

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING July 23, 2018

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, July 23, 2018, at 7:00 PM in the Barnesville office. BRRWD Managers present were Jay A. Leitch, Gerald L. Van Amburg, Mark T. Anderson, John E. Hanson, Catherine L. Affield, Troy E. Larson, and Peter V. Fjestad. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Kathleen K. Fenger, Administrative Assistant, Houston Engineering, Inc. (HEI); and landowners Lynn Brakke, Bryan Kritzberger, Blayne Tonsfeldt, and Paul Anderson.

BRRWD President Leitch called the meeting to order at 7:01 PM and announced that the proceedings were being video recorded to aid in the preparation of the minutes.

Agenda. President 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 7/9/18 regular Board meeting. Managers Anderson and Affield noted minor corrections. **Motion** by Anderson to approve the 7/9/18 meeting minutes, subject to corrections. **Seconded** by Affield. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$2,448,092.17. Income since the 7/9/18 meeting was a sales tax reimbursement of \$9.51 from Pitney Bowes for our postal meter rental.

Albright recommended that the Board hold their annual budget hearing on Monday, August 27, 2018, in conjunction with their regular meeting. **Motion** by Fjestad to schedule the annual budget hearing as noted. **Seconded** by Affield. **Approved.** Notices will be sent to the area newspapers.

Project No. 78, Clay/Wilkin Judicial Ditch (J.D.) No. 1 Improvement. Petitioners Lynn Brakke, Bryan Kritzberger, Blayne Tonsfeldt, and Paul Anderson attended tonight's meeting to get an update regarding their project. Jones distributed copies of the Preliminary Engineer's Report that he prepared in accordance with Minnesota Statutes Annotated (M.S.A.) 103E.241, Subd. 1. The project is for the improvement of J.D. No. 1, located along the east-west quarter line of Sections 25, 26, and 27, Holy Cross Township, and part of Section 30, Alliance Township, Clay County, outletting to Wolverton Creek (Comstock Coulee). The current project cost estimate is \$2.1 million. Landowners along the proposed improvement alignment petitioned for the project in accordance with M.S.A. 103E.221. Several alternatives were investigated. Jones recommended Alternative 6 to lower the last 3 miles of J.D. No. 1 and improve the channel with a 20' wide bottom and 5H:1V sideslopes. No culvert sizing changes are proposed, but existing culverts would be lowered and extended. The channel is designed to contain the 10-year event below the field level. This alternative is the only one that addresses the lack of grade separation between the field level and the bottom of the ditch.

Bryan Kritzberger asked about the reason for resloping the south bank instead of also using the north side of the ditch. Jones explained that the south spoil bank is lower, requiring less excavation. Kritzberger and Lynn Brakke had concerns about possible breakouts on the north side, which they had hoped would be addressed by the project. Jones explained that where the existing right-of-way (R/W) ends, we will acquire about 100' of temporary and 50' of new permanent R/W on the south side. Jones estimates that the north ditch bank

could provide up to a 25-year flood event protection. Brakke talked about the current ditch issue along the east-west portion where there is an insufficient grade separation between the field level and the ditch bottom, especially on side inlets. When high water comes into the ditch system from the south out of Wilkin County, the gates on the inlet culverts are forced shut, blocking drainage off the adjacent lands. Because of the grade separation, water also breaks out of the ditch, flooding this same property. Jones said that the project will provide a better ditch gradeline to create more positive downstream drainage.

Manager Anderson asked if the plan addresses the problems with the inlet pipe and berm elevations. He pointed out that currently, the berm dips down nearly 2' where the inlet pipes are placed so that water escapes from the ditch during high water events. Jones said that the inlet pipes would be lowered, and the gaps over the pipes will be filled in. He explained that the project modeling was based on an advanced model used for the FM Diversion. The proposed design should provide overall flood protection for a 10-year event.

Albright noted that the next steps in the project development process is for the Board to accept the Preliminary Engineer's Report, which will then be forwarded to Minnesota Department of Natural Resources (DNR) and Minnesota Board of Water and Soil Resources (BWSR) for a 30-day advisory comment period. Following the comment period, the BRRWD could schedule the Preliminary Hearing where the design concept and potential funding will be discussed with the ditch system landowners. Based on the testimony heard at the Preliminary Hearing, the Board will need to decide if they wish to authorize HEI to prepare the Detailed Survey Report, which the Viewers will use to determine benefits/damages. The Board would schedule the Final Hearing and a hearing notice must be published for three weeks prior to the hearing in local newspapers. At the Final Hearing, the Board would take testimony regarding the proposed project, and then they would make a decision to either move forward with the project or dismiss it. Their decision is also subject to a 30-day appeal period.

Because of the problems with water ponding on the north end of J.D. No. 1 in Clay County, Lynn Brakke thought that there was an implicit "moratorium" on adding more water into the system from the south. He asked if private drainage projects on the south end of J.D. No. 1 would be allowed if the proposed improvement on the north isn't built. Albright commented that he wasn't aware of any formal Board action restricting upstream private drainage projects on J.D. No. 1. Kritzberger asked what the process would be to place a formal moratorium on future upstream drainage. Albright suggested that the issue could be discussed at the Final Hearing. The group had an extended discussion regarding this issue. Manager Anderson commented that landowners who pay benefits to the ditch system are going to expect to be able to use the ditch. Brakke and Kritzberger were concerned that upstream landowners will "vote" against the improvement because of the cost. Albright clarified the hearing process by explaining that at the hearing, the Board takes testimony from the landowners and then makes a decision regarding the project, based not just on the hearing testimony, but the project features and benefits. Jones emphasized that the project cost he quoted is only an estimate, and we won't know what the project is actually going to cost until we let bids. Albright also advised that if the project is dismissed, the petitioners would be liable for the project development costs to date. Kritzberger said the petitioners were aware of that obligation.

Following the discussion, **motion** by Anderson to accept the Preliminary Engineer's Report. **Seconded** by Fjestad. **Approved.** Jones will forward the Report to the DNR and BWSR this week for review. Staff will post the complete Report to the BRRWD website with a link for public access. The preliminary hearing will also be scheduled.

Other Business brought before the Board included:

Permit No. 18-003, Shawn Norman. The Board approved an Order at the 6/26/18 hearing to add and remove lands on Wilkin County Ditch (C.D.) Nos. 44 and 13/13-Lateral for Shawn Norman's tiling project in the E½, Section 21, Manston Township, Wilkin County. Albright recommended approval of Norman's permit application for the work, subject to our standard tiling disclaimer.

Permit No. 18-017, Merle Nelson. Applicant proposes to install pattern tiling in the NE¼, Section 28, Atherton Township, Wilkin County, and to run a main across the NW¼, outletting via gravity flow to the township ditch, then north for about 0.5 miles along Janice Cook's property to Deerhorn Creek. This permit was tabled pending the receipt of downstream landowner notification forms from Janice Cook and Bruce Nelson. Both landowners recently returned the forms. Cook noted concerns that the rapid runoff of fertilizer and chemicals could do damage to neighboring fields. The soil type and adjacent waterways would be subject to long term damage and negatively impact long term land values. Manager Larson suggested that a field review could be conducted to check on outlet adequacy. He questioned why Nelson had decided on outletting the project west via the main, rather than north to Deerhorn Creek. Jones, Larson, and Anderson agreed to meet to conduct a field review on 7/25/18 (Wednesday) at 8:00 AM. **Tabled**, pending Manager field review.

Permit No. 18-060, Clay County Highway Department. Applicant proposes to replace an existing bridge in the NW¼, Section 15, Moland Township, Clay County, crossing C.D. No. 3 with two lines of 10' x 7' precast concrete box culvert (CBC), placed on the "as-built" ditch grade with minor grading. Jones recommended permit approval.

Permit No. 18-061, Clay County Highway Department. Applicant proposes to replace an existing bridge in the SE¼, Section 9, Moland Township, Clay County, crossing C.D. No. 3 with two lines of 10' x 7' precast CBC, placed on the "as-built" ditch grade with minor grading. The culvert will be placed at a 15-degree angle through the road. Jones recommended permit approval.

Permit No. 18-062, Jeff Yaggie. Applicant proposes to install pattern tile in the SE¼, Section 30, Nilsen Township, Wilkin County, outletting via a lift pump to Wilkin C.D. No. 12 along Wilkin County Road (C.R.) No. 16, to which the land is assessed to drain. Jones recommended permit approval, subject to our standard tiling disclaimer.

Permit No. 18-063, City of Dilworth. Applicant proposes to construct turning lanes on Trunk Highway (T.H.) No. 10 at the 14th ST intersection and modify the turning lanes from full access to ¾ access at the 12th ST intersection in Section 1, Moorhead Township, Clay County, in the northeast corner of Dilworth. This permit is in conjunction with Permit No. 18-015. Jones recommended permit approval.

Permit No. 18-064, Mike Yaggie. Applicant proposes to pattern tile the S½, Section 32, Akron Township, Wilkin County, outletting via a lift station in the southwest corner of the section, eventually draining to Wilkin C.D. No. 3 to which the land is assessed. This work was approved in 2015 (Permit No. 15-108), but it wasn't completed. Manager Larson offered to discuss the proposal with the downstream landowner, who was involved with the 2015 project.

Permit No. 18-065, Kraig Nelson. Applicant proposes to install 17 acres of random tile in the SE¼SE¼, Section 9, Audubon Township, Becker County, near the City of Audubon, to address seepage problems, outletting to a natural waterway and wetland area.

Permit No. 18-066, Jared Nordick. Applicant proposes to remove and replace a culvert/approach and move it to the property line in the SE¼, Section 24, Meadows Township, Wilkin County, so both landowners can use the approach. The existing culvert is an 18" dia. corrugated metal pipe (CMP), and Nordick would like to replace it with a 24" dia. CMP, which the downstream landowner approved. Albright recommended permit approval, subject to township approval to work within their road R/W.

Motion by Fjestad to approve Permit Nos. 18-003, and 18-060 through 18-066, subject to the referenced standard disclaimers and conditions. **Seconded** by Van Amburg. **Approved.**

Manager Anderson commented that he is planning a personal project to extend some culverts to widen existing field approaches. The structures will be the same size and elevation. He wanted to be sure he didn't

need a permit for the projects. Albright noted that if the culvert sizing and elevation doesn't change, according to BRRWD policy, the work doesn't require a permit.

Project No. 54, Whisky Creek Tributaries. At the 7/9/18 meeting, the Board authorized HEI to conduct a survey for 0.5 miles along 200th ST S in Section 28, Humboldt Township, Clay County, starting at T.H. No. 34 and going south to Whisky Creek to address seepage and icing problems adjacent to a building site along C.R. No. 25 north of T.H. No. 34 downstream of the Nichols Wetlands Reserve Program (WRP) site east of Barnesville. Jones discussed the results of that survey. The culvert coming into 200th ST S from The 34 Restaurant property is slightly higher than the pipe through T.H. No. 34. Jones estimated that there is about 6" of sediment in the ditch, but the vegetation in the ditch appears to be what is impeding the water flow. Using the overhead monitors, Jones discussed the drainage area coming into this ditch. Albright noted that the survey will be forwarded to the affected parties, including Humboldt Township and Minnesota Department of Transportation (MNDOT), with recommendations to address the drainage concerns.

Project No. 49, Oakport Flood Mitigation. Jones submitted Pay Request No. 1 for Gladen Construction, Inc., totaling \$124,223.95 and Change Order No. 1 for a net contract decrease of \$34,341.20. The work was to remove construction material from the stockpiles associated with the project. The original contract was for \$165,103.25. After the change order, the contract was reduced to \$130,762.05, including 5% retainage. **Motion** by Anderson to approve the referenced pay request and change order. **Seconded** by Fjestad. **Approved.** Jones will forward the invoices to the DNR for reimbursement. Jones sent an information packet to about 25-30 contractors to get quotes to finish removal of the spoil material on the Pierce site.

Project No. 79, Wolverton Creek Restoration. The Board discussed the Wilkin Soil and Water Conservation District's (SWCD) proposal for native grass seeding on the Phase 1 channel restoration. They have proposed to do the seeding for the upland project areas (168 acres) and provide mowing maintenance. For the MNDOT 35-241 Mesic Prairie Seed Mix, there are 168.40 acres for a total estimated cost of \$93,195.93. Jones suggested that we also hire the SWCD to do the mowing at least twice next year to control the weeds. Mowing is estimated at \$75/hour with a total cost of \$3,200 per mowing. He commented that the SWCD proposal is cost effective compared to the contractor's potential seeding charges. **Motion** by Anderson to contract with the Wilkin SWCD for Phase 1 seeding and mowing maintenance. **Seconded** by Hanson. Larson asked if the seed will be certified to be sure noxious weeds are not present in the seed mix. Jones said the seed is MNDOT recommended varieties and certification is required. **Approved.**

FY 2019 Clean Water Fund (CWF) Competitive Grants. BWSR's Competitive Grant application period is open until 8/31/18 for local government funding through the 2018 Clean Water, Land & Legacy legislation to protect and improve water quality in Minnesota. The Board discussed potential projects that we might want to submit for funding. Albright noted that the Wilkin/Otter Tail J.D. No. 2 ditch committee was interested in finding funding for an outlet repair. Jones thought this application would fall within the Grant's Projects & Practices category. Albright noted that this grant has a 25% match requirement.

Jones also suggested that the Whiskey Creek Enhancement project might be another candidate for the CWF grant. Tomorrow (7/24/18), a Clean Water Act (CWA) Minnesota Pollution Control Agency (MPCA) 319 Small Watersheds Focus Program Grant interview has been scheduled for this project. Jones thought the funding could be used as matching funds for the CWF BWSR grant, which requires non-state funds for the 25% match. He thought that the Whiskey Creek application would be competitive because we already have completed an Accelerated Implementation Study to identify side inlet and buffer locations along Whiskey Creek to the Red River. This area was also part of the Minnesota Agricultural Water Quality Certification Program (MAWQCP).

The Board discussed our strategic plan in conjunction with our One Watershed, One Plan (1W1P). Albright explained that with the 1W1P, the BRRWD should receive about \$500,000/year to fund projects based on our plan ranking. Fjestad and Leitch questioned if the applications might be premature since we currently

don't have a prioritized list of projects. Van Amburg thought that if the projects were competitive, it would be wise to apply for the grants. Anderson questioned if the BRRWD was the appropriate entity to sponsor the J.D. No. 2 application. Albright noted that we could include the Otter Tail County Board of Commissioners on the application as sponsors because the Ditch Committee had encouraged the BRRWD to search for funding for the outlet repair.

Jones recommended that the BRRWD and Otter Tail County submit a CWF BWSR Competitive Grant application for the J.D. No. 2 outlet repair, and the BRRWD apply for CWF Grant funds for best management practices (bmp) implementation for the Whiskey Creek Enhancement project. **Motion** by Fjestad to authorize Jones to submit the funding applications as referenced. **Seconded** by Larson. **Approved.**

Comments/Announcements:

The Board had a brief discussion regarding Red River water turbidity and storm runoff.

Manager Van Amburg discussed a letter from Trana Rogne, Wilkin/Richland Upstream Coalition, which appeared in the 7/12/18 Opinion Section of *The Forum* of Fargo-Moorhead. The article was critical of the FM Diversion Authority's (DA) new proposal to build an additional levee on the Wilkin/Clay County line, crossing Wolverton Creek south of Comstock. Van Amburg was concerned that the article exaggerated the impact the DA's Plan B on our Wolverton Creek project. DA technical representatives attended the 7/9/18 BRRWD meeting to clarify the impact of the proposed Wolverton Creek crossing on our project. Because Rogne referred to the BRRWD in his letter, Van Amburg prepared a response on behalf of the Board. The Board discussed Rogne's letter and Van Amburg's response. They decided that Van Amburg could submit his letter as a private individual, but they preferred that the letter not appear to come from the BRRWD.

Van Amburg gave a brief report on the West Otter Tail SWCD Recognition Ceremony of the First Minnesota Conservation Reserve Enhancement Program (CREP) Recorded Wetland Easement that took place on 7/12/18 in Dalton, MN. He had the opportunity to visit with Mark Johnson, who is a member of the Lessard-Sams Outdoor Heritage Council (LSOHC), who mentioned that the LSOHC is planning a meeting in our area in the near future. Van Amburg offered to assist them in locating a meeting venue. He thought it would be a good idea to provide the Council with a chance to see some of the BRRWD projects they have funded.

Manager Affield noted that she has been contacted by landowners regarding the weed infestation along T.H. No. 9 adjacent to the Manston Slough project. She wondered if there was anything the BRRWD can do. Jones thought we could contact the agencies regarding the Operation and Maintenance (O&M) agreement and discuss this concern. Affield commented that the Board should revisit the idea of having a retreat this summer. President Leitch suggested that Affield could send out a Doodle Poll to the Managers to schedule a retreat.

President Leitch noted that the North Dakota Water Education Foundation is holding their 2018 Fargo-Moorhead Flood and Water Management Tour on 8/1/18 in Fargo. The cost is \$20. Leitch also noted that the Clay County Board of Commissioners is meeting tomorrow (7/24/18). At 8:35 AM, there will be the discussion to fill the BRRWD Manager position, which expires on 8/31/18.

2017 Annual Report. Staff will have to incorporate President Leitch's corrections/edits to the draft report, handed out at the 7/9/18 meeting.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Bridge Communications, LLC	#7716, Annual phone contract	Admin.	\$ 550.00
Bruce E. Albright	Lauren Peterson Memorial Flowers	Admin.	\$ 100.94

Bruce E. Albright	Viewer's Dinner	Becker 9/Clay 16	\$ 24.58
Catherine L. Affield	#18-15, 05/01/18-06/30/18	Varies	\$ 479.29
Chris Hoppe Lawn Care	Spring Fertilizer Application	Admin	\$ 204.02
Gladen Construction, Inc.	Pay Request No. 1	Pj. 49, Oakport	\$ 124,223.95
Gladys C. Odegard Rev Trust	Easement Option	Pj. 79, Wolverton Crk	\$ 1,608.25
Joel Carlson	August Lobbyist Fees	Admin.	\$ 850.00
Kathleen Lucas	Easement Option	Pj. 79, Wolverton Crk	\$ 1,050.25
MPS	06/04/2018-07/03/2018 Service (4)	Pj. 49, Oakport	\$ 154.71
Petty Cash	Office Supplies	Admin.	\$ 100.00
Ray & Lucille Nelson Family PRSHP	Easement Option	Pj. 79, Wolverton Crk	\$ 3,957.25
Richard Seidel	Parking Lot Repairs - Final Pymt	Admin.	\$ 762.50
RMB Environmental Labs	#410181, WQ Analysis	M.S.A. 103D.905, Sub. 3	\$ 184.00
USGS	USGS Stream Gages	M.S.A. 103D.905, Sub. 3	\$ 5,118.00
Vogel Law Firm	#218636, June billing	Pj. 78, J. D. No. 1 Improv.	\$ 336.00
Vogel Law Firm	#218636, June billing	Admin.	\$ 72.00
			\$ 139,775.74

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

Next Meeting. The next regular meeting will be held on Monday, August 13, 2018, at 7:00 PM in our Barnesville office.

Next Meeting Agenda. Anderson asked about the survey for Darin Brandt on Clay C.D. No. 60. Albright said it would be ready for the next meeting. President Leitch wanted to have the issue of engineering outsourcing added to 8/13/18 agenda. He noted that it has been 6 months since the Board reviewed this issue, and he would like to keep it as an active discussion item on the agenda. He noted he has more information regarding engineering costs. He asked about the status of the search for an Assistant Administrator. Jones said that HEI has decided to move Administrative Assistant Kathy Fenger into the position as Bruce's assistant.

River Keepers. Fjestad asked about the amount that the BRRWD has contributed to River Keepers. Albright said that we have contributed \$55,000 annually for several years. This matter will be discussed further at the upcoming budget hearing.

Adjournment. **Motion** by Fjestad to adjourn the meeting. **Seconded** by Anderson. **Approved.** President Leitch adjourned the meeting at 8:50 PM.

Respectfully submitted,

John E. Hanson, Secretary