

# ***BUFFALO-RED RIVER WATERSHED DISTRICT***

BARNESVILLE, MINNESOTA 56514

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## **MINUTES FOR MANAGERS' MEETING February 25, 2013**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, February 25, 2013, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, Breanna L. Paradeis Kobiela, Troy Larson, and Peter V. Fjestad. BRRWD Staff attending included: Bruce E. Albright, BRRWD Administrator, and Erik Jones, Engineer, Houston Engineering, Inc. (H.E.); and Mona Barker, BRRWD Administrative Assistant.

Chairman Van Amburg called the meeting to order at 7:04 PM. He announced that the proceedings were being recorded to aid in preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes of the 05/22/12 Project 56, Manston Slough Restoration hearing. **Motion** by Fjestad to approve the minutes with one noted name change. **Seconded** by Hanson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Since the 2/12/13 meeting, we have received \$27,862.76. We were reimbursed \$13,529.37 from the Minnesota Pollution Control Agency for expenses on the Buffalo River Total Maximum Daily Load (TMDL), \$13,933.39 from the City of Hawley for their share of the culvert replacement, and \$400.00 in income for the Howard Fees rental in Oakport. Our current balance is \$303,164.80. The final billing for \$10,112.50 was sent to Wynne Consulting on 2/18/13 for the Hersch property buyout. North Dakota State University (NDSU) has been billed \$2,521.00 for Sustainable Agriculture Research and Education (SARE) Program costs and our work with Xinhua Jia, Assistant Professor, Department of Agricultural and Biosystems Engineering.

### **Business brought before the Board included:**

Albright updated the Board on outstanding 2013 permits. He also informed the Board that Wade Opsahl and Justin Johnson, Technicians, H.E., are compiling a file of each of the legal ditch systems in the enlarged area. We will need that information to review permit applications from that area.

**Permit No. 12-106, Jeremy Tischer.** Applicant proposes to install a flap gate on an approach culvert along the east side of Trunk Highway (T.H.) No. 9 in the SE¼, Section 32, Manston Township, Wilkin County. **Motion** by Nelson to approve Permit No. 12-106 subject to Minnesota Department of Transportation approval to work in their road right-of-way (r-o-w). **Seconded** by Larson. **Approved.**

**Permit No. 13-01, Bruce Nelson.** Applicant proposes to install 120 acres of tiling in the NW¼, Section 16, Atherton Township, Wilkin County. The project includes a small parcel of native prairie. The project will outlet north to an unnamed waterway via a lift station. Nelson is working with Wilkin Natural Resources Conservation Service (NRCS). **Tabled,** pending Manager field review and NRCS approval.

**Permit No. 13-02, Matthew Hasbargen.** Applicant proposes to install 160 acres of patterned tiling in the SW¼, Section 21, Sunnyside Township, Wilkin County. Part of the project is in the BRRWD and part is in the Bois de Sioux Watershed District. **Tabled,** pending further investigation and review of area ditch files.

**Permit No. 13-06, Detroit Lakes WMD/USFWS.** Applicant proposes to install water control structures and a fish barrier for the enhancement of the Anderson Waterfowl Production Area (WPA) in Section 1, Audubon Township, Becker County. **Motion** by Hanson to approve Permit No. 13-06. **Seconded** by Paradeis Kobiela. **Approved.** Jones had completed a review of the applications and no special concerns were noted.

**Permit No. 13-07, Clay County Highway Department.** Applicant proposes to replace a structurally deficient bridge over the South Branch of the Buffalo River and reconstruct a section of the township road adjacent to the bridge on the line between Sections 17 and 20, Elmwood Township, Clay County, west of the intersection of County Road (C.R.) No. 63 and Township Road No. 229. In conjunction with this work, the County also plans to grade the south road ditch and install a new culvert to provide better drainage on the south side of the project. Jones had reviewed the application and recommended approval. **Motion** by Ellefson to approve Permit No. 13-07. **Seconded** by Fjestad. **Approved.**

**Permit No. 13-13, Jay and Carl Nord.** Applicant proposes 154 acres of pattern tiling in NE $\frac{1}{4}$ , Section 17, Deerhorn Township, Clay County. Applicant has asked that action on the application be tabled until his neighbor, Bradley Nelson, finishes his tiling project design. Nelson is planning a project for the SE $\frac{1}{4}$  of the same section that could drain north through Nord's property. **Tabled.**

**Permit No. 13-14, Todd Johnson and Richard Jensen.** Applicant proposes waterway tiling in the SW $\frac{1}{4}$ , NE $\frac{1}{4}$ , Section 30, Norwegian Grove, Otter Tail County. **Tabled.**

**Permit No. 13-15, KTM Farm.** Applicant proposes 155 acres of pattern tiling in Section 9, Andrea Township, Wilkin County. **Tabled.**

**Permit No. 13-16, KTM Farm.** Applicant proposes 550 acres of pattern tiling in Section 31, Andrea Township, Wilkin County. **Tabled.**

**Permit No. 13-17, Gerald C. Zimmerman.** Applicant proposes pattern tiling in the SW $\frac{1}{4}$ , Section 32, Morken Township, Clay County. **Tabled.**

**Permit No. 13-18, Gerald C. Zimmerman.** Applicant proposes pattern tiling in the SE $\frac{1}{4}$ , Section 11, Oakport Township, Clay County. Albright said the tiling will outlet to Clay County Ditch No. 35, for which the property is assessed. It will also have a lift station control. **Motion** by Larson to approve Permit No. 13-18 subject to road authority approval to drain through 50<sup>th</sup> ST N and our standard tiling disclaimer. **Seconded** by Fjestad. **Approved.**

**Permit No. 13-19, Jim Blaufuss.** Applicant proposes 320 acres of pattern tiling in the S $\frac{1}{2}$ , Section 8, Sunnyside Township, Wilkin County. **Tabled** pending further investigation.

**Permit No. 13-20, Alden Paul Brendemuhl, Jr.** Applicant proposes 294 acres of pattern tiling in the W $\frac{1}{2}$ , Section 33, Riverton Township, Clay County. **Tabled** pending Manager field review and further investigation.

**Permit No. 13-21, Shawn and Jesse Norman.** Applicant proposes 90 acres of pattern tiling in the NE $\frac{1}{4}$  west of T.H. No. 9, Section 29, Manston Township, Wilkin County. The project area is adjacent to the Manston Slough Restoration project. **Tabled.**

Albright has drafted a letter regarding the Conservation Drainage Grant that will eventually be sent to those applying for tiling permits. It outlines the process for the grant application, which begins with an NRCS

Conservation Activity Plan (CAP) 130. The letter will also include contacts for Technical Service Providers (TSP) who are licensed to develop a CAP 130. It is hoped the letter will spark interest in the program.

**Akron Township.** Concerns have been expressed pertaining to a culvert that was installed a number of years ago by the Wilkin County Highway Department in C.R. No. 169 (290<sup>th</sup> AVE) between Sections 5 and 6. Allegedly, the County installed a larger pipe after the road washed out during a flood. Albright recommends contacting NRCS who last fall worked with Paul Ehlert in Section 5 to install a Wetlands Reserve Program (WRP) project. We need to determine what was done and then review the issue in more detail.

**Permit Software Suite.** The Board reviewed the proposal from Brian Fischer for an updated permit suite and website. Albright commented that the current system is very labor intensive. Van Amburg stated the suite would provide more information and allow the public to interface. Proposals for the website redesign and the web based permit database dated 02/22/13 were reviewed. The website is estimated to cost \$7,470.00 and the permit suite \$11,800.00. Both proposals are scheduled for completion around September 1, 2013. **Motion** by Paradeis Kobiela to accept the website redesign and permit suite development proposals. **Seconded** by Larson. **Approved.** Fischer made a presentation at the 01/21/13 special BRRWD meeting in Barnesville.

**Buffalo River Crossing, Neil Rockstad Request.** Albright reviewed a letter asking about placing a permanent crossing on the Buffalo River in Section 25, Kragnes Township, Clay County. Access is currently gained through a neighbor's property. The Board discussed possible options. Albright will update the Board at a future meeting.

**Johnson Lawsuit.** A lien exists on a property once owned by Kenneth Johnson, with whom the BRRWD was involved in litigation. An updated title opinion revealed our judgment, and the BRRWD is owed \$471.65 plus interest. The Board felt Albright should accept that amount on behalf of the BRRWD, if an agreement is reached to clear the title.

**Border States Paving Environmental Assessment Worksheet (EAW).** Clay County submitted an EAW for comment for proposed work in Section 35, Parke Township, Clay County. Everything is contained on the site, and Albright recommended no comment.

**M.A. Mortenson Company, Mechanics Lien.** A wind farm company has accrued \$1,932,412 in expenses with M.A. Mortenson Company of Minneapolis. A mechanics lien has been filed on anyone who signed an easement. There are currently no impacts to the BRRWD because of the action. It could have an effect in the future, if easements were ever required from these same landowners.

**Project No. 74, Clay County Ditch No. 51-Lateral.** Robert Norby has filed an appeal of the proposed project. His attorney, Zenas Baer, has requested a large amount of information. Baer has not scheduled a time to review the information. An NRCS wetland determination is still pending on the Minch property in Section 28, Kragnes Township. A conference call is scheduled with Court Administration for 3/4/13 to discuss the upcoming hearing.

**Project No. 71, City of Moorhead/50<sup>th</sup> AVE Flood Control.** The City is anxious for a hearing and to let bids. Albright has scheduled the hearing for Tuesday, 3/12/13 at 7:00 PM. Moorhead City Hall, Council Chambers. The appropriate notices have been published/sent.

**Project No. 70, Crystal Creek/McCann's Addition/Project No. 42, Clay County Ditch No. 67.** The hearings will be held in conjunction and are scheduled for Thursday, 3/21/13, at Moorhead City Hall. Notices and publications have been done in accordance with Statutes.

**Project No. 66, Tansem/Ranum Lakes Outlet.** A letter was sent to Wynne Consulting for reimbursement of demolition and administrative costs on the Hersch buyout property.

**Project No. 58, Riverton Township Retention.** The Nature Conservancy (TNC) has completed the ground monitoring report for the wetland restoration work done on their "Williams" tract in Section 25 and 36, Riverton Township, Clay County. The wetland restorations were completed in the fall of 2009. The Alm family, who live in the area, had expressed concerns about the work due to ground water issues. The three years of monitoring did not reveal any measureable changes at the site. The report will be placed in the file.

**Project No. 56, Manston Slough Restoration.** Albright updated the Board on the remaining easements. A date has not yet been set for the hearing continuation. A meeting was held with Vogel Law Firm on 2/14/13 to discuss title opinions and condemnation proceedings if needed.

Albright will participate in a conference call with the Minnesota Department of Natural Resources (DNR) and the Minnesota Board of Water Soil Resources (BWSR) on 2/26/13 regarding the Reinvest In Minnesota (RIM) funding and distribution process of the grant funds. RIM funds must be used for landowner activities. The funds, for \$682,365, will be processed through BWSR to the DNR to the BRRWD since the BRRWD is not a landowner. Albright also updated the Board on possible changes to grant-eligible construction expenses. The parties have authorized Albright to redraft "Attachment A", which details which project construction activities are eligible for grant reimbursement.

**Project No. 49, Oakport Flood Mitigation.** The Board discussed the status of funding for Phase 4 of the Oakport Flood Mitigation Project. Estimates are that \$5.62 million is needed for Phase 4 and to finalize existing contracts. It is hoped this can be listed in any 2013 bonding bill proposed by the State Legislature. Albright met with local legislators on 2/13/13 at the State Capitol. The Board approved Resolution No. 13-02, which details the need and requests the funding. Both the House and Senate have bills in for requested funding.

Kris Carlson, Ulteig Engineers, Inc. has prepared Partial Payment No. 6 and Final Payment No. 7 to Rachel Contracting for approximately \$270,000 and will submit to the BRRWD for approval and payment at an upcoming meeting. It may be necessary to use the Midwest Bank Line of Credit to pay the contractor.

**Project No. 46, Turtle Lake Outlet.** A request has been made for a possible redetermination of benefits. Albright will meet with the Lake Association this spring to discuss their concerns and the process.

**Project No. 39, Georgetown Levee Improvements.** The contractor finished Phase 1 of the project last fall on the east side of T.H. No. 75. He intends to complete work on the west side of T.H. No. 75 this spring. There are approximately 4 remaining land issues to be resolved. It is hoped the Herman Clark property will close this week.

**Project No. 32, Hawley EDA Diversion.** Itemized bills were sent to the City of Hawley and H.E for their share of the culvert repair. Payment from the City of Hawley has been received, and payment from H.E. is expected soon.

**Project No. 29, Buffalo River Log Jams.** Justin Johnson, H.E., and Gust Johanson have identified several additional sites. Johanson has not been authorized for additional work and the recent snow will likely hinder continuation before the spring thaw begins.

**Mediation Project Team (PT).** The next PT meeting is tentatively scheduled for 4/04/13 at 1:30 PM in the BRRWD office.

**Wetlands Reserve Program (WRP).** Reep Lake easements will need to be addressed. Land cannot be held in both CRP and WRP, and there is a cost associated with making the change. A landowner has requested this expense be paid. Greg Greiser has requested the change for property he owns in Section 4, Audubon Township, Becker County. The repayment amount is \$1,562.00. **Motion** by Hanson for the landowner cost to become a project expense. **Seconded** by Ellefson. **Approved.**

**Joint Annual Conference.** The 15<sup>th</sup> Annual Joint Conference between the Red River Watershed Management Board (RRWMB) and the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) will be held March 26-27, 2013 at the Courtyard by Marriott and Conference Center, Moorhead MN.

**Watershed District Enlargement.** The Board discussed the BRRWD boundary hearing that was held on 1/31/13 in Rothsay, which focused mainly on the eastern boundary. Several concerns were noted including the issue that Lake Haldorson is landlocked and should not be included in the new watershed area. The hearing was recessed. Albright and Fjestad will field visit hearing concerns to verify/address the concerns.

**Army Corps of Engineers (COE) Fargo-Moorhead Diversion.** Van Amburg noted the Summary of Impact is available for review.

**Clay County Ditch Nos. 9, 32, and 33 Redeterminations.** The BRRWD has received 50% of the funding from BWSR for the approved Clean Water Fund (CWF) grant. The projects include conservation drainage pertaining to Clay County Ditch Nos. 9, 32, and 33 for \$333,590. Project expenses are now eligible and the right-of-way (r-o-w) hearings can be held (M.S.A. 103E.021. Subd. 6). Authorized r-o-w payments and staking can be completed before field work begins so the project could be completed this year. Jones said the recordable description certificates for the ditches will soon be finished.

**Whisky Creek/Clay Soil and Water Conservation District (SWCD) Project.** A letter will be sent to landowners on the South Branch of the Buffalo River and Whisky Creek project areas inviting them to the BRRWD office on Tuesday, April 2, 2013 from 9:00 to 11:00 AM for Conservation Day. It is also open to the public. The focus will be on conservation information and to promote the use of Best Management Practices.

**Clay SWCD Funding Request.** A request has been made to help fund the Pheasants Forever Biologist position from 7/1/12-6/30/14. The Board discussed the benefits to the BRRWD. **Motion** by Nelson to help fund the position and to also solicit the Barnesville Rod and Gun Club for a funding contribution. **Seconded** by Paradeis Kobiela. **Approved.**

**Minnesota Association of Watershed Districts (MAWD) Legislative Reception and Day at the Capitol, March 13 and 14, 2013.** Room reservations have been made. Event details were discussed and transportation arrangements. Albright will drive a Concordia College van.

**Clay County Request for RRWMB Meeting.** The Board discussed the status of the meeting regarding RRWMB membership. A Saturday morning meeting is being considered for early April. The meeting will be open to public and may be held at MSUM. Invitations will be sent to County Commissioners, local,

state, and federal legislators. An agenda will be developed, a facilitator hired, and a press release will announce the meeting details. Albright will update the Board as details are worked out. As a starting point for discussion, a joint meeting could be held with the RRWMB prior to a public meeting.

Albright shared details on the M.S.A. 103D.905, Subd. 3 levies. Albright and Van Amburg will be attending the Clay County Board of Commissioners meeting on 2/26/13 to present the petitions and discuss the General Administrative Levy increase.

**Minnesota Agricultural Water Quality Certification Program (MAWCP).** This water quality program will be in partnership with the SWCDs who support the BRRWD submitting an application. If selected, approximately \$1 million could be available in funding as well as technical assistance for design work. The work load will be primarily with the SWCDs. **Motion** by Fjestad to submit the application. **Seconded** by Hanson. **Approved.** The application is due March 1, 2013.

**New Office.** Some punch list items have been addressed. Network Center Communications has installed the ceiling microphone and training will be scheduled. A proposal for window treatments is forthcoming. The electrician has evaluated adding a switch to reduce the number of lights in the cubicle area. Estimated cost is \$300. **Motion** by Hanson to proceed with the electrical work. **Seconded** by Nelson. **Approved.**

**Phone System Update.** Albright and staff will have training with Sarah Hatlen, H.E., on 2/26/13. Albright commented on the need for battery backup for the computer system and the possibility of email hosting through the Cloud. Albright will provide additional information at future meetings.

**Payroll Professionals Update.** Conversion for payroll processing is complete and Salber & Associates, Inc. were notified.

**The following bills were presented for approval:**

| Accounts Payable            | Description                              | Account                  | Amount               |
|-----------------------------|--|--------------------------|----------------------|
| Cooper's Technology         | 2/19/13 billing, keyboard tray/paper     | Admin                    | \$ 383.89            |
| F-M Excavating Co. LLL      | #12082, Robley sewer demo                | Pj. 49, Oakport          | \$ 276.00            |
| IWI                         | 2012 WQ monitoring                       | M.S.A. 103D.905, Subd. 3 | \$ 1,972.60          |
| Jerry L. Schmidt            | Easement Option                          | Pj. 56, Manston          | \$ 100.00            |
| Joel Carlson, Inc.          | March 2013 Lobbyist fees                 | Admin                    | \$ 850.00            |
| Mid State Storage           | March rental                             | Admin                    | \$ 74.00             |
| Payroll Professionals, Inc. | #141612, 2/27/12 payroll preparation EFT | Admin                    | \$ 240.53            |
| Petty Cash                  | Postage, supplies, etc.                  | Admin                    | \$ 200.00            |
| Premium Waters, Inc.        | #366590-01-13, supplies                  | Admin                    | \$ 32.47             |
| Ramona Barker               | Office Cleaning (3)                      | Admin                    | \$ 225.00            |
| Ramona L. Barker            | February Insurance Premium EFT           | Admin                    | \$ 118.91            |
| Ramona L. Barker            | Payroll Voucher & Taxes 2/10/13-2/23/13  | Varies                   | \$ 1,229.47          |
| RRVCPA                      | 01/10/13-02/10/13 service (3)            | Pj. 49, Oakport          | \$ 254.15            |
| TDS MetroCom                | 2/13/13 billing-long distance            | Admin                    | \$ 36.10             |
| TRN Abstract & Title        | #6358292, abstract update                | Pj. 39, Georgetown       | \$ 135.00            |
| TRN Abstract & Title        | 12.5% Maier closing                      | Clay Co. Buyouts         | \$ 9,504.06          |
| UEI                         | #35306, Phase 3, through 1/31/13         | Pj. 49, Oakport          | \$ 1,346.00          |
| UEI                         | #35307, Phase 4, through 1/31/13         | Pj. 49, Oakport          | \$ 136.00            |
| UEI                         | #35311, Levee Certification              | Pj. 49, Oakport          | \$ 10,725.94         |
| Vergas State Bank           | Bond Sale 1st Payment & Interest         | New Office               | \$ 91,905.39         |
| Vogel Law Firm              | #101972, 12/03/12-01/31/13               | Pj. 39, Georgetown       | \$ 2,631.80          |
|                             |  |                          | <b>\$ 122,377.31</b> |

The Board discussed the first installment of the building loan to the Vergas State Bank. Future payments will be due on August 1 and February 1, semi-annually. **Motion** by Ellefson to approve payment of the bills, subject to fund availability. **Seconded** by Paradeis Kobiela. **Approved.**

**MAWD Summer Tour.** The Summer Tour may be held a week later on June 21 and 22. The format for the tour is being considered. Paradeis Kobiela will update the Board as details become available.

**Next Meeting.** The next regular meeting will be held on Monday, March 11, 2013, at 7:00 PM.

**Adjournment.** Chairman Van Amburg adjourned the meeting at 9:57 PM.

Respectfully submitted,

John E. Hanson, Secretary