

**MANDAN REMEDIATION TRUST (MRT)**  
**December 1, 2009 Minutes**

**Meeting:** 196th Official Meeting  
**Date:** December 1, 2009  
**Location:** Mandan City Hall, 205 2nd Ave. NW  
**Time:** 10:10 A.M.

The MRT meeting was called to order by Jim Neubauer. Fritz Schwindt and Dave Glatt were present. Also, present were Scott Radig and Marilyn Mertz, State Department of Health;

**Minutes.** Discussed November 3, 2009 MRT minutes. Revisions have been made.

**Motion.** Schwindt moved and Glatt seconded to approve the November 3, 2009 minutes, as amended. All ayes. Motion carried.

**Water Supply, Inc.** Water Supply, Inc.'s bill dated November 3, 2009 submitted for \$620.00 covering plugging of the wells on the Furniture First site. Neubauer provided the original billing for payment.

**Motion.** Schwindt moved and Glatt seconded to approve the payment of \$620.00 to Water Supply, Inc. for plugging of the wells at the 200 West Main site. All ayes. Motion carried.

**City of Mandan.** Received a bill for the city of Mandan's wastewater recovery charges for \$1,340.78 covering September through October 2009. Radig noted that it may be going up a little bit because the water table has been rising and there is kind of a lag before they get the drop tube adjusted.

**Motion.** Glatt moved and Schwindt seconded to approve the payment to the city of Mandan for wastewater disposal surcharge of \$1,340.78. All ayes. Motion carried.

For your information it was 647,000 gallons. Is that something we want to track? Neubauer asked. Radig has been following it and it does bounce around some.

**LBG.** Payment request 191 from LBG dated November 17, 2009 in the amount of \$56,835.64. No comments from Radig. Schwindt's questions were answered by Brad Peschong. Schwindt thought they would have brought it up when LBG was here at the last meeting that they were trying to go back in and rework one of the wells.

**Motion.** Glatt moved and Schwindt seconded to approve PR 191 in the amount of \$56,835.64. All ayes. Motion carried.

**Ritterman Request.** One of the outstanding items from the last meeting was the Ritterman request to pay for The Medicine Shoppe formerly known as Century 21 building. They had turned in a bill for using dry ice at the Century 21 building to clean tar off. The bill also included amounts for tuck pointing, which was not done. Neubauer will review his bills. I think we would pay for the cleaning of tar and not the tuck pointing at this point in time because that hasn't been done. The total bill was \$12,100.

Schwindt indicated there were a number of other items in there too. There was port-a-potty rental and contractor supervision. How many of those things were actually done and what is the actual bill? They just sent us the original bid and used that as a bill. Did Community Contractors actually bill them for all the work? I'm not sure we are reacting to the proper thing. Neubauer noted that the \$12,100 included project engineering of \$500; project meetings \$2,000; risk insurance \$500. Of the \$12,100 \$3,000 of that was the shot blast with dry ice, \$500 for risk insurance, \$2,000 for supervision, \$500 for temporary toilets. Neubauer noted that we already had approved up to \$12,100. We certainly could take a percentage that relates to the dry ice. Radig added, the two main things that were to be accomplished were the removal of the tar and tuck point. Those items were \$3,000 and \$5,000. They have three-eighths of the work done; \$8,000 for those two. Schwindt asked if Community Contractors had submitted an actual bill to be reimbursed for the work that was accomplished. Neubauer suggested asking them to resubmit the bill based on the proper documentation. Glatt agreed it would make our records better. Schwindt agreed. We also need that agreement from them.

Neubauer will communicate that to Ritterman to ask him to submit a new bill.

Radig noted they had the sign up on the wall so are they going to do the tuck point? Not at this point in time, Neubauer indicated. Schwindt indicated the work is basically completed. They weren't planning on doing anything else but that is what Community Contractors was saying. They are not the building owner. Neubauer will make note of that in the letter I send. I'll say the work that is intended to be done has been done and, therefore, this would close it out. If they want to come back with something else they certainly can.

Paul Trauger stopped to relay a message from Ken Kytta indicating he is still working on the figures for the LEC and should have them later this week.

**Bank Statement.** The November bank statement has not been received yet, but we did receive the statement for October 1 through 31 showing a balance of \$9,042,266.02. The CD rate is probably still about 1 percent. We can decide what to do at the January 5, 2010 meeting. The CD will be coming due about January 20. We are acknowledging that we received the October bank statement.

**Site Strategy Plan (SSP).** Neubauer received an e-mail from Tim Kenyon asking about the SSP and if it was on the radar. Glatt indicated Radig and I have been talking that February 3<sup>rd</sup> is a good date to shoot for.

Radig indicated he gave a presentation to the Water Pollution Control Board recently. The first part was a history of the project. The second half talked about what was done and the site strategy. We got a lot of questions that we need to make decisions on for the strategy. I would call it a deficiency in the SSP because a lot of these decisions are based on free-product removal rate what they call asymptotic where it levels off approaching zero. Up until recently I haven't seen the free-product recovery rate graphs. I have seen the cumulative graph, which looks like a stair step thing, but the free-product recovery rate bounces up and down so I asked Kytta. Why is that? Well, they only record it when they sell a load out of the tank before they dispose of it at Clean Harbor. So it is actually not a recovery rate. A lot of months they have zero recovery rates. What I asked them to do is to take a look at it and see if they can go back to their data and reconstruct what might be a more realistic recovery rate graph plus Rusty Krikava is going to start doing weekly gauging on the tank. They will have to do some massaging of that data because they take out loads of water. That is a weakness in the plan plus you can't really measure recovery rates from any individual manifold area. You can measure free-product thickness, but without shutting everything else down and doing a week long measurement you won't know what's coming exactly.

Are we going more by product recovery rates but also by what we are seeing as free product in the monitoring wells is that a better approximation of an endpoint? A manifold by manifold basis really is based on product thickness Radig responded. On the whole system you can go by recovery rates I think.

Glatt indicated I would be more interested in where is the free product? How much we have, not so much in how much the wells are sucking up. Schwindt agreed. I think we should be focusing on free-product thickness out there instead of recovery rates. You are talking about the whole system. If you continue to operate these on the north side of Main that they have shut down and the recovery rates are going like this you could still have five feet of product someplace else. Glatt noted. The recovery rate as far as an end point to say we are done I am comfortable by using the recovery rates the way they have assessments set up now. I think recovery rates are good and the fact that we still have free-product and we are not getting anything out of a certain area that can be used more for an operational type adjustment that we need to do something different. Radig added. It is just the way the plan is written, it doesn't address or talk about that sort of concept at all. We will probably have to put that in the plan Glatt responded.

Radig indicated north of First Street they have stopped fluid recovery but they are now doing just vapor recovery, is that correct? Schwindt indicated for the most part. I asked that question because there was a new well that showed up with the rising water table when they presented the free-product map to us. There was another well or two that were located. I asked if they were continuing to do those up there but really didn't get a good answer. They said Krikava makes those determinations. Kenyon and Kytta didn't know if they were operating there or not. They just said Krikava makes those decisions when he is adjusting drop tubes and operating the system. It is the same way

with the couple of wells by the Library Square. I asked if they would continue to operate those and that was the answer I got.

Dave indicated we will have to give some thought to endpoints. What I would like to do is get something for this group to see by the next meeting. Just looking at the concepts and what we would see and get some input from MRT with an idea of going to a public meeting in February. We can put something down for people to respond to or if we have areas that we are uncertain we can leave blank if they just need to be addressed by the MRT with the intention of going out for public comment. At least it gives them an opportunity. Schwindt agrees. Radig indicated he has been putting a presentation together. I have been formulating all the questions that need to be answered whether actually proposing the answer or not or the suggested method. Schwindt indicated the MRT could factor in some review and response by LBG to get some input from them.

Neubauer asked. Is that for every site with closure? How much money has to remain in escrow? What if you have a Brownfield site? This is based on that liability protection law Radig responded. And there it specifically says the site remediation may be \$500,000 or more, which this obviously exceeds that. There needs to be an escrow account established after the system is shut down to address issues related to the BNSF spill at a later date. It doesn't give a time frame. Glatt added. On top of this the state and to a lesser extent the city is responsible for cleanup of the site. We want to be sure there is some money there if something shows up in the future. I'm feeling fairly confident that we are tracking in the right direction and we are going to be significantly cleaner than in the past. With not seeing anything in the past, the free-product basically all removed and the new building institutional controls I've not seen that we will have a lot of issues in the future.

Radig suggested we might want to have it based on groundwater levels because you go through a cycle of high water table you may have impacts to buildings yet if you go through a cycle of low water table, then you might start seeing free-product again. It doesn't give a date.

Schwindt asked. How do you evaluate several areas depending on the groundwater tables -- several readings that you are getting some free product in an area? I think we need to look at how we reopen the system or how you trigger the use of the escrow account. What would trigger a reactivation of the system?

Neubauer questioned if there was going to be a public hearing on February 2, 2010. Glatt indicated they will call it a public informational meeting. We are looking at getting comments, but I don't know if it is a hearing per se. I think the idea was to try to coordinate it with an MRT meeting so LBG can come up and wrap up possibly the LEC work, Neubauer indicated, so they can hit everything in one trip. Glatt indicated LBG could give a presentation of the system status then we could go with the SSP. So we could have it on February 3 as requested by LBG. Neubauer suggested getting a draft to LBG so they can have input. Radig has also been talking to Kytta about some of

these questions. Monday or Wednesday was discussed for meeting dates. Tuesday night is the city commission meeting. Location was discussed. City hall, the fire station or the city's training facility are options. In viewing the various city meetings, Neubauer indicated it looks like February 3. He will double check that and let us know.

Schwindt understands that R<sup>3</sup> is not going to start on fixing the basement flooring of the LEC until next week Monday. They were looking at a month of actual work, but with the holidays it was going to push it off to the end of January for the completion date. Glatt asked. Would they have the floor open for an extended period of time over the holidays? Schwindt responded. There was something in there or in the bid if they do shut it down for the holidays, they would seal everything up.

Glatt indicated we have paid for monitoring in that basement and we have not found issues in the most recent monitoring. For them to say we need to pay 100 percent I question that a little bit because we are not finding the constituents that had health issues based on the monitoring. The second thing was that the county made a reference in there we don't want to burden the taxpayers. The county made a calculated decision when they decided to do whatever they did way back when and decided not to jump into the lawsuit. That was a calculated decision on their part and in the long run it is burdening the taxpayers. If they had decided to join the lawsuit, hindsight is 20/20, they wouldn't be having some of these issues. I'm not following completely on their train of thought there. That's why I was trying to get an understanding from them why they thought we were responsible for paying the whole thing Schwindt replied. Yes, the groundwater is there. Yes, it has come up. Yes, if it comes up again, they may end up with some area of the basement that is wet. If the diesel wasn't there, it wouldn't be near the problem or the seriousness of the problem just having the wet floor vs. having diesel associated with it. There is a little bit of validity in my mind for that argument-- whether that means we pay for the whole thing.

Glatt referred to the Law Enforcement Center (Police Department) in Bismarck that had water problems and people couldn't occupy that basement due to the mold issues. And mold can be as bad or worse. The water issue is the issue you have to deal with. I would be going with how much is it going to cost to put in a well operating water recovery system? Then they would separate out the costs. To say they wouldn't do anything. I don't know if that is quite true if it is water. They do have some issues there.

Radig indicated if it was a water issue the cost would be quite a bit less than if you have to deal with water and diesel of course. You don't need the same level of engineering. You have some of the liability issues involved so the groundwater system as it is going to be installed now is probably at a higher level more expensive than what it would be otherwise. To split it out now with what the groundwater vs. the diesel part costs may be not quite fair either. Maybe reimbursed at least as much as what the additional costs would be for the system for the increased engineering and oversight. Glatt indicated money has been put into that building to take care of issues long-term including recovery wells that we have in there. I would venture a guess that if you

would go in there and monitor you would probably have even a less of an issue in there now. It becomes a stigma issue. I'm not saying we are not going to participate. I think it would be a good thing to do. I think 100 percent is a bit much.

Schwindt indicated the diesel related portions of the bid that LBG suggested last time was basically \$33,000 worth of work that is directly related to the diesel. Glatt noted that would be \$33,000 that they would not have to spend if it was just a water system. The total was \$197,000. Schwindt indicated the total was going to be \$197,000. The \$33,000: If you prorate the engineering based on the \$33,000 and the \$138,000 total bid then the portion of the engineering that would be allocated to the diesel portion of it based on the percentage of costs ends up being about \$16,000 or \$49,000 for diesel related impacts. Basically, one-fourth of the project would be diesel related impacts. That includes removal of concrete, disposal of soil, Glatt added.

Neubauer noted that the only thing not included was the floor covering and the sealing. Schwindt added. Those items are not firm. The disposal of the soil, the removal of the contaminated concrete, those are just some bid quantities so the actual quantities will vary from the bid quantities. Glatt interjected \$50,000 out of \$200,000. We could go a little higher than that. Schwindt indicated that at the last meeting the Trust was willing to consider at least \$50,000. We are having a really difficult time trying to understand why we would be responsible for the total \$200,000. We asked for those costs for the flooring and the sealing, which would be in addition to the \$200,000. What Kytta recalled about the flooring and sealing would be \$25,000 to \$30,000 in addition.

Glatt asked. Do they know what they are getting out of those wells relating to vapor? Schwindt indicated I'm sure they are still getting vapors underneath the LEC. That was one of the questions he had. Rather than just venting that with whatever ventilation system becomes part of the system, do we want to tie that into the SVE to be more aggressive? I am not sure the system could stand that but at least as long as we are operating the system for another six months or a year, however, long we operate the SVE system over there do we want that as well?

Schwindt indicated I thought they were going to have some kind of a power ventilation more like what they put in at the Berube building. Mayor Helbling asked that question. What are they going to put in; a bathroom fan? Schwindt does not recall if there was a specific response to that. Glatt indicated it could be vented through to the roof. Schwindt asked if they had been monitoring the gases going into the RTO last time. He has not seen any of that data either.

Glatt asked. Where are we at with the county? Hopefully, they were going to get the flooring and sealing costs and we were to have a discussion at this meeting to make a decision. Obviously, without that data it is hard to make a decision here. Glatt asked. Are they of the mind of a 100 percent or nothing? That's what I think they would like, Schwindt replied. Glatt added but they are open to discussion.

Radig didn't know why you would need to have the exact dollar figure for the carpet and flooring if you are going to talk about a percentage payment. Schwindt noted the sealing in particular is related to the diesel aspects of it. Glatt would like the comments regarding continuing operation and some agreements here. There will have to be an agreement going into this and future operation of the system. Schwindt added. That there will be no further claims. Glatt agreed. Is it broken out enough to just have the water collection system? They would still have to cut into the floor and do some of that stuff. Schwindt provided a copy of R<sup>3</sup>'s bid to Glatt. I asked for the bid breakdown so that we knew what we were dealing with. Glatt summarized. The \$138,000 that's just for putting it in and the rest of the cost up to \$97,000 was engineering. Schwindt clarified. The \$121,000 didn't include the removal, disposal and replacement of diesel impregnated concrete. That was \$17,000 based on \$680 a cubic yard. There were 25 yards.

Mobilization for the diesel related portion was \$6,244 based on the percentage. Ventilation System was \$1,500.  
Removal and disposal of impacted soil, Item No. H was \$3,200.  
J is \$3,500 for the water treatment system.  
The bond is \$1,371 based on the percentage.  
The cost is \$17,000 for the concrete disposal.

Those numbers gave us \$32,814. Don't know if those numbers add up -- might have missed one or two. We will wait for the flooring cost and then we will meet again. Then we can make an offer or counter offer based on their request. We should have a letter or agreement to be signed saying under these conditions the money is provided. Neubauer added. We are not under any further obligations to deal with. Schwindt indicated he would be willing to consider an offer/counteroffer kind of a process. It's an ongoing discussion. It's not a take it or lose it problem, Glatt replied. You just want to wait till the January meeting when we have all the numbers, Schwindt asked. Kytta will be sending them to Paul Trauger. Neubauer noted Trauger will e-mail those over. Glatt indicated it's my sense the county is going to do this no matter what. Neubauer verified they've approved the work. Glatt continued. We may have a better sense too of what actually things are costing. Schwindt asked. Do we want to make a tentative offer? Or do we just want to wait till the final bills are in? We know all the quantities. Maybe you want to communicate that to Trauger if they are OK with that kind of approach. Neubauer will visit with Trauger when he brings that information over.

Schwindt asked. Do you want me to at least provide a little bit of oversight and take a look at the work they are accomplishing over there just to see what is going on? Glatt doesn't have a problem with that. He is curious as to what is down there. He would like to see the soil.

Radig noted that they did have an analytical on all the borings throughout the basement. Schwindt noted the county was running with this project so how much say do we have with all the costs incurred with LBG and all the testing and whatever else? How do we provide input saying is this really necessary but it is their project? How do

you interact with it? Glatt indicated overall we might have done it a little cheaper. I don't think it is exorbitant. I think that is in our best interest to know how it all turned out and what issues we ran into or didn't. What turned out good?

Schwindt continued. As long as I am taking a look at things occasionally, if there is something going on I can give you guys a call and see if you want to take a look. Neubauer will ask Chief Bollinger if there is any new indication to the police or sheriff if there is work that is going to be done in the building shortly. I have not heard boo. I am not sure anyone realizes that there will be a little bit of activity.

Glatt indicated LBG is in there. Are they going to be saving those wells in the basement? Schwindt has not heard anything otherwise that they were planning on taking some out or that they were in the way. I haven't heard anything like that at all. Radig indicated R<sup>3</sup> was involved with putting them in and connecting them and everything else. Between LBG and R<sup>3</sup> they should know what is there. That's another advantage of having them do the work instead of somebody else coming in. Schwindt recalls that the piping all goes up in the ceiling for our wells. Other than having a footprint for the well, they should be all right.

As far as the site on 200 West Main, we have all the wells back in. They were able to get the two wells that we were proposing adjacent to the theatre building installed. The last time Schwindt talked with the contractor they had a leak in one of the wells. What Gene Kringstad, Community Contractors, was thinking when they backfilled it they may have cracked the casing on the well so they were going to excavate to see what the problem was. They did pressure test all the lines they did put in so that has been done. I think they are waiting to get the shop drawings done for the actual building construction. What I heard was they were looking at getting some walls up about the middle of December. I think everything went reasonably well with the wells and tearing the pipe out and getting them reinstalled. I did recover more than 200 feet of HDPE pipe which I put over in our little area by the treatment building so we have that available if needed in the future.

**Development.** Neubauer's update: Hopefully, there will be some type of construction going on at the Ratz block or Collins and Main corner this spring too. They are not planning on the underground parking. I think they are looking at main floor -- commercial; part of the second floor -- commercial; top floor -- condo. They have the main floor spoken for, signed and contracted up. They will come before the city commission on December 15, 2009 for finalization of the purchase agreement on the site.

**Former Hedahl's Lot.** This lot will be used for parking for the other development so there won't be another structure on that lot. We won't have to worry about taking out wells and moving pipe. They will blacktop or place an all weather type surface on the lot.

**Hopfauf Project.** One of the topics from the meeting last week was the Hopfauf project or Collins and Main project and their need for a staging area. Neubauer has not talked to the fire chief yet but indicated to them that maybe we could trade, if they tear down the tallest tool shed or the old SVE building that they could use a portion of that parking lot for staging area. They will need a little area off site, but don't know why we would need to keep that building up. Schwindt suggested closing the alley. Neubauer would rather not close the alley. That's all concrete in there. The alley and parking area will be smashed up pretty good. Blacktop is easier to replace than concrete.

Glatt indicated I would love to give it to you for nothing but it might be a trade. It might be easier for them to take it down. Glatt suggested using it for storage during construction and when they are done they can level it.

Neubauer noted there is a heating and cooling unit on top or air conditioner unit up there that you might want.

Schwindt also indicated there are tanks in there, too, and some bigger pumps. One motor for the air blower system is still in there. Do we have to cap off the horizontal lines? Schwindt indicated we should cap or plug them. Glatt suggested capping them. Radig didn't know if that meets the well abandonment laws though. Schwindt does not know if they are logged in as a well with the water board. As part of the SSP, Neubauer asked. Do we have to pull out the HDPE or talk about leaving it there? Radig asked. Have those lines created conduit from one side to the area? Schwindt suggested that may be something to talk about in the SSP, too, what we are going to do with the wells, the piping and all that. There may be some need to plug those wells. We would have to pump some bentonite slurry or something. Radig commented that pumping slurry is not difficult. Schwindt is concerned about we have the shallow end here and the shallow end over here and we go deep in between and what happens if there is a spill or something occurs on either end. Glatt indicated that raises a point. Do you necessarily need to fill the whole length of piping or do you put plugs one at the end, one in the middle, and one at the end so you section off pipes instead of filling the whole thing? Radig commented. If you are going to do that you have to look at packers. Once you decide to do it, just filling with slurry isn't difficult. It is just volume. Glatt asked. What is the cost? Do you put plugs in? Or do you fill the whole length of pipe? Schwindt and Radig agree they would feel better filling the whole length of pipe rather than put packers in. Radig discussed the one line below the water table was more important to plug than the one that is above the water table, but that is just my opinion. The others would be just like any other abandoned steam pipe. Schwindt noted except it is deeper than those other ones typically.

Glatt indicated I will put that in the SSP. It might be something to talk about decommissioning. How should things be decommissioned? Should they be totally gotten rid of? Schwindt indicated I don't think we want to tear everything out again. Radig noted you would have to do all the street reconstruction. Glatt added. The vertical wells you will abandon and fill in and what not and that would be about it; cut off

some lines. We will not be pulling out all the pipe and we are not going to be filling all that pipe. Radig added. But that's shallow pipe.

**Next Meeting.** January 5, 2010 at 10 a.m.

**Motion to Adjourn.** Schwindt moved and Glatt seconded to adjourn at 11:13 a.m. All ayes. Motion carried.