BUFFALO-RED RIVER WATERSHED DISTRICT

MINUTES FOR MANAGERS' MEETING

December 8, 2014

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, December 8, 2014, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Peter V. Fjestad, Troy E. Larson, John E. Hanson, Catherine L. Affield, and Mark T. Anderson. Houston Engineering Inc. (HEI) staff attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer.

Chairman Van Amburg called the meeting to order at 7:03 PM. He announced that the proceedings were being recorded to aid in the preparation of the minutes.

Secretary's Report. The Board reviewed draft minutes for the 11/10/14 regular meeting minutes. Motion by Affield to approve the minutes. Seconded by Fjestad. Approved.

Treasurer's Report. Albright presented the monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Current cash on hand is $484,579.33. The monthly administrative disbursements total $27,236.39 and year to date disbursements total $369,628.05. Since the 11/10/14 meeting, we received $566,720.02, primarily from Clay, Wilkin, Becker, and Otter Tail County 2nd half property/ditch tax proceeds. We also received payments from the Minnesota Board of Water and Soil Resources (BWSR) for the Minnesota Agricultural Water Quality Certification Program (MAWQCP) ($32,698.97) and the Minnesota Pollution Control Agency (MPCA) for the Upper Red River Total Maximum Daily Load (TMDL) Study ($4,035.75). Our total income for the year is $5,199,773.22. Two weeks ago, the office sent pay requests to the Minnesota Department of Natural Resources (DNR) for Project No. 56, Manston Township Restoration, totaling $510,478.51, the Hawley Buffalo River Restoration project for $200,230.87, and Project No. 39, Georgetown Levee Improvements for $57,351.51. We are also expecting a final payment from BWSR in the amount of $166,795 for the Conservation Drainage Management Grant for Clay County Ditch (C.D.) Nos. 9, 32, and 33. Motion by Anderson to approve the Treasurer's Report. Seconded by Larson. Approved.

Business brought before the Board included:

Permits. All the current permit applications have been tabled, pending further information. There were no new permit applications.

Irvin Halbakken Concern. Albright and Manager Troy Larson completed a field review on 09/25/14 with Halbakken to review his drainage concerns in the NW¼SW¼, Section 21, Tanberg Township, Wilkin County. Halbakken complained about the amount of upstream tiling and the constant water flow on his property. The water no longer stays in the ditch, but runs across his property to Wilkin C.D. No. 6A. He is concerned that increased/more frequent inundation might change his property's wetland classification/plants. Albright noted that there appears to be a Branch 2 (lateral) of C.D. No. 6A going into Section 16, which doesn't exist there today. At their 10/14/14 meeting, the Board authorized Jones to conduct an investigation of the C.D. No. 6A system. Jones completed his review and presented his report. He included maps from the November 1906 Engineer's Report for the establishment of Wilkin C.D. No. 6A. Based on aerial photographs and a review of the International Water Institute (IWI) LiDAR survey...
data, the original ditch’s northern extent appears to have ended at "Lovers Lane", which extends east from 195th ST, approximately 300' south of the east-west quarterline. From the evidence, Jones determined that a lateral north of 195th ST, as described in the original project petition, was never constructed. He suggested that a pipe could be installed through 195th ST to address some of Halbakken's concerns, which would require some additional ditch cleaning to get the water to C.D. No. 6A. Lands in the S½ of Section 21 are assessed to the ditch system, but land in the N½ is not. Jones also noted that land in Section 22, Tanberg Township, is not assessed to the system, although it is clearly draining that way through natural/tile drainage. He suggested that a redetermination of benefits might be necessary to add these lands to the system if a pipe were installed in 195th ST. Halbakken and/or Tanberg Township would need to obtain a BRRWD permit to install additional culverts and repair existing drainage ditches. **Motion** by Fjestad to authorize Albright to forward Jones’ report to Tanberg Township and Halbakken. **Seconded** by Affield. **Approved**.

Scott McCaslin Tiling Outlet Concern. Manager Hanson reported that he met with McCaslin and his neighbors to encourage them to work together to find a solution to their drainage/tiling dispute in the NW¼, Section 24, Hamden Township, Becker County. He intends to keep in contact with the landowners and update the Board.

**Project No. 77, Clay C.D. No. 51, Lateral No. 3.** The Preliminary Hearing for this project has been scheduled for Monday, January 5, 2015, at 7:00 PM, First Floor Council Chambers, Moorhead City Hall. Notices will be mailed to the affected parties.

**Project No. 75, Wilkin C.D. No. 31-Lateral.** Jones reported that the field survey work for the easements was completed 12/01/14, and HEI is working on completing the easement drawings for the Board's review by the 12/22/14 meeting. The wetland delineation report has been completed, and no impacts were noted. Jones is working with Wilkin County to submit a Conditional Use Permit (CUP) application.

Albright met with Steve Neppl and Dan Swedlund, Wilkin County Highway Department, last week to discuss the 16 recently transferred drainage systems. The County plans to continue with their proposed work to complete the ditch system repairs they have already started. The work on all the drainage systems, which will include grade line restoration, sloping, side-inlets, and buffer strips, is scheduled to be completed in 2016.

**Project No. 71, City of Moorhead, 50th AVE S.** The contractor, Gladen Construction Inc., plans to replace the seals on a 48” dia. sluice gate to address an opening problem. This is the final item remaining on the punch list. Jones said the work won’t be done now until next spring, and the contract will remain open until the seals are replaced and the new grass seeding is established. Albright noted that we will use a small amount of our new wetland banking credits in Elkton Township, Clay County, to mitigate some wetland impacts for this project.

**Project No. 56, Manston Slough Restoration.** The Stuehrenberg easement will not be finalized until the Natural Resources Conservation Service (NRCS) Wetlands Reserve Program (WRP) easement contract is in place. The Commissioners' condemnation hearing for the Kent Rod and Gun Club easement was held on 10/28/14. No landowners appeared to contest the Appraiser's easement valuation ($0). Tami L. Norgard, Attorney, Vogel Law Firm, has filed all the necessary paperwork, and hopes to have a decision from the Court in the near future. The DNR Dam Safety Permit is also pending the acquisition of Stuehrenberg's easement. Albright noted that he will submit a "Success Story" regarding the Manston Slough Restoration project to the Red River Basin Commission in conjunction with their Annual Conference in Winnipeg on January 20-22, 2015.
At their 11/24/14 meeting, the Board agreed to release $100,000 of our project grant amount in response to a request from Pat Lynch, Floodplain Hydrologist, DNR Ecological and Water Resources. We still have approximately $600,000 left in the grant. Lynch forwarded an amended grant agreement to reduce our funds by $100,000 and to extend the grant until 09/30/15. **Motion** by Hanson to authorize signature of the DNR Grant Amendment No. 8. **Seconded** by Fjestad. **Approved**.

Albright reported that we are still waiting for the Gladen Construction, Inc., project site rainfall records in regards to Terry Czichotzki’s crop loss claim in Section 7, Manston Township. HEI has scheduled a meeting with the contractor this week to review this issue and to finalize the project costs/change orders.

**Project No. 54, Whiskey Creek Tributaries.** Jones reported that he filed an amendment to the original DNR permit application for the channel cleanout through the impoundment area in Section 14, Barnesville Township, on Tim Thompson’s property. BWSR has reviewed and approved the cleanout project, and the DNR application amendment required a $150 filing fee, which the Board approved at their 11/24/14 meeting. Albright expects the DNR to issue the necessary permit in the next few weeks.

The channel cleanout for the Scott and Betty Anderson property will also be completed next year when conditions permit. Wade Opsahl, HEI Technician, will meet with the Andersons this winter to review the proposed work to be sure that they understand the project and that it meets their expectations.

Dave Jones, Area Engineer, in the Thief River Falls NRCS office, has reviewed the Kelly Nichols NRCS WRP site in Section 21, Humboldt Township, Clay County. The water in the impoundment was lowered this summer due to muskrat problems on the embankment. NRCS has recommended that the embankment be removed and suggested that they could complete their conventional wetland restorations to replace the embankment. The Board discussed the operation of the WRP site. A meeting has been scheduled for 10:00 AM on Monday, January 26, 2015, with NRCS staff, Albright, and Erik Jones to discuss possible repair options. The Board discussed other WRP sites that the NRCS constructed where maintenance/outlet concerns have become issues. A potential problem with the WRP is the fact that NRCS doesn't appear to have the funds to properly maintain the sites, or correct problems when they arise.

**Project No. 49, Oakport Flood Mitigation.** Albright noted that we still haven't received any word from the Fischer Family regarding our spoil pile easement on their property. The BRRWD has been trying to finalize negotiations with the owners to continue to use their site to store material for the project. Now that things have quieted down some in the Watershed office, Albright will revisit this issue.

The Board still hopes to get funding from the 2015 State Bonding bill to complete the project in 2015. We need approximately $5.26 million to complete Phase 4. Albright is meeting with the City of Moorhead on 12/11/14 to discuss the needed funding and strategies to obtain it. The project area in Oakport Township will become part of the City of Moorhead on January 1, 2015.

**Project No. 39, Georgetown Levee.** BRRWD Attorney Corey Elmer, Vogel Law Firm, is working with Congressman Collin Peterson's office on the negotiations with the Housing and Urban Development (HUD) to finalize the Greywind mortgage transfer. The DNR has extended the grant until 12/31/15. The hazardous materials inspection of Greywind's old house has been completed, but mitigation cannot be started until the Greywind acquisition is final. HEI has assembled a punch list for the contractor to finish next spring when conditions permit.

The BRRWD acquired Josh Wambach's property for the project in exchange for giving him a lot on the east side of Trunk Highway (T.H.) No. 75 and a buyout out house that he moved at his own expense. His father, David Wambach, notified the office that the bank they are working with to obtain a home loan is requiring Josh to purchase flood insurance. Wambach has asked the BRRWD to furnish elevation
information to be used to prove he doesn't need flood insurance. Jones noted that Wambach will need to check with Tim Magnusson, Clay County Planning and Zoning regarding an application to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision (LOMR). He will need to add fill to his lot and shape it according to FEMA guidelines to be eligible a flood insurance exemption. Magnusson also has certain criteria that must be met before he will sign off on a LOMR application. Albright will provide the requested elevation information and also provide information regarding the insurance exemption process to Wambach. The Board felt that they or the project was not responsible for dealing with this issue, but is willing to work with/help Wambach in this regard.

**Project No. 30, Clay/Wilkin Judicial Ditch (J.D.) No. 1.** Albright will prepare a draft petition for a diversion on the county line for the petitioners' review this week. Benefited landowners have been anxious to get started on this process. Wade Opsahl, Field Technician, HEI, will conduct the annual field review with the ditch committee (Lynn Brakke, Carl Nord, Paul Anderson) next Tuesday.

**Project No. 19, Becker C.D. No. 21.** Albright will prepare a draft petition for Jerry Matter, who has requested the relocation of a portion of the ditch on his property in the northwest corner of the SE¼, Section 10, Riceville Township.

**Mediation Project Team (PT).** The next PT meeting has been scheduled for January 8, 2015, at 1:30 PM in the BRRWD office in Barnesville. HEI has completed the survey work for the Barnesville Township Area Drainage Study. Jones plans to have a comprehensive report ready for the PT's review for that meeting.

**South Branch of the Buffalo River Erosion Concerns.** At their 11/24/14 meeting, the Board authorized Jones to prepare a concept plan for an area between T.H. No. 9 to Wilkin County Road (C.R.) No. 30, including setback levees, channel restoration, and possible retention sites in the S½, Section 5, Manston Township, and the Neumann WRP site in Section 11, Manston Township, east of T.H. No. 9.

**WRP Sites.** The Board authorized HEI to prepare the preliminary survey report for the Haick/Peppel site. The Board has also decided to move forward with the Reep Lake site in Becker County. The landowners would like to have the easement/plans finalized before they leave for the winter. The Board briefly discussed Jones' proposal for the site. Albright will prepare an easement acquisition summary for the Board's review at their next meeting. Easement options could be ready to present to the landowners soon after the 12/22/14 BRRWD meeting.

**Stony Creek.** Albright suggested that the Board dedicate their second meeting in January to a discussion of a comprehensive project for the Stony Creek area.

**Revised Watershed Management Plan (RWMP)/Watershed District Enlargement.** Albright explained that due the number of items that must be addressed according to BWSR guidelines prior to holding the kick-off planning meetings for the RWMP, he rescheduled the proposed December meetings for Tuesday, January 13, 2015, at 7:00 PM in the Rothsay Community Center, and Thursday, January 15, 2015, at 2:00 PM, Court Room, Wilkin County Courthouse, Breckenridge. Notifications will be sent to Township and City officials in the new area, plus a meeting announcement will be published in the local newspapers. The RWMP process will be the special topic for the 12/22/14 Board meeting.

Landowner Mike Fuder contacted the office with a complaint about how his property was split when it was added to the new area of the BRRWD in Otter Tail County. The property in question is located in Section 6, Fergus Falls Township. He is now receiving two property tax statements: one for the land out of the BRRWD and one for the 30 acres that is in the BRRWD. Fuder doesn’t think his property drains into the
BRRWD. Albright will investigate and contact Fuder. Fjestad also visited with Fuder regarding this issue. The BRRWD and the Bois de Sioux Watershed District will schedule a meeting to discuss boundary issues in the near future. This might be an opportunity to correct Fuder’s issue if it is a legitimate concern.

**Army Corp of Engineers (COE) F-M Diversion.** Albright reported that he has been working with Attorney Norgard to prepare the Right of Entry (ROE) letters that will be sent tomorrow to six area cemeteries potentially involved with the Diversion.

Manager Larson asked for further discussion about a letter the BRRWD received from Tim Fox, Wilkin County Attorney, regarding BRRWD permitting jurisdiction in association with the COE’s Oxbow/Hickson/Bakke (OHB) ring dike construction and future project components located within the BRRWD. In the letter, Fox pointed out that the COE claims that since the Diversion project is a Federal project, they don’t need local/state permits to proceed. Attorney Norgard has been contacted regarding this question. Manager Anderson noted that his Township (Holy Cross) also engaged an attorney to research this issue. Anderson asked their attorney forward his findings to Attorney Norgard for her reference. Attorney Norgard noted that the issues Attorney Fox brought up are already being reviewed in various Court claims. She advised the Board that they should consider to what extent they wish to become involved in this issue prior to a court decision. The Board had an extended discussion regarding this issue. Norgard agrees with the Board’s approach to at least wait for the Minnesota Environmental Impact Statement (EIS) to be completed by the DNR before taking any action in this regard.

**Minnesota Agricultural Water Quality Certification Program (MAWQCP).** A Steering/Advisory Committee meeting for the Whiskey Creek Pilot Area was held 12/03/14. Albright noted that they had good attendance. Otter Tail and Wilkin Counties are working with a number of producers involved with the certification process. Albright and Jones will meet with agency personnel on 12/11/14 to discuss the Fiscal Year (FY) 2015 budget. Albright noted that this 3-year program ends on 06/30/16.

**MAWD 2014 Annual Meeting and Trade Show.** The Minnesota Association of Watershed Districts’ (MAWD) Annual Meeting was held December 4-6, 2014, in Arrowwood Conference Center in Alexandria. Albright participated in a presentation on the MAWQCP pilot project during the conference. The Board discussed the MAWQCP program and the Knowledge, Attitude, and Practices (KAP) survey results.

Jones noted that the International Water Institute (IWI) RRBIN Website contains a map showing sites with water quality data. Albright noted that the BRRWD should consider if we want to change some of the BRRWD water quality monitoring sites this year. A goal this winter would be to meet with the agencies to review the data, and perhaps hold a public informational meeting regarding water quality.

Van Amburg noted that Albright was named the "Outstanding Watershed Employee of the Year" at the Conference.

**32nd Annual Red River Basin Commission (RRBC) Summit.** The RRBC Conference will be held in Winnipeg on January 20-22, 2015. The office has submitted reservations and conference registrations for Albright and Managers Fjestad, Van Amburg, and Hanson. Other interested in attending should contact the office for information/reservations.

**Elkton Township Wetland Restoration.** Albright noted that there are still a couple of State easements documents that the landowners need to sign. Albright thought we might be able to get this completed during the Holidays. Jones noted that the final pay request for Ziegler Construction, Inc. should be submitted at an upcoming meeting. They are waiting for Ziegler to move his equipment off the site. Albright noted that Chuck Anderson will be submitting a crop loss claim, resulting from the contractor
leaving the project outlet blocked over the 2013 and 2014 cropping seasons. Albright thought that the contractor would be responsible for the claim.

**Hawley Buffalo River Restoration.** Jones submitted Pay Request No. 2 for $221,043.48 and Change Order No. 2 to add $5,000 for floating silt fence per MPCA requirements. **Motion** by Hanson to approve the pay request and change order. **Seconded** by Fjestad. **Approved.**

**Wolverton Creek/Comstock Coulee Clean Water Fund (CWF) Project.** Albright noted that we have received new information regarding potential project funding from Keith Weston, NRCS, for this channel restoration project. He has indicated that the project might be eligible able to get some of the $50 million federal funding set aside for water quality/flood diversion projects in the new Farm Bill.

**Curtis M. Nelson Retirement Party.** A retirement open house will be held on December 12, 2014, at the Galaxie Supper Club from 5:00 PM-8:00 PM. Invitations have been sent to the BRRWD's Advisory Committee, an advertisement was published in the newspapers, and e-mail notifications were sent to the PT members.

**Wilkin County Ditches.** As noted earlier in the meeting, Albright met with the Wilkin County Highway Department, regarding the County ditch systems. Cash on hand in the various ditch system accounts is approximately $478,658.03, which the County plans to transfer to the BRRWD. The Board discussed ditch system repairs the County has agreed to complete. There also might be few systems that will need a redetermination of benefits. Albright will prepare a memo of their discussion, including a list of the proposed ditch repairs for the Board's review. Fjestad asked if the County had turned over the access key for the Lake Oscar stop log outlet. Albright will check on the status of the key. He noted that he and Fjestad should meet with Otter Tail County regarding a redetermination of benefits for Wilkin/Otter Tail County Judicial Ditch No. 2 and their possible ditch transfers.

**Project No. 49, Oakport Township Flood Mitigation.** Albright passed around a City of Moorhead map showing snowmobile trails in Oakport Township. He observed that none of the trails are directly on the dike.

**Meeting/Hearing Schedule.** Albright noted that there are quite a few hearings/meetings scheduled in January.

### The following bills were presented for approval:

<table>
<thead>
<tr>
<th>Accounts Payable</th>
<th>Description</th>
<th>Account</th>
<th>Amount</th>
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<td>#831, 5904 Broadway ST NW demo</td>
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<td>$85.00</td>
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<tr>
<td>Bruce E. Albright</td>
<td>MAWD Lodging (7)</td>
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<td>10/04/14-11/03/14 utilities</td>
<td>Admin.</td>
<td>$417.39</td>
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<tr>
<td>Clay Co. Auditor/Treasurer</td>
<td>Becker Co. bond sale collections</td>
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<td>Pj. 49, Oakport</td>
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<td>Dakota Fence</td>
<td>#156078, north embankment (2)</td>
<td>Pj. 56, Manston</td>
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<td>H.E.</td>
<td>November billing summary</td>
<td>Varies, see attached</td>
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<td>11/30/14 billing (5)</td>
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<td>North Central JPB</td>
<td>Todd Andresen Sed Basins design</td>
<td>M.S.A. 103D.905, Sub. 3</td>
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<td>Office supplies-postage (2)</td>
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<td>Reiner Contracting, Inc.</td>
<td>Pay Request No. 2</td>
<td>Hawley Buffalo River</td>
<td>$221,043.48</td>
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<td>RMB Laboratories, Inc.</td>
<td>#243339, outlet analysis</td>
<td>Pj. 46, Turtle Lake</td>
<td>$28.00</td>
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Simply Delicious Catering, LLC  #1190, 12/03/14 Committee dinner  MAWQCP  $ 120.23  
The City of Dilworth  #12214, 2014 mowing/spraying  Clay C.D. No. 50  $ 6,700.00  
Troy Larson  Voucher #14-36, 09/01/14-10/31/14  Admin/Pj. 30  $ 272.75  
West Ottertail SWCD  06/01/14-11/30/14 billings  MAWQCP  $ 5,504.00  
WREC  10/19/14-11/19/14 billings (2)  Pj. 46, Turtle Lake  $ 58.99  
Xcel Energy  10/25/14-11/22/14 billings (2)  Pj. 49, Oakport  $ 86.18  
$ 380,365.61  

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

**Terrain Analysis 2012 CWF Report.** The Board authorized Albright to sign the final financial report for this grant.  **Motion** by Anderson to approve the referenced signature.  **Seconded** by Fjestad.  **Approved.**

**Office Utilities.** Excel Energy has completed installation of the natural gas piping to our office. We are now waiting for Agassiz Valley Mechanical to hook up the heating system. In the meantime, Albright will order another propane delivery, so the office doesn’t run out of fuel.

**Meeting Minutes.** Manager Affield requested that the office prepare and mail the current meeting minutes before the next meeting. Albright said the office will try to be sure that the Managers receive the most current set of minutes prior to meetings. Albright also noted that the office should be able to have a draft 2014 annual report ready by the end of January.

**Manager's Terms.** Albright noted that several of the current Managers' terms are expiring in 2015. Larson, Kobiela, Hanson, and Fjestad's terms will be expiring on 8/31/15. The affected counties will be notified after the first of the year.

**BRRWD Lobbyist.** The Board discussed their contract with BRRWD Lobbyist Joel Carlson, which will be up for renewal in 2015. Currently, the BRRWD pays Carlson $850/month ($10,200/year). Albright noted that the Red River Watershed Management Board (RRWMB) pays for a Lobbyist that represents all Districts that are members. The Board would like Carlson to provide a report of his work for the BRRWD for their review. The contract will be discussed at the BRRWD's annual meeting on 01/12/15.

**Laserfiche Digital Document Storage.** The Board plans to meet with a sales representative from Solbrekk Business Technology Solutions to discuss the use of their technology to scan and digitally store the BRRWD paper records. A number of other Watershed Districts have adopted this technology. Affield offered to attend the meeting with Solbrekk. Albright suggested that the HEI's Information Technology (IT) Manager should also attend, as he is familiar with our office systems. The Board agreed that this type of change would take planning. Solbrekk is currently working with the City of Barnesville, and when in the area, one of their representatives will stop by our office.

**QuickBooks Financial Records.** The Board discussed the status of the updating the bookkeeping system. Fjestad knows of someone in the Fergus Falls area that might be able to help with our system reports.

**Next Meeting.** The next regular meeting will be held on Monday, December 22, 2014, at 7:00 PM in our Barnesville office.

**Adjournment.**  **Motion** by Anderson to adjourn the meeting.  **Seconded** by Van Amburg.  **Approved.** Chairman Van Amburg adjourned the meeting at 9:30 PM.

Respectfully submitted,

John E. Hanson, Secretary