

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING November 23, 2015

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, November 23, 2015, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, Breanna L. Kobiela, John E. Hanson, Troy E. Larson, Catherine L. Affield, and Peter V. Fjestad. BRRWD Staff attending included: Erik S. Jones, Engineer, and Wade Opsahl, Houston Engineering, Inc. (HEI), and landowners: Greg and Inez Settlemeyer.

Chairman Van Amburg called the meeting to order at 7:00 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 11/09/15 regular meeting and the 08/29/13 Watershed District Enlargement Boundary hearing. Affield noted two minor corrections for the 11/09/15 minutes. **Motion** by Affield to approve the minutes, subject to correction. **Seconded** by Anderson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$719,828.48. Administrative disbursements for the year are \$323,699.34 and for this month to date are \$19,759.86. The total income for the year is \$4,130,579.60, and income since the last meeting is \$2,135.00 from the Minnesota Pollution Control Agency (MPCA) for the Upper Red River Total Maximum Daily Load (TMDL) Study.

Other business brought before the Board included:

Greg Settlemeyer Drainage Concern. Greg and Inez Settlemeyer discussed their concern about area erosion/siltation entering "east tributary" of Whisky Creek in Section 20, Humboldt Township, Clay County. He wanted to know if his neighbor can legally drain into the tributary, causing erosion and silting in the waterway, which does have buffer strips. Settlemeyer was concerned that the silt is causing the Creek to spread out and hold water in his trees, which are dying. The Board offered to have the staff conduct a field review of the area. The group discussed possible causes and solutions to the erosion problems, and possible funding sources to correct the problem. Jones will call Settlemeyer to schedule a field meeting.

Permit No. 15-132, Brian Durensky. Applicant proposes to install 30 acres of pattern tiling in the SE¼, Section 16, Atherton Township, Wilkin County, outletting via gravity flow to Wilkin County Ditch (C.D.) No. 41, to which it is assessed.

Permit No. 15-134, Richard Menholt/Flowing Township. Applicant proposes to install two culverts/approaches in the SE¼, Section 22, Flowing Township, Clay County. The first culvert would be installed on the east-west quarter line in Section 22, and another one on the line between Sections 22 and 27, Flowing Township. The water will flow north to Clay C.D. No. 10 to which the property is assessed. Jones reported the one of the existing culvert sizes into C.D. No. 10 is an 18" dia. corrugated metal pipe (CMP), according to the record drawings. Opsahl said that the outlet to C.D. No. 10 is actually a 48" dia. pipe. The Board tabled this application at their 11/09/15 meeting to allow time for a field review of the site to determine the best sizing for the new culverts. Jones recommended two lines of 30" dia. CMP in each of the field approaches.

Permit No. 15-139, Wayne Zimmerman. Applicant proposes to install an east/west culvert in 50th ST N in the SW¹/₄, Section 6, Morken Township, Clay County, along Clay County Road (C.R.) No. 108 to drain water directly west for approximately 2 miles in the road ditch then north into a natural waterway to the Buffalo River. Albright previously noted that there would be other landowners along C.R. No. 108 who could be affected by the drainage. He had suggested that the Board table this application until Zimmerman can obtain signed notification forms from the downstream landowners. **Tabled**, pending receipt of the downstream notification forms from Zimmerman.

Permit No. 15-141, Paul Aaberg. Applicant proposes to install random tiling in the E¹/₂NE¹/₄, Section 18, Oscar Township, Otter Tail County, to hook up to another tile system owned by a different landowner. The Board briefly discussed downstream landowner concerns. Manager Larson visited with the neighbor, Mark Danielson, who was aware of the project and agreed to the work.

Permit No. 15-144, Kirk Watt. Applicant proposes to install up to eight inlet culverts with flapgates in existing open cut ditches on the north side of his field in the NW¹/₄, Section 16, Oakport Township, Clay County, outletting to a privately maintained ditch. Jones explained that during a high water event, the water will still back up into Watt's field, but for smaller events, the gates will provide some protection.

Permit No. 15-145, Tim Thompson/Tri-T Farms. Applicant proposes to replace a 24" dia. x 24' long culvert in the SE¹/₄SW¹/₄, Section 7, Barnesville Township, Clay County, with a new 24" dia. x 40' long pipe and to widen an existing approach on the north side of the township road to accommodate larger machinery.

Motion by Anderson to approve Permit Nos. 15-134 through 15-145, except Permit No. 15-139, which is still tabled. 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). **Secinded** by Kobiela. **Approved.**

Scott McCaslin Tiling Outlet Concerns. Albright met with Dwight Hanson on 11/05/15 regarding the recent drainage work they have done on their property in the NW¹/₄, Section 24, Hamden Township, Becker County, and Hanson has agreed to open the tile they blocked, which is restricting Scott McCaslin's tile outlet. Albright will check again when he returns to be sure that the work has been completed.

Bryan and David Henderson Waterway Concern. Jones explained that the Henderson's contacted the BRRWD with concerns that their neighbor is farming through a natural waterway that crosses C.R. No. 26 on the line between Sections 27 and 34, Manston Township, Wilkin County. Ron Conzemius farms through the waterway in the SW¹/₄, Section 27, on the north side of County State Aid Highway (CSAH) No. 26, which restricts the natural flow of water from the Henderson property on the south side of the road in the NW¹/₄, Section 34. The Board briefly discussed the issue and authorized HEI to conduct a survey to determine if Conzemius' work will actually affect upstream drainage, which would be a violation of the BRRWD's Rules. There was also a question if the waterway is protected waters. The area landowners would like to see part of the water diverted west on the south side of CSAH No. 26.

Approach Removal Complaint. Rick Maier filed a complaint regarding Dan Nordick's removal of a dry approach in the NE¹/₄, Section 10, Deerhorn Township, Wilkin County, off from C.R. No. 32. This approach has historically been kept in place by agreement, as a divider for drainage to Project No. 02, Wilkin C.D. No. 13, (east) and Project No. 30, Judicial Ditch (J.D.) No. 1 (west). Opsahl conducted a field review. He reported that part of the dry approach was removed, and the water was ditched to go back east through the centerline culvert in C.R. No. 32. Rick Maier farms the field north of the C.R. No. 32 and doesn't want any more water. After discussion, the Board agreed that Nordick should have applied for a permit for the work, and that the approach should be restored. **Motion** by Fjestad to authorize BRRWD Administrator Bruce E. Albright to send a letter to Nordick advising him that by removing the dry approach

he was in violation of BRRWD Rules and that he will need to restore the dry approach. **Seconded** by Affield. **Approved.**

Project No. 77, Clay C.D. No. 51-Lateral No. 3. BRRWD Attorney Tami Norgard, Vogel Law Firm, is working with our insurance carrier, Allied World, regarding the Norby lawsuit against the BRRWD. Albright will also follow up with Allied World regarding our coverage.

Project No. 75, Wilkin C.D. No. 31-Lateral. Opsahl reported that the Wilkin County Highway Department has completed the construction, and HCI Commercial Landscape Contractors, Inc., has completed the seeding and mulching. We still need to place some additional r-o-w stakes and signage. The office will work on cost allocation to the various ditch systems/projects in the next few weeks.

Project No. 61, Clay C.D. No. 11. Jones reported that construction is nearly finished with just a few cleanup items left. He distributed photographs for the Board's review of the new outlet pipe to the Red River and the repaired slope. Anderson said that the contractor reported some apparent construction issues from the original project. Opsahl explained that what the contractor reported to Anderson were actually problems caused by water repeatedly washing through the deteriorated structure and eroding the base material.

Jones submitted Pay Request No. 1 for Riley Brothers Construction, Inc., in the amount of \$203,417.80. **Motion** by Anderson to approve the referenced pay request. **Seconded** by Hanson. **Approved.** Landowner assessments for the project will be in effect for three years starting in 2016.

Project No. 49, Oakport Flood Mitigation. Attorney Corey Elmer, Vogel Law Firm, has re-acquired 7 of the 11 needed construction easements. Albright continues to work with the Fischer Family regarding the Board's stockpile lease offer to them. Ulteig Engineers, Inc. (UEI) has scheduled the preconstruction meeting for 12/01/15 at 1:30 PM in the Fargo UEI office. The contractor, R. J. Zavoral and Sons, Inc., might start some work on the lift station for the stormwater pond for Phase 4 this fall, depending on weather conditions, but they don't plan to start any major work until next spring.

Project No. 39, Georgetown Levee. Opsahl reported that Olson Construction of Lake Park, Inc., expects to finish the final grading of the ball diamond this week. The Minnesota Department of Transportation (MNDOT) donated several loads of fill from their r-o-w project for the ball diamond site. Dakota Fence also installed the road closed signs and barricades this week. Opsahl explained that he had the rest of the fill for the ball diamond hauled in from one of our other projects so that the work could be finished this fall despite the recent rainfall, instead of waiting until next spring. Van Amburg noted that he had a conversation with Pat Lynch, Financial Coordinator, DNR Waters, who felt that there should be funding available to cover the final costs to close out the project this year.

Project No. 38, Farmstead Ring Dikes. Opsahl will meet with the six candidates for potential 2016 ringdike construction projects to determine their interest in a ringdike and to complete some preliminary survey work.

Project No. 23, Becker C.D. No. 15. Contractor Chad Mattson is essentially done with the C.D. No. 15 repairs. Later this fall, weather permitting, he will come back to finish site cleanup, including some tree debris disposal. When William Nichol Excavating, Inc. finishes the Wilkin County outlet stabilizations, he has been asked to finish repairs on a larger excavation site on a branch of C.D. No. 15 in Audubon Township.

Wilkin C.D. No. 5A, 26 and 22 (Laterals No. 1 and 2). The bufferstrips for all the ditches have been staked, and new r-o-w posts will be installed tomorrow. William Nichol Excavating, Inc., has been working on the outlet control structures. HEI submitted Pay Request No. 1 for \$28,247 for the outlet

control structures/materials. **Motion** by Anderson to approve the referenced pay request. **Seconded** by Fjestad. **Approved.**

Mediation Project Team (PT). The next PT meeting will be held on 12/10/15 in the Barnesville office at 1:30 PM when the PT will go to their winter daytime meeting schedule.

Barnesville Township Area Study. HEI has completed the pipeline survey. Jones will continue to work with the pipeline companies regarding the depth of their facilities.

Stony Creek Comprehensive Project. Jones met last week with MNDOT regarding their requirements for installing a new culvert through Interstate-94 (I-94). He reported that MNDOT is willing to work with the BRRWD on this project feature, but they are concerned about their potential project assessment. The agency personnel indicated that they would prefer to supervise the I-94 culvert installation, as the federal road authority. The BRRWD would provide the plans, but they would handle the actual construction administration, including staking, construction observation, etc. Jones anticipated that the BRRWD's project contractor would still be responsible for the actual culvert installation. Jones and the agency personnel also discussed MNDOT's environmental review requirements. Jones noted that the BRRWD's standard environmental construction protocols satisfied MNDOT's requirements. MNDOT hoped that the BRRWD would take their assistance with the pipe install into consideration when determining benefits for the project. The Board briefly discussed MNDOT's State funding process. Opsahl pointed out that it is easier for the agency to obtain funding for actual construction work than it is to pay project assessments. The Board will consider an arrangement for MNDOT to provide construction services in lieu of a monetary potential assessment for the project.

Jones reported that the F-M Diversion Authority (DA) approved the Stony Creek funding request (\$86,000) at their meeting on 11/12/15. He explained there is potentially up to \$1.8 million available for our project in the future. The initial request of \$86,000 is 5% of the total for project development. The DA also funded four retention projects from other Watershed Districts, including the Bois de Sioux Watershed District.

Ron Harnack, Project Manager, Red River Watershed Management Board (RRWMB), has requested project summaries for BRRWD projects that could potentially receive 2016 Flood Damage Reduction funding. HEI is updating the one-page project factsheets to submit to Harnack.

Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE). Albright and Jones plan to have the new RWMP completed for review at the January 2016 BWSR Executive Board meeting. Following this meeting, we will distribute the Plan to various agencies for a 60-day review. The next steps will be to hold the Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC) meetings.

Army Corps of Engineers (COE) F-M Diversion. Van Amburg distributed some information from the last DA meeting for the Board's review. He noted that one item of interest was information regarding the hardship case buyout that the DA had decided to postpone. The Board discussed the issue, which the DA will take up again at a special meeting tomorrow.

The Board discussed submitting a request to the DA for preliminary engineering costs (Phase 1) for the Barnesville Township Area Study and the Upper South Branch of the Buffalo River Study. The funding would come from monies the DA has available for retention projects upstream of the Fargo-Moorhead area similar to the funding they recently approved for the Stony Creek project. **Motion** by Fjestad to submit funding applications for the two referenced projects. **Seconded** by Kobiela. **Approved.**

Upper Red River TMDL. MPCA has tentatively scheduled the public informational meeting for the Upper Red River TMDL Study on January 7, 2016, at 1:30 PM, in our Barnesville office. Jones reported that he had a conference call with the Environmental Protection Agency (EPA) and MPCA last week. They were satisfied that their comments on the report had been addressed. MPCA will now distribute the study for public comment. MPCA plans to complete the Study approval process by June 2016.

Minnesota Association of Watershed Districts (MAWD) Annual Meeting. The MAWD Annual Meeting and Trade Show is scheduled for December 3-5, 2015, at the Arrowwood Conference Center, Alexandria, MN. Managers Anderson, Van Amburg, Hanson, Kobiela, and Fjestad plan to attend.

Hawley Buffalo River Restoration-Phase 2. Jones reported that the DNR signed the Phase 2 contract on 11/16/15. That same day, HEI held the preconstruction meeting, and the contractor, Sellin Brothers, Inc., started some initial construction. Jones discussed the proposed work plan and explained that we hope to have most of the project completed by the end of the year with only cleanup left to do in the spring. The BRRWD must spend the grant funding by 6/30/16.

The Board signed the construction contract with Sellin Brothers, Inc., which was awarded at our 11/09/15 meeting. **Motion** by Fjestad to sign the referenced contract. **Seconded** by Anderson. **Approved.**

COE Halstad Upstream Retention (HUR) Study. The COE is extending the HUR Study downstream and is asking for input models from the various local watersheds for their larger mainstem model. They plan to extend the unsteady modeling along the Red River from Halstad north to the confluence of the Red River with the Roseau River in Canada. The RRWMB is covering the additional Study costs on the Minnesota side of the Red River (\$100,000), except for costs associated with the BRRWD because we are not a RRWMB member. The main effort for the local watershed districts will be providing the existing and proposed models and GIS data to the COE and providing feedback as they link all the models into their model. The benefit of the extended study will be to provide a standardized model to track progress towards the Red River Basin Commission Long Term Flood Solutions Report's 20% Red River Mainstem peak flow reduction goals, which is important in securing potential regional, state, and federal funding sources. The estimated cost to the BRRWD is approximately \$5,000, which would include costs for HEI staff time to provide information to the COE. **Motion** by Kobiela to approve the referenced expenditure up to \$5,000. **Seconded** by Affield. **Approved.**

Elkton Township Wetland Restoration. Chuck Anderson is still waiting for a response from the William Ziegler Construction's insurance company regarding his crop loss claim. Albright contacted the company's adjustor asking for a reply regarding the status of the claim. To date, there has been no response.

Lower Otter Tail River Restoration. Jones contacted Tim James, MPCA, regarding the status of our 319 grant funding. James assured Jones that the funds should be available by April 1, 2016. The next Restoration Steering Committee meeting will be held on December 8, 2015, at 12:30 PM, at the DNR Fergus Falls office. Jones noted that we should hear by the end of December about the status of the Wilkin Soil and Water Conservation District (SWCD) application for accelerated implementation funds from Clean Water Funds (CWF) grant to match part of the 319 BWSR grant cost share.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Catherine L. Affield	Voucher #15-22, 05/01/15-06/30/15	Admin.	\$ 1,207.24
Cooper's Technology Group	#403077, Jerger Work Station/Fenger's Chair	Admin.	\$ 1,690.01
HCI Comm. Landscape Contractors, Inc.	#15220, Seeding & Mulching	Pj. 40, Clay C.D. 41	\$ 950.00
Joel Carlson, Inc.	December lobbyist billing	Admin.	\$ 850.00
Olson Construction of	#2015-95, remove cattail debris-North Dam	Pj. 13, Hay Crk/Stinking Lk	\$ 760.00

Lake Park, MN Inc.			
Riley Bros. Const. Inc.	Pay Req. #1	Pj. 61, Clay 11	\$ 203,417.80
RRBC	Conference Registrations (3)	Admin.	\$ 675.00
TrueNorth Steel	#FP000008068, Culvert	Clay C.D. 54	\$ 794.40
UEI	#54722 through 10/31/15	Pj. 49, Oakport	\$ 17,681.12
Vogel Law Firm	#164250, October Billing	Admin.	\$ 46.00
Vogel Law Firm	#164251, October Billing	Pj. 49, Oakport	\$ 1,610.00
Vogel Law Firm	#164252, October Billing	COE	\$ 805.00
Vogel Law Firm	#164233, October Billing	Pj. 77, Clay 51-Lat 3.	\$ 2,119.50
West Otter Tail SWCD	Cost Share Contracts (4)	S. Branch CWF	\$ 12,712.50
Wm. Nichol Excavating	Pay Req. #1	Wilkin 5A, 22, & 26	\$ 28,247.00
			\$ 273,565.57

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

Special Agenda.

2015 MAWD Resolutions. The Board reviewed the proposed MAWD resolutions, including Resolution #3 to increase Manager per diem payment from \$75 to \$100, which the Board discussed at their last meeting. Manager Kobiela, who is a member of the MAWD Resolutions/Policy Committee, noted that the Committee recommended that the full MAWD membership discuss and take action on Resolution #7, which involves Endangered and Threatened Species conservation regulations/policies.

Kobiela asked the Board for their input on Resolution #3. She thought that currently \$75 is the maximum per diem for Managers, but not all Districts pay that much. The Board had an extended discussion regarding this proposal. Van Amburg commented that it appeared that the Resolution Committee's recommendations were appropriate.

RRWMB. Managers Anderson and Fjestad attended the recent 11/17/15 RRWMB meeting in Ada, MN. The Board discussed some of the agenda items covered at the meeting. Fjestad questioned some of the expenditures for public relations firms the RRWMB approved.

Rules and By-Laws. The Board briefly discussed the BRRWD Rules and recent changes in Drainage Law that the new Rules will need to incorporate. They plan to set aside time this winter to work on Rules and By-Laws revision.

Clay C.D. No. 41. Jones presented a slide repair investigation for the American Crystal Sugar (ACS) site. The Board discussed two alternatives for the 100-year event and a 10-year event. The higher frequency design cost estimate, which includes larger structures, is approximately \$425,000, and the 10-year design with smaller culverts would cost approximately \$250,000. Jones will forward a letter with this information to ACS for their review.

Next Meeting. The BRRWD will hold their next regular meeting on Monday, December 14, 2015, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:23 PM.

Respectfully submitted,

John E. Hanson, Secretary