

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT  
DRAINAGE BOARD MEETING MINUTES  
February 18, 2021**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, February 18, 2021, via teleconference in compliance with State Public Act 254 of 2020; electronic (telephonic or video conferencing) attendance will meet the quorum requirements, all votes will be taken by roll call, and public participation will be allowed at the designated portion of the agenda.

**Members Present Via Teleconference**

Michael R. Gregg, Chair, Michigan Dept. of Agriculture & Rural Development, State of Michigan  
Elmeka N. Steele, Esq., Wayne County Drain Commissioner, Wayne County  
Brian Baker, Chief Deputy, Public Works Office, Macomb County  
Bryan Babcock, P.E., Director of Public Works/Water, City of St. Clair Shores  
Frank Schulte, Director of Public Services, City of Grosse Pointe Woods

**Others Present Via Teleconference**

Kyle Seidel, Anderson, Eckstein and Westrick  
Kip Walby, Southeast Macomb Sanitary District  
Pete Trombley, Southeast Macomb Sanitary District  
Brent Avery, Southeast Macomb Sanitary District  
Dianne Schelosky, Southeast Macomb Sanitary District  
William Snyder, City of Harper Woods  
Elizabeth Barrera, Wayne County  
Moyna Moore, Wayne County  
Patrick Cullen, Wayne County  
Gregg Tupancy, Tetra Tech  
Russ Strassburg, Tetra Tech  
Norm Thomas, Spence Brothers  
John Brennan, Fahey, Schultz, Burzych & Rhodes

**1. Call to Order**

Mr. Gregg called the meeting to order at 10:04 a.m.  
Current legislature validates meeting structure; the board will be proceeding with a virtual meeting, hosted by Kyle Seidel.

**2. Approval of Agenda**

Mr. Baker, Macomb County, made a motion to approve the agenda as presented. The motion was supported by Ms. Steele, Wayne County. Motion passed.

### **3. Approval of the Minutes for:**

#### **January 21, 2020, Milk River Intercounty Drain Drainage District Board Meeting**

Mr. Babcock, St. Clair Shores, moved to approve the minutes for January 21, 2021, Milk River Intercounty Drain Drainage District Board Meeting as presented and with the correction of the City of Harper Woods for Mr. William Snyder. The motion was supported by Mr. Baker, Macomb County. Motion passes.

### **4. Reports**

#### **a. Operations and Maintenance**

Pete Trombley, SEMSD, reported that there were no major wet weather events over the last month. There was, however, a broken hot water pipe in the sample room. It was repaired immediately and without issue. The pieces for pump #4 were delivered on Tuesday, in a blizzard. The new snowblower worked well. SEMSD has been working in conjunction with Tetra Tech and contractors on-site over the last few weeks and are moving forward with construction. The river is frozen, but the aeration tank has been kept open by having the bubblers running and pulsing the aeration blowers. De-icer and salt were used sparingly on the ramp to help with the ice buildup and to facilitate the setting and arrival of the pump on Tuesday afternoon. Mr. Snyder questioned about the large cauldron that was delivered. Mr. Trombley reports that the cauldron in question is the intake bowl that sits at the bottom of the pump. The larger piece is the discharge bowl, all pieces of the pump that were delivered.

Kyle Seidel reported on the levels of Lake St. Clair. The water levels are trending down, with the mean being 11 inches lower than they were in 2020. The actual February levels are very low due to an ice jam in the St. Clair River. Lake Saint Clair levels dropped dramatically going from 576.4 to 574.9, this is due to these ice jams impacting the lake levels. Overall good news for trending levels. It is not yet recommended to remove the sandbags; this recommendation could possibly come in the summer of 2022. Mr. Snyder, Harper Woods, questioned if there will be a significant surge when the ice dams break. It was reported that the levels will return to where they should be. No significant surge was predicted.

Mr. Walby reported that the SEMSD received an Invoice on January 15, 2021, for concrete work performed by Spence Brothers in the spring of 2020. The amount of the Invoice is \$8,920.00. Pictures of the concrete work were presented. The installation of cement was necessary for the safety and utility of the facility. The responsibility of the payment of this invoice shall be reviewed by the Board Members. Mr. Schulte questioned where the money will come from to pay this invoice as it was not budgeted. Ms. Moore suggested possibly using the fund balance to cover this cost. Mr. Schulte suggested that the amount be designated to a specific fund before approval by the board. Ms. Steele questioned if the board has already authorized the expense. Mr. Walby reports that it was previously authorized thru the O & M budget. Spence did not submit the invoice in a timely manner for it to be added to the correct Fiscal Year O & M budget where it would have been accounted for in the pass-thru. Ms. Steele reported that DPS finance will be able to break down the invoice based on the nature of the costs; each line item will be reviewed to determine what account to use to cover the costs. Ms. Moore requested a copy of the invoice to determine how to disperse the payment. Ms. Steele recommended that Wayne County DPS Finance be given the authorization to pay the invoice when received and have DPS finance allocate which fund it should be applied to based on the budget.

Mr. Schulte, Grosse Pointe Woods, made a motion to table the payment of the Spence Brothers invoice for concrete work performed until the March meeting and until it can be reviewed by the DPS Finance Department. Mr. Babcock, St. Clair Shores, seconded the motion. Motion adopted.

Mr. Walby reported that the Milk River building has been in the process of being painted. Brent Avery is doing a great job applying the block filler and paint as shown in the pictures presented. The paint color was specifically selected to stay within the uniform safety color coding of the building and to convey an environmental message. Mr. Avery reported that the project is on a temporary hold due to the pump installment and the interior block temperatures, he expects to be able to complete the process in the spring.

Mr. Seidel presented the ACO Milestone Extension Letter Request to complete the Project Performance Certification (PPC). This extension request is based on the projected substantial completion date for construction now being April 30, 2022. In addition to the extension due to the change in the construction schedule, a 180-day buffer is requested for contingencies. Tetra Tech is under contract to do most of the items on the completion list. There are a lot of new features to this system and the operators need time to learn how to operate these. The PPC should show that the facility performs as expected and the Operators know how to use the system. EGLE has been coming to the progress meetings and is aware of the construction schedule changes, the milestone dates, and the dates that have already passed. Ms. Steele requested that Michael Caldwell be removed from the contact list. Mr. Avery reported that there is a brand-new disinfection system which has yet to be used in the automatic setting during a discharge event, so it would be good to have the extra 180 days to be confident with the equipment before testing begins. Mr. Gregg suggested that it would be beneficial to provide a brief introduction as to the role the SEMSD has had in the operations and maintenance of the facility to EGLE. Mr. Seidel concurred that it was a great suggestion to inform EGLE of the SEMSD's role in the operations of the facility. After further discussion, the ACO Milestone Extension Request approval shall be put on the agenda in March for approval.

#### **b. Priority 1B and Select Improvements Project-Construction Update**

Gregg Tupancy recapped the work taking place. The soleplate for storm pump #4 was installed last week. The motor will not be delivered until it is ready to be installed, this is due to storage issues at the site. Painting of some of the floors will occur, the walls were not included in the project, so it is good that it was being done by the SEMSD and will complete the project nicely. Pump #5 will be dismantled and shipped out for repair. This will be the last storm pump repair of the project. The pump came from Kansas City and the motor is being delivered from Texas. The status report was displayed, 84% of the construction aspect of the project is completed. Tetra Tech has billed thru the end of January. Spence has submitted Pay App #46; no further changes have occurred from last month.

The summary of the Allowance Authorization was presented, there is nothing new from last month. They are working on the issue of retainage. Discussion occurred on the different allowance authorizations that have been approved and need to be documented. There is \$737,000 left for unforeseen conditions. There are currently no issues with the cost of the project. Mr. Babcock questioned about the handrail mounting changes for \$30,000. Mr. Tupancy reported that the handrail sleeves have deteriorated and are broken down. They are to be taken down and remounted on the wall adjacent to the DPW yard. This is a safety improvement for the facility.

Mr. Schulte, Grosse Pointe Woods, made a motion to receive and file the Project-Construction update. The motion was supported by Ms. Steele, Wayne County. Motion passed.

## **5. New Business**

There was no new business to report.

## **6. Unfinished Business**

### **a. Request by Spence Bros. regarding the release of the Project Contingency**

Mr. Strassburg explained the protocol of retainage in the contract. Spence Brothers is requesting that the retainage amount be reduced. Mr. Norm Thomas, Chief Financial Officer for Spence Brothers, reported that the substantial completion of non-storm pump work has been completed. Cavanaugh and Rotor are the two major companies currently left on site. There is still significant work to be performed on the last two pumps. Spence is asking to reduce the amount of retention being held, as the project completion is 92%. They are not looking for a full release, just a reduction to whatever level the Board would feel appropriate. Retention is being withheld with some subcontractors; some have been paid off in full. However, it is noted that if retention is being held at the prime contract level, it is being held at the subcontract level as well. The project manager disclosed what they thought would be the appropriate amount of retention. Tetra Tech itemized the retention on the first 50% of the original construction amount. Spence is at a 92% completion rate. 94% completion is the current amount suggested to meet before any reduction in the retainage amount. It is reported that the total current amount of retainage is \$1,942,433.00. Spence is asking to reduce that amount to \$450,000. That would be a release of approximately \$1.5 million. Spence is not asking for a full release of retention. A significant portion of the work is completed, so Spence believes it would be appropriate to release a portion of the retention. Russ Strassburg reported that they had a recommendation that was made in a letter dated January 14<sup>th</sup>, 2021 to reduce retainage down at 94% level. This would be approximately \$820,000 of the total construction cost. Mr. Schulte requested that the discussion regarding the reduction of the retention amount continue in a closed session with legal counsel.

Mr. Babcock noted that as it was reported that nearly \$1.5 million is owed to subcontractors, he requested that the board be given an itemized list of contractors and of how much is owed to each subcontractor and what contractors have been paid. This information is listed in detail on the pay applications that are sent to Tetra Tech. It is suggested that the Board get this item resolved by the March meeting, at which time Spence should be at a 94-96% completion rate. Mr. Thomas thanked the Board for taking the time to discuss this matter.

Mr. John Brennan, Fahey, Schultz, Burzych & Rhodes, noted that there is a confidential written legal opinion that would be the subject of discussion, thus permitting this topic to go into a closed session.

Mr. Schulte, Grosse Pointe Woods, made a motion to go into a closed session for discussion of retainage for Spence Bros. Mr. Baker, Macomb County, supported the motion. Motion passed.

The MRIDDD entered a closed session via a breakout room at 11:44 a.m.

The MRIDDD was declared back in open session by Mr. Gregg at 12:24 p.m.

Mr. Schulte, Grosse Pointe Woods, made a motion for Tetra Tech to receive and review Pay Application #46. Upon receipt of Pay Application #47 and with the achievement of a 94% completion rate, the MRIDDD Board will authorize our Project Manager to reduce the retainage amount in accordance with their written recommendation. This recommendation does not require a formal Letter of Credit. Mr. Babcock, St. Clair Shores, supported the motion. Motion passed.

**7. Approval of the SEMSD Operations and Maintenance Invoice**

The SEMSD Operations and Maintenance (O&M) Invoice for January 2021 in the amount of \$54,670.32 was reviewed. The total amount billed included the O&M monthly invoice and the reimbursable pass-through costs. A list of open Invoices was also presented. The total amount outstanding is shown as \$1,265,924.19. Ms. Steele inquired about the status of unpaid invoices. Ms. Barrera reported that the October, November, and December 2020 O&M Invoices were processed for payment on February 10, 2021, for \$168,393.64. Discussion of setting up an ACH account took place to provide direct payment on invoices.

Mr. Babcock, St. Clair Shores, moved to authorize the payment of the SEMSD Invoice O&M 01-2021. The motion was supported by Mr. Schulte, Grosse Pointe Woods. Motion passed.

**8. Public Comment**

Mr. Gregg announced Public Comment and asked for any public participants to identify themselves before making a public comment. No public comment was made.

**9. Next Drainage Board Meeting**

The next regularly scheduled board meeting is planned for Thursday, March 18, 2021, at 10:00 a.m. This meeting will be held in a virtual format.

**10. Adjournment**

Mr. Baker, Macomb County, moved to adjourn the MRIDDD meeting. The motion was supported by Mr. Babcock, St. Clair Shores. Motion adopted.

There was no further discussion to come before the Drainage Board; the meeting adjourned at 12:37 p.m.



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Brian Baker, Chief Deputy Macomb County Public Works Commissioner

NOTE: The foregoing minutes are subject to Milk River Intercounty Drain Drainage Board approval.