

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING February 22, 2016

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, February 22, 2016, at 7:00 PM in the Barnesville office. BRRWD Managers present were Mark T. Anderson, Breanna L. Kobiela, Catherine L. Affield, and Peter V. Fjestad. BRRWD Staff attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI). Others attending included Chuck Anderson, ARC Appraisals, and Riley Anderson.

In Chairman Van Amburg's absence, Vice Chairman Fjestad called the meeting to order at 7:01 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 02/08/16 regular meeting and the 08/24/09 regular meeting. **Motion** by Anderson to approve the minutes. **Seconded** by Affield. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$700,164.88, and the total income for the year is \$633,534.26. Income this month to date totaled \$79,068.16, including reimbursements from the Minnesota Board of Water and Soil Resources (BWSR) for the final payment for the Minnesota Agricultural Water Quality Certification Program (MAWQCP) administration (\$57,783.66), and from the Minnesota Pollution Control Agency (MPCA) for the Upper Red River Total Maximum Daily Load (TMDL) project (\$2,392.50) and for Minnesota's share of the Red River Stressor Response Study (\$18,892).

Other Business brought before the Board included:

Permit No. 15-146, Roger J. Minch. Applicant proposes to install 47 acres of pattern tiling in the SE¹/₄, Section 17, Humboldt Township, Clay County, outletting to Stony Creek. The Board tabled this application last fall pending the completion of the Natural Resources Conservation Service (NRCS) wetland delineation. Minch forwarded documentation from the Farm Service Agency (FSA) and the Clay Soil and Water Conservation District (SWCD) regarding their review, which shows there should be no wetland impacts from the proposed project. The Board reviewed a LiDAR map showing the area where the proposed tiling will be installed.

Permit No. 16-003, City of Barnesville. Applicant proposes to construct an extension of the existing water main, sanitary sewer, and storm sewer for the Del Acres Gilbertson Expansion Second Addition in the NE¹/₄, Section 29, Barnesville Township, Clay County.

Permit No. 16-005, Polar Communications. Applicant proposes to install buried fiber communication cable in Wolverton Township, Wilkin County. The Board tabled a duplicate application (#16-003, Trevor Huseby) from Polar Communications at their 02/08/16 Board meeting. Wade Opsahl, Technician, HEI, withdrew the earlier application and reassigned the permit number. **Tabled**, pending further information regarding cable placement and potential impacts to BRRWD ditch right-of-way areas.

Permit No. 16-007, Gerald Nordick. Applicant proposes to realign approximately 220' of an existing natural waterway channel, create a retention pond, and relocate an existing berm in the SW¹/₄, Section 23,

Meadows Township, Wilkin County. Nordick will also realign an existing tile outlet with an extension to the 260th AVE road ditch with a lift station/pump to drain water back into the natural waterway. He is working with the NRCS and other agencies regarding this proposal. The entire project is located on Nordick's property and should not affect other landowners.

Permit No. 16-008, Peter Fjestad. Applicant proposes to install two random tiles in existing swales in SE¼, Section 2, Carlisle Township, Otter Tail County, outletting to an existing surface drainage ditch, which eventually outlets to Fjestad Lake. The Otter Tail SWCD and NRCS have determined that the proposed project will not impact any wetland areas.

Motion by Anderson to approve Permit Nos. 15-146, 16-003, 16-007, and 16-008. Permit approval is subject to the applicable standard disclaimers, state/federal agency permitting requirements, and road authorities' permission to work within their road right-of-way (r-o-w). **Seconded** by Kobiela. **Approved.**

Duane Boeder Complaint. Albright sent a letter to the Boeder family with a list of options regarding Frank Schindler's removal of an approach with a 12"-15" dia. culvert (plugged) on their Conservation Reserve Program (CRP) acreage in Section 33, Barnesville Township, Clay County. He also reviewed the letter with neighboring landowner Frank Schindler. Albright explained that the culvert in the Boeder approach is downstream of an approach on Schindler's property with a 24" dia. culvert. Schindler claims that the smaller structure was plugged and causing water to back up onto his cropland. To date, the Boeder family has not responded.

Bryan and David Henderson Waterway Concern. The Board authorized HEI to conduct a survey in Section 27, Manston Township, Wilkin County, regarding waterway drainage concerns in Section 34, Manston Township. A landowner meeting was held on 01/22/16. Those in attendance felt the survey needed to go farther downstream than the quarter line in Section 27. The Board authorized that survey, and it will be completed this spring when conditions allow. Albright also plans to contact Terry Nielsen, an out-of-state landowner, and David Abel, the renter, about cleaning the natural waterway in the NW¼, Section 27, to help drain area water west to the Manston Slough project.

Tom Arnhalt, who farms downstream of the Henderson property in Sections 20 and 21, Manston Township, feels the natural waterway drainage route into Manston Slough is in poor condition with erosion and no buffers. Arnhalt was interested in rerouting the waterway straight west on the north side of 220th ST by extending Project No. 21, Wilkin County Ditch (C.D.) No. 13-Lateral. At their 02/08/16 meeting, the Board authorized HEI to conduct a preliminary investigation for a possible lateral extension in Sections 20 and 21, Manston Township. Jones plans to have the information ready by the 03/14/16 Board meeting.

Clay/Wilkin County Line Drainage Concerns. The BRRWD held a second landowner informational meeting on 02/19/16 to review HEI's preliminary engineering analysis to evaluate potential project options for a new drainage ditch installation on the south side of the county line that would carry water directly to the Red River to address drainage concerns on the county line west of Trunk Highway (T.H.) No. 75 between Wolverton and Holy Cross Townships. The Board will wait for the landowners to decide what their next steps will be concerning a potential project. Landowner Harold Quinnild asked for information regarding the potential impacts of a new ditch on his organic farmland, which Dan Olsgaard rents in the N½N½, Section 6, Wolverton Township. Albright will contact him about how much of his land might be affected by the potential project.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. Albright reported that he had not heard from BRRWD Attorney Tami Norgard, Vogel Law Firm, regarding the results of the 02/16/16 scheduling conference with the Judge and Robert Norby's attorney, Zenas Baer.

Project No. 56, Manston Slough Restoration. The Board reviewed the final cost analysis and project budget. Total project costs were \$6,348,642. Outside funding sources included the Minnesota Department of Natural Resources (DNR) and BWSR, who furnished \$4,134,237, or about 65% of the project costs. The BRRWD raised \$1,330,954 from the 2013 bond sale. The local total costs (approximately \$738,135) will be assessed in accordance with the Appraisers' Report. To date, the benefited landowners have paid \$443,647, so the balance (\$294,448) will need to be assessed annually at upcoming budget hearings. Currently, the BRRWD has to come up with approximately \$1,175,927.

Albright noted that after review, he and Jones found no problems with the NRCS preliminary designs for the Wetland Restoration Plan (WRP) for the Stuehrenberg and Van Wechel properties located within the Manston Slough Project. NRCS can now proceed with the projects, which will ultimately come back to the BRRWD as permit applications.

Project No. 49, Oakport Flood Mitigation. The project contractor, RJ Zavoral and Sons, Inc., plans to start clearing and grubbing in the next several weeks (weather permitting). There are still a few landowners on Phase 4 that Albright plans to contact to renew their temporary construction easements. In an effort to settle the Fischer easement issue, the Board agreed to increase our payment to the Fischer Family for their stockpile easement to \$24,153.27, by increasing the total easement measurement to 9.46 acres. The Fischers acknowledged receipt of our offer, but to date, they have not contacted the office with a counter offer.

Project No. 39, Georgetown Levee. Wade Opsahl, Technician, HEI, is working on the individual easement drawings for the Clark and Greywind properties to be used as an attachment to the deeds/easements.

Project No. 38, Ring Dikes. Albright noted that Thomas Eskro, Engineer, HEI, prepared an update for the Board regarding the ringdike applicants. Doug Butenhoff is eligible for NRCS Environmental Quality Incentives Program (EQIP) funding and is working with Scott Smith, NRCS. Opsahl met with Robert Nord last week. He is interested in a dike and will work with NRCS to obtain EQIP funding. Andy Leedahl is not interested in a ringdike. HEI is still trying to reach the Hoppe family. Mark Johnson and Kyle Schiefert are both interested in building ringdikes and are eligible for the Red River Watershed Management Board (RRWMB)/DNR funding. Albright noted that we are still within our estimated ringdike funding needs as reported last fall by Ron Harnack, RRWMB.

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). Albright plans to set up a meeting with the landowners to discuss the diversion petition to take water west along the south side of the County line to Wolverton Creek. Based on discussions with Attorney Norgard, the petition should be redrafted using a different provision under Chapter 103E, Minnesota Drainage Law.

Project No. 24, Wilkin C.D. No. 44. Albright is working with Manston Township on a draft petition to abandon the north ditch, remove a deteriorated centerline pipe, and relocate the ditch on the south side of 170th ST in Sections 3 and 10, Manston Township.

2015 Dam Inspections. Opsahl completed the 2015 dam inspections and provided a report for the Board's review. **Motion** by Anderson to accept the dam inspection reports and authorize the recommended repairs. **Seconded** by Kobiela. **Approved.** Albright noted that the report will also be forwarded to the DNR for their records.

Mediation PT. The next PT meeting will be held on Thursday, April 7, 2016, in the Barnesville office at 1:30 PM.

South Branch of the Buffalo River. Jones reported that the HEI staff is working on the possible river channel restoration east of T.H. No. 9, and the retention capabilities in Sections 10 and 11, Manston Township. He expects to have more information about this alternative for the PT's review at their next meeting.

Barnesville Township Area Study. Albright noted that he visited with landowner Frank Schindler about easements and the project's potential benefits for his property.

Stony Creek Comprehensive Project. HEI continues to work with the DNR regarding their decision to classify the embankment as a high hazard dam. Jones noted that he still hasn't received a response from the DNR regarding the recent information he forwarded to them regarding possible modifications to the inlet structure to reclassify the embankment to either medium or low hazard.

The Board had an extended discussion regarding some of the variables that they could consider when setting easement rates. The Board would prefer to acquire easements with a one-time payment to the landowner. Other factors under consideration included landowner concerns about Federal Crop Insurance covering crop loss resulting from the project operation and the placement of retention sites on tiled lands where the landowner has a considerable investment. Albright is working on developing an easement value worksheet. He noted that once the BRRWD sets an easement rate policy, those rates should be applicable to future projects and remain in effect for several years.

At 8:30 PM, Chuck Anderson, ARC Appraisals, presented his findings regarding his investigation into land/easement values and provided copies of the information for the Board's review. He is an appraiser and also owns/operates nearly 80% of the land that will be affected by the Stony Creek project. He noted that current Reinvest In Minnesota (RIM) rates are proportionally higher for non-tillable land because that's the type of site BWSR wants to develop. He also had information regarding current taxable market values from the Clay County Assessor's office based on land sales over a number of years, categorized by land type and Crop Equivalency Rating (CER). Anderson said that each County determines land values based on the CER and then adjusts the CER according to recent land sales. He suggested that the current easement payment rate should be set at about 125% of the taxable market value for a parcel. Federal Crop Insurance will cover losses only from natural events, not from losses caused by the operation of the project. The Board discussed their preference to make a one-time easement payment to a landowner that would take into account the landowner's losses not covered by crop insurance, etc., by adding an extra 25% to the appraised value. If the Board were to go to condemnation for each parcel, legal fees alone could equal the additional 25% cost. The Board had an extended discussion with Anderson regarding the proposed Stony Creek project design and easement value options.

Albright will prepare a worksheet of possible easement values for our FDR projects, incorporating Anderson's information for the Board's consideration at our next meeting before the upcoming FDR Forums.

Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE). Albright sent a letter, legal descriptions, and detailed maps to the Minnesota Secretary of State and the Wilkin and Otter Tail County Auditors regarding the BRRWD and the Bois de Sioux Watershed District the boundary changes.

Jones and Albright continue to work on the draft RWMP review. Their goal is to have the draft Report ready for the Board's review by the 03/14/16 BRRWD meeting. The Board briefly discussed changes in the BRRWD's retention acreage goals because of the District expansion. Anderson asked if the proposed storage sites associated with the Army Corps of Engineers (COE) FM Diversion project would count

towards the BRRWD's retention goals. Jones didn't expect the Diversion storage sites to contribute very much to overall flood damage reduction (fdr) retention goals for the BRRWD north of Moorhead.

Albright mentioned that our new Plan won't be totally in compliance with BWSR's new One Watershed, One Plan (1W1P) initiative, but should be close to meeting those guidelines. Jones noted that the BRRWD is already ahead of most other Districts in terms of 1W1P goals. BWSR still has not finalized their 1W1P guidelines. For now, our goal is to complete the Plan and deal with the new BWSR guidelines in the next RWMP.

Buffalo River/Upper Red River TMDL/Watershed Restoration and Protection Strategies (WRAPS).

The Upper Red River TMDL should be out for public comment at the end of February and should be completed by the deadline of 06/30/16.

Tim James, MPCA, is preparing a new contract with HEI so that Mark Deutschman, HEI, can prepare responses to the Environmental Protection Agency (EPA) comments on the Buffalo River TMDL Study.

Elkton Township Wetland Restoration. Chuck Anderson reported that Ziegler Construction's insurance company, Auto Owners Insurance, hired a crop consultant to review Anderson's claim. Anderson expects to meet with him this week. Changes to BWSR staff and their review process have delayed approval of the BWSR easement title opinions.

FM Diversion. The Diversion Authority (DA) has scheduled a meeting on Thursday, February 25, 2016, at 12:00 PM at the Fargo City Commission Room, to review a new Joint Powers Agreement (JPA). The BRRWD was a signer to the first two JPAs and amendments, and the Managers were invited to attend the DA meeting. Albright thought that the new proposed split for the Diversion costs is 98% North Dakota and 2% Minnesota with a \$100 million cap for Minnesota. Albright provided the DA with a tabulation of the BRRWD's fdr project costs since 2009, including Oakport (\$34.3 million) and Georgetown (\$4.3 million).

Albright noted that the COE did receive \$5 million from the 2017 Federal Budget for the Diversion. This represents the "new start" the DA was looking for as one of the conditions that needed to be met for their 2016 Budget. Albright explained that the COE will use the Federal money to start on the inlet structure for the dam on the south embankment/staging area. The diversion portion of the project will be funded locally. As part of their Environmental Impact Statement (EIS) process, the DNR had questions regarding BRRWD permit requirements. Albright sent a response, which will be incorporated into the DNR's EIS review comments.

2015 Bufferstrip Legislation. The DNR has requested copies of our ditch system maps. HEI is working on providing that information.

The Clay SWCD has scheduled a meeting on February 23, 2016, at 9:00 AM with the Clay County Board of Commissioners to discuss compliance with the bufferstrip legislation. Rodger Hemphill, DNR, and BWSR personnel will attend. Albright also plans to attend.

Clay C.D. Nos. 10, 32, and 33. The Board has scheduled a meeting with the road authorities to discuss slope failures on C.D. Nos. 10, 32, and 33 on 02/23/16 at 8:30 AM in the BRRWD office. Albright explained that the project costs are significant, and the townships and County should be informed about the proposed work and be able to provide input before the repairs are started. He also noted that the County might be willing to cost share for the work on their road.

Wolverton Creek/Comstock Coulee. Albright and Jones met with Brian Dwight and Pete Waller, BWSR, today (02/22/16) to discuss possible modifications to our Targeted Watershed Program grant application. The application period ends March 9, 2016. This year, BWSR has \$8.75 million available. If selected, applicants will be interviewed on March 29-April 5 by a review panel comprised of representatives from

BWSR, the Department of Agriculture, MPCA, Department of Health, BWSR, etc., to be considered for funding at BWSR's May 25, 2016, meeting. Potential funding is also available from the Legislative-Citizen Commission on Minnesota Resources (LCCMR), whose application deadline is March 21, 2016. They will accept "pre-applications" for review and comment until March 11, 2016. **Motion** by Anderson to authorize the staff to submit both applications, as referenced. **Seconded** by Affield. **Approved.**

Jones contacted Rob Maroni, COE, who confirmed that he is the new project manager for our Wolverton Creek project. Albright noted that this will be the third project manager the COE has assigned.

Otter Tail River Restoration. The BRRWD has scheduled a landowner informational meeting for Thursday, February 25, 2016, at 7:00 PM in the County Court Room, Breckenridge. Notices have been sent to the affected landowners. The COE notified Albright that they received Federal funds for concept work for a Section 1135 grant for the Otter Tail River. Funding should be identified by the mid-March.

2016 Minnesota Association of Watershed Districts (MAWD) Legislative Reception and Breakfast. The MAWD Day at the Capitol is scheduled for Wednesday and Thursday, March 30-31, 2016, in St. Paul. The office will handle Manager reservations and registrations. Van Amburg, Hanson, and Fjestad plan to attend.

Flood Damage Reduction (FDR) Landowner Forums. The BRRWD has scheduled a series of public Forums for area landowners to discuss a number of issues: the new RWMP, the new 2015 Buffer Strip Legislation, the BRRWD's long range plan regarding our flood damage reduction (fdr) goals, and to discuss ways to possibly finance fdr projects, including possible RRWMB membership. The Forums will all present the same information and will be held from 9:00 AM-12:00 PM with a free lunch following. Locations for the Forums are the Gerald and Jared Nordick farm near Rothsay on March 15, 2016, the BRRWD office in Barnesville on March 18, 2016, and at the American Legion in Lake Park on March 22, 2016. The office has prepared a public notice for the area newspapers and a meeting notice and flyer to mail to agencies, local governments officials, and landowners. Albright developed a meeting agenda and questionnaire for use at the meeting, and a press release will also be sent to the local newspapers regarding these events. Staff will also post all the information on the BRRWD's Website.

The BRRWD has also scheduled a tour of the North Ottawa Project in the Bois de Sioux Watershed District on Friday, April 8, 2016, at 9:00 AM. Any interested landowners attending one of the FDR Forums will have a chance to sign up for the tour to see a large retention project in operation.

BRRWD Advisory Committee. The Board will hold their annual Advisory Committee meeting on April 1, 2016, at 1:30 PM in the BRRWD Office in Barnesville. Albright noted that there are some additional members needed for Clay and Becker Counties. Following the meeting, the Eagle Café will cater supper. The office will send "save-the-date" post cards to the existing members in the next few weeks.

Wilkin County SWCD AIG Grants. Wilkin County received several Accelerated Implementation Grants (AIG) BWSR grants in 2015. Wilkin County Environmental Officer Bruce Poppel provided a workplan for Whiskey Creek project. Jones added details to the plan and budget.

Otter Tail River Restoration 319 Grant. The 319 MPCA Grant for the Otter Tail River Restoration (\$242,000) has been executed by all parties and is ready for disbursement. The 319 project work can begin 04/01/16.

DNR Floodplain Administrator Training. DNR is hosting a series of training sessions around the State for City, County, and Watershed staff who work with floodplain issues in March and April 2016. Albright noted that the BRRWD is not involved with floodplain administration as much as the County agencies.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Agassiz Mechanical, Inc.	#216989, 05/28/15 HVAC service	Admin.	\$ 220.00
Carmen Pattengale	February Cleaning (2)	Admin.	\$ 130.00
Joel Carlson, Inc.	March Lobbyist billing	Admin.	\$ 850.00
Lake Park American Legion	Rental Fee	Mediation PT	\$ 100.00
MN Viewers Association	2016 associate dues	Admin.	\$ 125.00
NetWork Center Communications	#0000037402, audio service	Admin.	\$ 150.00
Roger D. Fischer	Remove Dutch Elm trees (9)	Pj. 49, Oakport	\$ 2,244.38
UEI	#55929, thru 01/31/16, Phase 4	Pj. 49, Oakport	\$ 2,048.40
Wilkin County Highway Dept.	12/31/15 billings (5)	Varies	\$ 4,146.19
Wm. Nichol Excavating, Inc.	#189, beaver dam removal	Varies	\$ 2,700.00
			\$ 12,713.97

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

RRWMB/Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) 2016 Joint Annual Conference. The Annual Conference will be held March 23-24, 2016, at the Courtyard by Marriott, Moorhead.

MPCA 319 Grant. Albright, Jones, and the Becker and Clay County SWCDs will meet on 02/24/16 at 2:00 PM in Detroit Lakes regarding potential project funding applications. The deadline for application submissions is March 9, 2016. This is the same grant program that provided the Otter Tail River Restoration funding in Wilkin County.

Association of District Administrators (ADA). Albright noted that the Region 1 ADA held a meeting today at the Red Lake Watershed District office at 9:30 AM. One of their discussion topics was retention easement values. Albright did not attend due to prior commitments, but will review/share the meeting minutes when they become available.

BRRWD Rules Update. Albright incorporated Van Amburg's comments into the Rules document. He noted that there is a detailed section on tile drainage, highlighting the various operation triggers. The Board discussed how the elevation triggers were determined. Jones explained that the BRRWD's operation guidelines will take into account gauge readings on the area waterways within the BRRWD Planning Regions. He noted that we would not recommend tile shut down until a deterministic forecast has been issued for an actual flood crest elevation. Albright also pointed out that there could be times when localized flooding will require tile shut down, and it will be up to BRRWD staff to determine when and where tile systems in a given planning region will need to be stopped. He added that the tiling section will also contain language encouraging landowner to incorporate drainage water management practices where possible, and noting that funding for these practices is available from local, state, and federal agencies. Albright encouraged the Board to review the document and provide feedback before the 03/14/16 meeting. According to Watershed Law, once the Board approves their revised Rules, the document will be forwarded to BWSR, cities, and counties for a 60-day comment period. After the comment period ends, the BRRWD must hold a public hearing prior to adopting the new Rules.

Next Meeting. The BRRWD will hold their next regular meeting on Monday, March 14, 2016, at 7:00 PM in our Barnesville office.

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Adjournment. **Motion** by Anderson to adjourn the meeting. **Seconded** by Affield. **Approved.** Vice Chairman Fjestad adjourned the meeting at 10:00 PM.

Respectfully submitted,

John E. Hanson, Secretary