



Burleigh County Water Resource District

PO Box 1255

Bismarck, North Dakota 58502-1255

(701) 354-1501

www.bcwrdd.org

Sibley Island Flood Control Public Hearing

Questions and Answers

04/25/2024 Handout

The following are questions that have arisen related to the implementation and operation of the Sibley Island Flood Control Project. These responses are provided by the Burleigh County Water Resource District (District) based on available information, experience on prior projects and the preliminary design/project status.

1) Access of Levee: ATV'S, Dirt bikes, and snowmobiles

a) Will there be locked gates?

The levees are located on private property and construction will be located within easements. The property owner retains control over access, though use of the easement area for certain uses will be restricted in the easement language. In the case of the levees within General Sibley Park parcel (Federal lands - USACE) access will be controlled by the Bismarck Parks and Recreation District, and closures will be provided as requested. It is anticipated that access to the Briese Dam area from the west will be restricted, to prevent public traffic onto private land.

b) Who is responsible to check the condition of the levee and how often?

The District's flood control projects, like Sibley, are governed under Operation and Maintenance Manuals created after project completion. Each O&M Manual establishes the annual or periodic inspections to be completed, including prior to anticipated flood events, as well as during and after flood events to assure their functional integrity.

c) Who pays to maintain it? Annually

Project maintenance is paid by those located within the Special Assessment District. The initial O&M fund for the Sibley project is being established as part of the special assessment district vote. This will raise approximately \$73,000 for such use, which according to projections should be adequate for the first seven to ten years. After that, the District has the authority to assess for O&M expenditures, which based on current property valuations can raise approximately \$7,000 annually. Actual expenditures vary based on the project inspections.

d) Project start date and timeline to completion?

Project start is dependent upon completing final design and securing regulatory approvals, which likely will require the summer and fall of 2024. The Section 408 USACE regulatory approval is likely to have the greatest impact on schedule. After that construction cost share funding needs to be secured from the ND State Water Commission before bidding. This process would include working with the Bank of North Dakota to secure the infrastructure loan funds. Bidding in the fall of 2024 is possible, though that remains to be determined. Construction is anticipated to be completed in one season 2025, though clean up and seeding could extend into 2026.

2) Levee Breach: During high water or flood.

a) Who watches for this situation?

The O&M Manual outlines those who will be monitoring the project during flood events. This is the District's responsibility and would likely be completed through consultant services or possibly an agreement the Burleigh County Highway Department. Burleigh County Emergency Management would be part of the overall monitoring program.

b) Who supplies pumps/fuel for the pump system and are these guaranteed for Sibley Island Levee?

The project is designed for a temporary pump system to control surface and groundwaters accumulating behind what is commonly referred to as Briese Dam. Installing a permanent pump system is cost prohibited given the frequency of use. Other projects have been constructed in a similar fashion and the pumps are available for use.

c) Who responds to a breach, what is the process to fix a breach, and who pays for breach repair?

This is the District's responsibility and is defined in the O&M Manual and depends on contractor or equipment availability at the time of the event. All maintenance and repair costs are paid by the project O&M fund. Most of these levees are relatively low in height so the risk of a breach is low. The higher risk area is Briese Dam, which will be reconstructed to account for the floodwater pressures and removal of waters from within the oxbow.

3) Burleigh County (Lincoln Township) has two years to complete the grade raises on 12th Street and 48th Avenue.

a) During this time is the special assessment district area unprotected from flooding?

If a large flood event were to occur and these roadways were not raised and temporary protection was not installed, that is correct. In 2011, the County provided temporary flood protection by placing a trap bag levee system along 48th Avenue from Sibley Drive to Washington Street. In such an event, the resources applied to 48th Avenue from 12th Street

to Washington Street could be applied to placing protection along 12th Street south from 48th Avenue to the constructed Sibley Island Levee.

b) Who pays for the grade raises on 12th Street and 48th Avenue?

Lincoln Township has committed to construction of these grade raises. As we understand it this work would be funded via previously collected roadway and fuel taxes, or other funding sources and not assessed to the residents within the Special Assessment District.

c) Before township roads are raised and there is a threat of flood is the plan to use 48th Avenue as a dike again to save South Bismarck?

Since the 48th Avenue corridor was utilized in 2011 as the line of protection its use again for this purpose is likely. The issues regarding temporary measures south of 48th Avenue through the federal and private properties is problematic and implementing temporary measures without easements is impractical.

Subsequently, if the Sibley Island Flood Control Project is not approved the anticipated line of protection would remain 48th Avenue. In the future this roadway may be considered for a grade raise, versus raising South 12th Street south from 48th Avenue to an unknown or temporary protection line. Therefore, flood protection is unlikely to be provided and the risk for flooding associated with flows or backwaters on the Missouri River or Apple Creek would remain as they are today. Note flood levels south of 48th Avenue are not increased by implementing temporary protection measures along this corridor.

4) Groundwater remediation:

a) Many properties were affected by ground water so is there a plan to mediate that?

Groundwater flooding is not something that can be prevented, however under normal circumstances the groundwater gradient in the Sibley Island area is north to south toward the river. During high river waters this situation is reversed, this occurs during winter and high flow conditions, and both increase groundwater levels. The project will remove standing waters within the special assessment district properties and thus measurably reduce the risk for increased groundwater levels. In addition, removing water and groundwater inflows from the old Missouri River Oxbow, upstream from Briese Dam during highwater events will reduce groundwater levels in this area, as well as limit groundwater flows from south to north. The greatest influence and benefit would occur nearer the oxbow. No detailed studies as to the specific changes or influence in groundwater levels during flood events have been completed, as this is a surface water flood control system. The levee system will not influence the natural flow of groundwaters in this area during non-flood events.

b) Every paying parcel is affected differently, and will individual pumping still be required?

Pumping groundwater associated with drain tile systems will still occur, though presumably at a lower rate during larger flood events. By reducing surface water flooding the need to pump waters within the watershed will also be reduced.

5) What is the percent overrun or increase before the project would have to be re-assessed and revoted on?

NDCC 61-16.1-24 – States: “A contract that exceeds, by twenty percent or more, the estimated cost of the project as presented to and approved by the affected landowners is prohibited.” This is a recent legislative change with the rewrite of the water resource district authorities and project development criteria and NDCC 61-16.1. Note this amount is determined at the time of bidding and contract award for construction.

a) How are cost overruns assessed?

Final project costs are distributed based on the amount assigned to the Special Assessment District, after all cost shares and contributions. The final costs are then prorated to all parcels based on amounts previously assigned. Essentially an increase of 10% in project costs would result in an increase of 10% for all parcel amounts. The voting is based on one dollar (\$1) for every dollar of assessment, subsequently the voting percentage and final assessments would remain the same ratio.

6) Public hearing letter

a) Item #3 on back states the Board has inspected the area to build levy and assessment parcels dated 3/22/2024.

The review of properties occurred early on during the project evaluation process, several years ago. Subsequently, there have been sales, new construction, and other changes within the Special Assessment District. The assessment hearing and protest process allows consideration for such unknown changes. The District will address these as they become aware of the changes and have accounted for several of these in the alternative review and this hearing process. Such reviews will continue throughout the design and construction process, should additional changes occur within the Special Assessment District area.

b) Why when the Burleigh County Water or Burleigh County is in the driver’s seat on this project do I need to contact Houston Engineering to get copies of information?

The District does not have staff; therefore, our consultant provides those services and is the source to provide information to the Public. However, this information is also posted on our website and is available for review and printing.

c) Assessment and photos from ND National Guard show different flooding parcels yet grouped and assessed the same?

These photos were not necessarily taken during the peak of the flood event, so may not reflect the full extent of flooding that occurred. The assessment levels are based on elevations and risk frequencies, and all parcels with structures impacted on a certain frequency event are assigned a similar assessment. This was completed using flood available Missouri River inundation mapping and LiDAR topography to provide a uniform and consistent review process for all parcels. Granted damages to each parcel are not identical, given the value of the residence or structure and other factors.

d) Bids for tree removal and clay dirt, at what point do these go out and at what date are these bids locked in?

Once bids are received the project is awarded to the lowest responsible bidder, after that unit costs are set. Though, with any project there are changes in final quantities along with the need for change orders to address situations in the field that require additional work, not envisioned, or noted in the plans.

e) What is the plan for routing if you come across trees that have (Endangered Bats)

Since this project impacts federal properties, it will need to be evaluated under the National Environmental Policy Act (NEPA) related to the Section 408 (USACE) requirements. This process will occur during the final design and regulatory permitting process. Subsequently, depending upon the findings any mitigation needs will be addressed at that time.

f) What kind of dirt/clay is used and where are some locations this is found so we have an idea of how it gets trucked in from?

The location of materials used for the project are the contractor's responsibility. If a contractor is to submit a successful bid, they will need to secure the materials with the lowest cost when included with all other bid items. The District is not responsible to determine or provide the source for materials. The District on a previous project inquired with the City of Bismarck regarding the use of clay materials from the Bismarck Landfill. With City approval the contractors were allowed to bid utilizing these materials under the conditions established. This could result in reduced costs should the contractor not be able to locate a more cost-effective source.

g) What is the process for these kinds of bids? Local or Statewide? Out of State?

The project will be advertised in the local newspaper as well as on Quest, which is an industry-based advertising service for such projects. Typically, contractors are local or state, though periodically there is interest from out of state contractors. Again, the lowest responsible bidder to be accepted is awarded the bid.

h) Do we know interest rate and over what time the project is amortized?

Based on the current projections the District intends to apply for an infrastructure loan through funding available from the Bank of North Dakota. This will result in the ability to secure a 3.5% interest rate with a 30-year amortization period. The approximate annual assessments by parcel category are provided in the District's meeting presentation. If a private bond sale is used, the rate on those bonds and repayment will be market priced and not a value we can provide today on construction a year from now.

7) Have community officials been invited to the Public Hearing?

The Public Hearing Notice was provided to City and County staff, as well as to State and Federal agencies that might be interested in the project's implementation. Their attendance is at their convenience and choice.

8) What is the reason for the cost increases since the public information meeting as the length of levee decreased under Alternative #5?

The evaluating alternatives required consideration of various construction constraints and associated costs. In the end construction costs did not change significantly, however it was noted during the public information meeting that the Section 408 regulatory review costs were not included in the budget at that time. These costs make up most of the increase in the project budget.

9) Can you explain why the Special Assessment District boundaries end at Washington Street, 48th Avenue and 12th Street while there are others upstream that benefit.

Primarily because of the contributions by other entities. The Washington Street grade raise was part of the original Missouri River Correctional Center (MRCC) Flood Control Project. Those properties north of 48th Avenue, in that area, are part of that assessment district. This grade raise is being paid for via Lincoln Township, therefore, these costs are not included in the project assessment. The 12th Street and 48th Avenue grade raises are also being constructed by Lincoln Township, with no costs assigned to the project for these improvements. The only project segment assigned to the project is the connection from Washington Street to 12th Street, and 60% of these costs are anticipated to be paid through the State Water Commission cost share program.

10) Why is there a need to continue the public hearing and extend the voting date?

There was an error by the Bismarck Tribune in the public hearing notice that was published. The first notice failed to include the parcel numbers and associated costs that were provided to them.