

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

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## MINUTES FOR MANAGERS' MEETING

September 14, 2020

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, September 14, 2020, at 7:00 PM in the Barnesville office. Due to the Coronavirus protocols for public meetings, the Board held an electronic meeting in accordance with Minnesota Statutes Annotated (M.S.A.) Section 13D.021. BRRWD Managers present in the office were Peter V. Fjestad, Catherine L. Affield, John E. Hanson, Gerald L. Van Amburg, Paul G. Krabbenhoft, Troy E. Larson, and Mark T. Anderson. BRRWD staff attending in person were Erik S. Jones, Engineer, and Julie Jerger, Senior Administrative Assistant, Houston Engineering, Inc. (HEI). Others attending via the conference line: Brian Stavenger, Eide Bailly; and in person: BRRWD Attorney Tami Norgard, Vogel Law Firm, and landowner Dave Quittschreiber.

BRRWD President Fjestad called the meeting to order at 7:00 PM and informed the audience that the meeting was being recorded to aid in the preparation of meeting minutes.

**Agenda.** Changes or additions to the meeting agenda: cost-share contribution request for the Clay County Flood Insurance Study (FIS), Eide Bailly HR consulting proposal, and the Interim Administrator's resignation. **Motion** by Anderson to approve the agenda with the noted additions. **Seconded** by Affield. **Approved** by unanimous roll call vote.

**Secretary's Report.** The Board reviewed draft minutes for the 8/24/20 regular meeting and annual budget hearing. **Motion** by Affield to approve the minutes. **Seconded** by Anderson. **Approved** by unanimous roll call vote. There was a brief discussion regarding the increase in the BRRWD's 2021 budget.

**Treasurer's Report.** The Board reviewed the BRRWD's 9/14/20 financial reports. Cash on hand is \$3,563,260.06. The current administrative disbursements since 8/10/20 totaled \$32,670.06, and the total for the year is \$284,327.93. Income received since the last meeting totals \$828,755.15, and for the year, totals \$4,225,357.93. **Motion** by Anderson to approve the Treasurer's Report. **Seconded** by Van Amburg. **Approved** by unanimous roll call vote.

The Board discussed changes Clay County will make to the 2021 Project No. 32, Hawley Diversion and Clay County Ditch (C.D.) No. 32 tax assessments to correct the 2020 ditch/project levy for those two accounts.

**Citizens to be Heard.** Brian Stavenger, Eide Bailly, presented the Board with a proposal to conduct a cost analysis to transition the current staff from HEI employment to the BRRWD. After reviewing the proposal and engaging in an extended discussion, the Board agreed to accept Stavenger's proposal for a Phase 1 cost analysis, estimated to cost \$15,000 to \$20,000. **Motion** by Krabbenhoft to hire Eide Bailly to prepare the Phase 1 cost analysis, as presented. **Seconded** by Larson. **Approved** by unanimous roll call vote.

**Deerhorn Township Drainage Concern.** Landowner Dave Quittschreiber voiced his concerns about a ditch improvement project (Permit No. 20-099) proposed by his neighbor, John Thompson, for the west side of County State Aid Highway (CSAH) No. 11 in the NE¼, Section 24, Deerhorn Township, Wilkin County. Quittschreiber doesn't want the downstream stretch of the county road ditch along his property included in Thompson's project and is not interested in sharing the costs of the project. The Board took note of Quittschreiber's concerns and agreed to work with Thompson to ensure his project ends upstream of Quittschreiber's property. Jones and a Manager will conduct a field review.

**Other Business brought before the Board included:**

**FM Diversion Project Lawsuits.** BRRWD Attorney Tami Norgard, Vogel Law Firm, provided an update from Attorney Brent Edison regarding the status of the Minnesota Department of Natural Resources (DNR) Contested Case. The briefs are due by 9/21/20 with reply briefs to be filed by 9/28/20. A decision is expected from the Administrative Law Judge in 30-60 days with the possibility of subsequent appeals. Edison expects that the Contested Case process will be concluded in about two months, followed by potential court action. Norgard did not have any information regarding the Diversion Authority's permit denial lawsuit being handled by Attorney Joel Fremstad. Van Amburg provided a report regarding the 8/26/20 Minnesota-Clay County Joint Powers Agreement (MCCJPA) meeting discussions. Their next meeting is on October 1, 2020.

**Section 13, Audubon Township, Drainage Concern.** Jones updated the Board regarding Todd Boit's drainage activities in the NW¼, Section 13, Audubon Township, Becker County. Jones, Manager Hanson, and the Becker County Road Maintenance Supervisor met with Boit on site last week to discuss all the outstanding drainage issues related to his unaddressed 2019 violations and current ditching activities that don't comply with BRRWD Rules or County standards. Jones discussed actions Boit will need to take to come into compliance with the BRRWD Rules so that the Board would be able to consider his permit to lower the County Road (C.R.) No. 144 centerline culvert. Jones will send a letter to Boit with a list of actions for his review.

**Permit No. 20-093, Clay County Highway Department.** Applicant proposes to replace and relocate a deteriorating bridge in the W½, Section 15, Elmwood Township, about 100' west (downstream) on Stony Creek. The replacement will be a longer structure with similar hydraulics, and the new alignment will improve traffic flow and will meet state minimum design standards.

**Permit No. 20-095, Peter Aasness.** Applicant proposes to install 120 acres of pattern tile in the NE¼, Section 11, Foxhome Township, Wilkin County, outletting through the township road via either a lift station or control structure directly into C.D. No. 4 to which the property is assessed. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-096, Kirk Watt.** Applicant proposes to install pattern tile in the SW¼, Section 31, Georgetown Township, Clay County, outletting north along C.R. No. 100 via a lift station then west and north to the Red River. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-097, Kirk Watt.** Applicant proposes to install an additional culvert through Clay C.R. No. 100 in Section 31, Georgetown Township, in conjunction with Permit No. 20-098.

**Permit No. 20-098, Kirk Watt.** Applicant proposes to replace an existing culvert in C.R. No. 100 in the NW¼, Section 31, with a larger culvert, sizing to be recommended by the BRRWD. This proposed work is also associated with permits 20-096 and 20-097. Jones plans to review the proposed work for all three permits with the Clay County Highway Department this week. **Action postponed** on Permits No. 20-097 and 20-098, pending discussions with the Clay County Engineer.

**Permit No. 20-099, John Thompson.** Applicant proposes to modify the CSAH No. 11 west ditch grade along the next 4,000' north of his farmstead in the NE¼, Section 24, Deerhorn Township, Wilkin County, through 130<sup>th</sup> ST to the South Branch of the Buffalo River and to lower the 130<sup>th</sup> ST culvert and the field approach into his property. Based on the earlier discussions with downstream landowner Dave Quittschreiber, action on this permit will be postponed until a Manager field review is conducted. **Tabled**, pending Manager field review.

**Permit No. 20-100, Matt Ness.** Applicant proposes to install 150 acres of pattern tile in the NW¼, Section 22, Wolverton Township, Wilkin County, outletting via gravity flow directly into Wolverton Creek. The

downstream landowner has requested that Ness install perforated tile where the project crosses his property. Jones advised Ness that because the project exceeds 40 acres, according to BRRWD Rules, a control structure will be required at the outlet. Ness has not yet responded to Jones. Jones recommended permit approval, pending Ness's response regarding the outlet control structure, the requested addition of perforated tile across the downstream land, and subject to our standard tiling disclaimer.

**Permit No. 20-101, Matt Hasbargen.** Applicant proposes to install pattern tile on the W½, Section 9, Sunnyside Township, Wilkin County, outletting south via a lift station in the southwest corner of the section through CSAH No. 14, then 0.5 miles to Wilkin C.D. No. 2/Otter Tail River to which the property is assessed. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-103, Tim Thompson.** Applicant proposes to regrade the north ditch of 120<sup>th</sup> AVE S in the SW¼, Section 32, Elkton Township, Clay County, to lower the two existing 18" dia. culverts, and to add a new approach/18" dia. culvert, placed on the new ditch grade. Thompson has received township permission for the work. Jones recommended permit approval, subject to township approval to work within their road right-of-way (R/W).

**Permit No. 20-104, United States Fish and Wildlife Service (USFWS).** Applicant proposes to restore two wetland sites on the Jed Komrosky and Barry Nelson properties in the N½, Section 20, Lake Park Township, Becker County, by filling in open ditches on the sites. Jones noted that based on LiDAR data, the project won't affect neighboring land and recommended permit approval.

**Permit No. 20-105, John Overland/Minnesota Board of Water and Soil Resources (BWSR).** Applicant is working with the landowner, Ogema Investors, LLC, to develop a wetland banking site in the W½W½, Section 6, Callaway Township, Becker County. Jones is concerned about possible impacts to neighboring property to the west. **Tabled**, pending Jones's contact with Overland.

**Motion** by Van Amburg to approve Permit Nos. 20-093, 20-095, 20-096, 20-100, 20-101, 20-103, and 20-104, subject to the referenced disclaimers and conditions. **Seconded** by Affield. **Approved** by unanimous roll call vote. The Board had a brief discussion regarding the 60-day permit processing rule.

**Clay C.D. Nos. 41, 47, and 50 Repairs.** The Board received Pay Request No. 2-Final for \$143,197 from Key Contracting, Inc. and Change Order No. 2 for a net increase in the project contract of \$27,551. **Motion** by Larson to approve the referenced pay request and change order. **Seconded** by Affield. **Approved** by unanimous roll call vote.

**Project No. 79, Wolverton Creek Restoration.** The Board received the Final Phase 1 Pay Request for \$25,937 from Sellin Brothers, Inc. This payment reflects the release of the retainage to close out the contract. **Motion** by Anderson to approve the referenced final pay request. **Seconded** by Hanson. **Approved** by unanimous roll call vote. Gladen Construction, Inc., Laporte, MN, plans to start Phase 2 the week of 9/21/20.

**Wilkin C.D. No. 4 Complaint.** The Board discussed a complaint regarding a spoil bank that is acting as a dike between the Hasbargen and Bergquist properties in Section 7, Foxhome Township. A Manager field review will be scheduled.

**Wilkin/Otter Tail Judicial Ditch (J.D.) No. 2.** The Board received the results of HEI's survey in Sections 7 and 18, Orwell Township, Otter Tail County, regarding Dan Bradow's drainage concerns with J.D. No. 2 along his property. Jones explained that the separation between the field level and the ditch bottom are just too small to provide good drainage for Bradow's property. The area is referred to as "Shaw's Slough" and during high water events, this area will flood. Jones suggested that when the area dries up, the condition of the culvert could be checked. The Board discussed other options Bradow might consider for this area.

**Becker C.D. No. 21 Repair.** The Board discussed a possible repair for C.D. No. 21, Branch 2, through Section 3, Riceville Township. The estimated repair cost is approximately \$15,000. **Motion** by Anderson to approve the proposed repairs. **Seconded** by Van Amburg. **Approved** by unanimous roll call vote.

**One Watershed, One Plan (1W1P).** The Public Hearing for the BRRWD's draft 1W1P is scheduled for 9/16/20 at 7:00 PM in the Barnesville office to be held virtually via Microsoft Teams and in person following COVID-19 meeting guidelines. The Board received a copy of the final draft plan for review in the meeting packet. **Motion** by Anderson to approve the draft 1W1P, subject to any significant comments coming from the 9/16/20 hearing. **Seconded** by Krabbenhoft. **Approved** by unanimous roll call vote. Following the hearing, the Policy Committee will consider any hearing comments and make a final recommendation for bringing the plan to BWSR in October.

**Nyquist Coulee.** The Board received the results of a drainage investigation of the Nyquist Coulee channel, which during extreme highwater connects Wilkin C.D. No. 29 to Wolverton Creek in Sections 15, 21, and 22, Roberts Township. The survey included culvert elevations and sediment depths. Staff will work with the Wilkin Soil and Water Conservation District (SWCD) in regard to the Minnesota Wetlands Conservation Act (WCA) requirements. Jones will forward the information to the landowners after discussions with the SWCD.

**Document Retention Policy.** The Board discussed potential options for a retention policy regarding meeting recordings, documents, etc. BRRWD Attorney Tami Norgard, Vogel Law Firm, recommended that the Board consider developing a policy manual in the future to provide BRRWD staff and Managers with comprehensive guidelines for handling various situations as they arise.

**HR Committee Report.** The Board briefly discussed Interim Administrator Kathy Fenger's resignation, HEI's process to hire for this position per their contract with the BRRWD for office staff, and future staffing needs. Once HEI is prepared to start interviews, one or more Board members will participate.

**Clay County Manager.** President Fjestad contacted Minnesota Association of Watershed Districts (MAWD) regarding Mark Anderson's BRRWD Manager position. He was not reappointed by Clay County, and his term expired on 8/31/20. According to Minnesota Statutes and the BRRWD Bylaws, until the County appoints a new Manager to replace him, Anderson will continue to act as a BRRWD Manager.

**2020 Fall Tour.** Due to the COVID-19 emergency, the BRRWD's Fall Tour will not be held this year.

**Buffalo River FIS.** The Board discussed an agreement with Clay County to split the costs (50/50) of the Buffalo River FIS north of Glyndon. An additional \$37,268.75 of work was needed for that study, including supplementary survey data acquisition to improve the flood model. According to the FIS agreement, the BRRWD's share is \$18,634.38. **Motion** by Van Amburg to approve the contribution. **Seconded** by Hanson. **Approved** by unanimous roll call vote.

**The following bills were presented for approval:**

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
AmeriPride Services, Inc.	August billing, Office Rugs (2)	Admin.	\$ 95.92
Barnesville Record-Review	Board Appointment./Budget Hearing Notice	Admin.	\$ 560.00
Barnesville Record-Review	Public Hearing Notice	1W1P	\$ 60.00
Braun Intertec Corporation	Concrete Testing	Pj. 33, Clay C.D. No 50	\$ 740.50
Carmen Pattengale	August Office Cleaning (2)	Admin.	\$ 130.00
Catherine L. Affield	Voucher #20-22, 07/01/20-08/31/20	Admin.	\$ 824.97
Catherine L. Affield	Voucher #20-22, 07/01/20-08/31/20	Pj. 23, Becker C.D. #15	\$ 141.79
City of Barnesville	08/25/2020 Phone & utilities billing	Admin.	\$ 622.51
Dacotah Paper Co., Inc.	#62536, Office supplies, etc.	Admin.	\$ 173.52
Daily News	2021 Budget Hearing Notice	Admin.	\$ 302.76

Daily News	Hearing Notice (2)	1W1P	\$ 167.40
Deluxe for Business	Checks, Office Supplies	Admin.	\$ 229.78
Dennis Drewes, Inc.	#76, Culvert Installation	Clay C.D. No. 9	\$ 4,900.00
Dennis Drewes, Inc.	#75, Culvert Installation	Pj. 61, Clay C.D. No 11	\$ 9,800.00
Forum Communications Co.	Public Hearing Notice (2)	1W1P	\$ 328.56
Fuchs Sanitation	8/31/20 Garbage billing	Admin.	\$ 56.16
Gerald L. Van Amburg	Voucher #20-28, 07/01/20-08/31/20	Pj. 23, Becker C.D. #15	\$ 147.07
Gerald L. Van Amburg	Voucher #20-28, 07/01/20-08/31/20	COE	\$ 115.44
Gerald L. Van Amburg	Voucher #20-28, 07/01/20-08/31/20	Admin.	\$ 1,251.68
HCI	#20129, Seeding/Mulching Field Approach's	Varies	\$ 500.00
HEI	September Billing	Varies-See attached	\$ 173,585.79
John E Hanson	Voucher #20-25, 07/01/20-08/31/20	Admin.	\$ 872.02
John E Hanson	Voucher #20-25, 07/01/20-08/31/20	Pj. 23, Becker C.D. #15	\$ 160.29
Key Contracting Inc.	Clay C.D. No. 41/47/50 Channel liner repairs	Pj. 33, Pj. 34, Pj. 35	\$ 143,197.00
LM Road Services	Ditch Spraying	Varies	\$ 31,533.65
LREC	08/01/20-09/01/20 Service	Pj. 79, Wolverton Crk.	\$ 26.17
Mark T. Anderson	Voucher #20-16, 05/01/20-06/30/20	Admin.	\$ 1,199.50
Moorhead Public Service	07/17/20-08/18/20- Service FL #21	Pj. 49, Oakport	\$ 32.42
New Century Press	2021 Budget Hearing Notice (2)	Admin.	\$ 266.62
New Century Press	Public Hearing Notice (2)	1W1P	\$ 144.00
Paul G. Krabbenhoft	Voucher #20-26, 07/01/20-08/31/20	Admin.	\$ 290.67
Pelican Rapids Press	2021 Budget Hearing Notice (2)	Admin.	\$ 587.38
Peter V. Fjestad	Voucher #20-24, 07/01/20-08/31/20	1W1P	\$ 115.44
Peter V. Fjestad	Voucher #20-24, 07/01/20-08/31/20	Pj. 23, Becker C.D. #15	\$ 145.24
Peter V. Fjestad	Voucher #20-24, 07/01/20-08/31/20	Admin.	\$ 581.44
Purchase Power	Postage	Admin.	\$ 54.36
Pure Health Solutions Inc.	August Water Billing	Admin.	\$ 59.06
Quill Corporation	Office supplies	Admin.	\$ 81.45
Red River Valley Co-op Power	08/01/20-08/31/20 Service	Pj. 49, Oakport	\$ 85.73
RMB Environmental Lab., Inc.	#515102 WQ Analysis	M.S.A.103D.905	\$ 790.00
RMB Environmental Lab., Inc.	#515405 WQ Analysis	M.S.A.103D.905	\$ 553.00
RMB Environmental Lab., Inc.	#515783 WQ Analysis	M.S.A.103D.905	\$ 522.00
RMB Environmental Lab., Inc.	#516005 WQ Analysis	M.S.A.103D.905	\$ 291.00
RMB Environmental Lab., Inc.	#516421 WQ Analysis	M.S.A.103D.905	\$ 29.00
Sellin Brothers, Inc.	Final Pay Request	Pj. 79, Wolverton Creek	\$ 25,937.60
The Hawley Harold	#4470, Public Hearing Notice (2)	1W1P	\$ 120.00
The Hawley Harold	#4451, Budget Hearing Notice	Admin.	\$ 250.00
TrueNorth Steel, Inc.	Culverts/Dean Meyer driveway	Pj. 61, Clay 11-N Imp.	\$ 16,647.00
U.S. Bank Equipment Finance	08/27/20-09/27/20 Copier Lease	Admin.	\$ 274.65
Vogel Law Firm	#260642 August Billing	COE	\$ 18,204.00
Vogel Law Firm	#260964 September Billing	Pj. 79, Wolverton Crk.	\$ 2,003.00
Wilkin SWCD	Cover Crop Incentive Program	M.S.A.103D.905	\$ 25,000.00
William Nichol Excavating, Inc.	Section 28, Humboldt Twp. Cleanout	Pj. 54, Whisky Crk.	\$ 6,156.00
WREC	07/18/20-08/18/20 Service	Pj. 46, Turtle Lake	\$ 137.45
Xcel Energy	07/26/20-08/24/20 Gas Service	Admin.	\$ 25.77
			<b>\$ 471,106.76</b>

**Motion** by Anderson to approve payment of the bills. **Seconded** by Affield. **Approved** by unanimous roll call vote.

**Comments.** The Board briefly discussed bank signatories. It was agreed that Anderson was still authorized to sign the checks. Van Amburg noted that he will be attending the next Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) meeting on 9/16/20 where potential associate memberships for the BRRWD and the Sand Hill Watershed District will be discussed.

**Next Meeting.** The next regular BRRWD meeting is scheduled for September 28, 2020, at 7:00 PM in our Barnesville office via teleconferencing, depending on the COVID-19 meeting restrictions.

**Adjournment.** President Fjestad adjourned the meeting at 9:47 PM.

September 14, 2020

Page 6

Respectfully submitted,

John E. Hanson, Secretary