

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

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## MINUTES FOR MANAGERS' MEETING

March 11, 2019

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, March 11, 2019, at 7:00 PM in the Barnesville office. BRRWD Managers present were Jay A. Leitch, Gerald L. Van Amburg, Mark T. Anderson, Catherine L. Affield, Peter V. Fjestad, John E. Hanson, and Troy E. Larson. Others attending included: Bruce E. Albright, BRRWD Administrator, Kathleen K. Fenger, BRRWD Assistant Administrator, and Erik S. Jones, BRRWD Engineer, Houston Engineering, Inc. (HEI); Kevin Campbell, Clay County Commissioner/Vice Chair, Fargo-Moorhead Diversion Authority (FM DA); Grant Weyland, Clay County Commissioner/FM DA; Jim Haney, Clay County Commissioner; Lyle Hovland, Wilkin County Commissioner; Mary Scherling, Cass County Commissioner/FM DA; Gregg Thielman, Engineer, Houston-Moore Group, LLC (HMG); Eric Dodds, Engineer, Advanced Engineer and Environmental Services (AE2S); Martin Nicholson, Engineer, Jacobs Group, FM DA Project Management Consultant (PMC); David Morken, Chair, Pat Otto, Secretary/Treasurer, Mark Askegaard, Matt Ness, Don Nelson, and Shelley Lewis, Directors, MNDAK Upstream Coalition; Tim Fox, Attorney, Richland-Wilkin County Joint Powers Authority (JPA); Roger Hemphill, Minnesota Department of Natural Resources (DNR); Duane Erickson, Manager, Wild Rice Watershed District (WRWD); Don Bajumpaa, District Manager, Craig Lingen, Resource Specialist, and Kimberly Melton, District Technician, Wilkin Soil and Water Conservation District (SWCD); Curt Bjertness, Manager, CW Valley Cooperative; Paul Jergens, KFGO Radio; and others: Gerry Schran, Wes Anderson, Richard Scheffler, Larry Ness, Judy Ness, Wendy Tabor Buth, Scott Smith, Lynn Brakke, Bradley Nelson, Kristy Olsgaard, Kevin Olsgaard, Jay Nord, Cindy Nord, Mark Miller, Mike Bjertness, Paul Krabbenhoft, Don Cossette, Marg Cossette, Jan Ness, Jim Ness, Keith Kragerud, Ed Askegaard, Elson Hermunslie, Ray Holzhey, Judy Holzhey, Lori Propp-Anderson, Jerome Nipstad, Doug Christianson, Judy Willem, Richard Willem, Richard Nelson, Paul Barttrel, Lynette Nelson, Todd Lewis, Jeremy Spanier, Micki Spanier, Margaret Nelson, Robert Askegaard, Mark Baumgardner, Gary Nelson, Peggy Isakson, Deb Clark, Pat Karley, Willy Jacobson, Kristi Houska, Marcus Larson, Jim Thoreson, Carol Thoreson, Brian Field, Chuck Anderson, Mike Bice, Steve Brakke, Marc Hedlund, Brandon Raboin, Darin Brandt, Michael Brandt, Luther Blilie, Jeff Hanson, Jerald Butenhoff, Kelly Holland, Jessie Azure, Gloria Palm Connor, Steve Olson, Nick Slavicek, Nathan Brandt, Jason Ehlert, and Chris Enger.

BRRWD President Leitch called the meeting to order at 7:04 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. He suggested that the Wilkin SWCD buffer aid request be moved to the top of the agenda, so they can make their presentation before the Board addresses the FM Diversion permit discussion. With that change, the agenda was adopted.

**Secretary's Report.** The Board reviewed draft minutes for the 2/11/19 Board meeting. **Motion** by Manager Anderson to approve the meeting minutes. **Seconded** by Manager Larson. **Approved.** The Board reviewed draft minutes for the 2/19/19 special meeting. **Motion** by Manager Anderson to approve the 2/19/19 special meeting minutes. President Leitch noted a few changes. **Seconded** by Manager Fjestad. **Approved,** subject to correction. The Board reviewed draft minutes for their 3/6/19 Executive Session to discuss our DNR contested case request with our Attorneys. **Motion** by Manager Van Amburg to approve the 3/6/19 meeting minutes. **Seconded** by Manager Fjestad. **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 \$3,404,296.18. Administrative disbursements this month equal \$19,028.32 and to date, total \$60,135.45. Current 2019 accounts receivable are \$6,088,936. Total income this year is \$1,132,542.40. Income received since the 2/11/19 meeting totaled \$91,773.50, primarily from the Minnesota Board of Water and Soil Resources (BWSR) for the second payment from our 2017 Clean Water Fund (CWF) PTMApp and Geomorphology Accelerated Implementation grant (\$67,500) and a payment from the Minnesota Pollution Control Agency (MPCA) for our Otter Tail River Planning 319 Grant (\$20,437.73). The balance of the income came from the Midwest Bank accounts interest (\$3,910.77) and HEI monthly office rent (\$225). **Motion** by Anderson to approve the Treasurer's Report. **Seconded** by Hanson. **Approved.**

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

**FM Diversion Project.** Due to the large crowd in attendance, President Leitch noted that only those with new material to present should speak, and their remarks would be limited to two minutes.

Lyle Hovland, Wilkin County Commissioner, and Wilkin-Richland Joint Powers Authority Vice Chair, noted that in one capacity or the other, he represented most of the citizens in attendance. He acknowledged that the BRRWD Board of Managers is under significant pressure to make the "correct" decision regarding the FM DA's permit application for the Diversion project. He observed that the correct decision depends on perspective. He encouraged the Board to maintain their autonomy and independence, and to gather as much information as possible. Hovland felt that moving forward with the contested case hearing request regarding the DNR permit will provide the Board with the best opportunity to obtain all the necessary information. After careful consideration, applying statutes, laws, and ordinances, as well as the facts, he felt confident that the Board will come to a correct decision regarding BRRWD permit. He hoped they would not be swayed by politics or threats.

Paul Krabbenhoft, realtor/homeowner, offered his comments regarding the contested case hearing request of the DNR's permit for the Diversion project. He asked the Board to reconsider the motion to contest the DNR's permit, and instead, work with the entities involved through the BRRWD's permit process. Krabbenhoft noted that the BRRWD has a good working relationship with the DNR and suggested that this was not the time to distrust them. He felt that the "unnecessary" suit will only add additional time and cost to the project development. Litigation costs could run into the "hundreds of thousands of dollars", and that Clay County will be responsible for 70% of the costs. As a taxpayer, Krabbenhoft was concerned by this additional cost when we already have a process by which the BRRWD can review the proposed project through the permitting system and not engage in litigation against the DNR. Clay, Otter Tail, and Becker County Commissioners have submitted letters opposing the BRRWD's contest of the DNR's permit. Krabbenhoft mentioned the BRRWD's partnership with the DNR to develop the Oakport Township Flood Control project, which generated nearly \$35 million in State funding. He warned that if the Federal Emergency Management Agency (FEMA) raises the 100-year floodplain elevations, even the Diversion project at its current proposed elevation will barely meet the new flood protection level. It is projected that given the potential new FEMA flood elevations, about 1,000 homes in Moorhead will need to be covered by flood insurance. Currently, only 100 homes are in the floodplain. Krabbenhoft urged the Board to drop their contested case and follow the BRRWD's proven permitting process to review the DA's Diversion application.

Wesley Anderson, a Barnesville resident, commented that he is in favor of the Diversion project. He works in the FM area and values being able to work in this area and supports flood protection for Fargo.

Shelley Lewis, MNDAK Upstream Coalition, lives near Comstock, MN, and is a former resident of Moorhead. She noted that her questions were rhetorical, and she did not expect answers. Lewis asked if the BRRWD requires other permittees to have "everything" in order before construction starts. She also asked

who would be held responsible for the short- and long-term maintenance of the Diversion dam structure. Lewis also questioned if the BRRWD would assist the DA with the eminent domain process.

Kristy Olsgaard, who farms with her husband in both Wilkin and Clay Counties in the upstream staging area, stated that the farm and farmstead they own in Wilkin County, which was homesteaded by her husband's grandparents, will be "wiped out" by the Diversion project. She expressed appreciation for the Board's decision to approve the contested case request. Olsgaard pointed out that the BRRWD's purpose is to benefit the inhabitants of the Watershed District. She said that if the Diversion project affects even one family farm, or one productive acre of farmland, the project should not be permitted by any Minnesota entity. Olsgaard pointed out that if the project were only to provide flood protection for Fargo-Moorhead, it might warrant consideration, but, given the large representation of FM realtors in the audience tonight, it is apparent that there is more than just flood protection at stake. She feels that there is a land development element to the project. Olsgaard referenced Section 5, Flood Control and Drainage, in the BRRWD's Rules, which states "every person shall use his land reasonably in disposing of surface water and may turn into a natural drainageway all the surface water that would naturally drain there, but he may not burden a lower landowner with more water than is reasonable under the circumstances." She asked the Board to consider "what is reasonable" regarding the proposed Diversion project, and if it is reasonable to threaten a farmstead that has never flooded in 100 years, or to put one group of people at risk in order to please another group, who don't even own land in Minnesota. Olsgaard pointed out that the Board's decision should be based on a question of ethics and conscience and urged them to continue to support the contested case hearing request.

Richland-Wilkin County JPA Attorney Tim Fox gave a brief recap of the JPA's injunction against the DA's Diversion project construction. The injunction indicated that the project required state and local permits and referred to the project as a "steam roller", meaning that once construction started, no one would be able to stop it. Since 2014, the DA has been advised by the 8<sup>th</sup> Circuit Court that they need the state and local permits. Despite this, in 2016, the DA again started up construction on the inlet structure. The Federal Court again issued an injunction, citing a lack of the necessary permits for the project. Fox pointed out that the DA only applied for a BRRWD permit this year, five years after they were advised they would need one. Fox related that this year when the DA was attempting to have the current injunction lifted, their attorney stated in Court that a project of the Diversion's magnitude shouldn't be subject to the permitting authority of a local Watershed District Board of Managers. Fox noted that the Federal Judge upheld the permitting requirements. Another injunction hearing is scheduled for April where the same argument will be presented by the DA's attorneys. Fox pointed out that by filing the contested case hearing request, the BRRWD has put the DA on alert that the Board has jurisdiction in this matter, and the DA must follow the BRRWD permitting process.

Curt Bjertness, Manager of CW Valley Cooperative, commented that he has lived in the Comstock/Wolverton area for 32 years. The Cooperative has two locations that will be impacted by the Diversion project. Their chemical/fuel site is located west of Comstock. Because the proposed dike will be located right alongside of the site, the Cooperative fears that the site will be unusable. The fertilizer plant is in the Category 2 area, which will require a buyout, relocation, or some type of flood protection. Bjertness indicated that those options are not acceptable to the Cooperative. A more important concern is how the Diversion project will affect the lives and livelihood of the Cooperative's patrons. He explained that the 92-year old Cooperative, founded in 1929, won't be able to survive the potential impacts of the Diversion project. He acknowledged the need for FM flood protection, but he feels that the DA is asking the Cooperative and the upstream landowners to sacrifice too much. He added that he supported the BRRWD's contest of the DNR permit.

Donald Nelson, MNDAC Upstream Coalition, supported the BRRWD's decision to withdraw from the FM Diversion JPA back in 2016 when he felt the DA was forcing the Board to back the Diversion project. He thinks the DA is again trying to force the BRRWD to vote the way they want and support their project. He pointed out that there are FM realtors putting pressure on the Board to drop the contested case and approve the DA's permit application so they can build houses in the floodplain on the North Dakota side of the Red

River. Nelson pointed out that the BRRWD doesn't represent the FM realtors. The Board should not allow the non-floodplain land in Minnesota to be flooded so that developers can build in the floodplain in North Dakota. Nelson commented on the realtors' claims of excessive floodplain insurance costs, noting that if a property requires the owner to purchase flood insurance, maybe they're building in the wrong place, and it shouldn't be the upstream landowners duty to take more water, so the downstream properties don't have to pay flood insurance. Nelson pointed out that on the BRRWD's Website, we have the phrase "Protecting, Managing, and Promoting the Buffalo-Red River Watershed". The upstream landowners need to have the BRRWD live up to their Mission Statement because in Nelson's opinion, they don't have any Clay County Commissioners who are looking out for their interests. He felt that the BRRWD should protect their constituents in Minnesota and not make decisions to benefit low ground in Cass County (North Dakota). The BRRWD shouldn't create new floodplain in Minnesota on land that is naturally above the 100- and 500-year floodplain by allowing the transfer of water from the North Dakota floodplain. Nelson explained that the upstream landowners only wish to be left alone by maintaining current conditions and that the BRRWD has a duty to continue the DNR contested case. Nelson discussed the Diversion Task Force proceeding and questioned the process that occurred when the DNR conditional permit was granted. He asked that the Board follow their Rules when considering the DA's permit application, which he feels would lead to the denial of the application. Nelson stated that the Diversion is more about enabling development in the floodplain in North Dakota than it is about protecting the City of Fargo, and he felt that there is no doubt that this project should not be approved.

Leitch asked if anyone else wished to speak. He commented that the Board has received scores of messages and letters regarding the DA's permit application and our DNR contest. He appreciated the audience's attendance to express their concerns about the project. There being no further comments, the Board moved forward with their agenda items.

**Wilkin SWCD Buffer Aid Request.** Don Bajumpaa, District Manager, and Kim Melton, District Technician, Wilkin SWCD, presented a request for funding for DNR protected waterway repairs in compliance with the 2015 Buffer Law alternative practices options. Bajumpaa reported that Wilkin County has 99% of the DNR protected waters buffered and about 80% of the County ditches completed. The SWCD staff has been working with landowners to identify active gullies/erosion sites on protected water courses. Bajumpaa explained that the State allocated approximately \$60,000 for buffer cost share funding. In addition, the SWCD applied for a Streambank Erosion Repair grant with which they proposed to repair 20 high priority gullies along the Otter Tail River. Bajumpaa reported that they have completed about one-half of those repairs. Wilkin County also recently received a \$300,000 Clean Water Legacy (CWL) grant to install grade stabilization structures for active erosion sites along Whiskey Creek (approximately 53 sites). There are more active gullies on the landscape that don't fit into the referenced grant program areas. BWSR provided additional funding (\$40,000) to address these repairs, but there is still a need for additional funding to complete those repairs before seeding the buffers. Both the BRRWD and Wilkin County have received Riparian Aid Grant funding for the last three years to be used for water quality and riparian resource protection. He noted that the BRRWD has some funding available from this grant that the Board could make available for the SWCD's erosion repair project, which is being done in conjunction with the required buffer installation on the DNR protected waters.

Kim Melton distributed a handout showing the various gully/erosion sites that still need to be repaired. There are currently 14 sites on DNR protected waters, which are not eligible for the other grant monies. The initial funding the state provided for buffers was \$109,492. Because of the unexpectedly high landowner participation, the remaining \$82,435.43 will not be enough to complete all the needed repairs in both the BRRWD and the Bois de Sioux Watershed District (BDSWD). The total additional funding needed to complete the gully repairs within the BRRWD is \$63,924.18. Melton noted that she plans to ask the BDSWD for a similar contribution for the repairs in their District.

Albright explained that Wilkin County forwarded our share of the Riparian Aid Grant funding (\$149,773) to the BRRWD. This money is earmarked for buffer work on the legal ditch systems and riparian repairs within the BRRWD's jurisdictional area in Wilkin County. Most of the legal ditch systems have already been buffered as part of ditch repair retrofits completed a few years ago. Bajumpaa pointed out that they have willing landowners with "shovel ready" projects. **Motion** by Van Amburg to approve the Wilkin SWCD request for \$63,924.18 for gully repairs within the BRRWD. **Seconded** by Larson. **Approved.** The funding will be taken from Wilkin County's share of the BRRWD buffer aid.

Craig Lingen, Resource Specialist, Wilkin SWCD, gave a brief report on the Conservation Reserve Enhancement Program (CREP) signup process for the Wolverton Creek Restoration project. CREP is currently on hold since last summer because of the delay in the Farm Bill. He hopes that the program will open again this summer. We currently have six project landowners enrolled with 12 more ready to sign up as soon as the program is active. Albright reported that the Legislature is attempting to move the continuous Conservation Reserve Program (CRP) signup forward sooner than any new signup period, which wouldn't be open until November.

### **FM DA Revised Project.**

- **Permit No. 19-003, FM DA.** President Leitch discussed the BRRWD Rules and provided copies with the pertinent sections highlighted for the audience's review, noting that the Board must follow the Rules as written. He suggested that because of the public interest this permit has generated, the Board could hold a hearing prior to making a decision about permit action. Each side could be allotted 60 minutes to present their arguments. **Motion** by Fjestad to hold a hearing as referenced. **Seconded** by Van Amburg. **Approved.** A hearing notice will be published when an appropriately sized venue can be found. A Manager field review of the proposed project will be conducted for those Board members who are unfamiliar with the area. Albright added that the Engineers are working on the Board's request for elevation information for some of the impacted farmsteads along the Red River in Clay and Wilkin Counties in relationship to the proposed staging area. Leitch asked for a meeting with the Engineers about the farmstead elevations and explanation of terminology and dam configuration calculations used in the permit application.
- **DNR Permit Contest.** Leitch commented on the number of email messages the BRRWD has received both pro and con regarding this issue. He said according to his count, the messages are running about 50/50 regarding the Board's decision to contest the DNR's permit for the Diversion project. Leitch addressed recent public comments stating that delays caused by the BRRWD's contest of the DNR permit is adding \$130,000-\$180,000 per day to the cost of the Diversion project. He distributed a written statement refuting this claim, based on his peer reviewed economic analysis, which demonstrates that delays alone have no effect on the "real cost" of projects. He labeled these inaccurate assertions about additional "delay" costs as untrue "scare tactics". In order to establish his credibility regarding the analysis of project costs, Leitch mentioned that he was formerly employed by the Assistant Secretary of the Army Corps of Engineers for Civil Works. In this capacity, he reviewed feasibility studies for projects like the Diversion from all over the United States. Leitch also commented on a recent article in *The Forum* of Fargo-Moorhead, entitled "Watershed District Mulling Appeal Against FM Diversion". He said that the Board is not considering an appeal of the Diversion project, but contested the DNR's conditional permit for the Diversion, which some Managers felt was written in haste in the last few weeks of the outgoing Minnesota Governor Dayton's administration. The Board held a Skype meeting with the DNR on 2/19/19 to review questions about their permit conditions. Albright contacted the DNR to schedule another informal meeting with the authors of their permit, which has been set for 3/15/19 in St. Paul. The DNR has requested that the Board agree to sign a Rule 408 Agreement prior to the meeting, stating that anything said during the meeting can't be used in the contested case proceedings. Albright recommended that the Board sign the Agreement and also noted that a quorum would not be needed at the meeting. **Motion** by Van

Amburg to meet with the DNR on 3/15/19 and to authorize President Leitch to sign the Rule 408 Agreement. **Seconded** by Fjestad. Leitch noted that the public comments regarding the contested case urged the BRRWD to cooperate with the DNR and the DA on this issue, and he felt that the Board is doing everything possible in that regard. **Approved.**

- **Minnesota Land Committee.** Clay County Commissioner Kevin Campbell reported that even though Leitch is not a member of the Minnesota-Clay County Joint Powers Agreement (MCCJPA), as a member of the Minnesota Land Acquisition Committee, he will still be able to review the draft JPA, once the DA's legal staff completes it.
- **Cities of Wolverton and Georgetown Issues/Impacts.** Albright explained that the DNR's Findings of Fact in their DA permit review, stated there would be impacts to the City of Georgetown for the 100-year flood, which will require the City to close road openings in their levee. The cost to close the levee on just a temporary basis could be about \$100,000. Albright suggested that this issue should be addressed in the BRRWD's permit conditions. The Diversion will also cause a slight stage increase at Wolverton with the proposed pools from the different flood events. Albright suggested that the Board should meet with the Wolverton City Council. There was a study completed for a ringdike for Wolverton a few years ago, and this issue could also be addressed in the BRRWD's Diversion permit conditions. The City of Comstock and Holy Cross Township would also like to meet with the BRRWD before the Board acts on the DNR contest.

At 8:00 PM, Leitch recessed the meeting for 10 minutes to allow the audience time to leave. He thanked the public for their input and attendance. At 8:10 PM, he reopened the meeting.

**Permit No. 19-004, Pheasants Forever, Inc. (PF).** Applicant proposes to restore a series of 26 wetlands in Section 7, Parke Township, Clay County, by removing sedimentation with a scraper. No embankments are proposed. There are approximately four of the wetlands near the property line (Nos. 14, 16, 19, and 26) that could potentially drain off the property onto adjacent land. Staff will work with the neighboring landowner, Joseph Robertson, who contacted the BRRWD last fall with concerns regarding area drainage patterns and potential impacts to his cropland. The United States Fish and Wildlife Service (USFWS) started the restorations for PF on the Kasin Farms Tract last fall before obtaining a BRRWD permit. To date, USFWS has not contacted Robertson regarding their project. The Board plans to conduct a field review this spring when conditions allow. **Action Postponed.**

**Permit No. 19-007, Wilkin County Highway Department.** Applicant proposes to replace a deteriorating bridge in the SE $\frac{1}{4}$ , Section 2, McCauleyville Township, with a 10' x 4' precast concrete box culvert and end section. Jones noted that the hydraulics won't change and recommended permit approval.

**Permit No. 19-008, Clay County Highway Department.** Applicant proposes to regrade and resurface 15<sup>th</sup> AVE N in Moorhead from the 34<sup>th</sup> ST N intersection to the County State Aid Highway (CSAH) No. 9 intersection in Section 34, Oakport Township. The project will also include a minor culvert extension in one location. Jones noted that the hydraulics won't change and recommended permit approval.

**Permit No. 19-009, Arvig Communications.** Applicant proposes to install fiber optic cable for the Felton Telephone Company from the intersection of Trunk Highway (T.H.) No. 9 and County Road (C.R.) No. 26 (90<sup>th</sup> AVE N) on the north side of the road east for approximately 0.5 miles to the Strata Corp weigh station in Section 34, Flowing Township, Clay County. Jones recommended approval, subject to our standard utility disclaimer.

**Permit No. 19-010, Trent & Craig Seter.** Applicant proposes to install a culvert crossing over a natural waterway in the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 35, Riverton Township, Clay County, to access their pastureland. The Seters worked with the Clay SWCD to purchase banking credits to mitigate wetland

impacts. They plan to install a 48" dia. culvert or equivalent arch pipe (57" x 38"). Jones reviewed this project and recommended permit approval.

**Motion** by Fjestad to approve Permit Nos. 19-007 through 19-010, subject to the referenced disclaimers and conditions. **Seconded** by Affield. **Approved.**

**Project No. 79, Wolverton Creek Restoration.** Albright reported that the closing on Todd Blilie's property in Section 10, Wolverton Township, Wilkin County, has been delayed by vacations and Blilie's stepson's accident. He referenced Craig Lingen's report regarding the CREP easement funding. The office sent letters to the Phase 2 landowners asking them to sign and return their temporary easements as soon as possible so we can let bids for Phase 2 sometime in April.

**Whiskey Creek Restoration.** Albright reported that staff is working to schedule the Preliminary Hearing in the near future. He participated in a conference call with MPCA last week regarding the Small Watershed 319 Grant workplan for the project. The funding will be available in 2020.

**Project No. 78, Clay/Wilkin Judicial Ditch (J.D.) No. 1-Improvement.** Albright reported that the bid opening was held on 3/8/19 at the Fargo HEI office. Eight contractors submitted bids with the low bid coming from Dennis Drewes, Inc., Frazee, MN at \$937,590. Jones noted that the biggest item that came in under budget was the common excavation cost. The unit price from the low bidder was \$1.65/cubic yard (CY) compared to the Engineer's estimate of \$3.75/CY. Jones revised the cost estimate for the overall project, reflecting an increase in the right-of-way acreage because of centering the ditch on the existing centerline and updating the construction costs. Total project cost is currently estimated at \$1,662,408. Prior to receiving the construction bids, the Engineer's estimated project cost was \$2.2 million. The Clay County Commissioners will consider a resolution to proceed with the bond sale for the project at their 3/19/19 meeting. The funds could be available by about 6/1/19. The rate of interest for a 15-year bond is 3.3%. **Motion** by Anderson to accept the construction bid of \$937,590 from Dennis Drewes, Inc. and to authorize HEI to prepare the notice of award and contract documents for signature. **Seconded** by Larson. **Approved.** **Motion** by Fjestad to approve a Resolution to authorize Clay County to sell bonds on behalf of the BRRWD for the J.D. No. 1 project at the base price of \$1,662,408 plus bond sale expenses and to approve Resolution 2019-001 to establish procedures relating to compliance with reimbursement bond regulations under the Internal Revenue Code. Fjestad asked how the contingency fund would be handled if it isn't spent on the project construction. Albright explained that the money would stay in the Project No. 78 account to be used as needed for future project maintenance. He added that because several of the concrete culverts will be reset instead of replaced, the contingencies costs were set higher to allow for potential culvert damage. **Seconded** by Van Amburg. **Approved.** Jay Nord asked if the culverts were "tied together" structures. Albright said they were.

**Stony Creek Restoration.** Albright reported that he and Van Amburg will travel to St. Paul tomorrow to give a presentation and testify at a House of Representatives hearing regarding funding for the Stony Creek Restoration project.

**Norby Lawsuit.** The Norby Lawsuit trial is scheduled to begin on April 11, 2019. The BRRWD has asked for a summary judgement. To date, the Judge hasn't ruled on that motion. The BRRWD's insurance company made a \$35,000 settlement offer. Norby has not responded.

**One Watershed, One Plan (1W1P).** Albright provided a brief update of the status of the 1W1P effort. Notices for the next Advisory Committee on 3/27/19 meeting will be sent next week.

**BRRWD Bylaws.** Van Amburg provided a revised draft of the Bylaws for the Board's review. The Board discussed the proposed changes, as referenced in the 1/28/19 meeting minutes. **Motion** by Anderson to

accept the revised Bylaws as presented, effective 3/11/19. **Seconded** by Hanson. **Approved.** Each Manager is required to sign the Bylaws document.

**Red River Basin Drainage Conference.** The Red River Watershed Management Board (RRWMB) is holding their Annual Red River Basin Drainage Conference on Tuesday, March 19, 2019, at the Marriott Hotel and Conference Center, Moorhead, MN. Topics include Rules and Guidance, Permitting, and Implementing Basin Technical and Scientific Advisory Committee recommendations. Tickets for the event were included in the Managers' meeting materials.

**Annual Joint Conference.** The RRWMB and the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) are holding their 21<sup>st</sup> Annual Joint Conference on March 20-21, 2019, at the Courtyard by Marriott, Moorhead, MN. Registrations and hotel reservations have been confirmed.

**Office Copier Contract.** Liberty Business Systems, Inc. has forwarded a proposal for a new updated copier that will be compatible with M-files. The Board discussed the proposal. The new machine's contract cost should be approximately the same per month as our current cost. **Motion** by Van Amburg to approve entering into a new copier lease with Liberty Business Systems. **Seconded** by Affield. **Approved.**

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

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Agassiz Mechanical, Inc.	#221748, Furnace Maintenance	Admin.	\$ 410.00
AmeriPride	#160505483, February Rug Billing	Admin.	\$ 75.84
Bruce E. Albright	Legislative Reception-Lodging & Meals (3)	Admin.	\$ 1,222.79
Bruce E. Albright	Drainage (6) & March (5) Conference Reg.	Admin.	\$ 425.00
Bryan Kritzberger	Petitioner's Bond Prem. Reimbursement	Pj. 78, Clay/Wilkin JD1	\$ 1,676.71
Carmen Pattengale	February Cleaning	Admin.	\$ 130.00
City of Barnesville	2/25/19 Phone/Internet/Utilities	Admin.	\$ 1,068.72
Forum Communications	Opening Bids Advertisement	Pj. 78, Clay/Wilkin JD1	\$ 57.81
Fuchs Sanitation	#28273, February Garbage Service	Admin.	\$ 51.48
Gerald L. Van Amburg	Voucher #19-07, 01/01/19-02/28/19	Varies	\$ 776.72
HEI	March Billing	Varies-See Attached	\$ 193,756.69
Jay A. Leitch	Voucher #19-06, 01/01/19-02/28/19	Varies	\$ 1,718.81
JB Construction Services	#262, February Snow Removal (12)	Admin.	\$ 1,190.00
Joel Carlson	March Lobbyist Fees	Admin.	\$ 850.00
Minnesota Viewers Association	2019 Associate Membership Dues	Admin.	\$ 200.00
Moorhead Public Service	01/03/19-02/04/2019 Service (4)	Pj. 49, Oakport	\$ 153.27
Moorhead Public Service	01/15/19-02/19/19 Service	Pj. 49, Oakport	\$ 33.46
NetWork Center Comm.	#168514, Remote Camera Support	Admin.	\$ 21.25
New Century Press	Public Open House Notice	1W1P	\$ 146.16
Northern States Excavating	#0212, Repairs/Beaver Control	Varies	\$ 5,635.00
Peter V. Fjestad	Voucher #19-03, 01/01/19-02/28/19	Varies	\$ 1,306.61
Premium Waters, Inc.	#366590-02-19, February Water billing	Admin.	\$ 42.69
RRVCPA	01/31/19-02/28/9 Service-Brentwood	Pj. 49, Oakport	\$ 78.00
Thomas & Susan Arnhalt	Easement Option Payment	Pj. 79, Wolverton Crk	\$ 3,161.25
TIAA Bank	#6011703, Copier Lease	Admin.	\$ 1,035.18
Vogel Law Firm	#229666, February Billing	Pj. 79, Wolverton Crk	\$ 3,155.85
Vogel Law Firm	#229883, February Billing	COE Diversion Project	\$ 19,763.50
Vogel Law Firm	#229882, February Billing	Admin.	\$ 98.00
WREC	01/18/19-02/18/19 Service (2)	Pj. 46, Turtle Lake	\$ 70.50
Xcel Energy	01/27/19-02/26/19 Service	Admin.	\$ 70.18
			<b>\$ 238,381.47</b>

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

**Midwest Bank.** Albright noted that he and Fenger met with Midwest Bank regarding the office credit card and switching our current Money Market Savings account to an Insured Cash Sweep (ICS) account, which pays a higher interest rate (2.39%) and allows the money to be FDIC insured while keeping the funds available for Midwest Bank to use locally for agricultural loans, etc. **Motion** by Fjestad to move our Money Market Savings Account into an ICS account with Midwest Bank in Barnesville. **Seconded** by Anderson. **Approved.**

**Manager Comments.** Larson thanked Leitch for all his hard work on the Diversion permit. The Managers briefly discussed their recent vacations. Albright discussed the 2019 spring flood forecast from the National Weather Service.

**Next Meeting Agenda.** Jones suggested that the Board add a discussion regarding Wilkin/Otter Tail County J.D. No. 2 right-of-way acquisition for the proposed repair. Leitch suggested that we add an update on the 2018 Annual Report to the next agenda, and he'd would like to have a project timeline spreadsheet.

**Next Meeting.** The next regular BRRWD meeting will be held on Monday, March 25, 2019, at 7:00 PM in our Barnesville office.

**Adjournment.** **Motion** by Anderson to adjourn the meeting. **Seconded** by Affield. **Approved.** President Leitch adjourned the meeting at 9:08 PM.

Respectfully submitted,

John E. Hanson, Secretary