

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING

November 14, 2016

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, November 14, 2016, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, John E. Hanson, Mark T. Anderson, Troy E. Larson, and Peter V. Fjestad. Others attending included: Erik S. Jones, Engineer, and Wade Opsahl, Technician, Houston Engineering, Inc. (HEI); and landowners Gerry Nordick and Richard Scheffler. Bruce E. Albright, BRRWD Administrator, was absent.

Chair Van Amburg called the meeting to order at 7:04 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 10/24/16 regular meeting. **Motion** by Anderson to approve the minutes. **Seconded** by Hanson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Cash on hand is \$1,238,320.33. Administrative disbursements for the month are \$33,409.33 and for the year total \$332,120.43. Current accounts receivable for 2016 totals \$4,640,290.92. Our total income for the year is \$8,399,711.59. Income since the 10/11/16 meeting was \$1,729,732.747, including payments from Otter Tail (\$19,232.73) and Wilkin Counties (\$113,533.83) for their 2nd half property and ditch tax settlement payments, the State of Minnesota's Agricultural Market Value Credits payment (\$9,008.02), the Minnesota Department of Natural Resources (DNR) for Project No. 49, Oakport Flood Mitigation (\$1,505,477.02), and the final petitioner's payment from the Minch Family LLLC for Project No. 77, Clay County Ditch (C.D.) No. 51-Proposed Lateral No. 3 (\$13,593.32). Opsahl noted that the office also received a payment today from the Wilkin Soil and Water Conservation District (SWCD) for Red River Sediment Reduction Clean Water Fund (CWF) Technical Assistance (\$18,830.71), which was not reflected in the reports. The Midwest Bank Line of Credit balance of \$334,732.01, plus \$223.15 interest was repaid on 10/26/16. **Motion** by Anderson to approve the Treasurer's Report. **Seconded** by Fjestad. **Approved.**

Other Business brought before the Board included:

Permit No. 16-060, Douglas Etten. The Board discussed attempts to contact downstream landowners regarding the downstream landowner notification so that the Board can release the permit to pattern tile approximately 230 acres in the S½, Section 26, Meadows Township, Wilkin County. The permit was approved on 07/25/16, subject to downstream landowner notification. To date, we are still waiting to receive the notification forms. The Managers had an extended discussion regarding the notification form language and possible changes to clarify the requirements. Jones will try to contact the downstream landowners again tomorrow. If he's unable to reach them, the Board felt that the permit should be released anyway, as the downstream landowners have had ample time to respond if they had concerns about the proposed work.

Permit No. 16-098, Deal Brothers. Applicant proposes to fill in a natural waterway through the middle of Section 10, Andrea Township, Wilkin County, and to install a ditch along the east (County Road (C.R.) No. 19) and south lines of the NE1/4, outletting to Wilkin C.D. No. 31, as assessed. The Wilkin County Highway Department told Tim Deal that they would give him a permit to do the work in the road right-of-way (r-o-w) when he received the BRRWD permit. The Board reviewed a map and discussed the proposal work, which they tabled at their 09/26/16 meeting pending a Manager field review. Larson expressed concerns about

water overtopping the road and breaking out to the south during flood events. Jones will contact the Deals to discuss measures their project design should incorporate to reduce potential flooding to the south during high water events, including keeping the north ditch bank lower than the south bank, so water would flow back north onto Deal property. He will also contact Wilkin County to verify that they don't have any concerns about the project. **Tabled.**

Permit No. 16-119, Richard Scheffler. Applicant proposes to install 158 acres of pattern tiling in the SW¼, Section 14, Atherton Township, Wilkin County, outletting via a lift station in the southwest corner into the north ditch of C.R. No. 188 (130th ST), then south through an existing culvert to Wilkin C.D. No. 42. Jones noted that the N½ of Section 14 is not assessed to go south to C.D. No. 42 and suggested that the Board should consider adding this land to the ditch system. The Board felt that the project would not be a problem since the water all drains to Deerhorn Creek. They agreed to address a redetermination of benefits for C.D. No. 42 in the future. Jones recommended permit approval, subject to our standard tiling disclaimer.

Permit No. 16-120, Gerald Nordick. Applicant proposes to install pattern tiling on the remainder of the S½, Section 23, Meadows Township, Wilkin County, or approximately 235 acres, outletting via a lift station in the northwest corner of the section to an unnamed waterway. Jones recommended permit approval, subject to our standard tiling disclaimer.

Beaver Control. The Board had a brief discussion about beaver activity in the District this fall. Several years ago, the Legislature approved legislation that halted the issuance of nuisance permits when beaver trapping season is open. Therefore, at the present time, our trapper, Roger Lundberg, can't deal with our problems. Opsahl noted that we can still hire a backhoe to remove the dams.

Permit No. 16-115, Todd Meyer. Applicant proposes to install random tiling in 4 or 5 field ditches in the SE¼, Section 2, Humboldt Township, Clay County, outletting through a pasture area on his property to Stony Creek. Jones recommended permit approval, subject to our standard tiling disclaimer.

Permit No. 16-116, Dan Bradow. Applicant proposes to do normal maintenance for a drainage ditch on his property in the SW¼, Section 32, Carlisle Township, Otter Tail County. Jones noted that technically, the work doesn't require a BRRWD permit. The Board decided to process it as approved.

Permit No. 16-117, Dallas Miller. Applicant proposes to clean the east road ditch along 330th AVE in Section 1, Foxhome Township, Wilkin County. This work would typically not require a BRRWD permit, but since Miller submitted an application, the Board decided to process it as approved.

Permit No. 16-118, Steve Thompson. Applicant proposes to install a new approach with culverts west of the building site in the NW¼, Section 3, Alliance Township, Clay County, on the north side of the section off from 120th AVE S (C.R. No. 4). He would prefer two 36" dia. culverts, but would consider installing one 30" dia. and one 36" dia. pipe. Thompson would also like to increase the size of the next downstream culvert at the junction of 120th AVE S and 90th ST S from a 30" dia. pipe to a 36" dia. culvert to handle the water coming into Section 3 from the east. Jones suggested that we gather more information regarding the proposed culvert changes before permit approval. **Tabled,** pending field review.

Permit No. 16-121, Rodney Schmidt. Applicant proposes to install random tile around his farmyard on the south side of C.R. No. 11 in the NE¼, Section 29, Carlisle Township, Otter Tail County. Jones recommended permit approval, subject to our standard tiling disclaimer.

Ted Peterson Culvert Request. Manager Larson discussed a request he received from Ted Peterson, to replace an existing damaged culvert and lower it 6"-8" in Section 7, Akron Township, Wilkin County. The Board agreed that the landowner should apply for a permit to lower the culvert. Larson will advise Peterson of the Board's recommendation.

Motion by Anderson to approve Permit Nos. 16-115 through 16-121, except Permit No. 16-118. Permit approval is subject to the applicable standard tile and utility disclaimers, state/federal agency permitting requirements, road authorities' permission to work within their r-o-w, and manager field review, as noted. **Seconded** by Fjestad. **Approved.**

Permit No. 15-117, Dale Schmidt. Opsahl explained that the Board approved this permit last fall for Schmidt to install random tiling for 12 acres in the N½SE¼, Section 20, Carlisle Township, Otter Tail County, outletting to a natural waterway, but the project was never completed. Peterson recently contacted the office with a request to amend his permit application to add three laterals to the southernmost tile line. **Motion** by Hanson to amend Permit No. 15-117, subject to our standard tiling disclaimer. **Seconded** by Larson. **Approved.**

Haugrud Ditching. On 11/09/16, Erik Olson contacted the BRRWD office regarding ditch work that Bryant Haugrud was doing in the NW¼, Section 11, Prairie View Township, Wilkin County, along C.R. No. 19. Opsahl conducted a field review on 11/10/16 and visited with Ben Haugrud, who reported that they were cleaning ditches in Section 11 and a short stretch of the road ditch along the east side of C.R. No. 19. He said they had a Wilkin County permit to clean the road ditch, which he subsequently forwarded to the office for the Board's review. Opsahl noted that it appeared the work was just a normal cleanout and wasn't into the clay. Opsahl also called the Olsons to update them.

Project No. 77, Clay C.D. No. 51-Proposed Lateral No. 3. Jones reported that the Minch Family LLC has hired a contractor to open just a small portion of the dike on the former Norby property in Section 28, Kragnes Township, to release the water in the S½ of the section in a controlled manner to prevent possible erosion when the water starts draining north.

Chair Van Amburg noted that Bruce Albright has completed his deposition for the Norby lawsuit. The Board discussed the merits of the lawsuit.

Project No. 56, Manston Slough Restoration. Jones reported that the stop logs are still in place and holding back water to elevation 972. Once all the crops are off along Wilkin C.D. No. 13-Lateral downstream of Manston Slough, we will start to release water from the project.

Project No. 21, Wilkin C.D. No. 13-Lateral Repairs. HEI completed the channel survey for Wilkin C.D. No. 13-Lateral. Jones explained that there are a few locations where there is about 1.5' of sediment. However, most of the channel bottom has filled in and no longer provides the as-built channel widths (16' to 20'), which has caused a significant loss of capacity. He recommended a cleanout of the ditch along the entire length (8.3 miles) of the lateral. The estimated cost of the repair is \$60,000 to \$70,000. He suggested that the work be started as soon as possible this fall, depending on the weather. The Board considered how to allocate the repair costs in light of the fact that this lateral is the outlet for the Manston Slough Restoration project. **Motion** by Anderson to approve the proposed repairs and to start the process as soon as possible this fall, depending on conditions. **Seconded** by Hanson. **Approved.** Possibly two contractors will be hired to expedite the work. Affected landowners will be contacted.

Project No. 49, Oakport Flood Mitigation-Phase 4. The Board briefly discussed the Kopperud/Larson lawsuit. They also reviewed a letter from the contractor, R. J. Zavoral & Sons, Inc., regarding their claim of \$152,500 in liquidated damages, based on 61 days of lost work time from their original schedule caused by delays outside of their control. Jones noted the project engineer, Kris Carlson, Ulteig Engineers, Inc. (UEI), has scheduled a meeting with the contractor and the BRRWD on 11/17/16 at their office to discuss this issue. The Board briefly discussed our liability coverage from Allied World Insurance Company.

Carlson is working with Zavoral regarding the clay stockpiles. Jones reported that there is another contractor who might be interested in moving some of the material to a construction site in the Riley's Acres subdivision in northwest Fargo.

Opsahl discussed trespassing issues along the dike alignment. According to the DNR Conservation Officer (CO), it appears that the same person who was cutting wood along the river last year, was back this fall. Opsahl suggested that if it is the same person, the Board might want to consider filing charges this time, instead of just having the Police Department or DNR issue a warning. Opsahl noted that he didn't have all the details. He plans to work with the DNR CO to identify the trespasser, and then the Board can decide how to proceed.

UEI submitted Pay Request No. 8, Change Order No. 5 for additional topsoil, gravel, and seeding along Wall ST AVE (\$21,875.00), and Change Order No. 6 (\$8,831.88) for pavement marking for a total of \$461,062.23. The pay request is included on tonight's bill list. **Motion** by Hanson to approve the referenced pay request and change orders. **Seconded** by Anderson. **Approved.**

Project No. 48, Clay C.D. No. 59. Opsahl reported that the contractor, Tim Crompton Excavating, Inc., has completed the cleanup items. HEI submitted a Final Pay Request in the amount of \$10,989.64 and Change Order No. 1 to decrease the contract by \$27,586.74. Much of this decrease was due to the BRRWD paying for materials as the contractor was not able to obtain financing for the purchase. **Motion** by Anderson to approve the referenced pay request and change order. **Seconded** by Fjestad. **Approved.**

Project No. 14, Clay C.D. No. 10. Jones noted that the contractor, R.J. Zavoral & Sons, Inc., has a small cleanup item to complete before we can close their contract. He expects to file the final pay request at the next meeting.

Mediation Project Team (PT). The next PT meeting is scheduled for Thursday, December 15, 2016, in the Barnesville office at 1:30 PM.

Watershed District Enlargement (WDE)/Revised Watershed Management Plan (RWMP). Albright is working on his review of the draft RWMP.

F-M Diversion Project. The Board reviewed a handout that the Diversion Authority presented to the Red River Basin Commission on 11/03/16 regarding the Diversion project.

Otter Tail River/Buffalo River/ Upper Red River Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategies (WRAPS). Jones reported that to date, he hasn't received any further information from Minnesota Pollution Control Agency (MPCA) regarding the status of our TMDL studies for the Buffalo River and Upper Red River.

MAWD 2016 Annual Meeting. The Minnesota Association of Watershed Districts (MAWD) has scheduled their 2016 annual meeting and trade show for December 1-3, 2016, at the Arrowwood Resort in Alexandria. Managers Fjestad, Van Amburg, Anderson, and Hanson plan to attend. Jones distributed the resolution packet for the Board's review.

BRRWD Manager Appointment. Van Amburg noted that he tried to contact Clay County Administrator Brian Berg to check on the status of Manager Kobiela's replacement, but Berg wasn't available. Later in the meeting, Anderson noted that the County will be interviewing retired North Dakota State University (NDSU) Agriculture Economist Jay Leitch tomorrow.

Wilkin C.D. No. 7 Repairs. The preconstruction meeting was held on 11/10/16 with the contractor, States Border Construction, who plans to start work the last week in November. Jones noted that we have received a few more spoil permission forms from the landowners. The Board reviewed the construction contract. **Motion** by Hanson to sign the referenced contract. **Seconded** by Anderson. **Approved.**

Wilkin C.D. No. 6A Repairs. Jones reported that the County has completed the slope work on both sides of the first mile of ditch in Section 31, Tanberg Township, and they will seed and mulch the ditch slope yet

this fall. The rock drop structures are also installed. The next step is to meet with Meadows and Tanberg Townships and the adjacent landowner regarding work on the south slope of the ditch in Section 32. The County will do the repairs. The rock material will be hauled on site after freeze-up in December.

Wilkin C.D. Nos. 40/43 Drainage Petitions. Albright is working on the petitions to add and remove land from Wilkin C.D. Nos. 40 and 43 for Troy Goltz (Permit No. 16-052). Jones noted that the Board will need to hold ditch system hearings for the referenced ditch systems this winter. We can address the issue of buffer strip easement acquisition at the same time.

Elkton Township Wetland Restoration. BRRWD Attorney Cory Elmer, Vogel Law Firm, is working with the Minnesota Board of Water and Soil Resources (BWSR) to finalize the easement process. BWSR will send the easements to the BRRWD for recording.

The Board discussed the State Wetland Banking program. Van Amburg noted that the State recently notified the Counties that Minnesota's wetland replacement program doesn't have enough banked wetland credits to provide the Counties with replacement credits for their road projects, which means the Counties will have to acquire their own wetland credits to meet federal mitigation guidelines.

Wolverton Creek/Comstock Coulee. Jones noted that Albright plans to contact the remaining Phase 1 landowners who have not yet applied for the Wetlands Reserve Enhancement (WRE) program. The Board discussed the Natural Resources Conservation Service (NRCS) WRE application process.

The Board spent some time discussing the watershed management district (wmd) fee. Jones suggested that the Board spend some time during the 12/12/16 meeting to make a decision regarding how the proposed wmd fee will be determined.

Otter Tail River Restoration. Jones reported that the Etten erosion site repair will be completed with a walk through tomorrow. The Board had an extended discussion regarding the mussel survey report and the survey process for this site. Jones noted that the DNR gave their permission to move forward with the repair even though there was a 100' stretch at the upper end of the channel that was too deep to survey for mussels. The DNR felt the survey was sufficient.

Whiskey Creek Restoration. Jones noted that the survey had been delayed because of the numerous beaver dams in the channel, but the crew will be finishing up this week. The Board discussed removing the dams. HEI will prepare a map of where dam removal would be feasible for their review at the next meeting.

BRRWD Succession Planning. The Board discussed the status and the process of adding an assistant administrator to the BRRWD staff to work with Albright. Jones noted that he and Albright will be visiting about this issue in the next couple of weeks.

Performance Review and Assistance Program (PRAP). The Board discussed working with Pete Waller, BWSR, to undertake a Level II Review. In the past, we have completed the Level I review. The Level II covers more performance standards. Van Amburg thought it would be a productive exercise. A few years ago, the BRRWD conducted Strategic Planning that yielded a Succession Plan for Albright and Administrative Assistant Julie Jerger, which brought about the addition of two staff members that Jerger is training to be ready assume her duties when she retires.

Repair Recommendations. A landowner on Clay C.D. No. 22 requested a repair of a small part of the ditch in the NE¹/₄, Section 29, Kragnes Township, where a field approach culvert is approximately 0.4" too high, which has created a number of silt blocks in the channel. Jones recommended placing the culvert on grade and cleaning the silt blocks as a ditch system expense. The opinion of probable cost is \$1,500 to \$2,000.

Homeowner Darold Buchta requested a repair of his driveway in Section 24, Cuba Township, Becker County, where it crosses C.D. No. 9. The existing 48" dia. x 40' corrugated metal pipe (CMP) has separated and is rusted and should be replaced. Jones noted that we have a same sized salvaged culvert from Wilkin C.D. No. 44 that could be used as a replacement. A new 48" x 40' CMP would cost approximately \$2,500. The total opinion of probable cost with the used culvert is \$4,000 to \$5,000.

Motion by Hanson to approve the referenced repairs. **Seconded** by Anderson. **Approved.**

Ecofootprint Grant Amendment. The Minnesota Association of Resource Conservation & Development (MARC&D) forwarded a grant amendment to change the due dates for the quarterly reports timing from the last day of the month to the 15th of the month (12/15, 03/15, 06/15, and 09/15). **Motion** by Fjestad to authorize Van Amburg to sign the referenced Amendment. **Seconded** by Larson. **Approved.**

Lester Kiehl Repair Request. Opsahl discussed cleaning Becker C.D. No. 5 with Kiehl last week. This repair was considered several years ago, but one landowner was opposed to the work and wouldn't give permission to access the ditch from his property. Manager Hanson agreed that the upper stretch of the ditch needs work. Opsahl suggested that the first step would be to conduct a channel survey. **Motion** by Hanson to authorize the referenced survey. **Seconded** by Anderson. **Approved.**

Ring Dikes. Jones reported that the NRCS has prepared plans for a ring dike for Doug Butenhoff in Section 15, Alliance Township, Clay County. NRCS will cost share the project cost via their Environmental Quality Incentives Program (EQIP) with the BRRWD and the landowner. Another landowner, Robert Nord, also plans to construct a ring dike with NRCS assistance.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
AmeriPride	#160373617 October rugs (2)	Admin.	\$ 64.14
Barnesville Phone Company	10/25/16 billing	Admin.	\$ 289.78
Brea Kobiela	Voucher Nos. 16-26 & 16-36	Admin.	\$ 346.31
Carmen Pattengale	October office cleaning (2)	Admin.	\$ 130.00
Chris Hoppe Lawn Care Service	Sept/Oct. Mowing (5)/Fertilizing/Weeds	Admin.	\$ 737.44
City of Barnesville	08/29/16-09/29/16 utilities	Admin.	\$ 342.76
City of Dilworth	#50-2016, Mowing	Clay C.D. No. 50	\$ 7,850.00
City of Moorhead	Ditch system mowing	Varies	\$ 45,248.46
Ehlert Excavating, Inc.	#392, 170th ST repairs	Pj. 24, Wilkin C.D. 44	\$ 460.00
Fuchs Sanitation	#239969, September Garbage billing	Admin.	\$ 42.12
Gerald L. Van Amburg	Voucher #16-38, 09/01/16-10/31/16	Varies	\$ 922.92
HEI	October billing summary	Varies-see attached	\$ 151,596.09
John Hanson	Voucher #16-35, 09/01/16-10/31/16	Varies	\$ 638.05
Kathy Fenger	Office supplies-Desk calendars	Admin.	\$ 34.96
Mark T. Anderson	Voucher #16-33, 09/01/16-10/31/16	Varies	\$ 349.95
NetWork Center Communications	#0000039234, Replace back up battery	Admin.	\$ 713.82
NTI	#19439, 10/01/16-10/31/16 testing	Pj. 49, Oakport	\$ 7,700.02
Peter V. Fjestad	Voucher #16-34, 09/01/16-10/31/16	Varies	\$ 692.20
Premium Waters	#366590-10-16, October billing	Admin.	\$ 41.62
R.J. Zavoral & Sons, Inc.	Pay Req. No. 8	Pj. 49, Oakport	\$ 461,062.23
RMB Laboratories, Inc.	#332199, WQ Analysis	M.S.A. 103D. 905, Sub. 3	\$ 52.00
RMB Laboratories, Inc.	#332210, WQ Analysis	M.S.A. 103D. 905, Sub. 3	\$ 601.00
RMB Laboratories, Inc.	#332177, WQ Analysis	M.S.A. 103D. 905, Sub. 3	\$ 237.00
RMB Laboratories, Inc.	#332429, WQ Analysis	M.S.A. 103D. 905, Sub. 3	\$ 790.00
RMB Laboratories, Inc.	#332517, WQ Analysis	M.S.A. 103D. 905, Sub. 3	\$ 711.00
Roger Lundberg	Beaver Control	Varies	\$ 5,036.59

RRVCPA	10/01/16-11/01/16 service (3)	Pj. 49, Oakport	\$ 236.26
Tim Crompton Excavating	Pay Req. No. 2-Final	Pj. 48, Clay C.D. No. 59	\$ 10,989.64
TrueNorth Steel	#FP0000010129, culvert	Pj. 16, Stinking Lake	\$ 6,254.12
Vogel Law Firm	#185070, September billing	Admin.	\$ 69.00
Vogel Law Firm	#185696, 09/15-11/04, Greywind	Pj. 39, Georgetown	\$ 423.50
Vogel Law Firm	#185697, 06/18-11/04, easements	Elkton Wetlands	\$ 1,527.18
Wilkin County Highway Dept.	09/30/16 repair billings (7)	Varies	\$ 57,049.99
Wm. Nichol Ex.	#208, beaver dams/trees	Pj. 28, Clay C.D. No. 2	\$ 2,100.00
Wm. Nichol Ex.	#207, Log Jams-Georgetown	Pj. 29, Buffalo River	\$ 2,275.00
Wm. Nichol Ex.	#210 Beaver Control	Varies	\$ 3,850.00
Wm. Nichol Ex.	#206, Culvert/repairs	Clay C.D. No. 3	\$ 10,931.62
WREC	09/18/16-10/18/16 billings (2)	Pj. 46, Turtle Lake	\$ 66.81
Xcel Energy	09/22/16-10/23/16 office service	Admin.	\$ 67.32
Xcel Energy	09/24/16-10/24/16 service	Pj. 49, Oakport	\$ 40.70
			\$ 782,571.60

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

Next Meeting. The next regular meeting will be held on Monday, November 28, 2016, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:40 PM.

Respectfully submitted,

John E. Hanson, Secretary