

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

January 23, 2017

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, January 23, 2017, at 7:00 PM in the Barnesville office. BRRWD Managers present were Mark T. Anderson, Jay A. Leitch, Troy E. Larson, and Peter V. Fjestad. Others attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); Caroline Clarin, Wetland Restoration Engineer, and Justin Fisher, Wetlands Restoration Biologist, Natural Resources Conservation Service (NRCS); and Chris Tunheim, Tunheim Construction, LLC.

In Chair Van Amburg's absence, Vice Chair 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 01/09/17 annual meeting. **Motion** by Anderson to approve the minutes. **Seconded** by Larson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$2,308,783.85. Total income this year to date is \$63,362.72. Income since the 01/09/17 meeting totals \$63,137.72 from the Minnesota Pollution Control Agency (MPCA) for our Otter Tail River Planning 319 Grant (\$13,253.49), the Wilkin County Environmental Office for reimbursement for the Whiskey Creek Enhancement survey (\$45,208.98), and Becker (\$3,083.06) and Otter Tail (\$1,592.19) Counties for 2016 delinquent property and ditch taxes.

Project No. 56, Manston Slough Restoration. Caroline Clarin and Justin Fisher, NRCS, and Chris Tunheim, Tunheim Construction, LLC, were in attendance to discuss the Wetlands Reserve Program (WRP) projects for the NRCS easements around the Manston Slough Restoration project. Clarin reported that the NRCS is making progress on tree clearing on their WRP easements now that water within the project has been lowered. She said that all of the sites have been mowed, including nearly all the trees up to 2"-3.5" dia., and a grinder was used to remove the larger trees. The Board reviewed a map showing the WRP sites within the project area. Albright reviewed attempts last fall to complete NRCS's WRP restorations and tree clearing. Because of the wet weather, their work and the BRRWD's Wilkin County Ditch (C.D.) No. 13-Lateral repairs were not completed. Clarin explained that NRCS's next steps will be to start the earthwork for the restorations. They will need the BRRWD to keep the stop logs out until that work is done, which could mean leaving the boards out for the entire year (2017). Clarin discussed NRCS's burning/easement three-year maintenance plan. She added that instead of burning, there is also a grazing option, if there is anyone interested in placing livestock in the project area. Albright noted that the BRRWD should be able to accommodate NRCS's request to keep the site dry and the stop logs out, unless we get a major flood event, which would naturally also curtail NRCS activities on the site. Albright noted that the Board could schedule a meeting this spring with the project partners who signed the Memorandum of Understanding (MOU). He observed that if the BRRWD can get the ditch lateral repairs finished as soon as possible this spring, it should significantly improve the downstream drainage. Sedimentation over the years has filled in the ditch slopes, causing a reduction in channel capacity. Albright noted that if conditions change, we will work with our partners to operate the project in the most mutually beneficial way.

Wolverton Creek/Comstock Coulee. Jones reported that he and Albright met Fisher and Clarin on 01/06/17 to discuss the Wetlands Reserve Enhancement (WRE) program as it relates to project funding. The WRE Geographical Area Rate Caps (GARC) for land acquisition are approximately one-half the Reinvest In

Minnesota (RIM) easement rates, but WRE will fund both easement acquisition and construction. Jones prepared a potential payment summary on a per parcel basis comparing WRE and RIM landowner easement and construction payments. Most of the parcels would receive more money going with the WRE easement because of the additional construction cost share feature of this program.

Albright gave a brief history of the project development and funding options. By law, the WRE program is coordinated through the United States Fish and Wildlife Service (USFWS), and an important project feature for the USFWS will be buffer strips for habitat. Albright explained that the USFWS will expect wider buffers than the State required 50' buffers. HEI will compile a right-of-way (R/W) table based on the 2, 5, and 10-year event modeling, using the center of the creek for the R/W measurements and then compare those calculations with the possible WRE requirements. Jones noted that buffer widths vary from 200' up to 900' along the channel according to land and channel topography on Phase I. Clarin noted that the landowners she has talked with are waiting to make a decision regarding a WRE contract until they know for certain that the BRRWD is moving forward with the project. Fisher thought that the USFWS is looking for easement/buffers in the range of 200'-300' widths. Clarin noted that she would like to have the proposed buffer acreage per parcel information from Jones by the middle of February when she is meeting with USFWS to review 2017 WRE funding applications. Fisher added that they could also work with an overall average buffer width.

Albright noted that rough figures show that the Phase 1 cost estimate is approximately \$4 million. The WRE/RIM comparison sheet shows that WRE would provide approximately \$2.2 million in construction funding if all the landowners participated in the program. The Conservation Reserve Enhancement Program (CREP) might provide some construction funding, but not as much as the WRE program. Another option could be for the BRRWD to add money to make the WRE easement payments more competitive with the RIM payment with the hope that the landowners might be more interested in enrolling in the WRE program to leverage the construction funding for the overall project. Albright noted that ultimately the landowners will be paying assessments for the project construction, so it would benefit them to have the WRE construction funding.

Anderson asked if all the project easements would have to be uniformly associated with the WRE program or if there could be "skips" along the channel alignment where some landowners chose to go with other options. Clarin explained that the WRE easement must be between two protected areas, such as Minnesota Department of Natural Resources (DNR) or RIM. However, NRCS would view a WRE wetland restoration site as stand-alone project, which wouldn't require adjacent protected areas. Clarin explained that unlike the Environmental Quality Incentives Program (EQIP), NRCS will fund a percentage of the entire project, and doesn't look at the breakdown of eligible practices. NRCS has WRE funds available through 2018, so Clarin encouraged the BRRWD to work with the landowners to get them signed up for WRE before the next Farm Bill is enacted. Albright explained that we could use the WRE program for the project from the Clay/Wilkin County line south to Wilkin County Road (C.R.) No. 30 and from C.R. No. 30 to the upstream reaches. Jones agreed that financially, the landowners would be much better off going with the WRE program. About 3-4 landowners in the Phase 1 area have already signed up for the WRE program. Clarin emphasized that the "sequence" of project development and funding is vital to NRCS, so our efforts will have to be carefully coordinated with the agency to optimize the project's potential. Jones will forward HEI's R/W tables for all the phases to Clarin in the near future.

Other Business brought before the Board included:

Permit No. 16-076, Jeff Yaggie. This permit was approved at the 9/12/16 meeting with the provision that Wade Opsahl, Technician, HEI, visit with Yaggie to ask if the proposed field approach/culvert off from C.R. No. 16 over Wilkin C.D. No. 12 could be located on the quarterline so that both landowners could use it to access their fields in Section 30, Nilsen Township, Wilkin County. Opsahl recently discussed this change with Yaggie, who explained that there is a quarterline ditch that is too steep to drive through to access the field from this location. Their original proposed location near the middle of the SE¹/₄ would be the best

alternative. The Board had decided that if the approach was placed on the quarterline, they would install it as a C.D. No. 12 expense. Yaggie told Opsahl that if necessary, he would pay for the installation. The Board discussed this information. Albright noted that the proposed location is still within the ditch system alignment, so he suggested that the Board still cover the installation and material costs. The Board agreed to allow Yaggie to install the crossing as proposed and to pay for the installation as a ditch system expense.

Haugrud Drainage Complaint. Albright noted that he visited with Jimmie Lindholm regarding the Haugruds request that he clean the waterway on his Conservation Reserve Program (CRP) acreage in Section 22, Prairie View Township, Wilkin County, in accordance with the recent HEI elevation survey. Lindholm indicated that if the survey shows that the channel needs to be cleaned, the work will have to be done. He is concerned that the channel sedimentation will be an ongoing problem until Haugrud's change their upstream farming practices in Section 23. Lindholm thinks the Haugruds should install buffers on their portion of the waterway to reduce future sediment deposits on his downstream CRP acreage. Albright will contact Lindholm again to form a plan to get the cleanout done before CRP maintenance restrictions begin on June 1.

Diking Complaint. Kraig Nelson called the office with a complaint about diking on the Janice Getz property they rent along the north side of C.R. No. 30 in the E½SE¼, Section 28, Deerhorn Township, Wilkin County. Albright assured Nelson that this issue would be addressed this spring, or sooner if conditions permit. He could also visit with Karlo Etten, the landowner who installed the proposed dike on the quarterline.

Project No. 49, Oakport Flood Mitigation-Phase 4. Albright met with Leonard Nelson on 01/12/17 at the HEI Fargo Office to discuss the Fischer family lease. Albright has also discussed the spoil site on the Fischer property with the renter, John Jones, who indicated that he was not concerned about the condition of the soil and will be ready to plant corn on the site this spring. His harvesting equipment has the technology to provide yield information for the site next fall should it be necessary. Nelson thought there might be shortage of black dirt on the west end of the spoil area. Albright encouraged Nelson to allow their renter to farm the site this year, and we could deal with the black dirt and yield impacts this fall after harvest. Northern Technologies, Inc. could provide average top soil depths for this area to compare with current top soil depths on the Fischer site. Future land use will probably be for a subdivision, not agricultural, so adding more top soil might not be needed. The Board discussed the condemnation process, which could be an alternative if the Fischers refuse to settle with the BRRWD on the lease amount. The Board felt their offer of \$24,153.27, approved at their 02/08/16, meeting was fair and final. Initially, the Fischers thought the 4-year lease (2013, 2014, 2015, and 2016) was worth \$40,000. On 04/05/16, they agreed to lower their settlement offer to \$35,000. Albright will continue to work with Nelson and would like to get this issue resolved. The Board was concerned that if we could reach agreement with Nelson, the other 7-8 family members might not agree.

The Board also discussed the R. J. Zavoral & Sons, Inc., claim of \$152,500 in liquidated damages, based on an alleged 61 days of lost work time from their original schedule caused by delays outside of their control. The project engineer, Kris Carlson, Ulteig Engineers, Inc. (UEI), has reviewed Zavoral's claims and feels there are some discrepancies with their analysis. UEI continues to work with Zavoral regarding their claim and a possible settlement.

Project No. 30, Clay/Wilkin Judicial Ditch (J.D.) No. 1. Albright reported that Bryan Kritzberger picked up the revised outlet petition and is currently circulating it for new signatures.

Flood Damage Reduction:

Mediation Project Team (PT). The next PT meeting is scheduled for Thursday, February 16, 2017, in the Barnesville office at 1:30 PM. Meeting notices will be sent. Albright noted that the date was changed from February 9th because he had a conflict.

The staff has prepared the Flood Damage Reduction (FDR) Grant Assistance Program Minnesota Department of Natural Resources (DNR) applications for 50% funding for the Stony Creek Impoundment and Setback Levees (\$7 million), Upper South Branch of the Buffalo River-Phase 1A

(\$1.39 million), Barnesville Township Water Resource Management (\$7.8 million). The Red River Watershed Management Board's (RRWMB) project list forwarded to the DNR didn't include any projects for the BRRWD because we are not a member of that organization. All three of these projects also have been approved for Phase 1 funding from the FM Diversion Authority (DA). Albright suggested that we could also contact our local Legislators to ask them to consider submitting a bill to fund these three projects. The DNR grants would cover 50% of the total project costs. **Motion** by Anderson to sign the local government resolution to submit the FDR Grant applications to the DNR for the three referenced projects and to work with local Legislators as needed to submit a bill for future funding. **Seconded** by Leitch. **Approved.** Vice Chair Fjestad will sign the applications on behalf of the Board.

F-M Diversion Project. The Board had an extended discussion about what was said on the topic of the F- M Diversion project at the recent Red River Basin Conference in Fargo on January 17-19, 2017. The Army Corps of Engineers (COE) and the Minnesota DNR expressed opposing views regarding possible project construction this spring. The DNR maintains that they cannot issue a permit for the project, as it is currently proposed, because it is illegal, citing a number of environmental impacts, and the COE maintains that they do not need a DNR permit to build the project. The DNR has now joined the Upstream Coalition's lawsuit.

The DA's engineering company advised Albright that the City of Wolverton is interested in meeting with the DA and the BRRWD to discuss a potential ringdike to protect the City in the event the Diversion project is built. Jones noted that HEI has already prepared a draft design for a Wolverton ringdike and already presented it to the City Council a few years ago. He noted that there could be two potential property buyouts west of Wolverton towards the Red River if the DA's staging area becomes a reality.

Otter Tail/Buffalo/Upper Red Rivers Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategies (WRAPS). Albright and Jones met with Reed Larson, Watershed Unit Coordinator, Brainerd, and Jim Courneya, Detroit Lakes, MPCA, on 01/19/17 regarding the TMDL process and possible improvements they could implement to make the process more streamlined and effective in the future. Albright explained that out of the four MPCA work products, we have one completed, which is the Buffalo River WRAPS. Studies still pending include the Buffalo River TMDL, and the Upper Red River TMDL and WRAPS. MPCA started the Buffalo River TMDL study in 2008. TMDLs are usually conducted for watersheds every 10 years. The Board discussed the civic engagement component of the TMDL/WRAPS efforts and ways to encourage landowner participation.

Data Management System. Albright, Jerger, and Fenger visited the Wild Rice Watershed District (WRWD) in Ada last Friday. The WRWD uses the Marco product, M-Files, which they feel works well for them. We plan to use the software to manage all of the documents we have in our files and computer system. Albright was not ready to make a recommendation and will continue to work with the companies to provide cost summaries for each product.

Not-Public Data Policy. State regulations (M.S. Section 13.05) require that the BRRWD adopt a policy ensuring the security of "not public" data. Vogel Law Firm reviewed the draft document the office prepared. After a brief discussion, **motion** by Larson to adopt the referenced policy. **Seconded** by Anderson. **Approved.**

Performance Review and Assistance Program (PRAP). As part of the Level II PRAP Review, the Managers, staff, and 15-25 of the BRRWD partners (agencies, County Commissioners, etc.) received an online survey to fill out regarding their view of the BRRWD's effectiveness and level of cooperation with other agencies. The office is also working on a status report of the implementation of the action items (goals) listed in the BRRWD's Revised Watershed Management Plan (RWMP). Albright will review the list and add comments regarding BRRWD compliance with the listed goals. Jones will also review the goal list. The results of the survey and the accomplishment review will be summarized into a report that will ultimately be presented to the State Legislature and the BRRWD with recommendations for possible performance

improvement. It is expected that BWSR would come back to our 03/13/17 meeting with a draft report for the Board's review.

Wilkin C.D. No. 6A Repairs. Albright reported he and the Viewers conducted a review of the ditch on 12/29/16, and they are working on the redetermination of benefits. The riprap material has been hauled onsite, and is now ready for installation this spring.

MPCA MS4. Ted Rud, Engineer, HEI, has created a new section in the BRRWD Rules update that applies only to the Municipal Separate Storm Sewer Systems (MS4) area. Albright will make the addition for the Board's review.

2015 Buffer Law. A meeting has been scheduled for Wednesday, February 1, 2017, at 10:00 AM at the Clay SWCD office in Moorhead, for Albright, a BRRWD Manager, and some WRWD staff to discuss the designation of a jurisdictional and Administrative Penalty Order (APO) authority with Clay County. Manager Leitch plans to attend. Albright noted that he received a copy of some model Buffer rules that was circulated at the MAWD Conference, which he will forward to the Managers for their review and possible inclusion into our updated Rules.

Elkton Township Wetland Restoration. TRN Abstract Company has filed the title insurance for the easements, as requested by BWSR. HEI has filed the annual monitoring report with BWSR. The Board reviewed a handout showing that the total bankable wetland credits this site was 88.7 acres. We have already forwarded 0.44 credits to the City of Moorhead for Project No. 71, 50th AVE S Flood Control. Albright also included BWSR's 5-year credit release table, showing the percent of credits to be released per year provided the noted conditions are met. The Board also reviewed a project cost worksheet. The total project cost was \$749,911. The mitigation cost breakdown is \$8,961.79/acre, or \$0.205/square feet (sq. ft.). Albright pointed out that even though this banking site has been approved by the State to be used for BRRWD project wetland mitigation, the COE still needs to approve our site if we want to use it for a project where the COE is involved. According to their Manston Slough project easement, the Jerome Briks Family LP was promised a 2.6-acre banking credit they need to resolve a wetland mitigation issue in Section 28, Deerhorn Township, Wilkin County. Albright recommended that the Board place a value of \$10,000/acre for the Elkton Township credits, or \$0.23/sq. ft. **Motion** by Larson to approve the sale of 2.6 acres of wetland credits to the Briks Family at the rate of \$10,000/acre or \$0.23/sq. ft. **Seconded** by Leitch. **Approved.** For any possible future sales of credits, the price will be reevaluated.

Otter Tail River Restoration. A meeting with the COE to go over their proposed Section 1135 project work plan/budget will be held on 01/25/17 in the BRRWD office from 9:00 AM to 1:00 PM. The COE's cost estimate for their project is approximately \$400,000. They would pay the first \$100,000 and split the remainder 50/50 with the BRRWD. The Board wanted to review the proposed workplan and cost share before making a commitment.

BRRWD Rules Update. Albright will incorporate Manager Leitch's comments into the draft document. The MS4 section and the model Buffer rules will also be incorporated into the draft. Albright will forward the document to the Managers for their review, and if possible, the Board could approve the final draft Rules at their 02/13/17 meeting. Once a final draft is approved, the next step is for the BRRWD to forward it to BWSR, Counties, Cities, and other agencies for a 45-day review and comment period. At the end of the comment period, the BRRWD will schedule a public hearing to adopt the new Rules.

Whiskey Creek Restoration. The channel survey is basically finished, and HEI is working on the drawings. Albright suggested that once that work is finished, the Board could hold a landowner meeting to discuss the proposed project. Jones noted that HEI's survey crew was able to complete the survey after freeze up in the area where it was too wet this fall. He expected that the plans would be ready for Board review by the next meeting.

Intergovernmental Retreat. The Clay County Joint Powers will hold their 48th Annual Intergovernmental Retreat on Friday, January 27, 2017, at the Creative Care for Reaching Independence (CCRI) in Moorhead. Registration starts at 8:30 PM. The focus of this year's event will be child protection social services.

Otter Tail River Restoration. In regards to the Etten erosion site repair, Jones explained that there was a Change Order to revise the toe-wood harvest quantities due to an unusable existing stockpile of woody material that was deemed unsuitable for construction, which increased the contract by \$5,915. The landowner share (25%) of the project costs increased by \$1,478.75. Karlo Etten asked if the BRRWD would be willing to consider covering the landowners' additional expenses. **Motion** by Larson to contribute \$1,478.75 to reimburse the landowners for their project cost-share increase. **Seconded** by Anderson. **Approved.**

Kobiela Retirement Party. The BRRWD has scheduled a retirement party for former Manager Breanna Kobiela for January 30, 2017, at 5:30 PM in the Purple Goose Restaurant in Barnesville.

West Otter Tail Soil and Water Conservation District (SWCD) Sediment Control Basins. At the last meeting, the Board discussed a project to develop five sediment control systems in Section 32, Norwegian Grove Township, Otter Tail County. Aaron Larson, West Otter Tail SWCD, who is working with landowner Steve Mohs on this project, contacted Jones to ask if the BRRWD would consider splitting the project costs for this project with the SWCD and landowner. The cost estimate is \$174,279. The Board felt that Larson should explore other funding sources, in addition to the BRRWD, including the NRCS EQIP, before we could consider the request. Jones reported that Larson in the process of looking for other funding.

Steffl Sediment Control Basins. Landowner Bill Steffl is working with the Becker SWCD on a NRCS designed Grade Stabilization and Water and Sediment Control Basins project in Section 28, Callaway Township. The proposal includes a dam installation and underground outlet to the Buffalo River to eliminate severe gully erosion through Steffl's field, and to tie in the control basin underground outlets with the grade stabilization outlet. Steffl received a DNR permit to remove a channel leading from the protected waters (two shallow lakes and a slough). In the past, the BRRWD has contributed to off-set landowner costs on projects of this nature, which are funded by the SWCD's Clean Water Fund (CWF) grant. Since the COE has raised concerns about the project, Peter Mead, Becker SWCD, suggested that in lieu of actual money, the BRRWD could authorize HEI staff to deal with the COE permitting process as an in-kind match. Mead plans to attend a future meeting to discuss this project with the Board further.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Agassiz Mechanical, Inc.	#219306, 05/19/16 AC service	Admin.	\$ 338.00
Bruce E. Albright	01/17/17 Ramada dinner (8)-RRBC	Admin.	\$ 119.77
Dakota Mailing	#AR11767, ink/sealing solution	Admin.	\$ 116.13
IWI	2016 Water quality monitoring	M.S.A. 103D.905, Sud. 3	\$ 18,451.76
Joel Carlson	February lobbyist fees	Admin.	\$ 850.00
Liberty Business Systems, Inc.	#272970, toner	Admin.	\$ 98.86
Ulteig Engineers, Inc.	#62174, thru 12/31/16 Levee cert.	Pj. 49, Oakport	\$ 3,094.00
Ulteig Engineers, Inc.	#62305, thru 12/31/16-Phase 4	Pj. 49, Oakport	\$ 18,302.40
Vergas State Bank	Payment No. 5 (final)	M.S.A. 103D 905, Sud. 3	\$ 108,810.00
Vogel Law Firm	#189224, Greywind	Pj. 39, Georgetown	\$ 210.00
Vogel Law Firm	#189484, December billing	Admin.	\$ 69.00
Vogel Law Firm	#189485, Dec. billing-Norby Lawsuit	Pj. 77, Clay C.D. No. 51	\$ 638.44
Vogel Law Firm	#189486, Dec. billing-Kopperud	Pj. 49, Oakport	\$ 3,421.50

Wilkin Co. Hwy Dept.	12/31/16 repair billing	Wilkin C.D. No. 31	\$ 8,769.02
Wilkin Co. Hwy Dept.	12/31/16 repair billing	Wilkin C.D. No. 4	\$ 23,116.21
Wilkin Co. Hwy Dept.	12/31/16 repair billing	Wilkin C.D. No. 6A	\$ 5,023.34
			\$ 191,428.43

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

Next Meeting. The Board will hold their next regular meeting on Monday, February 13, 2017, at 7:00 PM in our Barnesville office. Managers Leitch, Van Amburg, and Anderson will be absent.

Adjournment. Vice Chair Fjestad adjourned the meeting at 9:05 PM.

Respectfully submitted,

John E. Hanson, Secretary