

# ***BUFFALO-RED RIVER WATERSHED DISTRICT***

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## **BUFFALO-RED RIVER WATERSHED DISTRICT NEW RULES PUBLIC HEARING July 2, 2019**

Pursuant to Minnesota Statutes Annotated (M.S.A.) 103D.341, and other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a public hearing on the amendment of their proposed Rules on Tuesday, July 2, 2019, at 7:00 PM in the BRRWD office at 1303 4th AVE N, Barnesville, MN. BRRWD Managers present were: Jay A. Leitch, Mark T. Anderson, John E. Hanson, Catherine L. Affield, and Peter V. Fjestad. BRRWD Staff attending included: Bruce E. Albright, Administrator, Kathleen K. Fenger, Assistant Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); and landowner Jay Nord.

BRRWD President Jay Leitch called the hearing to order at 7:01 PM and announced that the hearing was being recorded to assist in the preparation of the minutes. BRRWD Administrator Bruce Albright noted that Gerry Zimmerman, a landowner near Glyndon, submitted commentary regarding the proposed Rules and general District operations. Don Nelson, MNDAC Upstream Coalition, also submitted comments regarding the changes made to the permitting language regarding "just compensation" for upstream lands. The Board discussed Nelson's concern that this phrase suggested the use of the eminent domain to acquire land for projects such as the Fargo Moorhead Diversion. The City of Moorhead also forwarded some suggested changes for the draft document, which the Board agreed to include.

The Board reviewed the Rules document, section by section. They discussed questions they had about the specific items/terminology and reviewed changes from the previous Rules:

- Albright noted that the section regarding Rules Revision procedures was removed from the draft document as it was determined to be redundant with Watershed Law.
- Section 2-Definitions: Leitch had a few text edits.
- Section 3-Permitting:
  - Bond and fee schedule-included in document to allow for the possible future imposition of fees/bonds, qualified through the use of the word "may".
  - General permits-language to codify the issuance of general permits
  - Rule 15.99 process clarified in document
- Section 4-Surface Drainage and Flood Mitigation
  - Section essentially follows the original existing Rules
  - Leitch suggested that 4.2.A should include the phrase "without adequate provision". No changes were made because 4.1.F contains the phrase "without just compensation".
  - Leitch questioned the BRRWD's role in enforcing Wetlands Conservation Act (WCA) (4.2.M).
- Section 5-Subsurface Tile Drainage
  - Tiling not covered in existing Rules
  - Discussed tile system operation during upstream flooding/enforcement
  - Discussed conservation drainage practices
- Section 6-Alteration of Natural Drainageways and Wetlands
  - Possible wetland language concern
- Section 7-Municipal Drainage

- Deals with municipal drainage plans
- Section 8-Municipal Separate Storm Sewer Systems (MS4) Regulations
  - New section added to Rules to address the MS4 to regulate stormwater discharge in the City of Moorhead
- Section 9-Buffer Rule
  - New section added to Rules to address the 2015 Buffer Rule
  - Leitch had a question about the "per parcel" language. The Minnesota Board of Water and Soil Resources (BWSR) language was used to draft this item.
  - Leitch suggested that the word "economic" should be changed to "financial" (9.F.1)
- Section 10-Related Ordinances
  - Covers BRRWD cooperation with local, state, federal agencies
- Section 11-Enforcement
  - Leitch suggested changing the word "threatened" to "potential" throughout the section.
  - Discussed holding contractors responsible to confirm that all necessary project permits have been obtained.

In order to be in compliance with BWSR requirements for the BRRWD's Buffer Rule funding, the Board has to consider Rule adoption at the 7/8/19 meeting. Albright will prepare the Order to adopt the Rules and distribute copies to the Managers for review prior to the next meeting. **Motion** by Fjestad to direct Staff to incorporate the noted edits for the Rules document and distribute a final draft for the Board's review prior to the 7/8/19 meeting at which time the Board will consider final Rule adoption. **Seconded** by Anderson. Leitch noted for the record that the Board considered the comments from Gerald Zimmerman, Don Nelson, and the City of Moorhead. **Approved.**

**Adjournment.** **Motion** by Anderson to adjourn the hearing. **Seconded** by Fjestad. **Approved.** President Leitch adjourned the hearing at 7:50 PM.

Respectfully submitted,

John E. Hanson, BRRWD Secretary