

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

1303 4th AVE NE
E-mail: General@brrwd.org

PO BOX 341

PHONE 218-354-7710
Website: www.brrwd.org

MINUTES FOR MANAGERS' MEETING April 25, 2016

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, April 25, 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, Peter V. Fjestad, and Troy E. Larson. BRRWD Staff attending included: Bruce E. Albright, Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI). Others attending included landowners: Paul Haarstad, John Haarstad, Robert Maack, Bryan Henderson, Shannon Maack, Jay Nord, John Ready, and Don Nelson.

Chairman Van Amburg called the meeting to order at 7:02 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 04/11/16 regular meeting. Manager Affield noted one minor correction. **Motion** by Fjestad to approve the minutes with the noted correction. **Seconded** by Anderson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$143,877.85, and the total income for the year is \$638,321.39. Income this month to date totaled \$615.60 from Otter Tail County for delinquent 2015 property (\$29.16) and ditch (\$80.44) tax collections, plus a refund from Vogel Law Firm for Project No. 77, Clay County Ditch (C.D.) No. 51-Lateral No. 3 (\$506).

At the 4/11/16 meeting, Manager Kobiela had asked about a pending payment from Clay County on the Accounts Receivable report. Albright researched the question, and explained that this payment from the County was to be offset by the BRRWD's contribution to the Cooperating Technical Partners (CTP) Project in association with the Federal Emergency Management Agency (FEMA) Flood Insurance Study, which took place when the BRRWD was working on an earlier Revised Watershed Management Plan (RWMP) update several years ago. He noted that he will remove the amount from the report, as neither the County nor the BRRWD expect to collect on this old agreement.

Wilkin County C.D. No. 7. Shannon Maack asked about the status of the Board's decision regarding the 2016 C.D. No. 7 ditch assessment. Albright explained that at the 4/11/16 meeting, several landowners expressed concerns about the \$150,000 levy placed on the ditch system. The Board agreed that a mistake had been made and approved a motion to reduce the 2016 Wilkin C.D. No. 7 assessment from \$150,000 to \$75,000, subject to the County Auditor's approval to make those changes. Albright said that the Auditor agreed to reduce the levy and recently sent out new notices reflecting the tax modification.

In regards to concerns about whether the repair work for C.D. No. 7 should be advertised for bids instead of going forward with the previous plans for the County to do the repairs, the County notified Albright that they will not be working on C.D. No. 7 this year. They will forward the repair information to HEI for the preparation of plans and a bid package for the Board's review and decision about advertising for bids. Albright did some research on this issue, and found that State Law actually has a "Best Value" statute. Albright feels this would pertain to the County doing the ditch repair work.

Maack questioned the fairness of how the costs for additional culverts, etc. for individual parcels are allocated, according to the 1975 or older benefit rates. He felt some landowners could be getting more drainage at the expense of the entire ditch benefit area. Albright noted that to address this concern, the Board would have to consider a possible redetermination of benefits before the repair work is started. He explained that Drainage Law requires that the costs have to be levied on the benefit area of record at the time the money is spent. Maack noted discrepancies with the current C.D. No. 7 benefit map as it relates to his property in Section 14, Andrea Township. On one copy of the map, his property is in the benefited area, and on a different map, he's not. Larson pointed out that Wilkin County just transferred their ditches to the BRRWD in 2014, and we still don't have all the information regarding the administration of the systems, which is why we made the C.D. No. 7 2016 tax levy error. Maack also noted that according to the benefit map, there should be some additional ditching done so that all the land assessed to the C.D. No. 7 drains into it.

Albright explained that the BRRWD will authorize HEI to develop C.D. No. 7 repair plans and a bid package. Then, prior to proceeding with the repair process, the BRRWD will hold an informational meeting with all the ditch system landowners to review the proposed work.

Maack asked for clarification regarding the handling of ditch system tax proceeds/funds. Albright explained that all money raised for C.D. No. 7 stays in the C.D. No. 7 financial account. Larson noted that each of the 85 BRRWD ditch systems has its own account, and that money can only be used for that specific ditch's expenses. Maack also asked about ditch maintenance responsibilities. Albright explained that the BRRWD inspects the ditch systems annually for tree and weed growth. If necessary, we hire LM Road Services to do the spraying, and the ditch system accounts are charged for the maintenance costs. The group briefly discussed spraying techniques to protect the vegetative cover. Albright estimated that an informational meeting could be held in August, and the repair work could probably be completed later this fall before freeze-up.

Other Business brought before the Board included:

Permit No. 16-022, Jim Klein Land LPP. Applicant proposes to install 300 acres of pattern tiling in the S½, Section 29, Mitchell Township, Wilkin County, outletting via a lift station on the south line of Section 29 into the north ditch of County Road (C.R.) No. 26, 200' east of the junction of C.R. Nos. 3 and 26, from there it will drain south along the east ditch of C.R. No. 3 for approximately 2 miles to Whiskey Creek in Nordick Township. The outlet will be placed off the Wilkin County Highway Department road right-of-way (r-o-w). The pump and main lines will be set this spring with the rest of the project to be installed at a later date. At the 3/28/16 meeting, the Board tabled this permit pending receipt of signed landowner notification forms from Klein's neighbors along C.R. No. 3. The signed forms were received today. Albright recommended permit approval.

Permit No. 16-036, Brice Bellmore. Applicant proposes to install a new 24" dia. centerline culvert across Wilkin C.R. No. 151 in the NW¼, Section 26, Roberts Township, which would drain north to Wilkin C.D. No. 29, to address excess water in his farmyard. **Tabled.**

Permit No. 16-037, Clay County Highway Department. Applicant proposes to resurface about 1,000' of County State Aid Highway (CSAH) No. 6 by removing the bituminous and sub-base, and replace culverts with new pipes of the same size and length. The County also plans to install fabric, granular borrow, Class V aggregate, and seeding. The project area is located in the NW1/4, Section 3, Tansem Township.

Permit No. 16-038, Haarstad Family Farms LLC. Applicant proposes the installation of grade stabilization structures, tile, and water and sediment control basins in the NE¼, Section 28, Oscar Township, Otter Tail County. The Natural Resources Conservation Service (NRCS) designed the project, which will be funded through the Environmental Quality Incentives Program (EQIP). Using the overhead

monitors, Paul Haarstad described their proposed project. He explained that the tile will outlet from his property through rock and grass filter strips, then enter United States Fish and Wildlife Service (USFWS) managed property, where it will enter their wetland with a natural gravity outlet eventually into Otter Tail C.D. No. 2. Haarstad noted that the USFWS has approved the proposal.

Motion by Fjestad to approve Permit Nos. 16-022, 16-037, 16-038, and to table Permit No. 16-036, pending Manager field review. Permit approval is subject to the applicable standard disclaimers, state/federal agency permitting requirements, and road authorities' permission to work within their road r-o-w. **Seconded** by Kobiela. **Approved.**

Duane Boeder Complaint. Albright recently discussed the Boeder family complaint with Frank Schindler regarding his removal of a dry approach on their property. Albright has not had time to respond to the Boeder family.

Clay/Wilkin County Line Drainage Concerns. A landowner recently contacted the office, asking that Albright draft a petition for a legal ditch system on the south side of the county line in Wolverton Township. Albright has not had time to work on this request.

Chad Nelson Tiling Concern. Albright visited with Chad and Dana Nelson regarding their concerns about a tiling permit issued to Gloria Radtke in Sections 22 and 23, Trondhjem Township, Otter Tail County, where part of the project outlets southeast out of the BRRWD boundary to Hovland Lake, and part outlets west into the BRRWD and Otter Tail C.D. No. 56. After discussions with the Nelsons, Albright reported that their concerns have been addressed for now.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. Albright reported that the Minch Family Partnership is currently working with landowner Robert Norby to purchase the 67 acres in Section 28, Kragnes Township, Clay County, where the proposed lateral would be constructed. Minch has indicated that if the purchase goes through, he would like to move forward with Project No. 77, and he would drop his federal law suit against the BRRWD. Attorney Zenas Baer on behalf of Robert Norby offered to drop Norby's lawsuit against the BRRWD if the Managers were willing to pay him \$50,000. Albright told our Attorney, Tami Norgard, Vogel Law Firm, that he didn't think the Board would be interested in Norby's proposal. The BRRWD will not be involved with the land sale and will defer to our insurance company regarding any possible payments to Norby in an effort to settle the lawsuit. We will delay any further action on the project until this new development is finished.

Project No. 56, Manston Slough Restoration. With the recent rains, Albright observed that the site is probably filling up. Neither he nor Jones have had time to visit the site since this past weekend's rains.

Project No. 49, Oakport Flood Mitigation. Albright sent an email message to Kris Carlson, Engineer, Ulteig Engineers, Inc. (UEI), regarding a few issues he noticed during his recent trip to the project area, including Tim Van Raden's property drainage north along Broadway ST NW, Guy Thomas's driveway pillars installation, and the removal of the Fischer temporary fill storage site. Milling work on Broadway ST NW could start next week.

Later in the meeting, the Board discussed the Howard Fees house, which needs to be either moved or demolished to make way for the Phase 4 construction. Andy Noah acquired the property several years ago. The BRRWD owns the land where the house is currently located. According to an agreement with the BRRWD, Noah has until May 1, 2016, to make a decision to move the house or to allow the BRRWD to go forward with demolition. Noah recently contacted Albright to ask if the Board would consider a contribution if he decided to move the structure. Albright noted that there are significant costs involved with demolition (inspections/basement demolition, etc.), even if the house is gone. The Board did not feel they wanted to set a precedent of paying someone to move a house they were given for free.

Project No. 38, Ringdikes. Albright noted that we should contact Ron Harnack, Red River Watershed Management Board (RRWMB), to confirm the availability of the 2015 RRWMB/Minnesota Department of Natural Resources (DNR) Flood Damage Reduction (FDR) funding, totaling \$400,000 for the Red River Valley. Jones reported that Thomas Eskro, HEI, has some preliminary cost estimates prepared for two non-EQIP ringdikes, and the NRCS is working on the design for the two EQIP eligible dikes. Eskro will submit the projects to Harnack in the next few days. Jones said that the preliminary RRWMB estimates showed that they still have about \$150,000-\$200,000 of unallocated 2015 funding remaining. He also explained we can submit the portion of the dike costs that EQIP doesn't cover to the RRWMB for FDR funding. The group discussed the EQIP funding formulas in comparison to the FDR calculations.

Project No. 34, Clay C.D. No. 41. Jones received a message from Josh Kamrud, Wenck Associates, American Crystal Sugar Company's (ACSC) engineering consultant regarding ACSC's decision to go with Repair Option 4, which is to install a 16' x 8' reinforced concrete box culvert (RCB) to provide a 34-year event crossing to address a slide on the ditch system in the factory yard. However, ACSC is now concerned that they don't have funding this year for the project, so we are currently on hold with the work until ACSC decides if they wish to move forward.

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). The landowners have submitted their petition and \$20,000 bond 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 is reviewing the petition and will then forward it to Attorney Norgard for her review.

Mediation Project Team (PT). The next PT meeting will be held on Thursday, June 16, 2016, in the Barnesville office at 7:00 PM.

Upper South Branch of the Buffalo River. The BRRWD held a meeting with Minnesota Board of Water and Soil Resources (BWSR) staff, who discussed their wetland restoration design for Section 11, Manston Township, Wilkin County, (Deutsch property). Albright discussed possibly narrowing the BRRWD's approach to a project that would include a channel restoration for the South Branch upstream of Trunk Highway (T.H.) No. 9. He suggested that the Board direct HEI to develop a channel restoration plan for east of T.H. No. 9, and then we could hold a landowner informational meeting to discuss the plans. In addition to landowners, the NRCS, BWSR, The Nature Conservancy (TNC), and the DNR should also be invited to the informational meeting. Albright noted that part of the old river channel is on TNC property, so their involvement would be crucial in any channel restoration project. Using the overhead monitors, Jones described the current path of the South Branch of the Buffalo River channel east of T.H. No. 9. The TNC property in Section 12 is designated as a DNR Scientific Natural Area (SNA). The group spent some time discussing the channel restoration proposal and potential issues with developing the project on the SNA and TNC land. Jones envisioned a low flow channel in this area that would be approximately 2' deep with about a 4'-6' wide bottom. Jones has discussed a possible channel restoration project involving the SNA with the DNR, and he felt they would be open to reviewing project designs.

Wetlands Reserve Program (WRP)/Wetlands Reserve Enhancement (WRE). Albright noted that most of the potential sites are on hold at this time. He said that the Hovland site could be removed from the list because it was determined that the site was not feasible from an enhanced restoration viewpoint.

Stony Creek Off-Channel Storage Site. Albright met landowner Chuck Anderson and a reporter from Minnesota Public Radio (MPR) this afternoon to conduct an interview and take photographs for a story MPR is preparing about Watershed District projects. He suggested that the Board needs to summarize and adopt the BRRWD's easement value policy, which could include funding for other local, state, and federal programs for land acquisition for retention areas. Once those values are set, the Board would be able to work with landowners on our other retention projects. Jones has a video conference scheduled for tomorrow with the DNR Dam Safety staff regarding the high hazard dam classification. The group briefly

discussed current flooding problems for the farmsteads on the downstream end of Stony Creek. Albright pointed out that ringdikes for those properties would already be a part of any potential comprehensive project design.

Watershed District Enlargement (WDE)/RWMP. Albright he is working on a few final sections of the RWMP and will forward his comments to Jones, who will incorporate them into the final draft RWMP for the Board's review at their 05/23/16 meeting.

HEI prepared a digital map of the revised boundary between the BRRWD and the Bois de Sioux Watershed District and forwarded it to the Otter Tail County Auditor.

Buffalo River/Upper Red River Total Maximum Daily Load (TMDL) Studies. As a result of the contract between Minnesota Pollution Control Agency (MPCA) and HEI, the questions received during the comment period for the Buffalo River TMDL Study have now been answered and completion of the Study can move forward. Jim Courneya, MPCA, has indicated that the Upper Red River TMDL is still on schedule to be completed by the target date of 06/30/16.

Elkton Township Wetland Restoration. Attorney Corey Elmer had a phone conference with Kristie Mack, BWSR, on 04/13/16 to clarify issues regarding the landowner easements. Once the easement documents are ready for re-signature, Albright will meet with the four affected landowners.

Army Corps of Engineers (COE) FM Diversion. Albright provided copies of the most recent version (3.4) of the Diversion Authority's (DA) new Joint Powers Agreement (JPA) for the Board's review. BRRWD Attorney Norgard will provide comments on the JPA for the Boards' review this week. A final draft isn't expected until 05/12/16, which is after the Board's next meeting on 05/09/16.

Albright reported that the Minnesota Attorney General's office has declined the Board's request for a review of the JPA citing conflict of interest because they represent the State of Minnesota and the DNR. Attorney John T. Shockley sent the JPA to the Minnesota League of Cities for review, and this entity forwarded comments for review.

The Board received a copy of a letter from the Office of the North Dakota State Engineer, regarding their requirements to process a construction permit for the FM Diversion, which needs to include "a realistic plan for the procurement of the necessary property rights", and the "plan should address the various criteria used" to procure easements "if traditional flood easements are not used", meaning eminent domain. The COE has actually stated they don't need a permit for their dam from the State of North Dakota, but would apply for one "out of comity", or courtesy, to the State. Manager Anderson questioned a statement he heard during a DA meeting that once they have the signed easement documents, the COE wouldn't have to make the easement payments to the landowners until after the project is completed. The Board briefly discussed the easement acquisition concerns. Albright noted that there is a special DA meeting scheduled this week on Thursday, April 1, 2016. He suggested that the Managers might consider attending to get answers to some of their questions regarding easements and the state permitting process. The Board also briefly discussed the timeline for signing the JPA and the BRRWD's desire for the three Minnesota entities to present a "united front" regarding Minnesota issues and the JPA.

Bufferstrip Legislation. Albright provided handouts from BRRWD Lobbyist Joel Carlson and Ray Bohn, Minnesota Association of Watershed Districts (MAWD), regarding the new 2016 buffer legislation. The DNR notified the BRRWD that they have completed the buffer mapping for the BRRWD. HEI will try to obtain DNR's data so we can print the maps to verify the location of DNR protected waters, legal ditch systems, etc. Albright noted that Don Bajumpaa, District Manager, Wilkin Soil and Water Conservation District (SWCD), viewed some of the maps online and noticed several discrepancies. Albright plans to visit with Bajumpaa regarding this issue tomorrow.

Paul Haarstad commented that his landlord had received notice about required buffer strip on a natural waterway that flows through their property. After West Otter Tail SWCD personnel conducted a site review, they indicated that there was already enough buffer on the waterway in question, and the SWCD will provide documentation regarding their determination. The Board had an extended discussion regarding the new bufferstrip legislation and how it will be applied locally in the BRRWD.

Clay C.D. Nos. 10, 32, and 33. Albright and Jones discussed proposed slope failure repairs for C.D. Nos. 10, 32, and 33, at their recent work-load meeting. Albright noted that the Board met with the road authorities on 02/24/16 to discuss a cost share formula for the repairs and what work should be completed this year. The C.D. No. 10 ditch slope along 130th AVE N in Section 13, Kragnes Township, and Section 16, Morken Township, has failed, and about one-third of the road has been impacted. The Township supervisors indicated that they felt the road should be repaired this year. Albright noted that we could let bids for the C.D. No. 10 repairs and then review the results with the Townships. There are three slope failures along C.D. No. 32 on C.R. No. 67 in Kurtz Township. Albright explained that we have established where the ditch and road r-o-w is located, and we plan to work with the Clay County Highway Department to discuss the repairs and develop a cost share formula. There are a couple of slides on C.D. No. 33 that need repair, but the major costs associated with this ditch come from the need to lower 90th AVE S about 4' where it meets T.H. No. 75. There are public concerns about road safety in all of these areas. Albright noted that we will continue to work with the road authorities to complete these repairs over time.

Wolverton Creek/Comstock Coulee. The group discussed potential funding from the Legislative-Citizen Commission on Minnesota Resources (LCCMR). Jones explained that we will be notified in June if we have been selected to make a formal presentation to the LCCMR, and the final funding recommendations will be announced by the end of the year. Our application was for \$5 million. BWSR informed the BRRWD that they will announce their funding selections for the Targeted Watershed Program in May. Jones is also working on a funding application for the Lessard-Sams Outdoor Heritage Council (LSOHC) Conservation Partners Legacy Grants (CPLG) Program, which is due on May 26, 2016.

The Board plans to schedule a meeting with the Phase 1 landowners to assist them in submitting applications to the NRCS by the 08/01/16 ranking/scoring signup period. We recently learned that the NRCS has WRP funding available to potentially pay for 100% of the easement acquisition and construction costs. The Board also needs to work on the creation of the watershed management districts (wmd) to provide a taxation mechanism for the local share of project costs. The fee formula could be calculated on runoff or sediment contribution based on terrain analysis, or a version where both factors are considered. Another option could take into account the actual contributing area to the proposed project. Van Amburg noted that if we have the wmd in place, it will show potential funding sources that the BRRWD and landowners are committed to moving forward with the project, once we have secured the necessary outside funding.

Otter Tail River and Whiskey Creek Restoration. The BRRWD sent out "permission to survey" forms to the affected landowners following the last Board meeting. We have started to receive the signed forms for the proposed channel work on these waterways in Wilkin County. The staff might need to send reminder post cards in the next few weeks to those landowners who have not responded.

BRRWD Rules. The Managers have copies of the draft Rules. The Board might need to schedule a special meeting to complete their review. 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 BRRWD must also hold a public hearing before adopting the Rules.

Integrated Working Group Meeting. The Working Group is meeting on April 26-27, 2016, starting at 1:00 PM in the Homewood Suites, Fargo, to discuss their draft Red River of the North Comprehensive

Watershed Management Plan. The COE is holding the event to identify opportunities for local agency integration with the COE and implementing work action items for lead agencies.

Legislative Districts/Watershed Districts Map. Manager Fjestad received a map showing the legislative districts from the State of Minnesota, and HEI added the watershed district boundaries to the map. The Board discussed how to display it and decided to have it mounted on foam board.

Wilkin C.D. Nos. 5A, 22, and 26, Outlet Grade Control Structures. Jones submitted Pay Request No. 1 in the amount of \$12,655.80 to HCI Commercial Landscape Contractors, Inc. for the bufferstrip seeding on the three referenced ditch systems. **Motion** by Anderson to approve Pay Request No.1. **Seconded** by Hanson. **Approved.**

FY 2018-2019 Biennial Budget Request (BBR). In an attempt to predict future funding needs, BWSR requested watershed districts to submit possible projects/funding needs for FY2018-2019. Jones submitted approximately nine potential BRRWD projects to be included in BWSR's BBR. The information was due by 04/15/16.

Water Quality Monitoring. There was a meeting this morning with DNR, International Water Institute (IWI), and MPCA in the BRRWD office to discuss the 2016 water quality monitoring effort, which includes the 33 Regional Assessment Locations (RALs), created in conjunction with the 2010 RWMP. Albright noted that the group agreed to drop four monitoring sites on the Red River of the North to concentrate our water quality monitoring on the upstream contributing waters in the BRRWD. In addition, MPCA is conducting intensive monitoring on the Red River, so our work could just be a duplication of their efforts. We have collected significant water quality data in the BRRWD since 2008. Albright suggested that this data needs to be made available on our Website for public review. Manager Anderson suggested that we could at least provide links to the MPCA site where the data is available. The Board discussed the creation of a webpage to display our acquired water quality data. Jones discussed a proposal to develop and summarize our water quality data for the BRRWD Website to increase the general public's understanding and engagement. The estimated budget for this analysis and report was \$24,316. **Motion** by Anderson to approve HEI's proposal. **Seconded** by Larson. **Approved.**

The Board briefly discussed a farm operation where the cattle have access to the Buffalo River along T.H. No. 32. Albright offered to contact the owner to schedule a meeting with the Clay SWCD to possibly address this water quality issue.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Bruce E. Albright	Meals	Admin.	\$ 64.12
Finish Grade Const., Inc.	#28, replace flap gate	Wilkin C.D. No. 5A	\$ 930.00
HCI	Pay Request No. 1, Seeding	Wilkin C.D. Nos. 5A, 22, 26	\$ 12,655.80
JBX LLC	#528, Ditch cleaning	Pj. 01, Wilkin C.D. No. 22	\$ 10,050.00
JBX LLC	#529, Level spoil	Pj. 52, Clay C.D. No. 69	\$ 450.00
Joel Carlson, Inc.	May lobbyist billing	Admin.	\$ 850.00
Meadows Meter Max	#1202, Forum, meals, tables	Mediation PT	\$ 1,000.00
Purchase Power	04/01/16 Billing, Postage	Admin.	\$ 649.22
UEI	#56842, thru 03/31/16, Phase 4	Pj. 49, Oakport	\$ 20,950.88
Waypoint Insurance Advisors	#1432, Directors Liability	Insurance	\$ 5,104.23
			\$ 52,704.25

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, May 9, 2016, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:15 PM.

Respectfully submitted,

John E. Hanson, Secretary