

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING

April 29, 2013

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a special meeting on Monday, April 29, 2013, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Roger G. Ellefson, Curtis M. Nelson, Breanna L. Paradeis Kobiela, Peter V. Fjestad, and Troy E. Larson. BRRWD Staff attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Julie Jerger, Resident Secretary, Houston Engineering, Inc. (H.E.); Jay Nord, Deerhorn Township Chairman; and landowners: Wayne Brendemuhl, Robert Nord, and Mark Johnson.

Chairman Van Amburg called the meeting to order at 7:11 PM. He announced that the proceedings were being recorded to aid in preparation of the minutes.

Secretary's Report. The Board reviewed draft minutes for the 03/11/13 regular meeting. **Motion** by Larson to approve the minutes. **Seconded** by Fjestad. **Approved.**

Treasurer's Report. Albright met with Midwest Bank on 4/24/13 to discuss renewing our line of credit for a one-year term and increasing the amount from \$500,000 to \$600,000. The loan matures on 5/01/13. The bank's Board of Directors will meet on 4/30/13, so we'll know the status after then.

Albright has scheduled a meeting with Carolyn Drude, Ehlers & Associates, Inc.; Attorney Tami Norgard, Vogel Law Firm; and Lori Johnson, Clay County Auditor, for Friday, May 10, 2013, at 11:00 AM in the Clay County Courthouse to discuss a possible bond sale. The Board reviewed a summary sheet showing the projects/amounts to be included in the sale. They discussed the bond sale costs, which could be approximately \$65,000. Midwest Bank has indicated that they would be interested in bidding on the bonds, and if the BRRWD were interested, they could do the bond sale in house. If the Board decided to go forward with Midwest Bank, the office wouldn't need to prepare transcripts for the projects, and the bond costs would be much lower.

Albright mentioned that property taxes are due 5/15/13, and we should begin receiving our 2013 county tax proceeds by the beginning of June.

Business brought before the Board included:

Clay County Ditch No. 49. Wayne Brendemuhl reported that water broke out of County Ditch No. 49 onto his property in Section 23, Kragnes Township. He distributed photographs showing the recent breakouts and the field damage. He referred to minutes from the 6/28/10 BRRWD meeting where the Board approved the County Ditch No. 49 culvert replacements. At that meeting, the Board told Brendemuhl that we were willing to work with him to address his concerns/needs regarding County Ditch No. 49, and if there are obvious breakout areas, the ditch berm should be raised. County regulations require that the spoil bank stay about 6" lower than the road to prevent overtopping. Brendemuhl pointed out that the ditch berm is lower along his property. He thought that the contractor used ditch spoil from the recent repairs to build up the ditch berm, and there had been less material in the ditch along his property, so his berm is lower. Brendemuhl pointed out that there are fewer inlets along his property than the rest of the ditch. Recently, Brendemuhl filed a ditch repair petition to add more inlets in their property. Jones explained that the BRRWD's practice is to remove snow in ditches during spring runoff only when

farmsteads are threatened. Brendemuhl noted it appears that the ditch only overtops during spring run-off, not during summer rains. The Board authorized Wade Opsahl, Technician, H.E., to investigate Brendemuhl's concerns and to conduct a spoil bank survey to see if the berm can be raised in this area. **Tabled**, pending a survey and a review of the results.

Jay Nord. Nord plans to participate in a telephone conference tomorrow with the Natural Resources Conservation Service (NRCS)/Farm Service Agency (FSA) regarding the use of Environmental Quality Incentives Program (EQIP)/Minnesota Board of Water and Soil Resources (BWSR) Conservation Drainage funding for drain tile projects.

Project No. 72, Wilkin County Ditch No. 22-Lateral No. 3. Landowners Robert Nord and Mark Johnson discussed their concerns about the highwater problems on their property in the downstream area of the Lateral No. 3 project again this spring. Albright reported that the contractor, William Nichol Excavating, has about one mile of the ditch work left and has an extension to finish by 5/31/13. Nord questioned why the Board approved the improvement when they knew there was a chronic drainage problem on Wolverton Creek adjacent to Nord's farmstead in the NW¹/₄, Section 35, Wolverton Township. Johnson's buildings are about 0.75 miles east, also on the south side of County Road (C.R.) No. 30. Nord has another farmstead located further south of his main building site along the Creek that also has flooding problems. Spring runoff is always a very stressful time of year for him because he's afraid his house could flood. He claims that every year, more water comes downstream faster because of upstream drainage projects. Nord asked why the Board approved the project when project opponents outnumbered proponents at the Final Hearing. Johnson talked about the problems on his property when the water breaks out of the ditch east of his place and flows overland. Johnson felt that all of the drainage projects have created a bottleneck at the outlet. He said that water overtopped C.R. No. 30 last week and was close to his shop. Every year, more water flows downstream at a faster rate into their area, and they just can't take any more water.

Albright checked the files and gave a brief report of the project hearing process. He mentioned that Nord visited the office last week regarding his concerns about the Lateral project and to get the status of the Wolverton Creek/Comstock Coulee Restoration project. Ellefson commented that the contractor hasn't completed the lateral project yet. Jones said that there is still about one mile left to excavate. Ellefson agreed that the Coulee needs to be cleaned for Nord's land to drain properly. He thought that Nord would have water on his property no matter if the Lateral were cleaned. His property is in a "bowl" next to the Creek, and he is actually farming in the floodplain. Nord asked again why the Board approved the project when it was just going to make his problems worse by increasing the volume and velocity of the downstream flows. Nord asked if the Board planned to compensate him for his losses. Ellefson field reviewed the area flooding conditions today, but didn't go by Nord's farmstead. The group talked at length about area drainage patterns/problems, past attempts to clean the coulee channel, and the effects of the Lateral No. 3 project.

Van Amburg said that when the Board approved the lateral project, they felt it could help upstream landowners, and probably wouldn't make conditions worse for Nord. Nord said that his water problems are getting worse every year. Van Amburg commented that a large part of the Wolverton Creek/Comstock Coulee project will be water retention and improved channel capacity, and he asked Nord to be patient until the BRRWD can get the restoration project developed. Nord said his patience is running low after so many years of waiting for relief. Jones reported on the progress of the BRRWD's application to the Minnesota Department of Natural Resources (DNR) for the restoration project, specifically about the proposed channel geometry design. The BRRWD hopes to get construction started in 2014, depending on funding availability.

The group briefly discussed a possible ringdike for the Nord and Johnson farmsteads. Van Amburg wasn't sure if funding was available this year for ringdikes. Albright said the NRCS might have funding available

through EQIP. He said that in the past, water would overtop C.R. No. 30 before it would get to Nord's house. Since the County has added an overlay to their road, it's not certain if he can rely on this "safety valve". Albright said that a ring dike for Nord and Johnson might need to be part of the comprehensive plan for the Wolverton Creek/Comstock Coulee project. He mentioned that the BRRWD might consider setting up a "watershed management district" to provide local funding to pay part of the Coulee project costs.

Albright said that the BRRWD plans to hold a Steering Committee meeting for the Wolverton Creek/Comstock Coulee restoration project this summer.

2013 Permits. Albright noted that Justin Johnson, Technician, H.E., has processed all the current applications and mailed the approved permits to the landowners. He said that to date, we are caught up with the permit applications for projects planned for construction this spring. We received a few applications last week that can be reviewed at the 5/13/13 meeting. Albright has drafted a sample petition for Dirk Swanson to add land to Clay County Ditch No. 20. He is still working on the petition for Mike Yaggie for a possible lateral to Wilkin County Ditch No. 3.

Paul Johnson Culvert Concern. Johnson applied for a permit several years ago to change a culvert in 145th ST S in Section 16, Riverton Township, Clay County. He contacted the office again last week with a request for the BRRWD to conduct a field review and provide culvert sizing recommendations.

Mike Detloff Drainage Concern. Detloff contacted the office today regarding standing water on his lot on the south side of Barnesville. Brent Ellefson farms the land adjacent to Detloff's property. Albright provided Ellefson with photographs of the site. Ellefson said that he will contact Brent about the problem and try to get their drainage ditch cleaned.

Mike Yaggie Erosion Concern. Yaggie has concerns about erosion on the north side of the township road upstream of Wilkin County Ditch No. 3 in Sections 31/32, Akron Township, causing water to flow northwest via a natural waterway across his field to County Ditch No. 3. Yaggie is considering a petition to construct a lateral to Wilkin County Ditch No. 3. Albright will draft a sample petition for Yaggie's review. He will mail the information to Yaggie this week.

Clayton Runck Drainage Concerns. The Board will schedule a meeting in the near future to discuss an overall plan for Section 27, Skree Township, Clay County, with Runck and representatives from the affected local, state, and federal agencies, and neighboring landowners. Albright said Runck continues to contact the office on a daily basis.

2013 Flood Preparations. Albright reported that the Red River flood crest predictions have been downgraded to 35.5' in Fargo-Moorhead with predicted crest this Wednesday. Most of the BRRWD is no longer threatened by flooding. The Army Corps of Engineers (COE) turned down requests from the City of Moorhead and Oakport Township for flood assistance. The BRRWD had some culverts plugged in Oakport, but did not need to start any major flood preparations. He discussed various problems on a few of the ditch systems. Albright mentioned that there was some damage from break outs/erosion on Stony Creek. H.E. installed the stop logs in both the Stony Creek and Stinking Creek retention sites.

Albright mentioned someone was pumping water out of his field into a township road ditch with a tractor and portable pump near Baker, which was creating ponding on downstream property. His neighbor called the office to ask about the BRRWD's pumping protocol during spring runoff. Albright made a phone call to the landowner to let him know that his neighbors had concerns.

Dennis Butenhoff has a washed out culvert in Section 16, Atherton Township, Wilkin County, on Wilkin County Ditch No. 41. Opsahl will take care of needed repairs. Albright also noted that a landowner south of Barnesville had one inlet to Wilkin County Ditch No. 41 wash out along Trunk Highway (T.H.) No. 9.

Jones said that the Kragnes area was monitored this weekend to be sure the gates could be closed if necessary, but the Buffalo River didn't get high enough. Albright noted that it appears the existing dike protected the City of Georgetown this spring.

Project No. 56, Manston Slough Restoration. Albright reported Joe Wulfekuhle signed his easement options for both his tracts last week. In consideration of Wulfekuhle's request, the Engineer was able to eliminate the proposed road on the dike alignment on Dennis VanWechel's property in Section 13, Mitchell Township. The dike will remain grassed and not be maintained as a road. John Hulne made a verbal commitment today to sign his option. Unsigned easement options include: Kent Rod and Gun Club, Delores Dinger, Shawn and Jesse Norman, Joe Hulne and Betty Jo McIntyre, and Duane Stuehrenberg. Albright and Jones met last week to discuss a survey conducted along T.H. No. 9 to determine what could be done to address the Normans' concerns about how the project will affect drainage for their property in the NE¼, Section 29, Manston Township. Albright will meet with Shawn Norman tomorrow morning to discuss the results of the survey. If they still refuse to sign their option, the dike alignment can be changed to dike their property out of the project. Joe Hulne and Betty Jo McIntyre are waiting to sign their options until they can see the revised easement values, which will be mailed to them this week. Wulfekuhle operates this property and will encourage the owners to sign their option. Albright and Jones also investigated gating culverts along T.H. No. 9 to leave the Stuehrenberg property on the east side of T.H. No. 9 out of the project. He will contact Stuehrenberg this week regarding the culvert issue and possible Wetlands Reserve Program (WRP) and Reinvest In Minnesota (RIM) options for his property on the west side of T.H. No. 9. Albright suggested that we could file a notice of Lis Pendens for eminent domain for the properties we are not able to acquire voluntarily, which means that the BRRWD retains the option to use condemnation for the remaining property easements, if necessary.

Albright has been in contact with Jamie Gangaware, DNR, who works with the Lessard-Sams Outdoor Heritage Council (LOHC) Conservation Partners Legacy Grants (CPLG) Program. Our \$350,000 grant has a 6/30/13 deadline. At first, we understood that the money could only be used for construction, which will probably be hard to accomplish due to the late spring, and appeal/bidding time requirements. However, during recent conversations, it appears that we might be able to use the funding for easement acquisition. If this turns out to be possible, Albright thought we could use the funds to acquire the C&H Farms and the Woolson easements before the grant deadline. We are waiting for a decision from the DNR regarding this issue.

The Board reviewed changes to the Appraisers' Report and engaged in an extended discussion regarding the project design, downstream assessments, natural resource enhancement (nre) and flood damage reduction (fdr) project features, landowner support for the project, and crop insurance eligibility. Both Ellefson and Nelson felt that the project didn't provide enough retention and was too expensive. Ellefson suggested that the BRRWD could drop the project and allow the DNR to build the smaller project they proposed several years ago. Nelson stressed his concern that there was very little landowner support for the project at the two hearings, and we took too long to develop the project. He felt there should have been more Manager contact with the landowners during the easement acquisition process. Ellefson said that we don't usually set up a downstream benefit area to pay for retention projects. Albright explained that according to the Engineer, the project costs have not changed since he filed his initial report in 2009. He added that the project will provide 50-60% flow reduction at the outlet for various runoff events.

Van Amburg said that John Hanson called him today to say that he was in favor of the project and would vote to approve the Final Order. He thought that after the BRRWD purchased the Holubok property in

2007, we had made a commitment to build the project. Larson and Fjestad questioned why some of the Managers were considering voting against the project in light of the amount of work/funding we've already invested. Larson felt that after nearly 10 years of work, the Board has already made a commitment to build the project. Fjestad said that this project contributes to our 20% peak flow reduction goal, as proposed by the Red River Basin Commission (RRBC) through their Long Term Flood Study (LTFS). Larson added that the main focus in the Red River Basin is retention, and this project will provide retention. Van Amburg noted that the nre benefits are also an important aspect of this project. He added that in 2003, the project had been designated as a pilot project for the Red River Valley by the Governor's Clean Water Cabinet. Paradeis Kobiela commented that she was comfortable with moving forward with the project. **Motion** by Paradeis Kobiela to approve the Final Order for Project No. 56, Manston Slough Restoration. **Seconded** by Fjestad.

During discussion, Fjestad stated that he seconded the motion because of all the time and money already invested in the project, the 75% outside funding commitments, and the significant water retention benefits. Nelson didn't think the project provided enough retention. Ellefson pointed out that the Manston Slough area already holds water without the project, and he was concerned about the high assessments on the downstream benefit area. Larson said that a number of the area WRP/RIM projects were developed in conjunction with this project and thought it would be unadvisable to drop the project since we will need to work with the other participating environmental agencies in the future. Landowner Jay Nord commented that he understood the Wilkin County Ditch No. 13-Lateral benefits for the project, and noted that there were landowners in favor of the project who were uncomfortable about speaking up at the hearings in front of the more vocal opponents. He felt that we need to develop retention where ever it's available. **Approved.** Larson, Fjestad, Ellefson, Van Amburg, and Paradeis Kobiela voted in favor. Nelson was opposed. Hanson was absent although his support for the project was previously noted.

Project No. 74, Clay County Ditch No. 51-Lateral. Albright reported that a May 6, 2012, court date has been scheduled for Attorney Tami Norgard, Vogel Law Firm, to present her arguments before Judge Cahill to have the Norby appeal dismissed.

Project No. 71, City of Moorhead/50th AVE Flood Control. The bid opening has been changed to May 10, 2013, at the Fargo H.E. office. The Board will review and possibly award the contract at our 5/13/13 meeting.

Project No. 70, Crystal Creek/McCann's Addition. The appeal period has expired, and no appeals were filed. This is one of the projects Albright would like to include in the bond sale.

Project No. 49, Oakport Flood Mitigation. The Board discussed possible funding in the 2013 Legislative bonding bill. Albright has informed BRRWD Lobbyist Joel Carlson, who is working with the State Bill Reviser on funding legislation for Oakport, that is vital the 2% median household income (MHI) language be included in any appropriation bill for the project. The Township will not accept 50% funding.

Albright met with Leonard and Charlotte Nelson, representatives of the Fischer Family, on 4/24/13 regarding their farmstead. The Fischers have considered a number of alternatives for the farmstead, including a ringdike or a buyout. Clay County still has some funding for buyouts, which would be based on 87.5% of 2009 market value (\$147,083.13). The Fischers don't think that value is high enough. The BRRWD has a spoil site partially located on their property. The lease has expired, and we need to renegotiate. They have asked for \$30,000 for a one-year lease. The Board thought this was unreasonable and discussed moving the dirt to a BRRWD property site. Albright will contact Kris Carlson, Ulteig Engineers, Inc. (UEI), to provide a site survey to find out how much of the dirt pile is actually on the Fischer property.

Project No. 39, Georgetown Levee Improvement. Albright will meet with Darrel Floberg tomorrow to get his easement signed.

Project No. 7, Clay County Ditch No. 39. Gerald Zimmerman submitted an application to the DNR to appropriate water from County Ditch No. 39 for crop irrigation. A BRRWD permit and ditch hearing is also needed before his project can move forward. The Board discussed potential landowner disputes about water allocation on county ditch systems in the event of a drought.

Mediation Project Team (PT). The next PT meeting has been scheduled for May 23, 2013, at 7:00 PM in the BRRWD Barnesville office.

Watershed District Enlargement. Albright and Fjestad conducted a field review of the entire new eastern boundary and met with landowners last Friday. The next step is to get their revisions to Jones so he can prepare a revised map for the hearing continuation. The BRRWD plans to schedule the continuation hearing in June. Albright noted that Halderson and Nelson Lakes will be left out of the BRRWD.

COE F-M Diversion. Albright met with a number of landowners from the Comstock area in our office last week regarding their concerns about the Diversion project. They wanted Albright to ask BRRWD Attorney Norgard if the COE needs a BRRWD permit for the project and if the COE can override a BRRWD decision. Albright has not had time to follow up with Norgard.

Clay County Ditch Nos. 9, 32, and 33 Redeterminations. The Board approved the Final Order at the 4/18/13 hearing. Albright thought we might get one appeal on the damage amount. H.E. will schedule the r-o-w staking this week, so the lath is in before spring field work begins.

Becker County Ditch No. 19. Jones is still working on a breakdown of project expenditures between ditch maintenance/repairs and the redetermination proceeding. His initial review shows that ditch repair costs are about \$10,000, which is pretty close to the 2013 levy (\$11,000). The old benefit area is responsible for those costs. H.E.'s report will be ready for the 5/13/13 meeting.

BWSR Targeted Drainage Water Management Grant. Don Bajumpaa, District Manager, Wilkin Soil and Water Conservation District (SWCD), has indicated that he has already allocated all of their funding and is not accepting any more contracts. Albright plans to get information out to landowners this week regarding the BWSR funding opportunity. The grant is will be used to encourage the use of conservation practices for tiling projects.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Barnesville Phone Co.	04/25/13 billings (2)	Admin	\$ 159.47
City of Barnesville	03/05/13-4/01/13 utilities	Admin	\$ 602.08
Clay Co. Auditor/Treas.	1st half taxes	Pj. 39, Georgetown	\$ 1,476.23
Clay Co. Auditor/Treas.	1st half taxes	Pj.49, Oakport	\$ 7,880.00
Clay Co. Auditor/Treas.	1st half taxes #650436	Clay Co. Buyouts	\$ 42.00
Clay Co. Auditor/Treas.	Special assessments	Pj. 49, Oakport	\$ 1,231.79
Jason Rick	April snow removal	Admin	\$ 140.00
Petty Cash	Postage, supplies, etc.	Admin	\$ 200.00
TRN Abstract & Title-Wilkin	Klein abstract update	Pj. 56, Manston Slough	\$ 145.00
			\$ 11,876.57

Motion by Nelson to approve payment of the bills, subject to fund availability. **Seconded** by Ellefson. **Approved.**

Project No. 46, Turtle Lake Outlet. Albright met with the Turtle Lake Association on Saturday to review the project financial status (-\$70,000) and current lake elevations. As soon as the Red River has crested in Fargo and starts to recede, H.E. will restart the siphons. Another landowner meeting is tentatively scheduled for June 8, 2013, 9:00 AM, Cormorant Town Hall. The Association is considering asking the BRRWD to redetermine benefits for the project because of the changes in some market values around the lake since 1999.

River Watch Water Monitoring. Albright and Van Amburg met with River Watch representatives on 4/25/13 in the BRRWD office to discuss 2013 monitoring. The Barnesville High School River Watch Team will monitor same sites as last year. The DNR would like to renew their contract with the BRRWD to operate their four flow gauges for approximately \$18,500 per year. The Minnesota Pollution Control Agency (MPCA) also has four flow gauge sites that they are funding in 2013. The DNR has agreed to operate all eight sites next year for \$27,300. Albright explained the use of Regional Assessment Locators (RALs) sites, as identified in the Revised Watershed Management Plan (RWMP), to monitor water quality and quantity. He said that there have been some secondary sites added in the new expansion area. The International Water Institute (IWI) monitoring sites will be included in the River Watch monitoring contract, and IWI will provide a contract for the Board's review. The River Watch Team will also submit a contract for this year's expenses in the near future. Albright mentioned that the Barnesville River Watch Team won another First Place (Gold) at the recent River Watch Forum.

Revised Watershed Management Plan (RWMP). Van Amburg asked about the timeline of the RWMP for the new expansion area. Albright explained that we have about one year left. We will need to schedule landowner informational meetings, once the spring field work is done. Albright thought BWSR would be willing to give us an extension if necessary.

Elkton Township Wetland Restoration. Van Amburg signed the construction contract with Ziegler Construction. A pre-construction meeting with Ziegler will be held on Wednesday, May 8, 2013, at 10:00 AM, Fargo H.E. office.

Next Meeting. The next regular meeting is scheduled for Monday, May 13, 2013, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 10:00 PM.

Respectfully submitted,

John E. Hanson, Secretary