249 GDCD - Legal Expense(BHFS) Void	\$ -	
Ch#1250 Ohnstad Twichell	\$ 6,961.50	
Ch#1251 Ohnstad Twichell	\$ 11,485.50	
Ch#1252 Insure Forward	\$ 461.00	
Ch#1253 GDCD - Legal Expense(BHFS)	\$ 23,062.50	
Ch#1254 AE2S	\$ 15,150.39	
Ch#1255 Ohnstad Twichell	\$ 12,005.54	
Ch#1256 AE2S	\$ 9,737.30	
Ch#1257 Ohnstad Twichell	\$ 13,999.50	
Ch#1258 GDCD - Legal Expense(BHFS)	\$ 7,687.50	
<b>Total Expenses</b>	<b>\$ 121,997.73</b>	
<b>Ending Bank Balance</b>		<b>\$ 292,153.83</b>

**RRVWSP Work Plan Update  
November 19, 2024**

**CONSTRUCTION**

**Pipeline Construction**

**Contract 5B**

The original pipe delivery of June 15, 2021, was delayed due to a surface blemish in the steel coil.

In year one (2022), 7,761 feet of pipe was installed out of the total nine miles. High groundwater slowed the pipe installation progress.

In the second year (2023), 21,120 feet of pipe was installed.

In the third year (2024), using two pipe crews, approximately 18,500 feet has been installed, which completes the pipe installation.

To date, \$32,151,161.61 has been paid on the original contract amount of \$45,961,700.00. Change Orders No. 1, 2, 3 and 4 have been approved, leaving the current contract price at \$46,899,055.88.

**Contract 5C**

The contract price is \$76,663,355.00 for 8 miles of pipe awarded to Oscar Renda Contracting.

Oscar Renda was not meeting their install targets so a second pipe crew was sent out on July 10. To date, 19,352 feet has been installed. The Kelly Creek tunnel is complete.

To date, \$22,389,224.03 has been paid on the original contract amount of \$76,663,355.00.



Stripping Topsoil



Trench Box w/ Dewatering Pipes

Contract 5D

The contract price is \$61,677,275.00 for 10 miles of pipe awarded to Carstensen Contracting. To date, the contractor has installed 21,618 feet with one pipe crew.

To date, \$21,312,129.87 has been paid on the original contract amount of \$61,677,275.00. Change Order No. 1 has been approved, leaving the current contract price at \$59,375,495.00.



Stored Pipe on Site



Placing Dewatering Pipe

**DESIGN**

The design team is also working with Reclamation and USFWS on routing the ENDAWS pipeline through wetland and other various existing easements.

Bid opening on Contract 6A was held on November 7, 2024. Final design efforts have started on Contracts 7 and 4. Additional geotechnical data is complete.

RRVWSP Awarded Contracts				
No.	Contract Name	Contractor	Bid Price	Final Contract Price
1	Missouri River Intake Wet Well & Site Development	ICS	\$4,989,405.88	\$4,721,446.47
1	Sheyenne River Outlet Discharge Structure & Site Development	Industrial Builders	\$1,516,955.00	\$1,521,884.00
2	Missouri River Intake, Screen Structure & Tunnel	Michels	\$18,896,900.00	\$19,444,156.60
5A	Transmission Pipeline East (TPE)	Garney	\$8,366,201.00	\$8,393,396.44
5B	TPE Carrington to Bordulac	Garney	\$45,961,700.00	
5D	TPE Sykeston to Carrington	Carstensen	\$61,677,275.00	
5C	TPE Bordulac to James River	Oscar Renda	\$76,663,355.00	

November 19, 2024

Garrison Diversion Conservancy District  
Red River Valley Water Supply Project  
Red River Valley Transmission Pipeline  
Task Order 5561, Contract 6A

BV Project 188972/409655  
BV File 55.5561.5

Mr. Duane DeKrey  
General Manager  
PO Box 140  
Carrington, ND 58421

Dear Mr. DeKrey:

This letter provides the bid results and a recommendation of award for the Red River Valley Transmission Pipeline, Contract 6A project to Carstensen Contracting, Inc. of Dell Rapids, South Dakota.

Garrison Diversion Conservancy District held a bid opening at its Carrington office on November 7, 2024, at 2 p.m. local time. A total of three bids were received; all bids were opened and read aloud. The bid results are as follows:

**Table 1 – Bid Tabulation Summary**

Contractor	Base Bid (~4.8 miles of 72" pipe)	Bid Alt 1 (~1.3 miles of 72" pipe)	Bid Alt 2 (~1.0 miles of 72" pipe)	Grand Total Base Bid + Alt 1 + Alt 2 (~7.1 miles of 72" pipe)
Carstensen Contracting, Inc. Dell Rapids, SD	\$37,389,325	\$8,802,500	\$6,336,675*	\$52,528,500
Harper Brothers Construction, LLC Houston, TX	\$54,872,280	\$11,763,064	\$8,295,744	\$74,931,088
Oscar Renda Contracting, Inc. Grapevine, TX	\$43,139,550	\$9,087,300	\$6,904,800	\$59,031,650
Engineer's Estimate	\$37,844,273	\$9,488,649	\$7,180,059	\$54,512,981

\* In Carstensen's Bid Form, this amount was shown as \$6,336,655 in words; however, this was resolved to the amount shown based on the summation of the prices and the figures written.

**Table 2 – Bid Price Evaluation Summary**

Contractor	Grand Total Base Bid + Alt 1 + Alt 2	Comparison to Engineer's Estimate
Carstensen Contracting, Inc. Dell Rapids, SD	\$52,528,500	-\$1,984,481: -3.6%
Harper Brothers Construction, LLC Houston, TX	\$74,931,088	+20,418,107: +38%
Oscar Renda Contracting, Inc. Grapevine, TX	\$59,031,650	+4,518,669: +8.3%
Engineer's Estimate	\$54,512,981	--

Carstensen Contracting, Inc. of Dell Rapids, South Dakota submitted the apparent low bid. Oscar Renda Contracting, Inc. of Grapevine, Texas submitted the apparent second low bid.

### **EVALUATION OF THE APPARENT LOW BIDDER'S BID**

The engineer's opinion of probable construction cost (cost opinion) for the Project prepared by Black & Veatch for the Grand Total of the Base Bid plus Alternatives 1 and 2 was \$54,512,981. One bidder had a lower Bid and two bidders had higher Bids than the Black & Veatch's cost opinion. There was a \$1,984,481 or 3.64 percent difference between the apparent low bid and Black & Veatch's cost opinion. The cost opinion was \$7,650,765 or 14 percent lower than the average of the three bids received.

A comparison of the Bids shows that the overall low Bidder was also the low Bidder for the Base Bid and each of the two Bid Alternatives. For the comparison of the Grand Total of the Base Bid plus Alternatives 1 and 2, there is a difference of \$6,503,150 or 12.4 percent between the low Bid and the second low Bid. Because of this noticeable difference, Black & Veatch contacted the apparent low bidder to verify there were no errors made in preparation of its bid. Carstensen confirmed it did not have any errors in its bid and it is standing by its bid of \$54,512,981. Bidders were given 24 hours to withdrawal a bid due to a substantiated error, with return of the bid security. Garrison Diversion nor the Engineer received such notice.

Based on discussions with the apparent low bidder following the bid opening, it is Black & Veatch's opinion that Carstensen has a good understanding of the Project and the key elements thereof. A review of their unit prices indicates a distribution like other bidders. The spread between the low and second low came down to Carstensen's estimated efficiency, rate of pipe installation, and favorable terms from its steel pipe supplier, Northwest Pipe. The approximate \$7.5 million difference between the low and the second low is captured primarily in the difference in the installed price of the 72-inch transmission pipeline, Bid Item No. 2 in favor of Carstensen, and offset by Carstensen's higher unit prices for gravel road restoration and asphalt road overlay, Bid Items No. 18 and 19.

### **EVALUATION OF THE APPARENT LOW BIDDER'S QUALIFICATIONS**

In 2023, Garrison Diversion undertook a general contractor prequalification process, where seven general contractors were prequalified for its projects, including Carstensen. Hence, a general contractor qualification submittal was not required of Carstensen for the Bid. In addition, Carstensen is currently the contractor performing the construction work on Contract 5D and is performing the work satisfactorily and on schedule.

### **SUMMARY AND RECOMMENDATION**

Given the Engineer's review of the bids, the prequalification of Carstensen as a pipeline general contractor for the Red River Valley Water Supply Project, and their current work on Contract 5D, Black & Veatch recommends Garrison Diversion award the Project to the low bidder, Carstensen Contracting, Inc. for its Total Bid of the Base Bid plus Bid Alternatives 1 and 2 in the amount of \$52,528,500. The Total of the Base Bid plus the two alternatives is within the Project's biennium budget allocation and below the Engineer's cost opinion. Should you concur with Black & Veatch's recommendation, a Notice of Award will be prepared and forwarded to Garrison Diversion for signature. In addition, conformed copies of the Contract Documents, including the Agreement and required bonds, will be prepared, and forwarded to Carstensen for execution.

If you have any questions concerning this Recommendation of Award for the subject project, please contact us.

Sincerely,  
BLACK & VEATCH CORPORATION



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Kurt A. Ronnekamp  
Program Manager

Enclosures

cc: Ms. Merri Mooridian, GDCD  
Mr. Kip Kovar, GDCD  
Mr. Paul Boersma, BV  
File



## 2023 to 2025 Biennium Work Plan

(\$246 mil Total Funding: \$4.5M Federal; \$180M State; \$61.5M Local Users)

November 14, 2024

No.	Scope of Work	Feature	Date Task Orders Auth	Note	2023-25 Bien ENDAWS Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Constr Budget (mil \$) <sup>1,2,3</sup>			
					Total	Fed/Sta 75%	Local 25%	Total	State 75%	Local 25%	Total	State 75%	Local 25%	
	<b>Garrison Diversion Conservancy District Budget</b> Scope: Account for all costs for which Garrison Diversion is responsible not included in other Task Orders listed here. Need: Budget allocation for GDCD direct costs associated with the Red River Valley Water Supply Project.	Garrison Diversion's costs for the RRVWSP, including internal mgmt, admin, legal, communication, insurance advisory, misc., etc.		GDCD				\$ 1.00	\$ 0.75	\$ 0.25				
	<b>Property, Easements, and Crop Damage Payments<sup>4</sup></b> Scope: Costs to obtain easements and acquire property for associated facilities. Crop damage payments to landowners. Need: Secure land for installing future pipeline segments staying years ahead of pipeline design/construction needs. Purchase property on which to build all remaining facilities so property will be in hand before final design begins.	Acquire easements in Sheridan and Wells County for 32-mi pipeline. Pay bonus payment to all easement holders. Acquire property for Biota WTP, Hydraulic Break Tanks, McClusky Canal Intake, and James River sites. Pay for crop damage.		RRVWSP			\$ 2.21	\$ 1.66	\$ 0.55					
	<b>Transmission Pipeline East Contract 5C</b> Scope: Pipeline installation, including construction phase engineering services by Engineer. Need: Continue progress of transmission pipeline installation for completion of RRVWSP by the target end date.	8± mi of 72" pl, including two 96" tunnels. Pipeline extends eastward from Contract 5B NE of Bordulac to a termination point just east of the James River.	Jul-23	Prof Svcs Const, 2026 Fin							\$ 5.64	\$ 4.23	\$ 1.41	
	<b>Transmission Pipeline East Contract 5D</b> Scope: Pipeline installation, including construction phase engineering services by Engineer. Need: Continue progress of transmission pipeline installation for completion of RRVWSP by the target end date.	10± miles of 72" pl, including several 96" tunnels. Pipeline section extends westward from Contract 5A south of Carrington to a termination point south of Sykeston.	Jul-23	Prof Svcs Const, 2026 Fin							\$ 5.47	\$ 4.10	\$ 1.37	
	<b>RRV Transmission Pipeline Contract 6A</b> Scope: Pipeline installation, including construction phase engineering services by Engineer. Need: Continue progress of transmission pipeline installation for completion of RRVWSP by the target end date.	6± mi of 72" pl, including several 96" tunnels. Pipeline section extends eastward from Contract 5C just east of the James River to a termination point southwest of Glenfield.	Oct-23	Prof Svcs Const, 2027 Fin							\$ 59.38	\$ 44.53	\$ 14.84	
	<b>ENDAWS Transmission Pipeline Contract 3</b> Scope: Final design (30% docs to biddable plans and specs) and bidding assistance. Need: Continue progress of transmission pipeline installation for completion of RRVWSP/ENDAWS by the target end date.	11± mi of 72" pipeline, including 96" tunnels. Pipeline section extends west from the west end of Contract 4 to the Sheridan Wells County line.	Jul-23	Prof Svcs Const, 2027 Fin							\$ 5.47	\$ 4.10	\$ 1.37	
			Dec-24	Prof Svcs Const, 2027 Fin							\$ 52.53	\$ 39.40	\$ 13.13	
			Aug-23	ENDAWS		\$ 3.06	\$ 2.29	\$ 0.76						



# RED RIVER VALLEY WATER SUPPLY PROJECT



## 2023 to 2025 Biennium Work Plan

(\$246 mil Total Funding: \$4.5M Federal; \$180M State; \$61.5M Local Users)

November 14, 2024

No.	Scope of Work	Feature	Date Task Orders Auth	Note	2023-25 Bien ENDAWS Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Constr Budget (mil \$) <sup>1,2,3</sup>		
					Total	Fed/Sta 75%	Local 25%	Total	State 75%	Local 25%	Total	State 75%	Local 25%
7.	Transmission Pipeline East Contracts 4A and 4B Scope: Final design (30% docs to biddable plans and specs) and bidding assistance. Need: Have the next pipeline section bid-ready when State funding becomes available (likely the 2025-27 biennium).	27± mi of 72" pl, including several 96" tunnels. Pipeline extends from the west end of Contract 5D south of Sykeston west to a termination point NE of Hurdfield at HBTs.	Feb-24	Prof Srvs	\$	7.18	\$ 5.39	\$ 1.80	\$	7.18	\$ 5.39	\$ 1.80	
8.	RRV Transmission Pipeline Contract 7 Scope: Final design (30% docs to biddable plans and specs) and bidding assistance. Need: Have the next pipeline section bid-ready when State funding becomes available (likely the 2025-27 biennium).	14± mi of 72" pipeline, including several 96" tunnels. Pipeline extends from the east end of Contract 6B to the outfall on the Sheyenne River southeast of Cooperstown.	Aug-23	Prof Srvs	\$	2.93	\$ 2.19	\$ 0.73	\$	2.93	\$ 2.19	\$ 0.73	
9.	McClusky Canal Intake and Pumping Station Scope: Conceptual and preliminary design of an intake and pumping station at the McClusky Canal. Need: Preliminary designs are necessary so site acquisition can begin and final design can commence when land is secured.	Siting: passive intake screens, pumping station similar to MRI, and utility extension design can begin for new facility to be located near McClusky, ND.	Feb-24	Prof Srvs	\$ 0.75	\$ 0.56	\$ 0.19	\$	\$ 0.75	\$ 0.56	\$ 0.19		
10.	Biota Water Treatment Plant and Main Pumping Station Scope: Conceptual and preliminary designs for a Biota WTP and Main Pumping Station, including hydraulic surge facility. Need: Complete design to a point where land acquisition can begin and project can move into final design next biennium.	165-cfs biota WTP, with chlorine and UV disinfection to meet NDPDES permit and FEIS requirements per Reclamation. Chloramines for residual disinfectant in pipeline.	Feb-24	Prof Srvs	\$ 2.87	\$ 2.15	\$ 0.72	\$	\$ 2.87	\$ 2.15	\$ 0.72		
11.	Hydraulic Break Tanks Scope: Preliminary design of above-ground tanks and associated facilities at or near the continental divide. Need: Complete design to a point where land acquisition can begin and project can move into final design next biennium.	Two 5 MG above-ground storage tanks and accessories, site piping and valves, monitoring, and utility extensions necessary for a new greenfield site.	Feb-24	Prof Srvs	\$ 0.37	\$ 0.28	\$ 0.09	\$	\$ 0.37	\$ 0.28	\$ 0.09		
12.	PMIS Annual Licenses & Continued Maint/Upgrades Scope: Annual software license renewal for expanded team and consulting support for training and configuration services. Need: Create greater efficiency and documentation for voluminous amount of construction related documents.	Vendor fees (e-Builder & DocuSign) for licenses of expanded team and consulting support for training of contractors/ subcontractors and workflow/report additions and modifications.	Feb-24	Vend & Prof Srvs	\$	0.50	\$ 0.37	\$ 0.12	\$	0.50	\$ 0.37	\$ 0.12	
13.	Prj Mgmt to Support Larger Spend and Expanded Team Scope: Overall program management, planning, budgeting, scheduling, and other support for Garrison Division. Need: Consulting services of a broad programmatic nature not included under project-specific design or construction TOs.	Overall planning, management, administration, scheduling, budgeting, coordination, meeting preparation/attendance, regulatory interface, reporting, etc.	Aug-23	Prof Srvs	\$	0.65	\$ 0.49	\$ 0.16	\$	0.65	\$ 0.49	\$ 0.16	



## 2023 to 2025 Biennium Work Plan

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November 14, 2024

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					Total	Fed/Sta 75%	Local 25%	Total	State 75%	Local 25%	Total	State 75%	Local 25%
14.	<p><b>Outreach, Ping, and Design to Secure User Commitments</b></p> <p>Scope: User briefings and necessary support, including conceptual designs, to secure project commitments.</p> <p>Need: Define pipeline extensions to identify for users how and a what cost water will be delivered to their communities.</p>	Size pipelines, pumping stations, channels, storage, etc. and other necessary infrastructure to deliver raw water to end users. Update capex to reflect current market.	Aug-23	Prof Svcs	\$	1.69	\$ 1.27	\$ 0.42	\$	1.69	\$ 1.27	\$ 0.42	
15.	<p><b>Operational Planning and Asset Management Phase 3</b></p> <p>Scope: System modeling, evaluation, planning, and report development documenting results/findings/outcomes.</p> <p>Need: Finalize Garrison Diversion, State Water Commission, and USACE roles for system operation.</p>	Refine details of diversions to/from Lake Ashtabula. Finalize stakeholder roles and responsibilities as it relates to system operation.	Feb-24	Prof Svcs	\$	0.46	\$ 0.35	\$ 0.12	\$	0.46	\$ 0.35	\$ 0.12	
16.	<p><b>Financial Planning Support</b></p> <p>Scope: Continue to refine the financial model and provide scenarios as required to support users and the program.</p> <p>Need: Accurate water bill estimates and affordability for customers are necessary to gain approval from users.</p>	Update financial models; address state loan and financing program changes; end user funding, financing, and cost-share analyses; continued funding and finance outreach.	Aug-23	Prof Svcs	\$	0.59	\$ 0.44	\$ 0.15	\$	0.59	\$ 0.44	\$ 0.15	
17.	<p><b>Additional End User Outreach</b></p> <p>Scope: Branch pipeline conceptual designs and other consulting assistance to potential end users.</p> <p>Need: Accurate water bill estimates and affordability for customers are necessary to gain approval from users.</p>	Conceptual designs and other consulting support to support end user understanding of core pipeline and applicable branch pipeline CapEx necessary to secure MOU signatures.	Jan-25	Prof Svcs	\$	0.50	\$ 0.38	\$ 0.13	\$	0.50	\$ 0.38	\$ 0.13	
18.	<p><b>ENDAWS BWTP Site Dev, Grading, and Tunnel Shaft</b></p> <p>Scope: Final design and bidding assistance with partial execution of the construction work by GDCC.</p> <p>Need: Provide site access for construction and ready site for substantial facilities construction beginning in 2028.</p>	Access roads to proposed site of new Biota WTP, mass grading to prepare for structure construction, and temporary excavation support system for intake pumping station wetwell.	Jul-25	Prof Svcs	\$	1.40	\$ 1.05	\$ 0.35	\$	1.40	\$ 1.05	\$ 0.35	
19.	<p><b>ENDAWS Biota Water Treatment Plant Piloting</b></p> <p>Scope: water treatment piloting of preliminarily selected treatment processes with a 3-month duration.</p> <p>Need: Process demonstration necessary to make sure water quality treatment objectives can be met with selections.</p>	Pilot scale treatment train consisting of preliminary treatment, UV disinfection, chlorination, and residual chloramine treatment.	Apr-25	Prof Svcs	\$	0.90	\$ 0.68	\$ 0.23	\$	0.90	\$ 0.68	\$ 0.23	
20.	<p><b>ENDAWS BWTP Geotechnical Investigation Phase 2</b></p> <p>Scope: Additional borings and soil sampling expanding upon the initial program implemented during preliminary design.</p> <p>Need: More data needed to properly design foundations, structures, pavement, etc. for the new facilities.</p>	Geotechnical borings; soil characterization, sampling and testing; and reporting to fully inform design team and contractors of on-site insitu soil characteristics.	Jul-25	Prof Svcs	\$	0.15	\$ 0.11	\$ 0.04	\$	0.15	\$ 0.11	\$ 0.04	



## 2023 to 2025 Biennium Work Plan

(\$246 mil Total Funding: \$4.5M Federal; \$180M State; \$61.5M Local Users)

November 14, 2024

No.	Scope of Work	Feature	Date Task Orders Auth	Note	2023-25 Bien ENDAWS Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Development Budget (mil \$)			2023-25 Biennium RRVWSP Project Constr Budget (mil \$) <sup>1,2,3</sup>			
					Total	Fed/Sta 75%	Local 25%	Total	State 75%	Local 25%	Total	State 75%	Local 25%	
21.	<b>ENDAWS BWTP Electrical Service Extension Study</b>	Evaluate substation needs and routing of 15 to 25 miles of high-voltage power lines to serve the new BWTP. Identify permitting and easement requirements.	Apr-25	Prof Svcs	0.45	\$ 0.34	\$ 0.11							
	Scope: Study and report of electrical service extension to serve the new biota water Treatment plant Need: There have been no recent studies of electrical service infrastructure necessary at the McClusky facilities site.													
20.	<b>ENDAWS TM Contract 2 Final Design and Bidding Asst</b>	11± mi of 72" pipeline, including 96" diameter tunnels. Pipeline extends from ND Highway 14 east to the connection point with Contract 3.	Jul-25	Prof Svcs	3.10	\$ 2.33	\$ 0.78							
	Scope: Final design (30% docs to biddable plans and specs) and bidding assistance. Need: Have next pipeline section bid-ready so when Federal funding is secured/allocated construction can proceed.													
21.	<b>Contingency</b>	Budget flexibility to adapt to work plan changes and to pay for construction change orders typically running from 3 to 5% of original construction costs at bid time.	N/A	GDGD	0.25	\$ 0.19	\$ 0.06	0.25	\$ 0.19	\$ 0.06	6.32	\$ 4.74	\$ 1.58	
	Scope: A budget reserve for task order additions to professional services, construction, legal, real estate, etc. TOs. Need: Address and pay for changes that are sure to occur.													
<b>TOTAL PROGRAM BUDGET</b>					\$ 15.79	\$ 11.84	\$ 3.95	\$ 18.75	\$ 14.06	\$ 4.69	\$ 211.46	\$ 158.60	\$ 52.87	

**Notes:**

1. Construction costs include management, engineering services during construction, inspection, field quality control, and construction.
2. Projects indicated for construction funding in a given biennium will be shovel ready for construction at the start of the biennium.
3. Future capital costs are escalated to an anticipated midpoint of construction per Finance Team rates of 7, 6, 5, and 3.5 percent per annum thereafter starting in 2022 with an anticipated 2032 finish. All future RRVWSP construction projects and costs are not shown.
4. Land services costs are the amount likely to be paid for real estate, easements, including bonus payments, crop damage, and field obstructions. Estimates include pipeline easements required for the ENDAWS east/west pipeline and remaining easements from the beginning of the Contract 4 transmission main to the Sheyenne River Outfall, with most located in Wells County.
5. Items appearing in blue bold are progressing with task orders and contracts issued to the engineering team and contractors, respectively. Items appearing in blue italics have been updated to reflect adjustments made for actual amounts contracted. Items shown in black text are pending. Items shown in green are new and were added with the \$6M MR&I funding in October 2024. Items highlighted in yellow have changed from the previous version of the Work Plan.

## Common Interest Agreement

This Common Interest Agreement (the “**Agreement**”) is made between the undersigned counsel (“**Counsel**”), acting for themselves and on behalf of their respective clients Garrison Diversion Conservancy District (“**Garrison Diversion**”) and Lake Agassiz Water Authority (“**LAWA**,” collectively with Garrison Diversion, the “**Parties**” in this Agreement).

WHEREAS, Garrison Diversion and LAWA are developing the Red River Valley Water Supply Project (the “**Project**”); and

WHEREAS, pursuant to a Cooperation Agreement, dated May 8, 2020, by and between Garrison Diversion and LAWA (the “**Cooperation Agreement**”), Garrison Diversion will finance, design, build, construct, maintain, own, and operate the Project to provide water service to LAWA, the representative entity of the end users of the Project; and

WHEREAS, LAWA, through the end users, will ultimately reimburse, or provide initial funds to, Garrison Diversion for the capital costs and operation and maintenance of the Project; and

WHEREAS, the Cooperation Agreement further sets forth a procedure that the Parties will follow for the acquisition of property interests that are necessary for the Project; and

WHEREAS, the procedure provides that Garrison Diversion is responsible for acquiring the necessary property interests (“**Acquisition**”) through negotiations for the most cost-effective price possible, taking into account all factors, and will use eminent domain as a last resort; and

WHEREAS, while the process of Acquisition is transpiring, Garrison Diversion will provide updates to LAWA and will consult with LAWA prior to initiating any condemnation proceedings due to LAWA’s direct financial stake in the Acquisition; and

WHEREAS, the Parties share a common financial interest in the Project and in developing and pursuing common claims and legal issues concerning Acquisition, including Garrison Diversion’s claims to acquire necessary property interests in exchange for payment of an amount equal to just compensation that will ultimately be paid by LAWA stakeholders (the “**Claims**”); and

WHEREAS, this Agreement confirms the Parties’ understanding and provides, to the fullest extent permitted by applicable law, for sharing information, strategy, and documents concerning the Parties’ common interests related to Acquisition without waiving the confidential, privileged, or protected nature of any communications, information, documents, or things of any nature or description shared between the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, the Parties agree as follows:

1. Joint Prosecution Information. To further the Parties’ mutual interests and the development of common Claims, this Agreement covers all information disclosed by a Party to

another Party in confidence and in furtherance of common claims and interests concerning the Claims and Acquisition, including, without limitation: research and analysis, expert reports, witness interviews and summaries, memoranda of law, briefing and debriefing memoranda and conversations, summaries, transcripts, notes, outlines, recordings, transcripts of recordings, correspondence, factual analyses, attorneys' mental impressions, attorneys' advice or counsel, emails, instant messages, and any other documents, electronic data, or information that are protected from disclosure to third parties under any privilege, protection, or immunity ("**Joint Prosecution Information**" or "**JPI**"). JPI also includes information derived from or reflecting JPI. The Parties may undertake joint efforts concerning the Claims and Acquisition, and any information, communications, and work product concerning or resulting from such joint efforts shall be deemed JPI.

JPI does not include information that: (a) is or becomes part of the public domain (provided that it does not become public in violation of this Agreement); or (b) was or is independently known, obtained, prepared, or discovered by a Party without using JPI from another Party. However, the Parties' communications concerning public information that relates to the development of a common claim or issue shall be JPI.

2. Sharing and Use of JPI. The Parties to this Agreement intend that any and all JPI may be exchanged among them without any waiver or compromise of any attorney-client privilege, work product doctrine, or any other privileges or protective doctrines. Either Party may disclose JPI to the other Party, regardless of whether the disclosure is between attorneys (including Persons, as defined herein, assisting these attorneys) and the Party or between Parties. The Parties agree that there shall be no disclosure of JPI to any other individual or for any other purpose without first obtaining the consent of the Party who generated and first disclosed the JPI (the "**Originating Party**"), or as required by law.

3. Marking. The Parties may, solely as a matter of convenience, mark documentation JPI disclosed pursuant to this Agreement, "Confidential Materials," and, where appropriate, "Privileged and Confidential Attorney-Client Communication" and "Attorney Work Product." The failure to so mark any JPI, however, shall not limit the application of any applicable privilege, including but not limited to the common interest privilege.

4. Confidentiality and Nondisclosure. The Parties agree to use their best efforts to maintain the confidentiality of JPI and ensure that it is not shared in a way that waives or limits applicable privileges or protections. They further agree they shall use JPI solely in connection with Acquisition and for no other purpose. Each Party shall keep JPI received or derived from another Party confidential and shall not disclose it except to: (a) each Party's Counsel and the Parties; (b) paralegal and clerical staff of Counsel who are assisting in the Acquisition; (c) expert witnesses and consultants engaged by a Party, including LAWA's current executive project manager, Brent Bogar; and (d) a Party's other employees who have a need to know JPI because, for example, they help prosecute the Claims or manage the Acquisition (collectively, the "Persons"). All Persons permitted access to JPI shall be advised of this Agreement's confidentiality and non-disclosure requirements.

5. No Waivers. The sharing of JPI among the Parties pursuant to this Agreement shall not waive the attorney-client privilege, work product protection, or other applicable privileges or

protections. All JPI that is privileged or protected as to any Party shall remain privileged or protected when communicated to another Party to this Agreement in accordance with the joint and common interest doctrine. The Parties jointly hold all applicable privileges and protections concerning JPI exchanged or generated under this Agreement.

No Party shall have authority to waive any applicable privilege or protection on behalf of another Party and a Party's waiver of any applicable privilege or protection shall not be construed to apply to another Party.

Any waiver of this Agreement's rights and limitations in any particular instance shall not be deemed, and is not, a general waiver of this Agreement's other rights or limitations and shall not operate as a waiver beyond the particular instance. The Parties agree that the inadvertent or unintentional disclosure of JPI to persons or entities who are not Parties or Persons, regardless of whether the information was designated as privileged or JPI when disclosed, shall not be deemed a waiver in whole or in part of any confidentiality, privilege, or protection, either as to the specific information disclosed or as to any other information relating thereto or to related subject matter (and the Parties agree they will not assert such a waiver argument). Upon the discovery of an inadvertent or unintentional disclosure of JPI, the Parties shall cooperate to restore and preserve all applicable privileges and protections concerning the JPI, including retrieval of all inadvertently produced copies.

6. Disclosure Requests. This Agreement and all documents and communications concerning its negotiation, drafting, and execution shall remain confidential to the Parties and shall only be disclosed to persons authorized to receive JPI, unless all Parties consent to the disclosure, disclosure is required under applicable open records laws, or it is necessary to preserve a privilege or protection.

If any Party receives a subpoena, demand, open records request, or court order requesting the disclosure or production of this Agreement or JPI ("Disclosure Request"), and if the requested JPI did not originate with the Party and was not independently developed or discovered by the Party, then the Party shall:

- (a) immediately notify the other Party of the Disclosure Request, provide copies of any writings or documents, including the subpoena, demand, open records request, or court order, which relate to the Disclosure Request, and describe its proposed response thereto;
- (b) timely preserve and invoke any applicable privileges and protections; and
- (c) not voluntarily surrender the requested JPI (except those originated by the Party) without providing, to the extent legally permissible, all affected Parties a reasonable opportunity to protect their respective interests.

7. Open Meetings. This Agreement is subject to all applicable state open meetings laws. The Parties agree and acknowledge that if a Party is authorized to hold an executive session under applicable law to discuss Claims or Acquisition, then the Persons, related to either Party, will be allowed to attend said executive session.

8. Termination. This Agreement shall terminate upon completion of Acquisition for the Project. This Agreement may be terminated at any time, however, by either Party by written notice to the other Party. The effect of termination of this Agreement is prospective only. In particular, each Party's obligations under this Agreement shall survive termination of this Agreement. Termination under this Section does not authorize violation of the Agreement or operate as a waiver of any terms or conditions of this Agreement.

9. Conflict of Interest Waivers. This Agreement does not affect or limit the independent and separate representation of each Party by their Counsel. Unless otherwise agreed, each Counsel may act only on their Party's behalf and not on any other Party's behalf. Each Party understands and acknowledges that another Party's Counsel may have the duty and obligation to take actions that may be contrary to their interests concerning the Claims and Acquisition. Nothing in this Agreement creates an attorney-client relationship between any Party and any other Party's Counsel or imposes any duty of loyalty or other fiduciary duties on any Counsel concerning any Party that Counsel is not representing in the Acquisition (other than the obligations in this Agreement).

The Parties acknowledge they may now or in the future have adverse interests and that the sharing of confidences pursuant to this Agreement may lead to potential conflicts of interest of the various Counsel in the future. The Parties do not intend that this Agreement or the exchange of JPI shall be used to support the future disqualification of their respective Counsel and agree that they will waive any conflicts arising from the sharing of JPI pursuant to this Agreement.

10. Effective Date. This Agreement is effective as of the first exchange or sharing of JPI. Before this Agreement's execution, however, but after recognizing a common interest concerning the Claims and Acquisition in the Cooperation Agreement, the Parties may have shared information that would qualify as JPI as defined and governed by this Agreement. The Parties agree that such information is subject to this Agreement and the same privileges and protections as if it had been shared after this Agreement's execution. Additional parties may join this Agreement but only if all Parties' written consent.

11. Notices. Each Party shall deliver all notices, requests, demands, and other communications required by this Agreement (each, a "Notice") in writing and addressed to the other Party's Counsel. Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees prepaid), email, or certified or registered mail (return receipt requested, postage prepaid). A Notice is effective only (a) upon receipt by the receiving party and (b) if the Party giving the Notice has complied with the requirements of this Section.

12. Counterparts and Authority to Sign. This Agreement may be executed in counterparts, each of which is an original, and all of which together constitute the Parties' complete agreement. The signatures of both Parties do not need to be on the same counterpart for this Agreement to be effective. This Agreement may not be amended, waived, or modified without the written consent of all current Parties. Each Party represents that any person signing this Agreement on its behalf has authority to do so and that no further action is necessary to make this Agreement a valid and binding obligation on each Party.

13. Counsel Signatures. By signing this Agreement, the undersigned counsel certify that each has explained the contents of this Agreement to his or her respective client and that the clients agree to abide by the terms reflected herein. The undersigned counsel also certify that all discussions held and materials exchanged in contemplation of the signing of this Agreement, but prior thereto, are also protected by this Agreement.

14. Binding Effect; Conclusion of Acquisition. This Agreement binds and inures to the benefit of the Parties and their respective heirs, legatees, representatives, attorneys, successors, transferees, and assigns. This Agreement also automatically applies to and binds any Party's substitute or associated Counsel. This Agreement is not subject to abrogation by any heir, assign, receiver, trustee, or other successor in interest to waive any confidentiality, privilege, or protection.

15. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable, any court with jurisdiction over this Agreement and the Parties has the power to modify such provision so that it is valid and enforceable, but only to the extent the modification is consistent with the Parties' intent, and in that case, the rest of this Agreement shall remain in full force and effect.

16. Remedies for Breach. The Parties agree that disclosure of any JPI in violation of this Agreement will cause irreparable harm to the other Party for which there is no adequate legal remedy. Each Party acknowledges that immediate injunctive relief is an appropriate and necessary remedy against any Party who is, in any way, communicating, intending to communicate, or attempting to communicate JPI to any third party in violation of this Agreement. No Party shall be liable to the other Party for indirect, special, incidental, exemplary, or consequential damages for breach of this Agreement.

17. Forum Selection and Governing Law. The Parties agree that all disputes, claims, motions, actions, or proceedings directly or indirectly arising out of or relating to this Agreement shall be litigated only in a state or federal court located in North Dakota and hereby consent to personal jurisdiction in such forum for purposes of those proceedings. Any dispute regarding the Agreement shall be resolved, to the extent possible, through *in camera* proceedings. If it becomes necessary to interpret any of the terms of this Agreement, the laws of the State of North Dakota shall apply.

18. No Admissions. This Agreement shall not constitute or be used as evidence of any admission of law or fact against any Party, or as evidence of liability or responsibility for any claims, costs, or damages. This Agreement shall not operate to release or affect any of the rights of any Party under applicable state or federal law.

19. Reservation of Rights. Notwithstanding any provision of this Agreement, the Parties reserve all claims, causes of action, and any and all other rights they may have against the other Party, and the Parties do not intend or expect this Agreement to release or to waive those claims or rights.

20. Entire Agreement. This Agreement memorializes any and all earlier agreements relating to JPI for Acquisition, constitutes the sole and entire agreement of the Parties relating to

JPI for Acquisition, and supersedes all prior and contemporaneous understandings and agreements relating to JPI for Acquisition.

21. Jointly Drafted. This Agreement was jointly drafted by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

22. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

23. Common Interest. The Parties understand that the purpose of this Agreement is to facilitate common interest representation by increasing the information flow between the Parties.

24. Evidence. The Parties agree that this Agreement shall not offered or received in evidence, nor shall it be admissible at any trial or other proceeding, except for the purpose of enforcing its terms, unless all Parties agree in writing to allow it.

25. Cost Reimbursement. Nothing herein is intended to amend or modify the cost reimbursement structure agreed to by the Parties in the Cooperative Agreement or other applicable agreements.

26. Authority of Parties. This Agreement shall not create any agency or similar relationship between the Parties or Counsel.

[SIGNATURE PAGE FOLLOWS]

Accepted and agreed, by:

Date: \_\_\_\_\_

\_\_\_\_\_

Tami Norgard  
Vogel Law Firm  
Counsel for Garrison Diversion Conservancy  
District

Date: \_\_\_\_\_

\_\_\_\_\_

Katie Schmidt

\_\_\_\_\_

John Shockley  
Ohnstad Twichell, P.C.  
Counsel for Lake Agassiz Water Authority