The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, June 27, 2016, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, John E. Hanson, Mark T. Anderson, Breanna L. Kobiela, Catherine L. Affield, and Peter V. Fjestad. Others attending included: Bruce E. Albright, Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); United States Congressman Collin Peterson, Minnesota 7th District; State Senator Larry Luick, North Dakota 25th District; Shelly Lewis, Pat Otto, Don Nelson, and Dean Nelson, MNDAK Upstream Coalition; and landowners: Lauren Peterson, John Ready, Jay Nord, Darin Brandt, Carol Moeckel, Andrew Brewer, Greg Ard, Marcus Larson, Jerry Janssen, and Bradley Nelson.

Chairman Van Amburg called the meeting to order at 7:06 PM and 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 06/13/16 and the 08/10/09 regular meetings. Affield noted several minor corrections. **Motion** by Anderson to approve the minutes, subject to correction. **Seconded** by Affield. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Cash on hand is -$266,929.65, which includes the Midwest Bank Line of Credit balance. R. J. Zavoral and Sons, Inc., called the office to request their check, which we had been holding while waiting for the Minnesota Department of Natural Resources (DNR) to forward reimbursement for Project No. 49, Oakport Flood Mitigation. Albright transferred funds from the Line of Credit to cover that check. Albright noted that Becker and Otter Tail Counties both remitted tax payments recently, which we did not have time to add to tonight's financial reports. The total income for the year, excluding those two checks, is $1,847,865.92, and income to date since the 6/13/16 meeting is $412.75 from Minnesota Pollution Control Agency (MPCA) for the Upper Red River Total Maximum Daily Load (TMDL). Albright plans to contact the Clay County Auditor regarding remittance of their 1st half 2016 property and ditch system tax payments.

Midwest Bank prepared paperwork to extend the BRRWD's Line of Credit for two months to keep the current loan in place through the end of August. **Motion** by Fjestad to authorize Albright and Treasurer Anderson to sign the Midwest Bank Line of Credit extension. **Seconded** by Kobiela. **Approved.**

**Congressman Collin Peterson.** Albright discussed the Ag Field Day event held last Thursday at the Nordick Farm near Rothsay and conversations he had with Congressman Peterson regarding flood damage reduction (fdr) and the utilization of drainage tile as a possible fdr tool. Albright mentioned three sites within the BRRWD where tile drainage practices are being studied, including the Nordick Farm, which is associated with the Discovery Farms Minnesota's water quality research and education program.

Congressman Peterson commended the BRRWD for its leadership in water management in the Red River Valley and encouraged the Board to continue their efforts. He added that Albright is a very valuable asset for the BRRWD. The Congressman mentioned that a number of State and Federal officials attended an Ag Field Day with him on June 4th, and he discussed some of the information they found most relevant regarding water quality and drainage tile. He also commented on the various programs/funding sources that have been put in place to address fdr needs in the Red River Valley, and he noted that the F-M Diversion project has a
number of potential problems that will need to be dealt with before the project can be completed. Congressman Peterson related a conversation he had with Diversion representatives regarding the issue of permitting and their desire to move forward with the Diversion inlet structure. He encouraged them to work with the upstream landowners to find a way to develop the project while addressing upstream concerns in order to present a "united front". Peterson observed that given the fiscal climate in Washington, if the Diversion project gets bogged down in lawsuits, federal funding will be difficult to obtain, and the Diversion might never be built. He discussed Natural Resources Conservation Service (NRCS) and Minnesota Board of Water and Soil Resources (BWSR) programs like the Environmental Quality Incentives Program (EQIP) that were developed to help pay for tiling/retention projects with outlet control structures and conservation drainage to implement drainage water management practices. He expressed his belief that drainage tile installations could be a significant fdr tool in the Red River Valley if they use conservation drainage practices (structures).

Albright noted that the BRRWD is working on a Rules update, which will incorporate recommendations/requirements for tiling projects that could include water management strategies on all tile projects. Van Amburg commented that when tiling first started to become popular, the tiling companies were not interested in encouraging water management practices/features because of the installation time and costs. The group had an extended discussion about how to identify areas where implementing water management features could have the most fdr and water quality benefits.

Congressman Peterson asked how the Diversion Authority plans to use the power of eminent domain to acquire flowage easements in the upstream staging area. Albright suggested that Clay County, the Cities of Fargo and Moorhead, and the Army Corps of Engineers (COE) could all have the ability to use eminent domain on private property. Peterson thought that the counties might be reluctant to assert that power and was skeptical that the COE had the power to use eminent domain. He pointed out that the COE has not yet even applied for a DNR permit for the project, and they can't apply for a permit until the DNR completes their Final Environmental Impact Statement (EIS). In addition, North Dakota permitting has not been completed.

North Dakota Senator Larry Luick commented on a conversation he had today with Garland Erbele, the new North Dakota State Water Commissioner, who indicated that he doesn't plan to act on the pending Diversion project permit application until he has more input regarding the project, and he plans to visit the area on July 11, 2016. Senator Luick added that there are many North Dakota Legislators with concerns about the project and its potential to "drive a wedge" between Minnesota and North Dakota. Congressman Peterson noted that the DNR could potentially deny a permit for the project based on its public waters impacts and the high hazard dam.

Senator Luick discussed the benefits of tiling for both poor agricultural land and the most productive land. He also talked about farming techniques to incorporate more organic matter to increase soil absorption rates. The group wrapped up their discussion regarding water management and the benefits of tiling by agreeing that more information needs to be disseminated to the public regarding this issue. The Board thanked Congressman Peterson for his interest and support.

Other Business brought before the Board included:

**Permit No. 16-053, City of Moorhead.** Applicant proposes to install street and underground utility improvements for Phase 3 of the Village Green 6th Addition in the SW¼, Section 22, Moorhead Township, Clay County. The proposed project is in accordance with the City's master drainage plan, and the project's water goes to an existing regional storm water pond. Jones reviewed the proposal and recommended permit approval. **Motion** by Hanson to approve Permit No. 16-053. **Seconded** by Fjestad. **Approved.**
Permit No. 16-005, Polar Communications. Manager Anderson noted that Polar Communications has been working on their buried fiber optic cable installation near Wolverton. Jay Nord reported that the telephone company accidentally filled in a few culverts during excavation, and he called the Wilkin County Engineer regarding the issue. He said there is still one culvert that remains partially plugged. Nord pointed out that overall, Polar is doing a good job on their project. Manager Anderson commented on pipeline work west of Barnesville, and Albright explained that the BRRWD is not involved with that project.

Clay/Wilkin County Line Drainage Concerns. Albright forwarded a draft petition to landowners Matt Ness, Mark Askegaard, and Luther Blilie for review for a potential new legal drainage system along the north line of Section 6, Wolverton Township, Wilkin County, on the south side of the county line west of T.H. No. 75. To date, there has been no response from the landowners. If they decide to go ahead with the petition, they will need to obtain the signatures of the landowners where the proposed ditch will be located and post a $10,000 petitioners' bond with the BRRWD.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. Jones reported that the Minch Family has successfully negotiated the purchase of the Robert Norby property in Section 28, Kragnes Township Clay County, where the proposed lateral was to be built. The Minch Family has dropped their Federal lawsuit against the BRRWD, and now the only litigation left is between the BRRWD and Norby. Jones visited with Roger Minch regarding the proposed project. Minch would like to remove the existing dikes on the former Norby land, and the remove the "guillotine" structure on the north line of the property to restore the natural drainage in the section. He will submit a permit application for this proposed work at an upcoming meeting in July. Minch thought that if drainage is still an issue, he will consider tiling the field.

Albright will check with BRRWD Attorney Tami Norgard, Vogel Law Firm, regarding the legal process to dismiss the proposed project, and to determine who is responsible for the $10,000 deficit in the project financial account. If the project is dismissed, there will be no benefited parties to assess for the outstanding project costs.

Project No. 49, Oakport Flood Mitigation. The Board had an extended discussion regarding concerns from landowners in Oakport, Rozanne and Kelly Larson, who represent Rose Kopperud, regarding the Phase 4 project construction. Century Link is moving their telephone cable to the west side of Broadway ST NW. Their contractor, Master Construction, Inc., didn't provide a suitable traffic detour plan and just rerouted traffic through the area via a temporary field road around the work area. Larson contacted Century Link with allegations that they were trespassing on her property, and they subsequently stopped work. She also contacted a "whistle blower" hotline from KVLY Valley News Live, and Albright provided the Board with copies of the news article that was published regarding the traffic issue. Albright pointed out that the BRRWD has easements on all of the property where Century Link is working, and the rest of the property on the west side of Broadway ST is owned by Karl and Julie Goehring, not Larson's mother, Rose Kopperud. After discussion, the Board thought that Larson should be notified that her harassment of the contractors and false allegations could delay progress on project construction, costing the BRRWD time and money, which could expose her to potential financial liability if the contractor doesn't meet his project completion deadline. Motion by Fjestad to authorize Attorney Norgard to send the letter to Larson regarding the BRRWD's referenced concerns. Seconded by Affield. Approved.

The Board briefly discussed a tree/debris pile the Township left after removing trees in 2009 for the project, which is now located on BRRWD property within the City of Moorhead. Albright explained that the City will not let us burn the pile, so we should get a bid from our contractor R. J. Zavoral and Sons, Inc. to bury it. Albright also noted that the Fischer family still has not responded to our most recent offer regarding our temporary easement payment.
**Project No. 48, Clay C.D. No. 59.** Jones submitted Pay Request No. 1 in the amount of $23,634.14 for Tim Crompton Excavating. Jones expects Crompton to complete his work in the next two weeks. Albright explained that the BRRWD is working directly with TrueNorth Steel to purchase the project materials. Crompton will adjust his contract amount to subtract the culvert costs, but he will still be paid for the pipe installation. Jones noted that the BRRWD can buy the culverts at a lower cost than Crompton. **Motion** by Anderson to approve the referenced pay request and culvert purchase arrangement. **Seconded** by Fjestad. **Approved.**

**Project No. 30, Clay/Wilkin Judicial Ditch (J.D.) No. 1.** In accordance with Minnesota Statutes Annotated (M.S.A.) 103E.238, Albright forwarded the petition for a diversion on the county line to BRRWD Attorney Tami Norgard, Vogel Law Firm, for her review. The petition is for an outlet diversion to take water out of J.D. No. 1 to flow west along the south side of the county line to Wolverton Creek. Albright explained that the property description information the landowners submitted on the petition was hard to understand, so he will work with Norgard to get her interpretation of the petition to determine if it is valid.

**Project No. 14, Clay County Ditch (C.D.) No. 10.** HEI prepared the contract for R. J. Zavoral and Sons, Inc., East Grand Forks, MN, who was the low bidder at $79,218 for the two proposed slope failure repairs along 130th AVE N in Section 13, Kragnes Township, and Section 16, Morken Township. Jones noted that Zavoral has not yet provided proof of insurance, so contract approval should be contingent on receipt of copies of their liability insurance. The contractor plans to start the work within the next two weeks. Albright forwarded the bid information to the Townships for their review, and to date, there has been no response. **Motion** by Anderson to award the repair contract to R.J. Zavoral and Sons, Inc., subject to receipt of their certificate of insurance. **Seconded** by Fjestad. **Approved.**

**Mediation Project Team (PT).** The next PT meeting will be held on Thursday, August 18, 2016, in the Barnesville office at 7:00 PM. The Fall Tour has been tentatively scheduled for Thursday, September 8, 2016.

**Upper South Branch of the Buffalo River.** Albright and Jones will prepare a mailing list of all the agencies with easements/interests in the proposed project area and the Townships to schedule a meeting to discuss the Phase 1A project concept, which is a restoration project in the upstream reaches of the South Branch of the Buffalo River east of T.H. No. 9.

**Wetlands Reserve Program (WRP) Sites.** Albright noted that we will need to continue conversations with the NRCS regarding funding for possible WRP sites. The Board briefly discussed retention/water quality information related to the Nordick site and some of the items regarding WRP site development that the Legislators discussed earlier in the meeting.

**Stony Creek Off-Channel Storage Site.** Albright will provide easement value information for the Board's review at an upcoming meeting. A landowner meeting might be scheduled at the end of August (Potato Days) to discuss project design and development.

**Red River Watershed Management Board (RRWMB).** The Board had a brief discussion regarding concerns raised at the last RRWMB meeting.

**Watershed District Enlargement (WDE)/Revised Watershed Management Plan (RWMP).** Albright is working on his review of the draft RWMP. No BWSR grant funding will be available for projects in the new BRRWD area until the RWMP is completed. The Wilkin Soil and Water Conservation District (SWCD) and the County is eligible to apply for grants, and Albright commented that Wilkin County has been very successful in past years in obtaining funds.
FY 2017 Clean Water Fund (CWF) Grants. BWSR’s 2017 CWF Grant application period will run from 06/27/16 until 08/08/16. BWSR has about $8.9 million available for Projects and Practices, Accelerated Implementation ($3.5 million), and Multi-Purpose Drainage ($875,000). All grants require 25% local matching funds. Albright and Jones will set up a meeting with the Wilkin SWCD to discuss this funding opportunity. Albright will also contact West Otter Tail SWCD in this regard.

The Board discussed resubmitting the Stony Creek project for CWF funding. The BRRWD could submit Stony Creek under different grant categories based on the various project features. The Board discussed a possible 2-stage channel design for Stony Creek.

Otter Tail River/Buffalo River/Upper Red River TMDL Studies. Chairman Van Amburg contacted the MPCA regarding the status and delays related to the Watershed Restoration and Protection Strategy (WRAPS) and the TMDL reports for the Buffalo River and the upper Red River watersheds. The Board reviewed a response from Reed Larson, Manager, North Watershed Section, MPCA. His explanation for the delays (nearly 8 years) is that MPCA staffing in Detroit Lakes is reduced due to budget cutbacks. Reed estimated that the Upper Red River WRAPS should be completed by 09/01/16. Albright noted that the current deadline for this study is 06/30/16.

Permit No. 16-052, Troy Goltz. At their 06/13/16 meeting, the Board tentatively approved Permit No. 16-052 with the understanding that the process to add/remove land from the ditch systems needs to be completed before the BRRWD can officially issue the permit. Goltz proposes to install tiling on land he rents from Frank Farrar in the S½ and NW¼, Section 31, Prairie View Township, and the N½, Section 6, Tanberg Township, Wilkin County, outletting via a lift station in the northwest corner of the NW¼, Section 31, Prairie View Township, to Wilkin C.D. No. 43 on the north side of County Road (C.R.) No. 30. In order for the project to be implemented as proposed, approximately 40 acres in the northwest corner of Section 31, Prairie View Township, should be removed from C.D. No. 40 completely and be added to C.D. No. 43. The rest of the project acreage (547 acres) will be tiled north to C.D. No. 43, but the surface drainage will still drain naturally south to C.D. No. 40. Albright noted that a redetermination of benefits for both ditch systems, focusing on the project area, could be done. Jones explained that the BRRWD would need to acquire easements for the mandatory buffer strips, which would require a ditch system hearing, but would then lose an opportunity to apply for grant funding for seeding, etc. Albright thought it might be easier to follow the process to add/remove land from the ditch systems. Jones is working on a list of all the ditch systems draining to the South Branch of the Buffalo River in Wilkin County where existing CWF funds could be used. The report will include a summary of inlet pipe needs and buffers for C.D. Nos. 40-44. The Board had a brief discussion regarding potential State funds to implement the 2015 Buffer Legislation.

Elkton Township Wetland Restoration. Albright reported that Chuck Anderson is still negotiating with Auto Owners Insurance company regarding their settlement offer for his crop loss claim.

At their last meeting, the Board hired Chuck Anderson to mow parts of the restoration site. Albright contacted Anderson to advise him that the site needed to be mowed.

Wilkin C.D. No. 6A. John F. Beckman has requested to have his land in the NE¼SW¼, Section 9, Akron Township, and the SE¼NE¼, Section 21, Tanberg Township, Wilkin County, removed from the C.D. No. 6A benefit area. Beckman claims that his land is native prairie with no manmade drainage improvements on it. Albright plans to research Beckman’s request and the history of the drainage system before advancing the request.

Jones reported that Dan Swedlund, Wilkin County Highway Department, will forward some survey information so that he could prepare a repair plan for the remaining upper part of the ditch system.
Wilkin County C.D. No. 7. Jones reported that the survey has been completed, and HEI is preparing the preliminary plans and bid package for the proposed repairs. Albright thought that we can schedule a landowner informational meeting in July in Breckenridge to discuss the proposed work. Albright added that a landowner called to report that the buffer seeding that was done last fall and this spring on the Wilkin C.D. Nos. 1C and 34, including the Whiskey Creek restoration, is mostly weeds. He contacted the Wilkin County Highway Department and Wade S. Opsahl, Technician, HEI, to determine who is going to be responsible for mowing the buffers. We'll need to develop a plan of action to address these types of problems in the future.

Clay C.D. Nos. 32 and 33. The BRRWD is working with the Clay County Highway Department to discuss the repairs and develop a cost share formula for C.D. Nos. 32 and 33. On C.D. No. 32, part of the road ditch slumping is in the right-of-way (r-o-w) of Clay C.R. No. 67. Jones proposed a 60% (County)/40% (Ditch Systems) split, and we are waiting for a response from the County regarding his cost share proposal. Albright noted that C.D. No. 33 is the smallest system, but it will be the most expensive to repair.

Wolverton Creek/Comstock Coulee. Albright plans to schedule a landowner meeting in the Phase 1 area. The landowners will need to sign up for the NRCS Wetland Reserve Enhancement Program (WREP) to obtain funding for project acquisition and the channel restoration work, plus possibly the Agricultural Land Enhancement (ALE) program, which could fund enhancements for land that will remain in agriculture use. Jones worked with BWSR to prepare a workplan to utilize the $2.8 million the Targeted Watershed Program grant. The BRRWD is now eligible to receive 50% ($1.4 million) of the grant funding this year. BWSR forwarded the grant agreement for the BRRWD's signature. Motion by Anderson to authorize Albright to sign the Targeted Watershed Program grant agreement as District Administrator. Seconded by Kobiela. Approved.

Jones will have information for the Board to review at their 07/11/16 meeting concerning the implementation of the wetland management district (wmd) (M.S.A. 103D.729). Jay Nord asked about the wmd taxation process. Jones explained that unlike a regular project, the wmd assessment wouldn't be based on a Viewers' or Appraisers' Report, but could be based on four different methodologies, identified in the BRRWD's Comprehensive Plan: drainage area, runoff contribution, sediment contribution, and a combination of runoff and sediment. Farmsteads could be assessed differently from agricultural land because there are typically more non-pervious surfaces on farmsteads, creating more runoff. The implementation of a wmd assessment would require a public hearing. The group discussed questions about how the runoff/sediment contribution will be calculated. Another possibility is that the assessment could be calculated according to acreage within the project's watershed, instead of runoff/sediment contribution.

Otter Tail River and Whiskey Creek Restorations. Jones reported that the survey work continues on both the Otter Tail River and Whiskey Creek with approximately 20 days of surveying left to do for the Otter Tail River and about 50% of the surveying done for the Whiskey Creek project. He noted that he hasn't compared the Otter Tail River 1952 as-built specifications with the new data yet, which will be one of the next steps once the survey is completed. He noted that we have to contact a few landowners on Whiskey Creek to gain access for the survey crew.

Clay C.D. No. 28. A hearing could be held in conjunction with a regular Board meeting to address Melvin A. Richards' petition to have his land in the SE1/4 (less tracts), Parcel I.D. No. 18017400, Section 17, Kragnes Township, removed from the C.D. No. 28 benefit area. This land drains south to a private ditch system.

MAWD Legislative Update. Albright noted that the Legislative Update information was provided at the Summer Tour held in Winona, MN on June 22-24. The Managers reported on the sites they visited while on the tour.
**Agricultural Issues Forum.** The 5th Annual Red River Valley Water Issues Forums will be held in Climax (July 13), Glyndon (July 14), and Rothsay (July 15) from 8:00 AM-12:00 Noon.

**2015 Annual Report.** The 2015 annual report and audit are ready to distribute. The Board discussed scheduling meetings with the Counties to present the reports and discuss BRRWD activities with the County Commissioners in the near future. Manager Fjestad will contact Otter Tail County, and Albright will contact the other Counties in that regard.

**Becker County Water Quality.** Lowell Deede, formerly with the United States Fish and Wildlife Service (USFWS), is currently collecting water samples in Becker County. He visited the office recently with photographs of water samples he has taken from various Becker County waterways.

**Wilkin C.D. No. 4 Repairs.** Dan Swedlund, Wilkin County Highway Department, contacted Jones regarding the County's intent to start repairs of C.D. No. 4. They would like the BRRWD to provide the repair plans. Jones asked for the County's survey data, and HEI will put the plans together in the next few weeks.

The BRRWD and the Wilkin SWCD is working with landowner Karlo Etten on a slope repair on his property along the Otter Tail River south of Foxhome. HEI has advertised for bids for this work.

Albright noted that Swedlund, who is the County Maintenance Foreman, is retiring this fall, and he advised Albright that the County's future involvement with the ditch systems regarding mowing, weeds, buffer encroachment, etc., will probably be much less than it is currently, and the BRRWD will need to take over that role. Albright observed that the BRRWD is well equipped to assume those responsibilities.

**BRRWD File Storage.** Manager Affield has contacted an Information Technology (IT) specialist with the Breckenridge school system to discuss recommendations regarding possible office file storage options. The Laserfiche sales representative contacted Albright recently to discuss quotes for their service. The Board briefly discussed other data storage options and the permit suite archiving process. Albright noted that the BRRWD server is not backed up on the HEI Fargo server, and this might be an option that Jones and he will need to discuss with HEI IT and have them prepare a quote for that service.

**BRRWD Rules.** The Board agreed to take time at each of the upcoming meetings to review a few sections of the revised Rules, so we can progress to the next step, which is to take the revised Rules to a public hearing. Once the Managers have approved a final draft, the office will distribute the Rules to BWSR and other governmental agencies for the mandatory 60-day review and comment period. The Board agreed to review Pages 1 through 6 of the Rules at the upcoming 07/25/16 meeting.

**BRRWD Goals.** Albright distributed a copy of the 2015 BRRWD goals. He volunteered to update the list for the Board's review at their next meeting.

**Buffer Policies.** Manager Van Amburg noted that BWSR has formulated seven policies regarding the buffer legislation, and they are now out for comment from SWCDs, Watershed Districts, and any other stakeholders. Manager Fjestad asked if the buffer map review has been completed. Albright said that he reviewed the map, and Dave Kirkpatrick, HEI, worked with the DNR to make the corrections. DNR indicated that the information coming from Albright or HEI is assumed to be correct unless better information is found. Albright explained that there is a provision in the law to allow for future map revision if errors are found. Jones noted that the current draft maps will be published in July for comment, and then additional drafts will be distributed in the fall and early next year.
The following bills were presented for approval:

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$175,356.21

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

Next Meeting. The BRRWD will hold their next regular meeting on Monday, July 11, 2016, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 10:05 PM.

Respectfully submitted,

John E. Hanson, Secretary