

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

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## MEDIATION PROJECT TEAM MINUTES

February 17, 2011

The Buffalo-Red River Watershed District (BRRWD) Mediation Project Team (PT) held a meeting on Thursday, February 17, 2011, at 1:30 PM at the Minnesota State University Moorhead (MSUM) Science Center, Glyndon, MN.

Attending were: Bruce E. Albright, BRRWD Administrator, and Houston Engineering, Inc. (H.E.), Erik S. Jones and Zachary Herrmann, Engineers, H.E.; Roger G. Ellefson, John E. Hanson, and Curtis M. Nelson, BRRWD Managers; Lynn Foss, Clay Soil and Water Conservation District (SWCD); Dave Barsness, Fisheries Specialist, Minnesota Department of Natural Resources (DNR); Doug Wells, United States Fish and Wildlife Service (USFWS) and Fergus Falls Wetland Management District (WMD); Pete Waller, Board Conservationist, Minnesota Board of Water and Soil Resources (BWSR); Don Schultz, Area Wildlife Manager, DNR; Henry VanOffelen, Natural Resource Scientist, Minnesota Center for Environmental Advocacy (MCEA); Robert Honeman, Area Resource Conservationist, Natural Resources Conservation Service (NRCS); Robert A. Zimmerman, Engineer, City of Moorhead; and Molly MacGregor, Minnesota Pollution Control Agency (MPCA).

Members absent were: Audubon Dakota; Brian Dwight, Board Conservationist, BWSR; Craig O. Evans, PM-D, Army Corps of Engineers (COE); Leo Grabowski, Project Manager, COE; Scott Kahan, Detroit Lakes WMD and USFWS; Wally Sparby, Staff Assistant, Congressman Collin Peterson's Office; Brad Grant, Becker SWCD; Paul Wannarka, Red River Basin Coordinator, DNR, Shawn May, Detroit Lakes WMD and USFWS; Adam Phillips, Ducks Unlimited (DU); Brian Winter, Program Director, The Nature Conservancy (TNC); and Jack Fredrick, MPCA.

Albright called the meeting to order at 1:30 PM. He thanked the group for their attendance. He noted that some members notified him that they might be arriving later, and some might have to leave early. Molly MacGregor, MPCA, attended on behalf of Jack Frederick, MPCA.

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

**Meeting Minutes.** The 12/09/10 meeting minutes were distributed via e-mail with today's meeting notice.

**Motion** by Barsness to approve the minutes. **Seconded** by Zimmerman. **Approved.**

**Project No. 54, Whiskey Creek Tributaries.** Albright briefly discussed the project's development and design. He noted that the BRRWD needs to follow up with project monitoring. Recent DNR aerial photography documented that the two-stage pilot channel on "east tributary" is working as designed.

**Project No. 56, Manston Slough Restoration.** Albright reported that 22 easement options were mailed to the project landowners and we have 11 signed agreements. We sent out a second letter to let the landowners know we would like to complete the easement acquisition this winter. The Board would like to move forward with the project development/construction in 2011.

Albright noted that the State Legislature has not approved Manston Slough Restoration for 75% funding. The Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) wrote a letter recommending

that the Manston project be funded at the 75% level because of the natural resource enhancement (nre) features that it provides. Albright contacted the DNR regarding this funding, and they are reviewing our request based on the nre funding costs. Rick St. Germain, H.E., is working on the nre/fdr breakdown for the DNR's review. We need about \$657,000 to meet the 75% requirement. VanAmburg commented that St. Germain plans to contact Henry VanOffelen, MCEA, who has developed a form in conjunction with TSAC Paper #14 to itemize the nre benefits for projects.

Albright briefly discussed the Holubok grass seeding. He noted that the NRCS, Wilkin SWCD, and BWSR, would have an interest in the seeding, according to the Memorandum of Understanding (MOU). There is still Reinvest In Minnesota (RIM) money in the contract to pay for the seeding. The BRRWD would be the purchase agent to use the remaining RIM money for seeding from BWSR.

The Appraisers are working on the project benefits. The next steps following completion of the Appraisers' Report would be for the BRRWD to hold the final hearing and make the Order to construct the project. The Order is subject to a 30-day appeal period. Once the appeal period is over, the Board can move forward with the bidding process.

Albright also discussed the acquisition of the easement from the Kent Rod and Gun Club. Since there were originally 29 owners of the property, it is going to be very difficult to acquire this easement. Vogel Law Firm has begun a friendly condemnation process, which will hopefully make it possible for the BRRWD to acquire the rights we need for the project.

**Project No. 58, Riverton Township Retention.** Albright noted that the project gate will be partially closed prior to the spring runoff. TNC still has some seeding and clean up items to complete. TNC has forwarded their annual report to the BRRWD regarding the Williams Tract. TNC used North American Wetlands Conservation Act (NAWCA) funds through the Detroit Lakes USFWS to restore about 1,300 acres of native prairie and wetlands on this tract that is within the drainage area of Project 58. Phil Gerla, TNC, forwarded the annual report, which TNC has provided since the project was installed in response to a neighboring landowner's concern regarding the effect that the project has on his property. After 3 years of monitoring, it appears that the restoration does not affect the neighbor's basement and his previous water problems.

**Project No. 49, Oakport Flood Mitigation.** Albright reported that we expect to close on our last property acquisition next week. There are also only a couple of easements left to acquire. He noted that the BRRWD has been forced to go to condemnation for a \$74 easement. A total of 58 houses were acquired. We still need \$1.6 million from the State to finish the current construction work under contract and an additional \$1.5 million to complete the Wall Street road raises. We also need \$5.6 million to finish the final phase work on Broadway ST NW. State Representative Morrie Lanning plans to introduce a bonding bill for the BRRWD projects. Phase 4 could be bid later this summer around Labor Day. However, the DNR has indicated that they may not have enough money to do the work until 2012.

He discussed 2011 flood preparations in conjunction with the Oakport project. Meetings were held with the COE this week to discuss emergency diking. The COE will pay for the initial temporary diking, but the Township/landowners will be responsible for the dike removal/cleanup. Temporary road closures will be needed this spring, but the part of the project that is built will provide valuable flood protection. The Wall Street road raising wasn't finished last year, and temporary levees will need to be installed this spring to protect against flooding. The township will be able to close the valves to protect the sanitary sewer system. Albright noted that the BRRWD plans to authorize Oakport Township to act as their agent to negotiate and sign contracts regarding the 2011 flood fight.

**Project No. 60, Swede Grove Lake.** Albright gave a brief history of this project development. Albright noted that Adam Phillips, DU, has taken a new position in Iowa. He was very interested in working with the BRRWD to investigate possible programs/funding that might be available through DU and the DNR and their Shallow Lakes Initiative proposal through the Lessard-Sams Outdoor Heritage Council (LOHC) Conservation Partners Legacy Grants (CPLG). Josh Kavanagh, DU, is also interested in Swede Grove Lake, but is located in the Alexandria area.

**Project No. 50, Cromwell Township Highwater Investigation.** Albright gave a brief history of this project. A hearing was held on 8/30/10 to discuss an area north of the City of Hawley where five wetland basins are flowing together and rising because of the current wet cycle. Three houses and a township road are impacted by the high water. The road has been underwater for about two years, and FEMA will assist with the repairs once the road is dewatered. Last summer, the BRRWD declared this project an emergency. The BRRWD met with the USFWS regarding their wetland elevations in easement areas associated with the project. Our goal was to lower the water on the township road by about 2'. Last fall, our contractor completed Phase 1, and the USFWS gave the BRRWD a 30-day temporary permit to lower the first wetland basin. We still have to acquire two more easements. The BRRWD will continue to work with the USFWS to determine a final elevation for the wetlands involved with Phase 2 of the project, which would be to install the connecting pipes to lower the remaining wetland basins. We received 50% DNR funding for the project. The total cost is approximately \$200,000.

**Project No. 67, HRBP Lakes Outlet.** Landowners on the upstream lakes (Helgeson, Businger, Seim, and Randkler) on the north side of Trunk Highway (T.H.) No. 34 and Pete Lake on the south side of T.H. No. 34 contacted the BRRWD regarding possible outlets for their lakes through Grove Lake. They were also concerned that Pete Lake would break out and flow downstream naturally to Grove Lake. The BRRWD held an informational meeting on 8/26/10 in Barnesville with the upstream landowners and Grove Lake landowners to discuss a possible outlet project. T.H. No. 34 was also threatened by the high water. Last fall, the Minnesota Department of Transportation (MNDOT) only raised the road about 2', instead of 4', with the understanding that the BRRWD would complete an outlet project. Outlets for Pete Lake and the other upstream lakes were installed to drain through Grove Lake and are now operating. The lake outlets will be closed before the spring runoff.

**Project No. 68, Lake Jacobs Outlet.** Landowners on Lake Jacob attended the 11/08/10 BRRWD meeting to ask for help with their high water concerns. The BRRWD held an informational meeting on 11/22/10, and the Board authorized H.E. to conduct an area survey to gather information to provide a possible outlet alignment, which has been completed. The DNR has provided a 50% grant for this project, which the BRRWD plans to install this summer. The USFWS has wetland easements bordering the project alignment. A hearing will be held this spring.

Lake Annie landowners, located east of Lake Jacobs, have also contacted the BRRWD regarding their high water concerns. Lake Annie is not located in the BRRWD. The Board has agreed to authorize H.E. to do some very preliminary work to determine their options for an outlet. According to Farm Service Agency (FSA) aerial maps, Jones estimated that the lake has risen 3' since 2008 and has grown to about 150 acres. If Jones' preliminary study shows that an outlet via Lake Jacobs would be feasible, the landowners or the County might decide to petition BWSR to add their land to the BRRWD. The current plan is to install a tile line to drain Grenna Lake to Gandrud Lake. This might stop Lake Annie from rising any further. Jones estimated an outlet project could cost between \$300,000 and \$400,000. The group discussed the fact that this area petitioned the Water Resources Board to be removed from the BRRWD in 1976. MacGregor asked if these lakes were on our Priority Lakes list. Jones said that Lake Jacobs.

**Project No. 69, Lake Alfred Outlet.** Albright discussed this lake north of Lake Jacobs where several landowners are experiencing high water problems. Homes and septic systems are in jeopardy, and

landowners plan to attend the next BRRWD meeting to ask for help. Jones explained that the natural outlet would flow north across a USFWS Waterfowl Protection Area (WPA) and eventually to Whisky Creek.

**Project No. 64, LaBelle/Boyer Lakes Outlet.** Albright discussed the project development, and noted that since the project operation began in July, Boyer Lake is down approximately 4', and LaBelle Lake was lowered about 2'. He noted that the BRRWD would work with the agencies to set a final elevation. Project costs totaled approximately \$330,000. The outlet will provide a permanent solution for MNDOT's chronic problem of T.H. No. 10 being threatened.

**Project No. 65, County Line Outlet.** Albright noted there is another area with high water problems east of Barnesville on the Clay/Wilkin County line. The wetland has reached its natural runout elevation and is already running out to the west towards Interstate-94 (I-94). It will probably not get any higher. Currently, the water is threatening area farmsteads and has inundated a township road on the county line. Area residents have significant access problems to their property because of water overtopping the township roads. The USFWS has a WPA on the south side of the township road in Wilkin County and a wetland easement area in Clay County north of the road. A meeting has been scheduled with USFWS and DU on Monday, March 7, 2010, at 1:00 PM, in the BRRWD's Barnesville office to discuss project issues. There is a possibility that USFWS might have funding available in 2012 or 2013 from the Shallow Lakes Initiative program to lower the WPA. The BRRWD would like to move forward with a project this year, as the area homeowners are very anxious to get something done as soon as possible. There is also a chain of wetlands to the east that could contribute water to this problem area.

**Wolverton Creek/Comstock Coulee.** Last week, the BRRWD met with the Clay and Wilkin SWCD staff to put together a workplan for the Clean Water Fund (CWF) grant for the Wolverton Creek/Comstock Coulee. The BRRWD has scheduled a Sub-PT meeting for agencies and landowners on Thursday, March 31, 2011, at 8:00 PM, at the Comstock Community Center, to discuss the status of the Phase I of the CWF project and work that needs to be completed in Phase II. Our grant deadline for Phase I was extended, so we should be able to finish, pending the outlet highwater conditions. We also received a \$25,000 grant from the DNR to look at the design for a channel restoration section at the upstream end of the coulee in Wilkin County. Luther Aadland, DNR, will be asked to help design this project. The group discussed applying the Category 4B of the TMDL process to the Phase II work for the Wolverton Creek/Comstock Coulee.

**Lawndale Trout Stream Restoration.** The DNR will be completed with the Lawndale Channel Restoration project in the next few weeks with seeding and clean up left to be completed this spring. The channel alignment changed slightly due to wet conditions and their attempt to follow the original channel alignment.

**Project No. 39, Georgetown Levee.** Albright said that we have been approved for an additional \$500,000 from the DNR for appraisals, design, and buyouts. The total improvement project cost is estimated at approximately \$3.8 million. The BRRWD expects to buyout about 15 houses. The community qualified for the 2% median household income language for the DNR grant, so Georgetown will only have to pay approximately \$31,000 for the project.

**Hay Creek/Stinking Lake CWF Project.** Albright reported that work funded by the Phase I CWF grant is nearing completion. Phase II funding (\$100,000) has been approved by BWSR, and the installation of bufferstrips and sediment control basins will continue. This has been a very successful project. Albright noted that they have installed approximately 60 sediment basins and bufferstrips. Bruce Paakh, MPCA, has been conducting water quality sampling in this watershed and Stinking Lake, and water quality is still not good.

**South Branch of the Buffalo River.** The BRRWD and PT have been using the Mediation process to look at potential projects to address flood damage reduction (fdr) and nre concerns along the South Branch of the Buffalo River in Wilkin and Otter Tail Counties. The BRRWD held a meeting with agency representatives and affected landowners on 1/27/11 in Barnesville. Approximately 40 landowners attended the meeting. Three years ago, we met with this same group. H.E. has submitted several retention and setback levee options. Albright noted that with setback levees, downstream water levels will increase, so retention needs to be part of the project. The upstream landowners were most interested in the setback levees, and downstream landowners were more interested in retention alternatives. Albright noted that the BRRWD has received a CWF grant from BWSR for approximately \$200,000 for project development and marketing of bufferstrip and best management practices (bmps). The group discussed the project long and short-term goals. Ellefson discussed area drainage patterns and questioned if the setback levees would really affect downstream stage increases. Zach Herrmann, H.E., pointed out that setback levees would stop water from diverting to the Wilkin County Ditch No. 13 system and keep it in the South Branch channel.

Albright discussed the BWSR Reinvest In Minnesota (RIM) program funding that was used to enroll 21 of the 22 landowners along the South Branch into the bufferstrip program. The landowners who signed up for RIM are now expecting that the BRRWD follow through with a project. VanAmburg asked about the amount of off-channel storage in the proposed project. Jones said that the various options would yield about 10,000 acre-feet. Albright noted that there is an upstream site where there are only a few landowners and the land is not prime agricultural property that might be a good place to start. Albright suggested that Herrmann could prepare a map of this site, so that we could meet with the landowners with easement value information. The group had an extended discussion regarding the upstream retention site and the general project development. There are also possible changes proposed for Wetlands Reserve Program (WRP) to expand funding availability for the Red River Basin for impoundment projects. The group discussed the difficulty in trying to change some of these historic programs. Albright discussed the formation of the Red River Retention Authority (3RA) and Representative Collin Peterson's announced goal for 1 million acre-feet of retention in the Red River Basin.

There was also some discussion about the location/width of the set-back levees. Albright suggested that H.E. could take a closer look at a 25-year design for the wider setback levee proposal and BWSR could work with the Otter Tail County SWCD to work with the area landowners regarding the potential upstream retention site. The BRRWD could also meet with the landowners. This issue will be discussed in further detail at the next PT meeting.

**BRRWD Total Maximum Daily Load (TMDL)-Phase II.** MacGregor reported that a second MPCA contract for more detailed modeling is nearly in place, which utilizes Hydrologic Simulation Program-Fortran (HSPF) model. The HSPF is used to model how nutrients cycle down the waterway. This model will provide information regarding point source/effluent that the Soil and Water Assessment Tool (SWAT) model isn't able to produce by itself.

Albright reported on the Social Indicators Survey progress. The results are being tabulated, and the report should be ready for review in early May 2011. MacGregor noted that a water quality meeting to report the results from the 2009-2010 sampling season could be scheduled in May.

**Barnesville Township FDR Study.** The BRRWD has been working with landowners in the area southwest of Barnesville in Sections 32, 33, 34, 35, and 36, Barnesville Township, Clay County, which has a drainage area of approximately 21 sq. mi., and has had significant water problems along a DNR protected watercourse. Landowners in this area attended the 11/08/10 BRRWD meeting in response to a ditch repair request, which they felt will have an effect on downstream drainage. Hopefully, after the Oakport Flood Mitigation and Manston Slough Restoration projects are completed, the BRRWD will have the time to devote to this project area.

**Fargo-Moorhead Metropolitan Feasibility Study.** Albright noted that the COE has been working on various proposals for the Diversion. With the most recent proposal, downstream impacts were significant. Now the COE is looking at upstream retention to minimize downstream bounce, which has sparked concerns from local landowners within the BRRWD. The Federal budget contained \$12 million for the design of the COE Diversion Study.

**Hawley Buffalo River Stabilization.** The City of Hawley's long term plan to restore the natural channel alignment for a reach of the Buffalo River did not receive funding from the LOHC CPLG Program for this funding cycle. Another funding opportunity could be a grant from the CWF Program or possibly from LSOHC-CPLG next year. Aadland has discussed the project features that include stream restoration.

The BRRWD will meet with the City of Hawley on 1/22/11 at 5:30 PM in the Hawley City Council Chambers to discuss this and other Hawley projects.

**Red River Basin Commission (RRBC) Impoundment Study/Long Term Flood Study (LTFS).** The RRBC is working on a modeling project for the Red River of the North to determine if it would be possible to meet a 20% long term flow reduction goal from the White Rock Dam in South Dakota to the Canadian border. Rick St. Germain, H.E., did the BRRWD's study, and determined that it would be possible to reduce impacts by 20% at Georgetown from the BRRWD. Albright distributed a copy of the report for the PT's review.

**Distributive Storage/Waffle.** The BRRWD has a meeting scheduled tomorrow with Steve Dalen, Pinnacle Water Management, and Bethany Kurz, Energy & Environmental Research Center (EERC) to review their workplan regarding their proposed "waffle" approach to water storage/flood damage reduction in the Red River Valley. Dalen and Kurz would like the BRRWD to be a sponsor for a pilot project in the Wolverton Creek/Comstock Coulee area. The BRRWD feels their work load is too heavy to start a new project at this time. The group discussed questions about the EERC's project modeling. Another possible pilot area might be the Sabin Coulee, which also enters the Red River of the North upstream of Fargo-Moorhead.

**Comstock/Hickson Dam Retrofit.** The group discussed funding for the project. The BRRWD has recently been asked to contribute an additional amount to pay for extra project costs.

**Activities Update.** Albright distributed the BRRWD's recent press release. The BRRWD is working on 2011 flood preparations. The group discussed current weather conditions, which have helped reduce flood crest predictions.

**Membership Changes.** Albright noted that we don't have a DNR hydrologist or a Citizen Advisory Committee member on the PT. Someone mentioned that there are two hydrologists in the Fergus Falls DNR office who could possibly serve on the PT.

**Technical and Scientific Advisory Committee (TSAC) Report No. 14.** VanOffelen explained that this technical paper provides a way to develop and evaluate natural resource enhancement (nre) components for mediation project alternatives to meet the nre objectives of Part III of the Mediation Agreement. He suggested that the PT could develop a nre plan based on these concepts for a particular BRRWD project.

VanOffelen discussed DNR funding for Manston based on the 75% nre guidelines. He has developed a worksheet to score a project based on nre features to determine the amount of State funding a project could receive. VanAmburg noted that Rick St. Germain, H.E., is aware of this new tool and plans to contact VanOffelen to go through the worksheet with him to score the Manston Slough Restoration project based on nre benefits. The group discussed project funding from the LOHC CPLG Program (\$350,000).

Albright suggested that the PT members who helped develop the Technical Paper #14 could meet with the BRRWD and H.E. to score the Manston Slough Restoration and the Upper South Branch of the Buffalo River projects, using the form.

MacGregor noted that it is important to determine how the quantifiable nre benefits will affect the focus of future project monitoring efforts and communications plan. VanOffelen agreed that monitoring/communication data are important features of project development and can be used to obtain state funding by establishing a monetary value for nre features. VanOffelen stressed that in order to acquire state funding, it is important to focus on the costs of incorporating nre benefits, not nre values.

**Red River Setback Ordinance.** The BRRWD is interested in establishing a setback ordinance for the Red River of the North in conjunction with the Wilkin and Clay County Planning & Zoning offices. The group discussed the F-M Diversion/City of Moorhead buyouts and Cass County setback regulations.

**13<sup>th</sup> Annual Joint Conference.** The Red River Watershed Management Board (RRWMB) and the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) have scheduled their Joint Conference for March 15 and 16, 2011, at the Courtyard by Marriott and Conference Center in Moorhead. Albright encouraged the PT members to attend the event.

**Next Meeting.** Albright said the next PT meeting is tentatively scheduled for Thursday, April 28, 2010, at the MSUM Science Center, Glyndon.

**Adjournment.** There being no further business to come before the group, Albright adjourned the meeting at 4:30 PM.

Respectfully Prepared and Submitted by

Bruce E. Albright, BRRWD Administrator