

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

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

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## **MEDIATION PROJECT TEAM MINUTES**

January 29, 2009

The Buffalo-Red River Watershed District (BRRWD) Mediation Project Team (PT) held a meeting on Thursday, January 29, 2009, at 1:30 PM at the Minnesota State University Moorhead (MSUM) Regional Science Center, east of Glyndon.

Attending were: Bruce E. Albright, Houston Engineering, Inc. (H.E.) and BRRWD Administrator; Erik S. Jones, Engineer, H.E.; Roger G. Ellefson, Curtis M. Nelson, Gerald L. VanAmburg, John E. Hanson, and E. Robert Olson, BRRWD Managers; Paul Wannarka, Red River Basin Coordinator, Minnesota Department of Natural Resources (DNR); Jack Frederick, Minnesota Pollution Control Agency (MPCA); Robert A. Zimmerman, Engineer, City of Moorhead; Dave Barsness, Fisheries Specialist, DNR; Brian Winter, Program Director, The Nature Conservancy (TNC); Lynn Foss, Clay Soil and Water Conservation District (SWCD) and Wetlands Conservation Act (WCA) Administrator; Kevin Brennan, United States Fish and Wildlife Service (USFWS) and Fergus Falls Wetlands Management District (WMD); Michelle Walker, Area Hydrologist, DNR; and Don Schultz, Area Wildlife Manager, DNR.

Members absent were: Audubon Dakota; Brian Dwight, Board Conservationist, Minnesota Board of Water and Soil Resources (BWSR); Craig O. Evans, PM-D, Army Corps of Engineers (COE); Leo Grabowski, Project Manager, COE; Brad Grant, District Administrator, Becker SWCD; Bob Honeman, Area Resource Conservationist, Natural Resource Conservation Service (NRCS); Scott Kahan, Detroit Lakes WMD and USFWS; Michael T. Murphy; Refuge Manager, Hamden Slough National Wildlife Refuge (NWR) and USFWS (retired); Richard Pemble, Citizen Advisory Committee, BRRWD; Maynard Pick, Staff Assistant, Congressman Collin Peterson's Office; Pete Waller, Board Conservationist, BWSR; Kevin Kassenborg, District Manager, Clay SWCD; and Shawn May, Detroit Lakes WMD and USFWS.

Albright called the meeting to order at 1:30 PM. He said the last PT meeting was held on 12/11/08 in Barnesville. At that meeting, the majority of the discussion focused on problems involving the South Branch of the Buffalo River in Wilkin County. Landowners along the river were invited to attend the meeting. The PT continues to meet as needed, or approximately every two to three months. The Watershed remains very busy with work on the Oakport Flood Mitigation and Manston Slough Restoration projects, as well as the Overall Plan.

### **Business brought before the group included:**

**Meeting Minutes.** Albright said the office has gotten behind on preparing minutes for the PT meetings. At the present time, we are missing minutes from the following meetings: 10/25/07, 7/17/08, 10/23/08, and 12/11/08. We'll try to get these minutes done prior to our next meeting. Albright apologized for not getting out the information.

**Project No. 54, Whisky Creek Tributaries.** This was one of the first projects developed using the Mediation Process. Construction of the project was completed in 2005. Overall, the project has worked quite well with the heavy rainfall and numerous flooding events we've had since construction. We do have some Federal Emergency Management Agency (FEMA) funding available from the 2006 spring flooding disaster to some minor work yet on the upstream end of "east tributary". In accordance with the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) Project Implementation Process and Procedures Worksheet, this project is at Step 8, Monitoring.

This winter, we are experiencing a minor icing problem in the north ditch of Trunk Highway (T.H.) No. 34, downstream of the Kelly Nichol Wetlands Reserve Program (WRP) site in Section 21, Humboldt Township, Clay County. This WRP site is located on the upstream end of "east tributary". Since we froze up so wet last fall, there's still some water exiting the project site via the culvert spillway. Either the centerline culvert under T. H. 34 is plugged, or the water is freezing in a driveway approach culvert and starting to pond in the southwest corner of Section 21. There's a home in this area, and that owner has contacted the BRRWD office, expressing concerns about what might happen this spring if the culverts are indeed frozen. Albright will work with the Minnesota Department of Transportation (MNDOT) and the Township Supervisors to further investigate this problem before spring.

**Project No. 56, Manston Slough Restoration.** Since our last regular PT meeting, some progress has been made regarding project development. Albright said this morning, he worked in the office on possible Lessard Outdoor Heritage Council (LOHC) funding that might be available to help finance the project. Albright was made aware of the potential funding source by Bob Usgaard and Jon Schneider, Ducks Unlimited (DU). The Lessard Outdoor Heritage Fund (LOHF) was created by the Minnesota Legislature to receive 33% of the sale tax revenues resulting from the Constitutional Amendment passed by the voters in the November 2008 election. The Council will make recommendations to the Legislature on appropriations of money from the LOHF that are consistent with the Constitution and State Law, while taking into consideration the outcomes of and including, but not limited to, the Minnesota Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. According to the approved constitutional amendment, the sales tax rate will increase by  $\frac{3}{8}$  of 1% (0.375%). The rate increase is estimated to raise an additional \$240.5 million in fiscal year (FY) 2010. The LOHF's share of this amount would be \$79,389,000. LOHC is looking for projects that are ready to move dirt later this summer. Albright felt the Manston project would achieve that goal. This morning, Schneider and Usgaard, raised some questions about if a project could be funded using state funds that are greater than 50% of the total estimated cost. Rick St. Germain, Project Engineer, H.E., has completed a revised Opinion of Probable Cost, dated 1/12/09. His estimated total project cost is \$3,866,643. This compares with his earlier estimate, dated 1/25/07 of \$3,826,878. The revised cost estimate takes into account changes to the structure requested by the USFWS and DNR. These changes were the result of discussions that took place in 2008 between the agencies regarding concerns about pool bounce, etc. Late last fall, we were able to satisfactorily address these concerns.

The office has been working on tabulating the acreages needed for the various easements. The right-of-way (r-o-w) has been broken down into four categories: below elevation 972.0 (permanent pool), between elevations 972.0 and 974.0 (temporary pool), road and dam site easements, including permanent and temporary r-o-w, and permanent and temporary r-o-w needed for the "southside drainage improvements". The office hopes to have the easement options ready for distribution to the landowners in the next several weeks.

Thanks to Kevin Brennan's assistance, the Memorandum of Understanding (MOU) and the Operation and Maintenance (O&M) Plan have been drafted. To date, the MOU has been signed by the BRRWD, USFWS, and DNR. Albright will be forwarding the document to BWSR and NRCS for their signatures in the near future. He would like to have the MOU signed, as it will become an appendix to the Environmental Assessment Worksheet (EAW), which is also ready for distribution.

Since Schneider and Usgaard raised some questions about the State funding. Albright looked into the Flood Damage Reduction (FDR) Grant Assistance Program, administered by DNR Waters. Their grant agreement states that the Grantee is required to match the State's share of the cost of the project. In-kind services by the Grantee can constitute all or part of the Grantee's required share of the cost, provided the proper documentation of the in-kind services is furnished, and approved by the State. Presently, the BRRWD has secured a DNR FDR grant in the amount of \$2,033,439.00 for this project. In the grant agreement, it states that the State's share will be 50% of the total costs. Minnesota Statutes Annotated (M.S.A.) 103F.161, Flood Hazard Mitigation Grants, states that a "grant may not exceed 50% of the total costs of the proposed mitigation measures. However, Albright questioned if some mitigation projects can be funded at the rate of 75% state funding. M.S.A. 103F.161, Sub. 3, states "projects that are consistent with the 1998 Mitigation Agreement and approved by the RRBFDWRWG may be funded up to 75% of the proposed mitigation measures" and then they name specifically four projects: including Agassiz-Audubon, North Ottawa, Hay Creek, and Thief River. Albright questioned if we could get legislative support to add Manston Slough to this list of projects, so that it would also qualify for 75% funding. During the negotiations with the DNR and USFWS last summer, it was noted that this project is weighted more heavily towards natural resource enhancement (nre) than flood damage reduction (fdr). Ron Harnack, Financial Coordinator, Red River Watershed Management Board (RRWMB), feels that the Manston Slough project should qualify for 75% funding, and the LOHF would be a good source for that funding either at the rate of the entire 75% or for the additional 25% above the current DNR FDR grant. Albright felt we would just have to wait and see how this all works out. There also could be Federal and State stimulus monies available that could assist with the development of this project, especially if we can start construction work this summer.

Schultz talked about the status of the DNR appraisals. They're being conducted for the Tom Arnhalt property, the C&H Farms property, and the Holubok property, which is currently owned by the BRRWD. He recently learned that their land department questioned if the DNR can buy land with easements already in place. For all three properties, there will be WRP and BRRWD easements to contend with. Right now, a meeting is scheduled with Michael Martinez, Land Acquisition Specialist, DNR, for 2/02/09 at 1:30 PM in the Barnesville office. Schultz felt the DNR would be prepared to make an offer for the Holubok property at that time. Albright indicated that Holubok was successful in getting most of the buildings he wants moved late last fall. The site was too wet earlier in the fall to do much of anything. There is still an old trailer house and on small shed that need to be either moved or disposed of. The BRRWD will also need to finish demolition of the basement, seal the well in accordance with Minnesota Department of Health (MDH) specifications, and abandon the septic/sewer system. Earlier this month, Albright learned that the Holubok property in the SE<sup>1</sup>/<sub>4</sub>, Section 30, Manston Township, which was purchased in 2007 by the BRRWD, was not eligible for WRP. NRCS questioned the transaction because the BRRWD had not owned the property for a period of 8 years. Bob Honeman and Pete Waller learned of this problem. They worked together and BWSR agreed to take a permanent Reinvest In Minnesota (RIM) easement on the Holubok tract for the same rate as the earlier WRP/RIM proposal. Waller should have a new RIM contract ready for the Board's signature in the near future.

The DNR grant funding for the project is scheduled to expire on 6/30/09. Albright has already talked with Pat Lynch, Financial Coordinator, DNR Waters, about an extension. The Board will ask for a

one-year extension until 6/30/10. St. Germain is working on the Engineer's Report. If the BRRWD can secure most of the easement options in the next month or two, they should be ready to schedule the project final hearing for some time in May or June of 2009. This would clear the way for construction to begin later this summer, weather permitting. The past several years, the site has been too wet to have done any type of construction in the area. Albright said we will also need to plan on working with Don Bajumpaa, District Manager, Wilkin SWCD, regarding the upstream nre features identified in the MOU. Brennan said we should keep him informed regarding the financial situation. There could also be funding available to the USFWS through the federal stimulus package that could fund at least part of the costs associated with the project.

**Project No. 58, Riverton Township Retention.** This is another project that has gone through the Mediation PT process. The BRRWD opened bids for the project on 4/24/08. The site is located on property owned by TNC in the E½, Section 28, Riverton Township, Clay County. The contractor did not start work on the project until early August. Almost immediately after he started, we started to get heavy rainfall events, and the contractor finally quit work on the project in early November, after the area had received approximately 25" of rain. The project was scheduled for completion on 10/01/08. The contractor is Nanik Construction, Staples, MN. Mr. Nanik has submitted and obtained a time extension until 8/01/09 to complete his work on the project because of the wet site conditions. Albright said that the BRRWD has a DNR FDR grant for this project, which is also scheduled to expire on 6/30/09. He will need to contact Pat Lynch regarding a six-month time extension.

This fall, the BRRWD has been working with TNC regarding a permit to restore approximately 100-acres of wetlands on a 1,320 acre parcel (Williams Tract) TNC owns in Sections 25 and 36, Riverton Township, and Section 1, Elkton Township, Clay County. The restorations will be completed by filling shallow ditches that were created by the previous owner in the 1980s. The wetland restorations are part of a larger ecological restoration on the site that will consist of roughly 800 acres of upland and wetland restoration work. Work on the site began in 2008 with measures to control invasive species and prepare the 800 acre site for restoration activities. Once the ditches have been filled, the entire site will be seeded with local ecotype native prairie seed harvested in the fall of 2008. The restorations are expected to assist in water retention by slowing water runoff and aiding ground water recharge. Some of the drainage from the site is upstream of Project No. 58. Holding additional water on the Williams Tract will reduce flooding issues for landowners downstream of the project. To date, the BRRWD has tabled action on Permit No. 08-105 because of concerns expressed by a neighboring landowner, Lee and Brandi Alm. The Alms own property on the north side of the Williams Tract off County Road (C.R.) No. 12 in Section 25, Riverton Township. A meeting with TNC and the Alms was held on 1/07/09. TNC has already removed several potential restorations in and around the Alm buildings. Since purchasing the property, Alms have experienced groundwater problems in their basement. Winter said even without the wetland restoration project, they've historically had a problem. The Alms feel that beaver dams blocking an old township road ditch along the east line of Section 25 may be the cause of some of their problems. Winter said the site does have a drainage area north of C.R. No. 12, and because of the extremely wet conditions the area has experienced over the past several years, the seepage around their house and in their yard has worsened.

TNC had Phil Gerla, their hydrologist, install a series of eight shallow monitoring wells around the Alm property. His observations are that the area has a very high groundwater table. TNC did remove several potential restorations from their plan that are located upstream (east) of the Alms' building site. The Alms still feel that restoration of any wetlands on the tract will magnify their groundwater problem. Options for addressing the problem could include removal and control of the beavers; installing a gravity flow tile around their house that would ultimately outlet on TNC property; moving the house to higher ground; or a possible sale of the Alm property to TNC. The Alms claim that they

have 4-5 sump pumps that run continuously, trying to control their basement water problem. Winter said according to the design calculations, the wetland restorations proposed by TNC are all lower in elevation than the Alms' basement. The Alms have stated that other neighbors are also concerned about TNC's proposal. Winter said that TNC would like the BRRWD to make a decision in the near future, as they are getting ready to solicit bids for the work this summer.

Ellefson discussed the tiling option. Albright suggested that Alms contact Ellingson Drainage Companies. Max Fuxa, who works for Ellingson, lives in Moorhead. If there's enough elevation drop, perhaps Ellingson could install some drain tile in Alms' yard that would gravity flow to the south or west, eliminating the need for pumps. Ellefson questions if it might be possible to install an outlet tile line on TNC's property. Winter said that typically TNC would not encourage this type of activity on their restoration lands. However, he is not the one who would make that final decision. We also need project specifics, such as the outlet point, etc. Winter questioned if a tile line might freeze during the winter months, and then Alms would be forced to use their pumps and lift stations to remove the groundwater anyway. Winter said there are also wetlands around the Alms' buildings that cannot be impacted because of the tile drainage. Ellefson felt that around the house, the contractor could install perforated tile and the outlet could be a closed conduit, which would not drain the wetland areas. The Board has invited the Alms and TNC to their upcoming 2/09/09 meeting in Barnesville for further discussion and hopefully action on TNC's permit request.

**Project No. 49, Oakport Flood Mitigation Project.** At their 1/26/09 meeting held in Barnesville, the Board of Managers, BRRWD, made the Final Order and Findings of Fact to construct this project. Notice is being sent today by the BRRWD office to approximately 380 parties involved with the project regarding that decision. The notice will also talk about the current project status, funding, and the need to acquire flood insurance. Ulteig Engineers, Inc. (UEI), is working in the project design. They would like to have 2 phases ready for construction bidding by late March 2009. Albright estimates that each phase of construction will cost approximately \$2 million. We also have a number of buyouts to complete in 2009, totaling approximately \$1.8 million. Earlier this week, the BRRWD learned that State Senator Langseth introduced a bill for funding FDR projects in the Red River Valley. The total amount of funding for projects in that bill is \$7.3 million. However, recently Albright learned that the bill does not include any funding for the Oakport Flood Mitigation project. We currently have about \$500,000 available to do work. The project is primarily being funded by the State of Minnesota, using the 2% median household income threshold language. This means that the local share of the project costs will be approximately \$439,000. After that, the State of Minnesota will finance 100% of the costs.

Zimmerman cautioned that at some point, the BRRWD will need to apply for a conditional use permit (CUP) through the Oakport/Moorhead Joint Powers Board. Once UEI completes the design for a particular phase of the project, the next step will be for the BRRWD to work with the landowners to secure easement options. Work on the soils investigation is nearing completion. UEI will need the geotechnical findings to complete design on other project phases. Representatives from the BRRWD met yesterday with the Peirce Family, who owns a major portion of the land involved with Phase 1B. In order to progress development of this project, the BRRWD has formed a Technical Committee. Albright said their next meeting is scheduled for 2/10/09 at 1:30 PM in the Clay County Courthouse. The office is already starting to take calls regarding potential 2009 spring flooding. Some of the homeowners are upset that nothing has been done since 1997 to help alleviate their flooding problems. Albright said because the project is so large, it is quite complex and there are literally hundreds of details that need to be worked out. To date, the BRRWD has completed approximately 26 buyouts. There are still 4-5 more buyouts that need to be completed in the near future. Everything could come to a screeching halt if there is no money available to continue with the project development. Last

week, Albright contacted Congressman Colin Peterson's office to see if some of the federal economic stimulus funding might be available to help develop this project. One of his staff assistants indicated that more information regarding the stimulus funding will be available in mid-February.

**Project No. 60, Swede Grove Lake Outlet.** The BRRWD received a petition in 2004 from Clay County to look at establishing a permanent outlet for Swede Grove Lake, located in Highland Grove Township, Clay County. Prior to that, the Clay County Highway Department constructed a temporary outlet, which provided some relief for the rising water levels, and also helped protect a county road that runs along the east side of the lake. The BRRWD has looked at a number of design alternatives, and held landowner informational meetings on 12/11/05, 6/30/05, and 7/13/06. To date, there has not been much interest expressed by the landowners in seeing something done to lower the water levels. The project has gone through the Mediation PT process. Recommendations include lowering the lake approximately 8' to restore its historic elevation, and removal of the fish, which currently inhabit the lake. The DNR used to use the lake for a walleye rearing pond. Rough fish have entered the lake from the outlet channel and the Buffalo River. The DNR feels that the lake will eventually freeze out, and they don't consider it a fishery. A project for Swede Grove Lake would also include restoration of the habitat around the lake fringe. Because of the BRRWD's workload, the project has been basically put on hold. There have also been concerns expressed by the primary downstream landowner, Chuck Carlson, about the establishment of an outlet that would cross his property. To date, there has been no state funding secured to help develop this project, estimated to cost approximately \$300,000. The project has been approved by the RRBFDW. The lower water levels would restore aquatic habitat used by waterfowl. There are numerous recreation anglers who are catching some fish out of the lake. They have expressed concerns to the BRRWD about lowering the water level. Albright and Nelson drove by Swede Grove Lake on 12/19/08 and water levels are up since earlier this summer because of the heavy fall rains. The BRRWD intends to meet with Chuck Carlson sometime this winter to discuss his concerns. After that meeting, we should be able to make a decision regarding the fate of this project. If the water does get high enough, it naturally flows out the south end of the lake, across Carlson's property towards the Buffalo River. However, at that point, it will have caused major damages to the township and county roads systems around the lake. The overflow outlet channel is also subject to severe channel erosion, which creates downstream water quality concerns.

**Wolverton Creek/Comstock Coulee Restoration.** The Clay and Wilkin SWCDs received a Clean Water Legacy (CWL) grant in the amount of \$289,000 to work on this project in the fall of 2006. Since then, the funding has accrued approximately \$15,000 in interest. The BRRWD also agreed to contribute \$20,000 to the project in this area. To date, the funding has been used for outlet structures, septic system inspections in Wilkin County, side inlet controls, and conservation practice incentives. Last fall, the WorkGroup approved a survey of the entire channel. H.E. was able to complete all of the survey, except for about 0.5 miles, which is buried in snow and still has flowing water under the snow. The cost of the survey was approximately \$40,000. The funding is set to expire on 6/30/09. With this particular CWL grant, there will be no extensions, and any unused funds need to be returned to the State. In 2008, there was work completed on the outlet west of T. H. 75. There's still some additional work that could be done in Pete Livdahl's farmyard, which is located at the confluence of the Comstock Coulee and the Red River of the North. It was too wet last fall to complete a survey of this area, as it was under water most of the time.

The CWL WorkGroup met on 1/07/09 in Barnesville. Given somewhat normal conditions this spring, they feel that some additional work could still be completed. If this work could get done, we should be able to spend the majority of the project funding. Regarding side inlet controls, there are a number of culverts that can be installed on Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). It was also too wet last fall to do that work. The work involves only one landowner, who has expressed a willingness to work with

the SWCD to install the inlet pipes to control erosion. Jones indicated that there are still a couple of days of drafting time left to plot the survey results. LiDAR data from the Red River Basin Mapping Initiative (RRBMI) for this area should be available in mid-March, 2009. The data will be used to supplement the cross-sections obtained in the field during the survey to get a better idea of the channel shape. The CWL WorkGroup would like to hold one more landowner informational meeting before landowners start spring fieldwork to discuss the status of the project and determine what the next steps might be should additional funding become available. Jones mentioned that if we do the additional work in Pete Livdahl's farmstead, he will work with Michele Walker regarding the required DNR permits. There might be a way to amend the existing permit already obtained for work west of T. H. 75 to allow for the additional grade stabilization structures.

**Lawndale Trout Stream Restoration.** The Board held the required ditch system hearing involving rerouting flow from Wilkin County Ditch No. 40 on 4/29/08. Almost immediately after the hearing, an area landowner, David Yaggie, filed a letter with the Board expressing his concerns about the project. Yaggie feels that the restoration of the trout stream across the Atherton Wildlife Management Area (WMA) should be designed to handle all of the flows so that Wilkin County Ditch No. 40 downstream of the diversion can be abandoned. He also wanted an agreement with the DNR so that the diversion would be considered a drainage ditch first and secondly considered a trout stream. He also expressed concerns about his need for irrigation water. The BRRWD felt that the DNR should address Yaggie's irrigation concern before they will take action on making an order to allow for the diversion. Mr. Yaggie was issued a permit in 1977 to appropriate waters out of the trout stream/County Ditch No. 40. Yaggie has two irrigation systems in Section 2, Manston Township, Wilkin County. The irrigator on the SE<sup>1</sup>/<sub>4</sub>, is furnished water by an underground well. The irrigator on the NE<sup>1</sup>/<sub>4</sub> appropriates water from the trout stream. Earlier last year, it was thought that the DNR might have funding to start the restoration work on the channel across the Atherton WMA in the fall of 2008. After the funding was not available, and they did not complete the Environmental Assessment process, it was learned that the project would be delayed until at least 2009. There were also several concerns expressed at the hearing regarding the breakout of flows from the diversion that could affect neighboring private lands. Erik Jones, H.E., has asked the DNR for additional cross-sectional information so that this concern can be reviewed. To date, that information has not been furnished.

Albright said a meeting was held on 10/28/08 in the Barnesville office with representatives from DNR Waters, DNR Fisheries, and the BRRWD to discuss Yaggie's concerns. Terry Lejcher, Area Hydrologist, Fergus Falls, DNR, has talked with an irrigation company that feels the existing well may be able to run both irrigation systems. DNR would like to look at an option to pipe water from the existing well to the second irrigator located in the NE<sup>1</sup>/<sub>4</sub>, Section 2. The group would try to find funding to assist Yaggie in that regard. After the 10/28/08 meeting, the next step was to set up a meeting with Yaggie to see if this might be a satisfactory solution. A meeting was held with Yaggie on 1/02/09. Lejcher agreed to contact the drilling company who explored Yaggie's property in 1975 and drilled his well in 1976. Lejcher was also going to contact the irrigation company to determine a cost for piping the water to the second system, as well as what type of controls might be needed to run both systems from one well. Albright has learned that the NRCS might have funding assistance available through their Environmental Quality Incentives Program (EQIP) to convert Yaggie's systems to low pressure if Yaggie agrees to a several year conservation plan. At the 1/02/09 meeting, Yaggie was agreeable to allow the DNR to get answers to these questions.

On 1/08/09, Yaggie called the Barnesville office and was quite upset. He wanted to meet immediately with Albright and Manager Ellefson. Yaggie came to Barnesville and expressed concerns about trying to keep the ditch open along his property. He felt the proposed diversion should be able to handle all of the flows from the county ditch system. Yaggie said he would close the ditch with his equipment at

his expense. Ellefson was adamant in the fact that the BRRWD has decided that the ditch downstream of the diversion cannot be closed and needs to act as an overflow for water from the county ditch system during periods of high flow. This last fall was a prime example. The fields upstream of Yaggies' property stood full of water for several days after several of the larger rainfall events because the existing ditch system was not adequate to handle the water. The proposed trout stream diversion is not going to correct this situation, and the downstream ditch is still needed for the reasons stated. Ellefson agreed that parts of County Ditch No. 40 may need cleaning, but the area has been too wet to complete that work in the fall. Also, the BRRWD has been holding off on the cleaning because the county ditch system is still designated as a trout stream. Hopes are that once the water is diverted, those portions of County Ditch No. 40 downstream of the diversion can be cleaned and properly maintained as a ditch system expense. Yaggie also feels that by abandoning the ditch along the north line of his property in Sections 2 and 3, Manston Township, and the middle of Section 34, Atherton Township, he will gain access to property he owns on the north side of the ditch. Yaggie also owns a field in the E $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 34, Atherton Township, which he currently does not have access to. The area is currently wetlands and grassland. Yaggie wanted a BRRWD permit to dike the north and east sides of this property. Yaggie feels that the area can be farmed and would be productive cropland. The diking is needed to protect the area from overland flooding from the trout stream diversion. The BRRWD suggested that Yaggie work with the Farm Service Agency (FSA) regarding the tilling of this land, as he could be in violation of Swampbuster. Ellefson also informed Yaggie that if a crossing is needed to gain access to this parcel, it could be installed as a ditch system expense. The DNR will also look for other potential funding sources that may come out of any federal or state economic stimulus packages to help construct their trout stream project. They would like to start project construction later this summer. Before opening the diversion, they would like the channel to revegetate. This means that we may not be able to divert the flows from County Ditch No. 40 until 2010 or later.

**Project No. 63, Grove Lake Outlet.** In 2006, the BRRWD was contacted by landowners in northwestern Otter Tail County regarding high water problems involving several lakes in that area. There are lakes north of T. H. 34 that are having a high water problem. These lakes drain south into Pete Lake, which is also landlocked on the south side of T. H. 34. Pete Lake would drain south into Grove Lake, where they were also experiencing water problems. The BRRWD held landowner informational meetings on 10/30/06 and 6/19/07. Because of the problems on Grove Lake, and the fact that if any of the other lakes were going to have an outlet, they would need to go through Grove Lake, the Board decided to work first on an outlet for Grove Lake. The Board made an emergency declaration at their 8/11/08 meeting, to help expedite project development. The BRRWD held a final hearing in accordance with Minnesota Watershed Law on 10/20/08. Bids for the project were opened at the 10/27/08 meeting.

The outlet will consist of approximately 850' of 24" dia. HDPE dual wall tile pipe. On the inlet end, there will be an inline water level control structure. Landowners in the immediate area downstream of the project, expressed concerns that the project would need an adequate outlet. Grove Lake runs into Maple Lake. Maple Lake then has an outlet directly to Whisky Creek, which flows through the City of Barnesville and eventually enters Clay County Ditch No. 34 west of town. Several downstream crossings west of Maple Lake had to be upgraded with larger culverts. The BRRWD obtained a DNR permit for that work. Some wetland mitigation was also required for installation of the Grove Lake outlet. Credits were purchase from the Otter Tail County Highway Department. The low bidder for the project was Steven Johnson Excavation, Otter Tail, MN, with a bid of \$47,335. The preconstruction meeting was held on 11/25/08.

The total estimated project costs are approximately \$124,120. The BRRWD has secured a DNR FDR grant in the amount of 50% to help cover these costs. The Board has agreed to also contribute 25% of

the costs from their M.S.A. 103D.905, Subd. 3, fund. The remaining costs will be assessed to benefited landowners around Grove Lake.

Almost immediately after the contractor started construction on the project, we had cold weather and snow. The contractor has been working periodically under favorable weather conditions to try to complete the project. He did encounter some seepage issues that he had to deal with along the township road. Some of the soils in this area are quite sandy, and it is difficult to install the underground conduit. The outlet will be operated in accordance with an O&M, which states that if there is downstream flooding in the Barnesville area, the Grove Lake outlet will need to be stopped. The project was reviewed with the RRBFD RWG. In 2007, they recommended that the PT take a look at other project features that can be installed in the upstream end of Whisky Creek that might also help provide downstream flood and non-re benefits. Time permitting, this would be a future topic of discussion at an upcoming PT meeting.

**Project No. 38, Kragnes Ringdike.** Ziegler Construction, Inc., basically finished work on this project late this fall. However, given the wet site conditions, he'll need to come back next spring to do seeding and clean up. The project protects a "triangular wedge" bordered by T. H. 75, County State Aid Highway (CSAH) No. 26, and C.R. No. 96. There are approximately 25-30 properties inside the protected area. The dike provides protection up to the 100-year flood event. The project primarily will close gates on culverts to prevent backup flows from the Buffalo River from entering the "wedge" area. A landowner in the protected area, Jeff Kluck, has called Manager Ellefson to thank him for the project. Jones has also visited with Kluck regarding the project. It should be functional this spring if needed.

The BRRWD is currently working with several other landowners regarding ringdike possibilities. To date, we've built about 25 ringdikes. The easy ones are done. The ones that are left are either sitting too close to the river, have poor soils, etc., to allow for easy construction. The BRRWD recently investigated a site south of Sabin along the South Branch of the Buffalo River. Midwest Testing Laboratories, Inc., was asked to do soil borings. Their findings are that the soils are too poor to support the installation of a dike. The landowners would need to move a number of buildings and a potentially costly flood protection wall would need to be constructed by his house. There is currently a bill in the Minnesota House and Senate, asking for additional funding to continue with ringdike work in 2009. The BRRWD currently has a DNR FDR grant in the amount of \$20,000, which will expire on 6/30/09. Some of the costs regarding soils investigation work, surveys, and administration can be billed to that contract. The BRRWD is also working with another homeowner in the Kragnes area, but after furnishing him with plans and specifications, the homeowner felt it might be cheaper for him to install the dike himself. To date, he has made no progress.

**Hay Creek CWL Project.** Albright met with the Becker SWCD on 1/15/09 to discuss the status of this project. The BRRWD received a grant in the amount of \$185,000 to work on this project between 2/01/08 and 6/30/10. This CWL grant qualifies for a one-year time extension. At the 1/15/09 meeting, the group felt that we should request at least an additional year to complete all the project work. In addition, the Becker SWCD was awarded an additional \$10,000 to establish native grass buffers. The project has also accrued some interest. The BRRWD also agreed to contribute \$50,000 towards the cost of the project through their M.S.A. 103D.905, Subd. 3 funds. A year ago, the Becker SWCD sent letters to all of the landowners in the drainage area upstream of Stinking Lake to inform them about the project and to determine their interest in installing either grassed bufferstrips or sediment control basins. To date, they have received signups for approximately 32 sediment control basins and 67.1 acres of bufferstrips. The bufferstrips will be partially funded through the Continuous Conservation Reserve Program (CCRP). The basins will be installed using EQIP. Currently, we've signed up

approximately \$122,310 of the grant funds to install these practices. The Becker SWCD was going to send letters to all of the landowners again in the near future to see if anyone else is interested.

Another option might be to include the portion of the drainage area that's located in Clay County. Albright needs to discuss this with Kevin Kassenborg, District Manager, Clay SWCD. If the project were expanded, it would include approximately another 10 square miles (sq. mi.). The total drainage area for the project is about 25 sq. mi. The Becker SWCD will be working with the landowners this summer to install the sediment control basins and buffer strips. Albright said one of the selling points of the project was that the project will actually install the filter strips and maintain them for a three-year period. The landowners like this idea. Most of the landowners have large equipment and do not want to be bothered with installing 30'-40' wide bufferstrips. This way, we'll also insure that the grasses are planted properly and maintained. Hopefully, in three years, the landowners can see that a native grassed bufferstrip provides many benefits and is not a problem for their adjoining crops. Lynn Foss will review the potential of expanding the project with Kassenborg.

**South Branch of the Buffalo River.** The 12/11/08 PT meeting primarily dealt with issues regarding drainage and flooding along the South Branch of the Buffalo River in Wilkin County. Landowners in this area were invited to that meeting. At the meeting, Ross Aigner, a Wilkin SWCD Supervisor, displayed a map showing landowners he had contacted in this area and their willingness to put lands into some type of permanent set aside program. Landowners are tired of losing crops in this area due to flooding. The BRRWD has also done some survey work in this area, and the channel may have 4'-6' of sediment in certain areas that should be cleaned in order to restore the historic flows. The group liked the idea of possibly installing some type of setback levees along the channel to protect the adjacent cropland. Many of these same problems were identified in the meetings held for the "Southern" Planning Region through the Revised Watershed Management Plan (RWMP) process. Albright said these problems are documented in the draft RWMP. On approximately 12/22/08, the office received a notice that there's a pilot RIM initiative for the Red River Valley watershed. BWSR worked together to utilize RIM to achieve priority river/stream restorations in flood damage reduction projects consistent with the Mediation Agreement. BWSR has made up to \$3 million in 2008 RIM funds to be used for this pilot program to acquire permanent riparian easements and establish conservation practices on these riparian lands. These funds must be obligated via signed RIM applications by 6/01/09. The RIM payment will be 100% of the estimated market value (EMV) on cropland and 60% of EMV for non-cropland, calculated using the Township mean for tillable property value established by county assessors for the 2009 tax year. The Conservation Practice payment to establish vegetation maxes out at \$300/acre. An application for the project was due on 1/09/09. On 1/08/09, Albright met with Waller, Honeman, and Craig Lingen, Wilkin SWCD, to discuss this opportunity. The project area was put together as shown on the maps displayed on the wall. The project would start at the confluence of the South Branch of the Buffalo River and Deerhorn Creek and go upstream through Section 10, Manston Township. This is about an eight-mile river stretch. The group felt there's a potential to restore approximately 800 acres of buffers in this area. There'll be 650 acres of cropland and 150 acres of non-crop. The application was reviewed by the RRBFDWRG at their 1/13/09 meeting in Detroit Lakes. They gave it their approval. We've also learned that the BWSR has approved the application at their meeting held in St. Paul on 1/28/09. The payment rates for Manston Township in Wilkin County are \$1,698/acre for cropland and \$1,018.80 for non-cropped areas. Albright felt these rates were attractive enough to get the landowners interested in the program, which will be marketed by the Wilkin SWCD. Three other projects were also approved for funding including the lower Wild Rice River Corridor Restoration Initiative, the Gran Marais Creek Outlet Restoration, and a project in the Two River Watershed District to reduce flooding along an unnamed ditch with setback levees. The Wild Rice Watershed District project received the lowest priority. They will be eligible to use any funding left over from the other three projects. After the 1/13/09

RRBFDRWG meeting in Detroit Lakes, Albright sent copies of the PT consent form to all the PT members, which was required for BWSR approval. Albright thanked the PT members for their quick responses. With this program, buffers can be established up to 300' wide on each side of the channel centerline. Details regarding the program still need to be worked out. BWSR has scheduled a training session for 2/19/09 at 9:30 AM in Erskine, MN. The next step will be for the BRRWD and Wilkin SWCD to develop a letter that can be sent to the project landowners, explaining the program.

Jones displayed a map showing the project watershed. He tried to highlight the various drainage systems that have been installed, which affect the flows of the South Branch of the Buffalo River. It also shows the historic alignment of the original Creek channel, which has been cut off by some of the drainage ditches. The primary drainage system in the area is Wilkin County Ditch No. 44, which used to be called Judicial Ditch No. 3 (J.D. 3). J.D. 3 was installed in the early 1900s. It extends into the Lawndale area, where it drains parts of the Rothsay WMA. Other potential project features could include upstream retention in Otter Tail County. Otter Tail County landowners were invited to the 12/11/08 PT meeting, but did not attend. Albright said the Lawndale Trout Stream Restoration should also have a major impact on the area. Currently, flows escape from Wilkin County Ditch No. 40 and flow southwesterly across land owned by David Yaggie, reentering the South Branch of the Buffalo River east of T. H. 9. Albright said that one issue that the BRRWD will try to divert is the fact that once landowners sign up for the RIM initiative, they will be anxious to see some type of project design that can correct more of the problems along the river channel. Given the BRRWD's current workload, we may not be able to start work on this project until 2010 or later. At the next PT meeting, Albright would like to take some more time to continue discussions regarding what could be done with the South Branch of the Buffalo River. By then, Erik Jones should have developed some hydraulics for this area, and we might have the LiDAR data to assist in our review.

**Buffalo River tmdl.** Jones has completed the work plan for MPCA regarding this pilot project. The BRRWD received a \$5,000 MPCA grant to do the initial workplan. The project is one of two projects in Minnesota that is being designed to develop a watershed approach for managing Minnesota surface waters. The goal of this project will be to develop a plan that will guide surface water quality management throughout the watershed. The plan will provide for protection where conditions are excellent and restoration where conditions are impaired. The plan is intended to supplement the BRRWD's 10-year Comprehensive Plan and eventually will be an appendix in that document, identifying water quality management activities in the watershed. It will also lay out the role of the state and local resource management organizations, including the MPCA.

The BRRWD is completing a surface water assessment tool (SWAT) model for the Buffalo River that will be done on 6/30/09. This was funded through a 319 grant. The Buffalo River watershed represents an area of about 1,100 sq. mi., including parts of Clay, Becker, Wilkin, and Otter Tail Counties. The area covers two eco-regions, including the Red River Valley and North Central Hardwood Forest. Part 1 of the plan will be to develop a description of the existing watershed conditions. The next step will be development and implementation of a process to advance the watershed based water quality management plan/Buffalo River tmdl. A methodology to identify sources of water quality pollution and stressors and set pollutant load allocations for the various subwatersheds will be completed. Following that, we will institute the intensive watershed monitoring program, as directed by the MPCA, and complete additional water quality monitoring within the watershed. It is estimated that the first phase of the project will cost approximately \$90,760, which will be funded by the MPCA. The goal has been set to complete the Phase 1 work by 10/31/10. The BRRWD will work with the MPCA to use their "One Water Program". This program has three distinct steps: 1.) data gathering and collection, 2.) assessment load allocations and goal settings, and 3.) plan development. In order to operate systematically, the One Water Program proposes to develop an

internal coordinating framework to foster discussion across MPCA division and a corresponding stakeholder advisory team to build awareness, knowledge, and participation in the development and implementation of the watershed action plans. Jones said the Clay, Wilkin, and Becker SWCDs will be crucial to achieving the goals of the One Water Program.

The BRRWD was also scheduled to receive the intensive monitoring program, administered by the MPCA in 2009-2010. They've identified a number of sites where they will use their 10x monitoring, which will also include biological monitoring. Right now, they've identified eight sites throughout the Buffalo River watershed for this monitoring.

Last fall, the BRRWD also applied for three surface water assessment monitoring grants (SWAG). The grant application titled, "Buffalo River Integrated Watershed Stage Monitoring Plan" was not approved. The other two, including the "Buffalo River Integrated Watershed Monitoring Plan" and the "Buffalo River Watershed Lake Monitoring Program", were approved. Jones is currently working on the workplans for both approved grants. The Lake Monitoring Program received \$13,439.25, and the Integrated Watershed Monitoring Plan received \$44,320. The BRRWD will look for alternative funding sources for the Stage Monitoring Plan, which Jones feels will provide crucial information regarding the tmdl. To provide existing hydrology and loading conditions throughout the watershed, sites were selected to provide stage data for distinct reaches that represent significant subwatersheds. Thirteen sites were identified that will provide this comprehensive coverage. These sites are also water quality monitoring sites. Stage monitoring stations will be installed, field survey will be completed, and instantaneous measurements will be completed. This information will be used to complete hydrologic modeling to provide calibrated rating curves for each of the stream gauging locations. Completion of the stage monitoring will provide data for determining loading of sampled water quality parameters for significant watersheds within the BRRWD as needed for the watershed tmdl and integrated watershed management strategy. Monitoring would have been conducted from April through October (2009-2010). MPCA also feels that this is a crucial part of the information that's needed to do the tmdl, they are just not prepared to fund that type of activity.

Wayne Goeken, RRWMB, will be gathering most of the water quality samples for the tmdl. We will also utilize the River Watch Teams in Barnesville, Hawley, and Park Christian in Moorhead where applicable. Jones will be meeting with a representative from the United States Geological Survey (USGS) to see if they can assist in gathering some of the data. Frederick noted that Emmons and Oliver Resources (EOR) should also be completing their work on the South Branch of the Buffalo River. They were studying a stretch between Deerhorn Creek and Whisky Creek. Last summer, researchers from the USDA National Sedimentation Laboratory at Oxford, MS, did geotechnical field work on the South Branch of the Buffalo River the week of August 4. Researchers measured strength of soils and the potential for slumping. Information gathered in the field will be used to run the bank stability and soil erosion models developed by the lab. Results from the modeling may be used to estimate sediment loading from bank and channel erosion. Crew members flew the reach by helicopter. Two mussel species were found in the stream. The study results will be presented in a workshop in the near future. As part of MPCA's intense monitoring in 2009-2010, they will also be doing biological assessments, including DNR stream channel classifications. Frederick felt we should also look at expanding our list of partners, including the Tamarac NWR and the White Earth Indian Reservation.

**Revised Watershed Management Plan (RWMP).** The Board received the draft Comprehensive Plan back in September 2008. Jones has gone through and reviewed the document and made required changes. The next step will be for Albright to review the draft plan. Once that is completed, a meeting will be arranged with Brian Dwight and Pete Waller, BWSR, who also have some suggested changes.

After that review, the Board of Managers, BRRWD, will need to review the document, and it will be distributed for public review and comment. The BRRWD received a 6-month extension from BWSR to have the plan completed by 6/30/09. Dwight is also working with COE regarding if the plan meets the goals of their Concurrence Points Process.

The plan also includes the possibility of creating watershed management districts for an additional source of funding. Some recent press regarding the Wild Rice Watershed District (WRWD) and their proposed taxing districts reported that the Clay County Board of Commissioners voted in opposition to that plan. The BRRWD is proposing to use their watershed management districts on a planning region basis. They will be used to raise small amounts of funding to address problems in that specific planning region.

The group then spent some time discussing problems that are going on in the WRWD. The BRRWD is in the last year of their increased taxing authority under M.S.A. 103D.905, Subd. 3. Legislation was approved in 2006, which increased our taxing authority. A meeting held last year with Senator Langseth and Representative Lanning indicated that they probably wouldn't support continuing the taxing authority, but rather, the BRRWD should just rejoin the RRWMB. The Board has had some issues with rejoining the RRWMB. Primarily, approximately \$1 million would be sent to the RRWMB, and we have no say as to how we get those funds back or how they use them. Right now, it appears the WRWD has a lowland/highland battle going on. Ellefson said that this can be very problematic. Back in the 1950s, the same issue was occurring in the BRRWD. We've worked very hard to sell the concept that if you are part of a Watershed District, then we're all involved equally.

**Activities Update.** Albright distributed a copy of the 1/26/09 meeting press release. Many of the items already discussed at today's meeting are covered in the press release. There was some discussion regarding a highwater problem involving LaBelle and Duck Lakes northeast of Lake Park. Albright showed aerial photographs obtained from the Becker FSA. It appears that something was done to the outlet between 2006 and 2008. The landowner claims he has done nothing to block the outlet flow. High water on the lake is starting to flood county and township roads and driveways. The Board would like to meet with the landowner to discuss options for resolving the problem. The landowner suggested that an outlet tile be installed through his field. Some investigation work done by H.E. in the outlet shows that the outlet tile could cost \$40,000. Other agencies, such as the DNR, Wetlands Conservation Act (WCA), and the COE could get involved with the problem if it is not rectified in a timely and orderly fashion.

**Agenda Items for Next Meeting.** Albright said we will continue to focus on looking at problems along the South Branch of the Buffalo River. In accordance with project implementation process and procedures, we would be at Step 2, where we look at project alternatives and preliminary engineering. We'll also have to approve a definition of project purpose and goals. We'll hopefully have more updates regarding the Manston Slough Restoration project and the Oakport Flood Mitigation project. Both projects are scheduled to begin construction in 2009.

**March Conference.** Wannarka indicated that the Annual RRWMB/RRBFDRWG Conference is scheduled for March 31, 2009, at the Northland Inn in Crookston. The Conference will begin at approximately 9:00 AM. Each PT will be asked to make a 10 minute presentation regarding what they're currently working on. Wannarka said they are also looking for other agenda topics. Albright commented that when the Mediation Agreement process was started, he felt some of the benefits would come from learning what others have done to solve similar problems.

**Next Meeting.** The next BRRWD Mediation PT meeting is scheduled for Thursday, March 26, 2009, at 1:30 PM at the MSUM Science Center.

**Adjournment.** There being no further business to come before the group, Ellefson adjourned the meeting at 4:10 PM.

Respectfully Prepared and Submitted by

Bruce E. Albright, BRRWD Administrator