

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

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## **MINUTES FOR MANAGERS' MEETING February 24, 2020**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, February 24, 2020, at 7:00 PM in the Barnesville office. BRRWD Managers present were Jay A. Leitch, Peter V. Fjestad, Mark T. Anderson, Troy E. Larson, Gerald L. Van Amburg, and Catherine L. Affield. BRRWD staff attending included: Bruce E. Albright, Administrator, Kathleen K. Fenger, Assistant Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI). Others attending included Kevin Campbell and Jenny Mongeau, Clay County Commissioners; Kathryn DelZoppo, Associate, Ohnstad Twitchell; RaeAnn Berg, Jay Nord, Don Nelson, Charles Anderson, and Frank Schindler.

BRRWD President Leitch called the meeting to order at 7:02 PM and announced that the proceedings were being video recorded to aid in the preparation of the minutes.

**Agenda.** Leitch asked for comments or additions to the meeting agenda. There being none, the agenda was adopted.

**Secretary's Report.** The Board reviewed draft minutes for the 2/10/20 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 \$2,451,098.43. Total income this year is \$267,840.00. Income since the 2/10/20 meeting totals \$3,128.59, including a payment from the Minnesota Pollution Control Agency (MPCA) for our Upper Buffalo River 319 Grant (\$579.80), a refund from Premium Waters, Inc. (\$48.79), and a payment from Hamden Township for their share of the Becker County Ditch (C.D.) No. 15 repairs (\$2,500). Albright reported that Harold Rotunda, Certified Public Accountant, has agreed to do the BRRWD's audit. **Motion** by Anderson to hire Harold Rotunda to complete the 2019 audit. **Seconded** by Fjestad. **Approved.**

### **Citizens to Be Heard.**

Jay Nord commented that the Board should be aware of the threat of potential flooding from the South Branch of the Buffalo River in his area on Wilkin C.D. No. 13, as spring runoff approaches. He urged the Board to advance project development that will address this problem.

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

**Permit No. 19-003, FM Diversion.** Albright noted that the Attorneys are working to meet deadlines for both court cases. Leitch noted that there was a story in the *Ag Week* newsletter about the potential Diversion project impacts on the Ness Family's farmstead on the County line south of Moorhead on the Red River.

Leitch noted that he was out of town and missed the last Minnesota-Clay County Joint Powers Agreement (MCCJPA) Land Committee meeting.

**Permit No. 20-009, Clay County Highway Department.** Applicant proposes the replacement of the existing bridge over C.D. No. 10 in the NW¼, Sections 22/23, Morken Township, with two lines of 9' x 6' precast concrete box culverts with end sections and minor grading. Jones recommended permit approval.

**Permit No. 20-010, City of Barnesville.** Applicant proposes the development of a 57 lot residential single family home subdivision called the Del Acres Gilbertson 3<sup>rd</sup> Addition in the W½, Section 29, Humboldt Township, Clay County. The project will include the installation of sewer, water, storm sewer, paving and grading, and a bituminous bike path along 13<sup>th</sup> AVE from 4<sup>th</sup> ST N to 9<sup>th</sup> ST S. Jones reviewed the Moore Engineering design and recommended permit approval.

**Motion** by Anderson to approve Permit Nos. 20-009 and 20-010, subject to our standard permitting requirements. **Seconded** by Fjestad. **Approved.**

**Project No. 80, Stony Creek Water Resource Comprehensive Management Project (WRCMP).** Albright updated the Board about the status of the Stony Creek project. He reported that the 2020 \$75 million bonding bill was rewritten to include the BRRWD. The easement options have been revised and the office has started mailing them to the landowners.

**Project No 17, Hamden Slough/Project No. 23, Becker C.D. No. 15.** Ryan Frohling, United States Fish and Wildlife Service (USFWS), contacted Albright regarding their proposed Hamden Slough Refuge wetland modification, which includes replacing the original culverts/gates with modified structures and raising the Homstad wetland 1' above the "as-built" elevation. The USFWS is required to submit a petition to the ditch system because the structures are on a branch waterway to C.D. No. 15. The USFWS is expected to pay the ditch hearing costs as the project's sponsor per Minnesota Drainage Law. Frohling is currently working with USFWS to get authorization to cover the costs of the ditch hearing (approximately \$8,000), and once funding is secured, he will file the petition for the impoundment of waters on the C.D. No. 15 system. The Board had tentatively scheduled the hearing for 3/24/20, but Albright took it off the calendar and will wait to reschedule when we actually receive the petition.

**Whiskey Creek Restoration.** Albright and Jones met with the Wilkin Soil and Water Conservation District (SWCD) regarding the estimated budget/project costs, and timeline to advance the project. Albright discussed the potential use of Minnesota Statutes Annotated (M.S.A.) 103D.605, Project Constructed with Government Aid or as Part of Plan, to start the development of the Whiskey Creek Restoration project. According to the statute, if the project is paid for in whole or in part by the state or federal government, we wouldn't need to hold the preliminary resolution hearing, but could move forward with one hearing, which could tentatively be held sometime in June. At the 2/10/20 meeting, the Board approved a motion to accept the general terms of the preliminary budget and project development steps for the Whiskey Creek Restoration project, subject to the Final Hearing. Jones noted that the Wilkin SWCD has scheduled a landowner meeting on 3/6/20 at the Environmental Office in Breckenridge at 9:00 AM to discuss the Natural Resources Conservation Service (NRCS) National Water Quality Initiative (NWQI) grant program. In order to access the potential NWQI funding, local landowners would have to work with NRCS staff to implement conservation practices on their private land. The funding could be used for any of the best management practices (bmps): side inlets, sediment control basins, and even some of the channel restoration work. Jones will attend the meeting to provide project information. The use of the Conservation Reserve Enhancement Program (CREP) to acquire the necessary permanent right-of-way (R/W) will also be reviewed.

**Wilkin C.D. No. 6A Redetermination.** The Viewers plan to meet on 3/3/20 to finalize the Viewers' Report and then file the Report with the Board at their 3/9/20 meeting. The redetermination hearing is tentatively scheduled for 4/7/20 at 7:00 PM in the BRRWD office.

**Ditch Buffer Hearings.** In accordance with the 2015 State Buffer Law, the hearings for Clay C.D. Nos. 20, 22, 23, 28, and 51 are scheduled for Thursday, March 5, 2020, at 7:00 PM in the Barnesville office. This is the first of several ditch system hearings the BRRWD will hold in Clay, Wilkin, and Becker Counties prior to actual bufferstrip acquisition and installation in accordance with the Buffer Law. The referenced ditches are in the Kragnes area. He explained that many of these ditch systems involve the same landowners, so we

decided to group the ditches into one hearing. Once the hearings are held, the Board will make an Order regarding the acquisition of the buffer acreage, which is subject to a 30-day appeal.

Jones explained the R/W acquisition process, using the County assessed values (Estimated Market Value or EMV). After reviewing historic ditch records and conducting field surveys, HEI established the R/W acreage the drainage system initially acquired for each system. If the required grassed bufferstrip (16.5') can be seeded within the existing R/W, the BRRWD will reestablish the vegetation. The BRRWD agreed to pay landowners 10% of the EMV for any new R/W that is already in the cross-section of the existing ditch. For some ditches, more acreage is needed to establish the buffer, and those landowners will be compensated for additional R/W outside the ditch at the EMV rate.

Albright explained that following the hearings, the R/W payments can be made following the 30-day appeal period. Then seeding can be completed, and R/W can be recorded with the County Auditor and Recorder. He explained that the State has allocated funding to assist each County for Buffer Rule implementation. The Counties are expected to transfer a designated amount to the BRRWD for the ditch system buffers. Currently, the Buffer Initiative account has a total balance of approximately \$350,000. Albright will determine what portions of that balance came from Clay County and then once all the required buffers have been established, we would pro-rate the funds to each affected ditch system account. He added that another State Buffer Initiative payment is expected in 2020.

**Lower Otter Tail River (LOTR) Revised Project Management Plan.** An agency meeting was held on 2/14/20 to discuss the project timeline and workplan revision for the Army Corps of Engineers (COE) Section 1135 Study. The Board discussed the revised project management plan. The original 2017 estimate was approximately \$340,000. The cost-share agreement was for the COE to provide the first \$100,000 with the BRRWD and the COE splitting the remainder 50/50 (\$120,000 each). The new agreement includes a completion date of March 2021 and a revised cost estimate of \$753,749. The BRRWD's share has increased to \$326,912.50. Albright explained that the increased costs were caused in part by the additional review and modeling needed to meet the 10-year event requirements for the 1135 Study. When completed, this study could qualify the BRRWD for up to \$10 million (75%/25% split) in federal dollars for project implementation. Because the LOTR project design includes upstream flood mitigation features, that work could be eligible for funding from the FM Diversion Authority as mitigation needed for that project. The Minnesota Department of Natural Resources (DNR) also has funding for the LOTR project on their stream restoration list. Albright and Fjestad need to conduct field reviews of the proposed soil boring sites along the channel alignment, so that work can be done before spring.

Albright reported that the Total Maximum Daily Load (TMDL) and the Watershed Restoration and Protection Strategies (WRAPS) Reports for the Otter Tail River are being circulated for comments. Once the review period is over and the Reports are adopted, the next step could be to move forward with the One Watershed, One Plan (1W1P) process for the Otter Tail River watershed. Leitch asked for a copy to review.

**AV System Update.** Fenger reported that staff met with Marco Technologies to provide them with information so that they can prepare a separate quote for the AV system update. She expects a response from Marco in the next couple of weeks.

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

Accounts Payable	Description	Account	Amount
IWI	2019 WQ Monitoring, 11/1/19-12/31/19	M.S.A. 103D.905, Sub. 3	\$ 992.50
Joel Carlson	March Lobbyist Fees	Admin.	\$ 850.00
MPS	01/03/20-02/04/20 Service (4)	Pj. 49, Oakport	\$ 169.61
NetCenter Technologies	#176544, Repair VGA Connection	Admin.	\$ 227.20
Northern States Excavating	#2137, Beaver Dam Removals	Varies	\$ 2,000.00
RRBC	2020 Contribution	M.S.A. 103D.905, Sub. 3	\$ 25,000.00
Vogel Law Firm	#250834, January Billing	COE	\$ 579.00

Vogel Law Firm	#250981, January Billing	COE	\$ 24,976.15
Wilkin Co. Hwy Dept.	Beaver Control	Wilkin C.D. No. 6A	\$ 1,150.00
Wm. Nichol Excavating	#320, Beaver Dam Removal	Varies	\$ 1,049.00
			<b>\$ 56,993.46</b>

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

**Comments and Announcements.** The group discussed Manager attendance at the Wilkin C.D. No. 27 repair informational meeting, scheduled for Friday, February 28, 2020, at 8:30 AM at the Environmental Office in Breckenridge. Fjestad, Anderson, Van Amburg, Albright, and Fenger plan to attend. Following last fall's informational meeting where the Board decided to move forward with the proposed repairs, landowners came forward with concerns about the project. Wilkin and Otter Tail Counties have both pledged a total of \$257,000 of Minnesota Board of Water and Soil Resources (BWSR) funding for the work. If that funding isn't used in 2020, it will be returned to BWSR.

**Upcoming Calendar Events.** Leitch noted that North Dakota State University (NDSU) is hosting a Drain Tile workshop on March 10, 2020. The Red River Watershed Management Board (RRWMB) is hosting the 22<sup>nd</sup> Annual Joint Conference on March 10-11, 2020, at the Courtyard by Marriott in Moorhead. Leitch asked staff to register him for the Conference. The Minnesota Association of Watershed Districts (MAWD) Legislative Breakfast and Day At The Capitol event is scheduled for March 18-19, 2020, at the Double Tree by Hilton Hotel Downtown, St. Paul.

Anderson noted that the Clay County Highway Department has talked about repairing County Road (C.R.) No. 8. He wondered if the culverts where the Sabin Coulee enters C.D. No. 40 might need to be upgraded. He thought that a completion deadline should be set for early September to avoid fall harvest truck traffic. Anderson also suggested that a culvert could be added near the Rustad railroad crossing to drain south. Commissioner Mongeau noted that the County is considering possible culvert changes as part of the C.R. No. 8 repair.

Jones noted that HEI has considered some options to address a concern from Roger Finch, who contacted the BRRWD last fall with a request to raise 2<sup>nd</sup> ST N (township road) in Section 6, Oakport Township, Clay County. Flood water has overtopped this road four times in the past 12 years. When the road is flooding, he and his wife have to take a boat in and out of their property. They lost their house in 2009. Finch elevated the house and built a ringdike, but the township road still goes underwater during highwater events. Jones explained that to raise the road, Finch would have to observe road requirements that regulate road grade/elevation changes in relation to the posted speed limits. The other issue is that because the road is in the floodway, it would be necessary to demonstrate a net "no rise" to show the road raise wouldn't affect flood levels upstream or downstream of the road. Jones discussed possible options that would modify the road elevation slightly to satisfy FEMA requirements, but none would completely eliminate the road overtopping during high water events. He explained that either Finch might have to just deal with the flooding as they have in the past or consider a buyout. Albright noted that another landowner recently contacted him to ask about a potential buyout. His property is ringdiked like Finch's property, but also like Finch, they can't get in or out during a flood. Albright explained that the BRRWD should coordinate with the County regarding buyouts if the Legislature allocates funds for buyouts in the future.

Albright reported that staff held their annual meeting with USFWS, Ducks Unlimited (DU), and the DNR pertaining to Project No. 16, Stinking Lake Detention. These agencies have taken an active role in managing the water levels on Stinking Lake. Their plan for 2020 is to keep the water levels at or near the lowest runout elevation of the structure (1210.5). Given the wet fall and expected flooding this spring, they felt 2020 would not be a good year for a "full" drawdown to elevation 1206.75. Lower water levels promote aquatic vegetative growth.

The Board briefly discussed a request for 1.09 acres of wetland mitigation credits to be used for the Oakport project. The transfer would occur through the BRRWD's wetland bank. **Motion** by Anderson to approve the release of the credits as referenced to the Oakport project. **Seconded** by Van Amburg. **Approved.**

Albright reported that staff is waiting for results from a Doodle Poll to schedule the Advisory Committee's annual meeting. A coordination meeting will be scheduled with our agency partners on the Manston Slough project and a water quality monitoring meeting with the agency partners will also be held in the near future.

**Performance Review and Assistance Program (PRAP).** The Board watched two short BWSR training videos on soil health, specifically cover crops. These videos provide training to meet the Level II PRAP performance standards.

**Next Meeting Agenda.** Anderson suggested that we add a vote to hire the expert witnesses for the Diversion lawsuit. Leitch agreed. Jones wanted to add review of the bid results and contract award recommendations for the concrete channel liner repairs for Clay C.D. Nos. 41, 47, and 50. The bid opening will be on 3/5/20 at the Fargo HEI office. He will also have draft Whiskey Creek Restoration water management district (wmd) fee amounts and calculation methodology for the Board's review. Albright suggested that an update regarding the status of Wolverton Creek Phase II easement acquisition and bid letting be added to the agenda for review.

**Next Meeting.** The next regular BRRWD meeting will be held on Monday, March 9, 2020, at 7:00 PM in our Barnesville office.

**Adjournment.** President Leitch adjourned the meeting at 8:03 PM.

Respectfully submitted,

John E. Hanson, Secretary