BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

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MINUTES FOR MANAGERS' MEETING
March 24, 2014

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, March 24, 2014, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Curtis M. Nelson, Catherine L. Affield, Peter V. Fjestad, and Troy E. Larson. BRRWD Staff attending included: Bruce E. Albright, Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (H.E.).

Chairman Van Amburg called the meeting to order at 7:05 PM. He announced that the proceedings were being recorded to aid in preparation of the minutes.

Secretary's Report. The Board reviewed the draft 01/27/14 and 02/24/14 BRRWD meeting minutes. Motion by Nelson to approve the minutes. Seconded by Larson. Approved.

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand currently is $1,816,164.25. Since the 03/10/14 meeting, we have received $307,055.85. Main contributors were payments from the Minnesota Department of Natural Resources (DNR) for Project No. 39, Georgetown Flood Control Levees ($94,797.83), the City of Moorhead for Project No. 71, 50th AVE S ($129,879.87), and the Minnesota Agricultural Water Quality Certification Program (MAWQCP) from the Board of Water and Soil Resources (BWSR) ($80,000) for incentives.

Business brought before the Board included:

Permit No. 13-038, Dirk Swanson. Applicant proposes to install 117 acres of pattern tiling in the NW¼, Section 21, Kragnes Township, Clay County. The tiling has been installed, but the permit approval is pending a hearing to include part of the applicant’s land into the County Ditch (C.D.) No. 20 benefit area. Weather permitting, Managers should conduct a field review before the hearing, which is scheduled for Thursday, April 3, 2014, 7:00 PM in Moorhead. Tabled, pending hearing.

Permit No. 14-011, Kurt Hovland. Applicant proposes to install 148 acres of pattern tiling in the SW¼, Section 5, Prairie View Township, Wilkin County, outletting via a lift station to the County Road (C.R.) No. 32ditch. A hearing is required to add the N½ of the noted land to the Wilkin C.D. No. 41 benefit area. Albright will draft a petition and send it to Hovland for his review and signature. Tabled, pending a hearing.

Permit No. 14-019, Mike Yaggie (Project No. 76). The applicant proposes to establish a ditch as previously outlined as Project No. 76, Wilkin C.D. No. 3, Lateral No. 8, in Sections 31 and 32, Akron Township. Albright met with the petitioners on 03/03/14 to discuss the proposed lateral project. They have agreed to withdraw their petition and to complete the work as a private project at their expense. After the work has been completed, the landowners may consider re-petitioning to make the ditch a legal lateral. Albright researched how costs were handled for past dismissed petitions so that the Board could discuss how to allocate the $16,675.27 incurred to date for the project's preliminary development. The Board previously requested that Yaggie increase his bond by $10,000, but payment was never received. On February 4, 2014, Albright and Yaggie did discuss the requested bond increase by telephone, and Yaggie agreed to increase the bond by $5,000. If the landowners re-petition to make this ditch into a future legal
lateral project after the work has been completed as designed by H.E., some of these costs may be reimbursed according to Minnesota Drainage Law. The Board discussed the matter at some length, finally agreeing they would request $15,000 as previously agreed upon with the petitioners, with the BRRWD assuming the remaining $1,675.27. Motion by Fjestad to send a letter to the petitioners, Michael Yaggie and Wayne Fuder, requesting they reimburse the BRRWD for $15,000 in project development costs, also noting that this permit will be tabled until this matter is resolved. Seconded by Nelson. Approved.

**Permit No. 14-020, Skolness Inc.** The applicant proposes to install 311 acres of pattern tiling in the W½, Section 23, Moland Township, Clay County. The W½ of the section is assessed to drain north to Clay C.D. No. 3, the SW¼ is assessed to go south to Clay C.D. No. 2. A new map will be requested before discussing this permit further. Tabled.

**Permit No. 14-021, Skolness Inc.** The applicant proposes to install 152 acres of pattern tiling in the NW¼, Section 15, Moland Township, Clay County, draining via a pump station to Clay C.D. No. 3. Motion by Larson to approve Permit No. 14-021, subject to the BRRWD's standard tiling disclaimer. Seconded by Fjestad. Approved.

**Permit No. 14-022, Clay County Highway Department.** The applicant proposes to replace an existing structurally deficient bridge with a 12’ x 6’ reinforced concrete box (RCB) in the NE¼, Section 7, Kurtz Township, Clay County. Jones requested further information from the Highway Department on the existing crossing. Once furnished with the necessary information, Jones will bring his recommendation to the next Managers' meeting. Tabled, pending further information.

**Permit No. 14-023, Robert Braton.** The applicant proposes to install random tiling to drain a mitigated wetland in the S½NE¼, Section 8, Prairie View Township, Wilkin County, outletting to a natural waterway across the W½NE¼ to Wilkin C.D. No. 41-Branch 5. The National Resources Conservation Service (NRCS) has approved the proposal. There is a possibility of a future tile line along the north line of the NW¼, Section 8, also outletting to C.D. No. 41. The property is assessed to drain into the ditch listed, and Albright stated he would recommend approval of the permit. Motion by Larson to approve Permit No. 14-023, subject to the BRRWD standard tiling disclosure. Seconded by Affield. Approved. The proposed tile line along the north side of the property is needed because of breakout flows from the county ditch system. If ditch repairs can control this problem, the proposed tile may not be needed.

**Permit No. 14-024, Vance Johnson.** The applicant proposes to install pattern tiling in the NE¼, Section 34, Connelly Township, Wilkin County. No tiling plans were submitted with the application. Tabled, pending further receipt of the plans.

**Permit No. 14-025, Oberg Farms.** The applicant proposes to install pattern tiling in the SE¼, Section 1, Kurtz Township, Clay County. Motion by Fjestad to approve Permit No. 14-025, subject to the BRRWD standard tiling disclosure and approval from affected downstream Section 1 landowners. Seconded by Larson. Approved.

**Permit No. 14-026, Jay Nord.** The applicant proposes to install pattern tiling in the E½, Section 19, Deerhorn Township, Wilkin County. Motion by Larson to approve Permit No. 14-026, subject to the BRRWD standard tiling disclosure and approval from Jeff Nord, downstream landowner, and road authority approval. Seconded by Fjestad. Approved.

**Permit No. 14-027, Oberg Farms.** The applicant proposes to install pattern tiling in the SW¼, Section 13, Glyndon Township, Clay County. No tiling plans were submitted with the application. Tabled, pending receipt of the plans.
Permit No. 14-028, Oberg Farms. The applicant proposes to install pattern tiling in the W½, Section 36, Glyndon Township, Clay County. No tiling plans were submitted with the application. **Tabled**, pending receipt of the plans.

Permit No. 14-029, Oberg Farms. The applicant proposes to install pattern tiling in the NW¼ and a tract in the NE¼, Section 25, Glyndon Township, Clay County. No tiling plans were submitted with the application. **Tabled**, pending receipt of the plans.

Permit No. 14-030, Brent & Bryan Haugrud/Kurt Hovland. The applicants propose to relocate an existing ditch near the north-south quarter line to the property line in the S½, Section 5, Prairie View Township. The Haugrud property is assessed to drain south to C.D. No. 41, but only the S½SW¼ of Section 5 on Hovland's property is assessed to drain to that ditch system. No land in the N½SW¼ is assessed. Hovland intends to remedy that issue by petitioning to add the N½SW¼ to the drainage system. **Motion** by Fjestad to approve Permit No. 14-030. **Seconded** by Nelson. **Approved**.

Permit No. 14-031, Thomas Deal, Deal Bros Farming Partnership. Applicant proposes to install random tiling in low areas in the NW¼, Section 23, Akron Township, Wilkin County. **Motion** by Fjestad to table the application, until further information can be discussed with the applicants and neighboring landowners. **Seconded** by Nelson. **Tabled**.

Permit No. 14-014, Bruce Bang. Bang visited the office to inform Albright that the NRCS determined there were no wetlands on his property that would be affected by his permit application, which was approved by the Board at the 03/10/14 meeting.

Project No. 75, Wilkin County Ditch No. 31-Lateral. H.E. is preparing the Environmental Assessment Worksheet (EAW) as required by the DNR for restoration of the Whiskey Creek channel, starting at Trunk Highway (T.H.) No. 9, and continuing downstream across Section 14, Connelly Township.

Project No. 74, Clay County Ditch No. 51, Lateral No. 3. A meeting was held with Viewer Ron Rinquist and the petitioner, Roger Minch, on Monday, March 17, 2014, at 1:00 PM at H.E.'s Fargo office. Rinquist explained the Viewer's Report. The benefits total $150,044, which is less than the proposed project costs. Minch said he was going to talk to Harlen Sauter about the addition of a culvert in 100th AVE N that may expand the benefit area to include property in Section 33, Kragnes Township. A meeting with Zenas Baer, Attorney, was held with Rinquist at the Vogel Law Firm following the meeting with Minch. The signed report has not yet been furnished to the Board for approval. The final hearing may tentatively be scheduled for some time in June. Albright reported that a $10,000 bond increase will be necessary to cover additional project development costs. **Motion** by Nelson to request the $10,000 bond increase. **Seconded** by Fjestad. **Approved**.

Project No. 73, Country Heritage Ditch. An informational meeting will be held this spring with the affected landowners along 2nd ST in Oakport Township to discuss their culvert concerns.

Project No. 71, City of Moorhead, 50th AVE S. Albright spoke with Leroy Johnson regarding his concerns about possible water standing in his field this spring and the damages done to the project by his renter last fall. The contractor, Gladen Construction, should make the necessary repairs this spring, when conditions permit. The area of concern is located in the SW¼, Section 31, Moorhead Township, Clay County.

Project No. 60, Swede Grove Lake Outlet. Albright stated that there was no new information to report on this project, but it will remain an active agenda item.
Project No. 56, Manston Slough Restoration. The office is working on the acquisition of easements. Lake Region Electric will relocate the power line in the area to the tower substation on Tower Road. The bill for this work is included on tonight's bill list. Albright sent the written appraisal for the Kent Rod & Gun Club property to Attorney Norgard to begin the "friendly" condemnation proceedings. Rick St. Germain has been in contact with Jason Boyle and Dan Zwilling, DNR Dam Safety, about the Minnesota Department of Transportation's (MNDOT) request for a pipe through the south embankment. Albright will get the road agreements out for signatures. Several years ago, the DNR allocated funding from this project account to the Project No. 49, Oakport. Pat Lynch, DNR, has sent an email to the office confirming the error. They will wait until the Manston Township project is finished, and if the current DNR funding is all used up, they will make up the difference ($43,588.69) at that time.

Project No. 49, Oakport Township Flood Mitigation. Managers spoke with Senators and Representatives while at the Minnesota Association of Watershed Districts (MAWD) Legislative Reception and Day at the Capitol regarding the necessary 2014 bond funding ($5.26 million) to complete Phase 4 work for Oakport. Albright sent the 2014 agreement to Carl Pierce to renew our lease for the spoil pile on his property for $3,000. The Fischer Family’s attorney, Ken Norman, has been contacted to see if his clients are interested in discussing a resolution to their concerns about a spoil pile lease on their property. We have received no response from Norman or the Fischers. Tami Norgard, Attorney, Vogel Law Firm, has been contacted about the possibility of condemning a temporary easement. The Board will contact Norman a final time before authorizing an appraisal.

Project No. 39, Georgetown Levees. Wade Opsahl, Technician, H.E., has confirmed that Rick Halvorson Construction doesn't want Schmidt Construction to move the Lester Nelson house onto the newly constructed Greywind basement until after the frost has thawed. The contractor will return in the spring to complete the final cleanup tasks. Opsahl reported that the issue with MNDOT's request to use a storm water pond along T.H. No. 75, and the maintenance responsibilities associated with that use, has been resolved with the City of Georgetown at their Council meeting tonight.

Project No. 30, Clay/Wilkin Judicial Ditch (J.D.) No. 1. The Board previously authorized H.E. to get test pits of the ditch this spring/summer, for an analysis of silt depths and a possible repair of the system; preparation of a preliminary report of what the impacts of an overflow ditch at the county line would have to J.D. No. 1 and possible downstream impacts to Wolverton Creek; and the preparation of a timeline from origination of the system to the present for review. Jones said H.E. is working on the requested information.

Project No. 14, Clay C.D. No 10. Jones reported on the right-of-way (r-o-w) analysis. The Board discussed procuring easements for one rod of r-o-w along the 14 miles of ditch to be repaired this summer. Albright recommended that the Board authorize the acquisition of the one rod of temporary r-o-w for the 2014 growing season, authorize H.E. to stake the r-o-w, and prepare the easement payments to be sent with a letter of explanation to affected landowners prior to spring planting. The Board discussed a rate of $250/acre for the temporary easements. Motion by Nelson to approve the items as detailed in Albright's recommendation. Seconded by Larson. Approved.

Mediation Project Team (PT). The next meeting is scheduled for Thursday, April 24, 2014, at 7:00 PM in the Barnesville Watershed Office.

Landowner Caroline Swenson had spoken with Julie Aadland, DNR, about possibly applying for a permit to clean out the South Branch of the Buffalo River on her property in the NE¼, Section 6, Manston Township, Wilkin County, which has 3-4' of sediment in the channel. A field review will be completed this spring, when conditions permit.
There was a meeting on March 11, 2014, regarding Pierce Lake in Detroit Lakes as a possible Wetlands Reserve Program (WRP) site. There are issues including the question of ownership for a drained meandered basin that was not present during the last survey. Several of the agencies who attended the meeting, including the BRRWD, NRCS, BWSR, and the United States Fish and Wildlife Service (USFWS), would meet as an agency group sometime in late April, before a landowner meeting is held.

Mike and Zeta Jacobsen are currently unavailable, but when they return this spring, a meeting will be held to discuss the easement on their property pertaining to the South Reap Lake WRP site.

Albright spoke with Kelly Peppel about the Peppel/Haick WRP site in Sections 4 and 5, Manston Township, Wilkin County. A meeting will be scheduled with the landowners in the near future. Albright reported on some future steps for the BRRWD pertaining to the new Farm Bill.

**Watershed District Enlargement.** The final eastern boundary for the newly added area in Otter Tail and Wilkin Counties has been filed with the Secretary of State. Albright reported there were no updates from the Secretary or from Wayne Stein, Otter Tail County Auditor, about a concern he had about splitting parcels in the new area. The two-year deadline set by the BWSR to complete the Revised Watershed Management Plan (RWMP) for the new area expires on April 25, 2014. It is uncertain whether or not the Board can request an extension on this deadline. The Board needs to discuss our possible participation in the One Watershed, One Plan (1W1P) program. The application deadline for that program is April 21, 2014.

**BWSR Biennial Budget Request (BBR).** BWSR forwarded information regarding their 2016-2017 BBR request to collect information on local government conservation and water management resource potential projects. This information will be used to work with Legislators to identify funding needs. The deadline for the submitting the application is 05/02/14. A meeting will need to be held with representatives from Clay, Wilkin, West Otter Tail, and Becker Counties Soil and Water Conservation Districts (SWCD) to ensure everyone agrees with the proposed submittal. Jones will present his projected budget at a regular Managers' meeting in April.

**Army Corps of Engineers (COE) Fargo-Moorhead Flood Diversion Project.** Albright and Van Amburg met with a delegation from the Upstream Coalition on Saturday, March 15, 2014, to discuss the project. It was suggested that the Diversion Authority be sent a letter detailing the BRRWD's jurisdiction. Any work within the BRRWD would require a BRRWD permit, and a close examination of any possible impacts. Albright has not yet discussed this with Norgard. The Moorhead City Council is discussing the Oxbow-Hickson-Bakke (OHB) Ring Dike at their meeting tonight, which is planned to begin construction in 2014. This is a stand-alone project. A map was furnished to the Board from Robert Zimmerman, Engineer, City of Moorhead, showing potential impacts of the OHB project. Albright and Jones reported on some of the details of the project, and the Board discussed this at some length. Potential project impacts were analyzed using the proposed future condition (upstream staging area/diversion channel), and not the existing condition. Jones has asked for the existing condition impacts.

**Clay C.D. Nos. 9, 32, 33 Redeterminations.** Wade Opsahl, Technician, H.E. will be gathering more information and drafting proposed benefit maps for each of the systems to be discussed at a Viewers’ meeting to be scheduled in the next few weeks.

**Redetermination of Benefits for Becker C.D. Nos. 10/19.** A hearing continuation is tentatively set for April 8, 2014, 7:00 PM in Callaway. Albright will be finalizing the details, and the office will mail out notices.
MAWQCP. An Advisory Committee meeting will be held on April 9, 2014, in Breckenridge. The Advisory Committee will meet at 11:00 AM and then meet with Dr. Karlyn Eckman and Alec Albright, University of Minnesota (U of M) to begin the Knowledge, Attitude and Practices (KAP) study at 1:00 PM. Albright met with the Minnesota Department of Agriculture's (MDA) Advisory Committee on 03/24/14 in St. Paul to update them on the current status of our pilot area. BWSR awarded $80,000 for best management practices (bmps) incentives to encourage landowner program participation.

Buffalo River Total Maximum Daily Load (TMDL). The Minnesota Pollution Control Agency (MPCA) contract has been amended to extend the deadline to June 30, 2014, to allow time for the Environmental Protection Agency (EPA) and public to review the documents. Any comments received will need a written response. Albright sent the draft TMDL and Watershed Restoration and Protection Strategy (WRAP) reports to Peter Mead, District Administrator, Becker SWCD.

The Upper-Red River TMDL Study provided data that brought about some contract changes concerning the Fargo-Moorhead bacteria levels in their TMDL. There was not enough data to complete the Hydrological Simulation Program – Fortran (HSPF) modeling. A new deadline of 01/01/16 has been discussed.

Wolivoton Creek/Comstock Coulee Clean Water Fund (CWF) Restoration. The Steering Committee meeting will be held on Thursday, March 27, 2014, at 2:00 PM in the Barnesville Watershed Office. Notices have been sent to affected landowners, and Albright will draft an agenda before the meeting.

BWSR Performance Review and Assistance Program (PRAP) Grant/Consultant. A tentative agenda was distributed to the Managers for the Strategic Planning Work Session which will be held with Consultant Donna Rae Scheffert on April 15, 2014, at 2:00 PM in the Barnesville Office. Notices will be sent in this regard. Invitees will include the Advisory Committee, agency personnel, and neighboring Watershed Districts.

State of Water Conference. The conference will be held on May 1-2, 2014, in Brainerd, MN. Board Managers interested in attending should contact the office for more information/reservations.

Whisky Creek CWF Project. Clay County SWCD received a grant from BWSR for 2009 flood repairs. To date, they have not spent all of the funds. Pete Waller, BWSR, did approve a grant extension until September 1, 2014. The BRRWD was approached to look at ways to allocate the funds. An erosion site on property owned by Michael and Ryan Hough was presented as an option. H.E. has developed two plans. The preferred option doesn't have a fish passage, as the site is an intermittent stream which dries up. The estimate for this project is $37,128. Bids will be solicited to present to the Board at the 4/28/14 Managers' Meeting. Other potential projects include repair of the multi-bloc wall on the Buffalo River, and working with Glyndon Township to repair the road ditch erosion along 12th AVE S in Section 16. Last fall, we submitted a BWSR CWF application for this project in the amount of $84,000, which was not funded.

Elkton Township Wetland Restorations. Jones sent correspondence to the contractor, Nathan Ziegler, requesting an update on his ability to complete the work he had been contracted do. Kenneth Ziegler will be visiting the Barnesville office to discuss their plan of action with Albright. Albright and Jones attempted to contact Ziegler, but were unable to do so. BWSR will also be preparing/sending out new perpetual easements for the landowners' signatures.

Oakport Update. Albright received an email update from Kris Carlson, Technical Manager, Ulteig Engineers Inc. (UEI), which detailed the following: Carlson is finishing up the condensed Operation and Maintenance (O&M) Manual, including the sample inspection forms and maps for both levee systems. He expects to have them delivered to the office by next week. He received another call from
Tim Brendemuhl regarding the crop damages resulting from Project No. 73, Country Heritage Ditch. He has been unable to reach the contractor about addressing this and other punch list items. Albright responded that he would be willing to attend a meeting with the landowner to discuss the claim. Carlson also received a call from Guy Thomas regarding some Phase 1A work. Information regarding replacement pillars was not relayed in time to make the construction plans. He would like the replacements noted in the easement agreement. This has not been completed. Thomas stated he would be getting a quote for the work, and Carlson noted he would forward that to the office once it was received. The five-year wetland monitoring plan is scheduled to begin this spring. Carlson will be working on getting the reporting set up as well as hosting a few meetings to inform the necessary parties of the plan.

**Becker SWCD, Cuba Township Project.** Albright received an email from Peter Mead, Becker SWCD, requesting some funding to complete a project in Section 24, Cuba Township. The Board had previously granted a $20,000 contribution to Becker SWCD for 2013-2014 projects, of which only $3,500 has been spent. The remaining $16,500 is available for the project in question, and others.

**MAWD Summer Tour 2014.** The MAWD Summer Tour is scheduled for June 18-20, 2014, hosted in Stillwater. More information will be forthcoming. The office will make reservations as needed.

**Wilkin C.D. No. 41, Branch 4.** Mark Braton visited the office to discuss cleaning this ditch in Section 12, Atherton Township. Braton has concerns with the ditch breaking out and flooding cropland during high water events. H.E. would need to review the site and bring recommendations before the Board. **Motion** by Fjestad to authorize H.E. to conduct the review and provide repair recommendations. **Seconded** by Nelson. **Approved.**

**Staff Hiring.** The Board discussed having H.E. handle the hiring of full and part time staff members to work in the Barnesville office in accordance with the strategic planning completed by Donna Rae Scheffert, Leadership Tools. Van Amburg suggested authorizing Albright and Julie Jerger, Resident Secretary, to contact H.E.’s human resources department to discuss the details of this hiring. There was also some discussion about Opsahl being in the Barnesville office on a more frequent basis. Nelson voiced concerns about the Manager’s Handbook stating that Managers are delegated to hire employees. Albright responded that the Board could make a motion to amend the current contract with H.E. Changes in staffing that could be added to the contract addendum would include the addition of another full time employee in the Barnesville office, which would allow Jerger to move to a more specialized role, including the website and financial duties, and Eve Jerger, who currently works part time for the Board from home at a rate of $12/hr. would be hired through H.E. Job descriptions have been drafted for both the full time and part time positions for review. The Board discussed at great length the details and process of hiring additional staff. Ramona Barker, a past employee, has filed for unemployment compensation for which the office has received a bill. There was several questions concerning this issue, and Albright will follow up with Minnesota Unemployment Insurance office. **Motion** by Larson to authorize Albright to work in conjunction with H.E. to draft a proposal and seek out possible candidates for the additional office staff. **Seconded** by Fjestad. **Approved.**

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

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**Motion** by Nelson to approve payment of the bills. **Seconded** by Fjestad. **Approved.**

**Next Meeting.** The next regular meeting will be held on Monday, April 14, 2014, at 7:00 PM in our Barnesville office.

**Adjournment.** **Motion** by Fjestad to adjourn the meeting. **Seconded** by Nelson. **Approved.** Meeting adjourned at 9:30 PM.

Respectfully submitted,

John E. Hanson, Secretary