MINUTES FOR MANAGERS' MEETING
July 28, 2014

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, July 28, 2014, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Curtis M. Nelson, Peter V. Fjestad, John E. Hanson, Breanna L. Kobiela, and Catherine L. Affield. Houston Engineering Inc. (H.E.) Staff attending included: Erik S. Jones, Engineer, and Wade S. Opsahl, Technician. Also in attendance were Jay Nord, Carolyn Swenson, and William Steffl.

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

**Secretary's Report.** The Board reviewed minutes for the 06/23/14 regular meeting. **Motion** by Fjestad to approve the minutes. **Seconded** by Affield. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. The current balance of cash on hand is $1,541,152.95. Since the 07/14/14 meeting, we have received $26,163.79. Of that amount, $21,879.30 came from an additional State payment for the 2010 FEMA account. Lori Johnson, Clay County Auditor/Treasurer, told Albright on 07/21/14 that she would try to forward Clay County's 1st half ditch/project payment yet this week. On 07/25/14, we billed the Minnesota Department of Natural Resources (DNR) for Project No. 56, Manston Slough Restoration. The costs were divided by grant eligibility between the Department of Wildlife (Minnesota Board of Water and Soil Resources (BWSR) grant) for $38,270.85 and the DNR for $210,878.97.

**Carolyn Swenson South Branch Erosion.** Swenson discussed her concerns about an erosion site on her property in the NE¼, Section 6, Manston Township, along the South Branch of the Buffalo River. Jones met with Pete Waller, BWSR, Don Bajumpaa, Wilkin Soil and Water Conservation District (SWCD), and Yara Gonzalez, Natural Resources Conservation Service (NRCS), on site to review the problems on Swenson's property. Jones said that H.E. will conduct a survey on the outside of the channel in the next 2 weeks. He plans to submit repair recommendations for the Board's review at their 8/11/14 meeting and also recommendations for possible retention opportunities on Swenson's property. Fjestad discussed the need to work with the DNR to get the repairs done. Van Amburg noted that Swenson's property will be viewed by Clean Water Council (CWC) officials during their August tour. Jones mentioned that any non-state funding used for the "set aside" project on Swenson's property could be used as matching funds for the BWSR grant. The BRRWD would like to move forward with the repairs so remedial work could be done yet this fall to help alleviate some of the issues until a more comprehensive project for the South Branch of the Buffalo River is developed. Any work in the channel would require a DNR permit and probably an Environmental Assessment Worksheet (EAW). Van Amburg commented that a comprehensive project for the South Branch of the Buffalo River is a priority for the BRRWD.

**Army Corps of Engineers (COE) Right-of-Entry (ROE) Request.** Jay Nord, who represents the Upstream Coalition, asked the Board for an update regarding the COE's request for ROE to Minnesota lands in the upstream staging area of the proposed FM Diversion project to conduct surveys necessary for the design and construction of the Project. As one of the stakeholders on the Diversion Authority (DA) and as the local Watershed District for this area, the BRRWD has been asked to make the landowner contacts regarding the Access Agreements. Van Amburg explained the DA met with their Engineer Erik Dodds, AE2S, and other Moorhead officials to get answers to the BRRWD's questions regarding the ROE. To
date, the Board still has unanswered questions about the possible stage increases associated with the Oxbow/Hickson/Bakke (OHB) ringdike. Van Amburg explained that the Board will discuss the ROE issue at our 8/11/14 regular meeting with the possibility of a vote to send the landowner letter. The COE is anxious to get access to a number of properties to complete the surveys to provide information that for their study. The DNR is also interested in reviewing the survey results. The surveys will be used to identify potential Hazardous Toxic Radioactive Waste (HTRW), cultural surveys, geotechnical surveys, land surveys, and wetland surveys.

Nord asked if the BRRWD would be committed to using their right of eminent domain for general easement acquisitions for the Diversion project if they vote to move the survey work forward by agreeing to send the ROE letter. Van Amburg indicated that he hoped that landowners would sign the Access Agreement, and that court action would not be necessary. He pointed out that at this point, there have been no discussions regarding the use of condemnation. He said that the questions asked of the COE at the referenced meeting was what data/information they expected to collect from the survey and also, why they needed the survey information right now in light of the DNR's environmental review timeline. Nord commented that he understood that the environmental work was supposed to have been completed before the OHB dike was started. Now the DA is moving forward without a Minnesota agency (DNR) "on board". He discussed a number of landowner concerns about the Diversion project and the OHB ringdike. Van Amburg thought that the ROE agreements were needed regardless of the OHB dike status. He said we were waiting for more information from Moore Engineering, Inc., about the OHB work/impacts. Nord stated that since elected officials from the City of Moorhead and Clay County do not want to handle this issue, he felt that the BRRWD Board, who are appointed officials, shouldn't make an official decision on the "right of entry" either. Van Amburg agreed that the BRRWD is uncomfortable with the prospect of using eminent domain for the Diversion project. He added that agreeing to sign the survey request letter wouldn't be a BRRWD endorsement of the entire project. An extended discussion took place regarding the OHB dike, Minnesota's role in the Diversion project development process, and the possible upstream impacts.

**Permit No. 14-094, William Steffl.** Applicant proposes to install a tile main under Becker County Road (C.R.) No. 105 in the SE ¼ SE ¼, Section 17, Riceville Township, Becker County, for a future tiling project, which will require a separate BRRWD permit application. Steffl has discussed the project with the downstream landowner. **Motion** by Fjestad to approve Permit No. 14-094, subject to downstream landowner approval and Becker County Highway Department approval to work within their road right-of-way (r-o-w). **Seconded** by Nelson. **Approved.**

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

**Permit No. 14-011, Kurt Hovland.** Applicant proposes to install 148 acres of pattern tiling in the SW ¼, Section 5, Prairie View Township, Wilkin County, with a possible lift station outletting to C.R. No. 32 road ditch, eventually to Wilkin County Ditch (C.D.) No. 41. Part of this parcel is not assessed to C.D. No. 41. The office is compiling a mailing list so that we can schedule a hearing to add the unassessed land to the ditch system sometime this fall. **Tabled.**

**Permit No. 14-071, Curtis Stubstad.** Applicant proposes to install 199 acres of pattern tiling in the SW ¼, Section 1, and part of the SE ¼, Section 2, Elmwood Township, Clay County. Part of the requested land is not currently assessed to C.D. No. 58, and the landowner must first petition into the ditch system. The hearing to add and delete land from Clay C.D. Nos. 21/58 is scheduled for Tuesday, August 19, 2014, at 7:00 PM in the Watershed Office. **Tabled.**

**Permit No. 14-078, Richard Lee Wetland Restoration.** Applicant proposes to restore wetlands by scraping out the sediment and spoiling the material down the existing drainage ditches in Section 34, Parke
Township, Clay County. The application has been tabled, pending more information from the United States Fish and Wildlife Service (USFWS).

Permit No. 14-091, Beau Jacobson. Applicant proposes to install 123 acres of pattern tiling in the SW¼, Section 21, Keene Township, Clay County, outletting via a lift station in the southwest corner of the project crossing over the BRRWD boundary. Currently, Jacobson's land is within the Wild Rice Watershed District (WRWD), and Albright has been in contact with Kevin Rudd, WRWD Administrator, not only regarding this issue, but to discuss if the entire boundary between the BRRWD and the WRWD should be reviewed. We may have to go through a boundary change hearing at the same time as we address similar boundary issues with the Bois de Sioux Watershed District. Tabled.

Permit No. 14-093, Tim Thompson. Applicant proposes to replace a damaged 48" dia. culvert in a farmstead driveway in the NE¼, Section 24, Barnesville Township, Clay County, with a longer pipe of the same size. He plans to widen the driveway and would like to install a 48" dia. x 40' culvert. The new culvert will be placed at the same elevation as the existing structure. Motion by Fjestad to approve Permit No. 14-093. Seconded by Affield. Approved.

Permit No. 14-095, Charles Steiner. Applicant proposes to install 160 acres of pattern tiling in the NW¼, Section 35, Andrea Township, Wilkin County, outletting in the southwest corner to the C.R. No. 19 ditch, flowing south to the north ditch of Trunk Highway (T.H.) No. 210, eventually to Wilkin C.D. No. 37. Motion by Fjestad to approve Permit No. 14-095, subject to our standard tiling disclaimer, County approval to work within their road r-o-w, and downstream landowner approval. Seconded by Paradeis Kobiela. Approved.

Permit No. 14-096, Richard Scheffler. Applicant proposes to install 83 acres of pattern tile on the west side of a natural ridge along Wilkin C.R. No. 167 in the W½W½, Section 13, Atherton Township, eventually flowing south into Wilkin C.D. No. 42. The NW¼ is not assessed to C.D. No. 42. Tabled, pending further investigation.

Permit No. 14-097, Jeff Yaggie. Applicant proposes to install 155 acres of pattern tiling in the SE¼, Section 34, Andrea Township, Wilkin County, outletting via a lift station to the north ditch of T.H. No. 210. This project would follow the same path as the work associated with Permit No. 14-095 for Charles Steiner. Motion by Hanson to approve Permit No. 14-097, subject to our standard tiling disclaimer. Seconded by Fjestad. Approved. The Board briefly discussed the process of adding land to a ditch system.

Permit No. 14-098, Arland Anderson Wetland Restoration. Applicant is working with the USFWS to install three wetland restorations in the NE¼ in Section 4, Norwegian Grove Township, Otter Tail County. Jones noted that he has contacted the USFWS with elevation concerns and impacts to neighboring landowners. Tabled, pending more information from the USFWS.

Permit No. 14-099, Paul Kruger Wetland Restoration. Applicant is working with the USFWS to install three wetland restoration sites in the Section 4, Norwegian Grove Township, Otter Tail County. Jones noted that there would be no potential impacts to neighboring property and recommended permit approval. Motion by Hanson to approve Permit No. 14-099. Seconded by Fjestad, subject to our agreements with the USFWS regarding project impacts. Approved.

McEvers' Concern/Dubbels' Tiling. John and Paul Dubbels received Permit No. 14-018 on 03/10/14 to install tiling in S½SW¼, Section 16, Humboldt Township, Clay County. They indicated at that time they had approval from the downstream landowners, Grace and Wayne McEvers. Recently, it has come to light that the downstream landowners are unhappy with the work that disturbed more of their property than they expected and left the area in poor condition. The McEvers have contacted an attorney to have the property
restored. Albright has been asked to conduct a field review of the area, but to date, he has not had time to do the field inspection or meet with the landowners.

**Jeff Nord Culvert Concerns.** Nord filed a complaint with the Board on 07/14/14 regarding culverts operated by Ed Ernst in the NW¼, Section 35, Deerhorn Township, Wilkin County. Albright will meet with Ernst regarding Nord’s concerns.

**Project No. 75, Wilkin C.D. No. 31, Lateral.** Jones reported that we are waiting for the DNR to complete their 30-day review to process a permit for this project. H.E. is working on developing the landowner easements so that the work can be completed when we get the DNR permit.

**Project No. 74, Wilkin C.D. No. 51, Lateral.** The petitioner, Roger Minch, is considering revising or dismissing the current project proposal and starting over with a new petition bringing in two neighboring landowners. The Board will wait for contact from the petitioner before taking further action.

**Project No. 73, Country Heritage Ditch.** The office received a complaint about someone cutting tree branches and throwing them into the ditch. Opsahl removed the sticks that had apparently been blown off trees and had been piled up in the ditch by one of the landowners. The contractor, Steven Johnson Excavation, plans to complete the work after he finishes the multiblock site by Glyndon, weather/site conditions permitting.

Albright contacted Tim Brendemuhl regarding his crop damage claim. Opsahl had photographs of the area taken during the 2013 June rainfall event, showing that the culvert in question wasn't carrying any water at that time. Brendemuhl was also going to send his photographs. Brendemuhl did not have crop insurance on the field. He sharecrops the field with Attorney Andy Noah, who has threatened a lawsuit if this issue isn't resolved. Albright will continue to work with all parties to try to rectify this situation.

**Project No. 71, City of Moorhead 50th AVE S Flood Control.** The contractor, Gladen Construction, Inc, is still working on clean-up items. H.E. submitted Partial Pay Request No. 6 for $153,051.41. The City of Moorhead will reimburse the BRRWD for this expense through a DNR Flood Damage Reduction grant. **Motion** by Hanson to approve the pay request. **Seconded** by Nelson. **Approved.**

**Project No. 60, Sweet Grove Lake.** Albright plans to compile a chronological listing of events for the Board's review at the upcoming 08/11/14 meeting.

**Project No. 56, Manston Slough Restoration.** Gladen Construction, Inc. continues to make progress on the project. Jones submitted Pay Request No. 3 for $377,447.69. **Motion** by Nelson to approve the pay request. **Seconded** by Affield. **Approved.**

H.E. completed the survey along CSAH No. 26 east of T.H. No. 9 for the Dale Dinger easement. Once he receives this information, Albright will meet with Dinger to discuss his intentions about signing his easement. No further work has been done on the Stuehrenberg or VanWechel easements. We are waiting for the NRCS to complete the Wetlands Reserve Program (WRP) easements for those properties before the BRRWD can put our easements in place. Pay Requests were sent to the DNR for payment. There is nothing new from Attorney Tami Norgard, Vogel Law Firm, regarding the status for the Kent Rod-N-Gun Club condemnation.

**Project No. 49, Oakport Flood Control.** Albright continues to work with Norgard regarding contacting the Fishers and their spoil pile easement. Opsahl reported that he installed extra “no trespassing” signs on the BRRWD buyout properties.
Project No. 39, Georgetown Levee. Opsahl reported that work on the Greywind basement is nearing completion. We are still waiting for Schmidt Construction and Movers, Inc. to move the Greywind garage, but this is not holding up the project. Once Greywind moves out of his house, we can do the hazardous material inspections and then Reiner Construction, Inc. can complete the demolition when they come back to finish the project. The dikes were mowed today. As noted, we received an additional $190,000.00 from the DNR to finish this project. The DNR forwarded three copies of the contract for Board approval and signature. Motion by Fjestad to authorize Van Amburg to sign the contract on behalf of the Board. Seconded by Affield. Approved.

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). Jones discussed his repair recommendations for J.D. No. 1. It appears that only minor clean-out work would be necessary. Jones plans to file a report regarding a potential County line outlet ditch at the 08/11/14 Board meeting, which will include possible drainage impacts from the proposed Wolverton Creek/Comstock Coulee project. Opsahl has completed a timeline of the ditch system's history. Jones recommended that the Board consider holding an informational meeting with the ditch system landowners before making a decision about the scope of any repairs/modifications.

Project No. 14, Clay C.D. No. 10. Opsahl reported that the contractors have been hired, but haven't started yet. He noted that the wet weather conditions have slowed down construction progress this year. Fjestad commented that since the landowners did not plant the temporary r-o-w this year because of our project easements, the contractors need to get started as soon as possible.

Mediation Project Team (PT). The next meeting is tentatively scheduled for Thursday, September 25, 2014, at 7:00 PM in the Barnesville office.

South Branch of the Buffalo River. Jones has met with Pete Waller, BWSR, and Don Bajumpaa, Wilkin SWCD, regarding Carolyn Swenson’s erosion concerns in the NE¼, Section 6, Manston Township. There is a possibility that BWSR grant funding will be available to do some remedial work to help alleviate some of the issues until a more comprehensive project is developed. Jones hopes to have information regarding the Newman/Czichotzki Wetlands Reserve Program (WRP) site in Section 11, Manston Township, for the Board's review at their 08/11/14.

Barnesville Township Drainage Study. Jones reported that the BRRWD will be sending letters to the local landowners regarding surveying activity in their area.

WRP Sites. The Natural Resources Conservation Service (NRCS) is still working out details pertaining to the new Farm Bill.

Stony Creek Comprehensive Project. Albright and Jones have been reviewing possible alignments for a retention area along Interstate-94 (I-94).

Watershed District Enlargement. The Revised Watershed Management Plan (RWMP) update was discussed at the BRRWD's 07/22/14 special goal setting meeting. The Board placed working with landowners in the newly added area on the RWMP process on the immediate goal list. The deadline for completing this work is 05/31/15. Albright recommended that the next step in the process will be to schedule a least two landowner kickoff meetings for the new area in Breckenridge and Rothsay in early September. Notices would be sent to affected landowners/townships. Jones noted that the preliminary work has been completed, and the next step would be to hold the meetings to gather landowner input regarding areas of concern.

Becker C.D. No. 19. Jones reported that H.E. has completed the survey, and he expects to have the hydraulic analysis completed and recommendations for the outlet pipe on Rock Lake ready for the Board's
review at their next meeting. The Board briefly discussed how changing the outlet on Rock Lake will affect Rice Lake elevations, culvert sizing, and current existing structures. Hanson questioned if the Board should discuss this issue with Holmesville Township. Jones suggested that if the Board wanted, we could schedule a meeting with the Township when he completes his analysis.

**COE F-M Diversion.** On 07/23/14, Albright contacted Lee Beauvais, Moore Engineering, with questions pertaining to OHB ring dike. He requested copies of the hydraulic models they used to design the OHB ring dike and the latest diking plan. To date, he has not received a response. The Board briefly discussed how the OHB ringdike could affect flood stages and storage capacities on the Red River. Jones also described how the models are used to design the project. More information should be available at the upcoming 08/11/14 meeting regarding ROE surveys for Minnesota, which was discussed earlier in the meeting.

**Clay C.D. No. 9, 32 & 33.** The construction work has been completed, so Albright will prepare the final billing to BWSR. As soon as Opsahl completes the Viewer’s Reports/maps, the Board can meet with landowners. The redetermination of benefits hearings will probably be held early this winter. Jones suggested that the Board could authorize Albright to sign of the final pay request forms for the BWSR Clean Water Fund (CWF) grant so the request can be sent as soon as it is prepared. **Motion** by Fjestad to authorize Albright to sign the final billing paperwork for the BWSR grant. **Seconded** by Paradeis Kobiela. **Approved.**

**Minnesota Water Quality Certification Program (MAWQCP).** The Department of Agriculture is hoping that we can get more landowners certified. The program budget status was furnished to Wilkin & Otter Tail Counties.

**Buffalo River Total Maximum Daily Load (TMDL)/Watershed Restoration and Program (WRAP).** Mark Deutschman, H.E., is working with MPCA regarding a revised contract which will extend the project deadline. We are still reviewing the Environmental Protection Agency (EPA) comments received.

**Elkton Township Wetland Restoration.** Opsahl reported that he plans to meet with Buzz and William Ziegler, Ziegler Excavating, Inc., on site tomorrow. Ziegler plans to restart the project in the next few weeks.

**Clay C.D. Nos. 21/58.** Hearing notices have been mailed to the newspapers regarding Curt Stubstad’s petition to add and delete lands from Clay C.D. Nos. 21 & 58. The hearings will be held on 08/19/14 at 7:00 PM in the BRRWD office.

**Hawley Buffalo River Restoration.** Jones gave an update regarding the project status. We plan to open bids on 08/25/14. The Board discussed the proposed acquisition of Larry Cossette's property (0.312 acres) for $5,000.00. Corey Elmer, Attorney, Vogel Law Firm, has forwarded a purchase agreement to Cossette for his signature. The closing date is 08/22/14. **Motion** by Nelson to approve purchasing 0.312 acres of land from Larry Cossette for $5,000, which will eventually be turned over to the City of Hawley after the project has been completed. **Seconded** by Fjestad. **Approved.**

Jones also gave an update regarding the status of the acquisition of the other temporary access easements. Jones plans to publish two consecutive bid notices in The Forum next week and online. The bids will be opened at the Fargo H.E. office on 08/25/14, and Jones will have a recommendation for the Board at their meeting that night. The easements will need to be in place prior to project construction.

**2014 Ditch/Project Spraying.** Justin Johnson and Opsahl have prepared maps showing the location of scouring rush, cattails, and tree spraying. **Motion** by Affield to authorize the 2014 ditch/project spraying. **Seconded** by Fjestad. **Approved.** Opsahl reported that all the spraying will be done by L&M Road.
Service, who uses a ground vehicle, which has proven to provide much better coverage/control than helicopter spraying.

**Wolverton Creek/Comstock Coulee.** Jones is gathering information for the use of watershed management districts (wmds) and how they could be set up to collect fees from local landowners to provide project funding. H.E. working on GIS maps to provide the Board with examples of the range of fee rates based on a number of methods included in the BRRWD's RWMP. Jones plans to have the information ready for the Board's review at their 8/11/14 meeting.

**Whiskey Creek SWCD Funding.** Jones reported that Steven Johnson Excavating completed the Hough erosion site today. He submitted a final pay request for $29,325 to Johnson. **Motion** by Nelson to approve Pay Request No. 1-Final to Steven Johnson Excavation. **Seconded** by Paradeis Kobiela. **Approved.** Johnson will start on the Glyndon Township road ditch repair tomorrow, and then move on to the multi block wall repair.

Adam Grothmann, Northern States Excavating, Inc. is working on the Clay C.D. No. 5 outlet repairs. Jones submitted a partial pay request for $32,357 to Grothmann. **Motion** by Hanson to approve Partial Pay Request No. 1. **Seconded** by Affield. **Approved.** Opsahl will meet with Johnson on the multi block wall repair tomorrow. He thought that both of the remaining projects could be completed in the next several weeks.

**2013 Annual Report.** The Board received the draft 2013 annual report presented at the 7/14/14 meeting for their review. Van Amburg suggested that the Board approve it tonight, so the office can get it posted on the Website and notify BWSR by the 7/31/14 deadline. **Motion** by Fjestad to approve the 2013 annual report. **Seconded** by Paradeis Kobiela. **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.

Wilkin C.D. No. 41 Repair. Opsahl recommended the repair of a plugged channel and erosion site in Section 12, Atherton Township, downstream of County State Aid Highway (CSAH) No. 52. The area upstream of the highway was cleaned/repaired in 2010. The channel is plugged with trees, brush, and silt, and has some areas where it is significantly narrowed, causing breakouts/erosion to the south across fields in at least two locations. The work would be done with an excavator to remove the debris and sediment, and a dozer to level spoil. The opinion of probable cost is $8,000-$10,000. Motion by Fjestad to approve the repairs. Seconded by Paradeis Kobiela. Approved.

Clay C.D. No. 31 Repair. Opsahl recommended the repair of a plugged channel and slow drainage in Section 30, Elkton Township, and Sections 3, 4, and 5, Barnesville Township, downstream of I-94. Just west of I-94, there is a fallen tree that should be removed. Near the west side of Section 4, there are two areas where the north spoilbank has washed out and need repair. At the bridge between Sections 4 and 5, there is a beaver dam that should be removed. Throughout Section 5 and into Section 30, there are areas of fallen trees and old beaver dams that need to be removed. The opinion of probable cost is $4,000-$5,000. Motion by Fjestad to approve the repairs. Seconded by Hanson. Approved.

Wilkin/Otter Tail J.D. No. 2. Jones reported that the survey is scheduled for next week to analyze the Bradow repair. He explained that H.E. crews have been busy with construction staking, which takes priority over survey work. Fjestad will relay that information to the ditch system landowners.

Next Meeting. The next regular meeting will be held on Monday, August 11, 2014, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:37 PM.

Respectfully submitted,

John E. Hanson, Secretary