

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

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## MEDIATION PROJECT TEAM MINUTES July 9, 2015

The Buffalo-Red River Watershed District (BRRWD) Mediation Project Team (PT) held a meeting on Thursday, July 9, 2015, at 7:00 PM at the BRRWD office, Barnesville, MN.

Attending were: Gerald L. Van Amburg, John E. Hanson, Peter V. Fjestad, and Mark T. Anderson, BRRWD Managers; Bruce E. Albright, BRRWD Administrator, Erik Jones, Engineer, and Thomas Eskro, Engineer, Houston Engineering, Inc. (HEI); Pete Waller, Board Conservationist, Minnesota Board of Water and Soil Resources (BWSR); Don Schultz, Area Wildlife Manager, Minnesota Department of Natural Resources (DNR); Shawn May, United States Fish and Wildlife Service (USFWS) and Detroit Lakes Wetland Management District (WMD); Tara Mercil, Minnesota Pollution Control Agency (MPCA); Larry Martin, USFWS, Fergus Falls WMD; Robert A. Zimmerman, Engineer, City of Moorhead; and Lynn Foss, Clay Soil and Water Conservation District (SWCD).

Absent were: Troy E. Larson, Breanna L. Kobiela, and Cathy L. Affield, BRRWD Managers; Mandy Erickson, Fisheries, DNR; Alice Klink, State Wetland Restoration Biologist, Natural Resources Conservation Service (NRCS); Edward J. Musielewicz, District Conservationist, Becker NRCS; Anthony Nelson, Pheasants Forever (PF) and Clay SWCD; Ross Aigner, Landowner/Wilkin SWCD; Mike Oehler, DNR Wildlife, Fergus Falls; Julie Aadland, Area Hydrologist, DNR; Keith Weston, Red River Retention Authority (RRRA)/NRCS; Henry Van Offelen, Red River Basin Coordinator, DNR; Ryan Frohling, Detroit Lakes USFWS and WMD; Audubon Dakota; Brian Dwight, Board Conservationist, BWSR; Craig O. Evans, PM-D, Army Corps of Engineers (COE); Kevin Kassenborg, District Manager, Clay SWCD; Keith Mykleseth, Assistant Regional Manager, Division of Ecological and Water Resources, DNR; Larry Puchalski, Project Manager, COE; Emily Siira, Area Hydrologist, DNR; Josh Kavanagh, Biologist, Ducks Unlimited (DU); Rodger T. Hemphill, Area Hydrologist, DNR; Brian Winter, Program Director, The Nature Conservancy (TNC); and Don Bajumpaa, District Manager, Wilkin County SWCD.

Bruce Albright, BRRWD Administrator, called the meeting to order at 7:00 PM. A signup sheet was passed to record attendance.

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

**Meeting Minutes.** Draft minutes for the 05/07/15 Mediation PT meeting were distributed with today's meeting materials. **Motion** by Anderson to approve the minutes. **Seconded** by Fjestad. **Approved.**

**Barnesville Township Area Drainage Study.** Albright reported that another landowner informational meeting was held on 05/28/15, with approximately 30 attendees. Thomas Eskro, HEI, presented the project proposal to the landowners. Discussions included the results of the channel surveys. The Board agreed to the landowners' request to extend the survey for an unnamed tributary to Whisky Creek in Clay County another 0.75 miles and to add a survey of the unnamed tributary that flows north from Wilkin County.

At the informational meeting, Eskro had also discussed the potential regional retention sites that are part of the proposed project. Albright noted that the landowners had no major complaints about the retention

proposals, and he received positive comments from the landowners about the project in general, which they feel could address historic flooding problems in this area.

Albright discussed potential easement values. In the past, the Board has been reluctant to purchase property for projects. We are more interested in entering into easement agreements with landowners to keep the property ownership in the private sector. He used our Manston Slough Restoration project as an example of easement acquisition where we negotiated easements with approximately 35 landowners. Albright explained that the Barnesville Township retention sites will be operated differently than the Manston project, as we could hold water on some areas for longer periods of time during the growing season, depending upon downstream conditions. The potential loss of farmland/crops will influence the value of an easement. Albright discussed the BRRWD's preference for a simple agreement with the landowner that provides a single price per acre with the understanding that the landowner retains ownership and can farm the land at his own risk. He noted that we have found that landowners also prefer this type of easement, but because of the current state and federal funding regulations, it is very difficult to determine easement values.

Albright discussed other easement funding sources, including BWSR (State) and NRCS (Federal). The NRCS has new program requirements, including easement valuation based on land appraisals, which complicate funding eligibility and hinder project development. BWSR receives their Reinvest In Minnesota (RIM) program funding primarily from the Lessard-Sams Outdoor Heritage Council (LSOHC), which will only fund traditional wetland restorations and native grass seeding. Pete Waller, BWSR, pointed out that the best funding source would be money allocated for the RIM program by the Legislature's bonding bill. Van Amburg commented that North Dakota State University (NDSU) is working on a study of easement values in the Red River Basin in conjunction with the COE F-M Diversion project. Albright explained that development of larger retention sites provide significant benefits for downstream areas, including Fargo-Moorhead. He explained that retention sites must be placed so that we make use of the area's best typological features. If landowners are asked to sacrifice their land for the "greater good", they will need fair compensation for their property. Jones added that retention sites also benefit the area hydrology in terms of water quality. Waller mentioned that during the 2015 Legislative Session, water retention project funding was discussed. The BRRWD submitted six potential projects to be added to a list for 2017 funding for significant large-scale projects that provide flood retention, water quality improvements, nutrient/sediment reduction, and wild life habitat from the LSOHC, and the Legislative-Citizen Commission on Minnesota Resources (LCCMR). Jones noted that the projects he submitted were a wetland restoration site along Trunk Highway (T.H.) No. 108, South Reep Lake, Haick/Peppel Retention, Barnesville Township, Upper South Branch of the Buffalo River, and Stony Creek.

Albright distributed a handout from the Red River Basin Commission (RRBC) regarding the need to keep focused on the development of retention sites and the benefits retention can provide. He noted that the BRRWD needs to consider a long-term funding policy and funding sources for large-scale retention sites. The group briefly discussed the question of the BRRWD rejoining the Red River Watershed Management Board (RRWMB). The Board plans to meet with the County Commissioners from all four counties to further discuss this issue. Albright noted that because the BRRWD is not a member, we have been ineligible for the federal Regional Conservation Partnership Program (RCPP) funds because the RRWMB co-administers the program. The Stony Creek Project funding request we submitted to the City of Fargo for the Diversion Authority's upstream retention funds is still on hold in part because we are not a member of the RRWMB.

Thomas Eskro, HEI, gave a presentation about the status of the Barnesville Township Area Drainage Study. Using the overhead monitors, Eskro discussed the project concept map that was presented to the

landowners at the 05/28/15 informational meeting. The storage goal for the Whisky Creek subwatershed is about 7,000-8,000 acre-feet (ac-ft). Part of the project concept might include widening the setback levees on Clay County Ditch (C.D.) No. 34 to open up the channel to allow for more storage. The survey on the south tributary of Whisky Creek identified about 3' of sediment. Eskro explained that the Magellan Pipeline Company and NuStar Energy Company both have pipelines running through Sections 20, 28, and 34, Barnesville Township. The proposed dike alignment would cross these two pipelines. Eskro has contacted the pipeline companies to have them review the project concept to see if it is acceptable. Their initial response was that we could not store water over their facilities. At issue, is the depth of the pipes. There are some locations where the pipes are very close to the surface. As a backup plan, HEI looked at a possible location on Whisky Creek about one mile north in Section 21 and 22, Barnesville Township. There would be two retention sites located on either side of the channel (north and south) that could be operated in stages, depending on the size of the flood event. Together these sites would provide approximately 5,000 ac-ft of storage. This is less storage than the site in Sections 20, 28, and 34, but we wouldn't have to deal with the pipeline problems.

Eskro noted that the original alignment brought in about 6 square miles (sq. mi.) from the south tributary drainage area, but the new alignment limits getting water from the south tributary into the Whisky Creek drainage area, which would probably require the addition of another smaller site. Larry Martin, USFWS, suggested that Jones consider an angled alignment or two smaller sites to avoid the pipelines. Jones considered that possibility, but he is still waiting for a reply from the pipeline companies before making any changes to the current design.

Albright explained that the Board would like to meet with the landowners whose property will be affected by the proposed retention alignment. But we will probably wait now until the pipeline issue is resolved. Jones has discussed this issue with the local pipeline representatives, who seem willing to work with the BRRWD, but before the project alignment is finalized, the corporate officials will have to be consulted regarding their easement. Jones noted that the pipeline companies are aware that there is an issue with the depth of their pipes, so if they have to rebury them or put in new lines, there may be an opportunity at that time for them to consider a possible realignment to accommodate our proposed project.

Albright noted that the PT has discussed for this project possible flood damage reduction (fdr), natural resource enhancement (nre), and the agency permitting processes. He noted that there actually about 800-1,000 acres of native prairie acreage in the proposed project area (Wilkin County) on the Ellefson property that they use for grazing. Martin noted that the USFWS has an easement program that would allow the owners to continue grazing, but would protect the native prairie from being farmed. Previously, Brian Winter, TNC, had noted that TNC is interested in working with the Ellefson Family regarding this protection.

**Wetlands Reserve Program (WRP)/Wetlands Reserve Enhancement (WRE).** Albright explained that NRCS is still working out the details for implementing the RCPP funding (\$50 million) provided in the New Farm Bill. The BRRWD has two projects that could be eligible for NRCS funding: the Haick/Peppel WRP site and the South Reep Lake WRP site.

**Haick/Peppel WRP.** The BRRWD held a landowner informational meeting on 05/18/15 to discuss the status of the project development with the landowners. One important issue that needed to be addressed was if BWSR would allow the BRRWD to use the 30.4 acres of Permanent Wetland Preserve (PWP) easement on the Peppel property in Section 4, Manston Township, for the project. Recently, BWSR agreed to our proposal. The project cost estimate would be between \$150,000-\$800,000, depending on whether we take easements on the land or purchase it. The cost also depends

on how many acres are eventually included in the project. Jones said the site could potentially encompass approximately 255 acres in Manston and Atherton Townships.

**T.H. No. 108 WRP.** Albright noted that this site was planted to crops this spring, but were drowned out after the heavy May rainfalls. He would like to approach the landowners again to discuss WRP, but he noted that we need more information regarding land/easement values before we can interest landowners in participating in the program. Jones thought that this site might qualify for funding from the LSOHC for RIM. There might also be multiple smaller basins in the area that could be restored.

Don Schultz, DNR, briefly discussed the Working Lands Initiative Program (WLI). Schultz stated that if there are landowners who are willing to restore a natural wetland, there ought to be no problem finding funding. Martin agreed that there is money available for natural wetland/shallow lake restorations. Manager Fjestad suggested that Martin provide an easement value that we could present to the landowners. Martin explained that until they review the taxable market value of the specific property and the county land sale values, it is difficult for USFWS to provide an exact figure. Pete Waller, BWSR, noted that they are trying to get funding allocated for another Conservation Reserve Enhancement Program (CREP) signup. Using the overhead monitors, Jones displayed LiDAR maps of the potential BRRWD WRP sites. At this time, there are no WRP programs that allow the land to be farmed after restorations are completed. Anderson asked if landowners could plant food plots. The group discussed this practice. Schultz noted that next year, DNR will not allow nonionic treated seed to be used for food plots on their land, which will make it inconvenient for farmers to plant the plots.

Jones explained that the bounce would be minimal for wetland restorations along T.H. No. 108. There would be a 3' deep pool with a surface area of over 144 acres with a drainage area of approximately 1,000 acres. A 10-day 100-year event would bounce the pool approximately 2'. Martin said that the USFWS has numerous programs available for willing landowners to restore wetlands. The USFWS easements allow landowners to hay or farm the property at their own risk, as long as they don't attempt to drain the easement area.

**South Reep Lake Restoration.** The South Reep Lake Restoration is a drained lake basin, located northwest of Audubon. The BRRWD held a meeting with the landowners a few months ago. The DNR has indicated that our proposed restoration should be acceptable, but since the Lake is protected waters, the COE will also have to approve the proposal in regards to possible wetland impacts. To date, we have had no response from the COE. Albright still plans to meet with the Jacobson family regarding their easement. At this point, WRP funding from the NRCS doesn't appear to be available. Waller felt that wetland restoration projects should be eligible for some type of BWSR funding through the RIM program or a CREP signup next year. Jones suggested that the BRRWD should develop a funding factsheet to be used when working with landowners regarding potential WRP sites.

**South Branch of the Buffalo River.** Albright gave a brief history regarding the development of a proposed project for a four mile reach in the upstream area of the South Branch of the Buffalo River, beginning at T.H. No. 9 and continuing downstream to Wilkin County Road (C.R.) No. 30. He explained that we had spent some time investigating a possible restoration site in Section 11, Manston Township, which was enrolled in Reinvest In Minnesota (RIM) before our work was completed, and because of the LSOHC funding, which will only cover natural wetland restorations, this site is now no longer available for a larger BRRWD water storage project. As a result, we have refocused our efforts to find other options for retention sites in the project area.

Eskro discussed optional retention sites on the south and north sides of Sections 4 and 5, Manston Township, and Sections 32 and 33, Atherton Township, plus the SE $\frac{1}{4}$ , Section 11, Manston Township, that

was not enrolled in RIM using the LSOHC funding, so it is still eligible for water retention projects. Jones noted that one design could also expand the Haick/Peppel restoration site in Manston Township. The group reviewed a color coded spreadsheet regarding various site features and project components: channel restoration between T.H. No. 9 and C.R. No. 30, setback levees along the west side of the South Branch of the Buffalo River, and a retention site to offset downstream impacts. Jones explained that the worksheet shows how each component impacts the comprehensive project and flow reduction at the County line. He noted that all the storage alternatives include both the channel restoration and the setback levees. Eskro explained that the worksheet format helps to see the incremental benefits of each of the project components. Albright suggested that future phases of the proposed project could expand the setback levees and channel restoration downstream to the Clay County line, but in order to answer downstream concerns about potential increased flows, the total project must show a flow reduction at the Clay/Wilkin County line. Jones said if this design were expanded to the County line, the project would show a negative impact (12%-16%). There are two building sites within the project alignment that would have to be ring diked or bought out. The group had an extended discussion regarding possible alternatives and project features. Albright summarized the discussion by stating that the BRRWD will have to wait for the NDSU easement value study, work with our partners to compile a factsheet regarding easement options, decide what easement values we want to offer, and then present the information to the landowners to secure their participation. Albright noted that we still have about \$250,000 from the BWSR Clean Water Fund (CWF) grant for the South Branch that expires on 12/31/15. He thought we could ask BWSR for an extension, if needed.

**Stony Creek Comprehensive Project.** Jones distributed a map to the group showing the current concept alternatives for this project, focusing on the site to the south of Stony Creek. Once he knows the size of the proposed structures through Interstate-94 (I-94), we will work Minnesota Department of Transportation (MNDOT) regarding their process to open cut I-94 and add culverts further upstream because they will be too large to bore.

Jones reported that Terracon, Inc. completed their geotechnical analysis. They recommended an embankment with a minimum top width of 10' and 5:1 or flatter sideslopes for the impoundment area. Terracon had concerns about the "fat clays" or soft soils and the height of the embankment. They thought that the load bearing issue could be addressed by overbuilding the embankments to allow for settlement, which could be as much as 12"-15". The corridor along Stony Creek (Clay C.D. No. 31) would have setback levees about 200'-250' wide with a 10'-20' wide base channel. Jones explained that Stony Creek doesn't have any remnants of the meandered channel remaining, and he doesn't think constructing meanders would be beneficial. He displayed a satellite view of the Creek for the Board's review. The group discussed how the levees could be constructed. Jones explained that the design focus will be to investigate the channel configuration and work with MNDOT on the I-94 structures. He plans to work on cost estimates and quantities and have more information for the next PT meeting.

**Manston Slough Restoration.** Albright reported the Manston project was selected as the 2015 Minnesota Environmental Initiatives Award winner in the Natural Resources category and the 2015 Partnership of the Year on May 21, 2015, in Minneapolis. The native grass seeding is on hold due to wet weather conditions. Right now there is water in the project area. The Stuehrenberg easement is still pending, as we are waiting for NRCS to finalize their WRP contract. Schultz reported that the DNR's contractor is working on their moist soil unit site in the NE¼, Section 30, Manston Township.

**Oakport Flood Mitigation.** The Legislature included the \$5.53 million needed to complete Phase 4 in their 2015 bonding bill. Tentative plans are to open bids for Phase 4 around Labor Day with a completion deadline of 10/31/16.

Albright has been working with the Audubon Society for grass seeding on the west side of Broadway where the BRRWD did about 20 buyouts. Audubon will pay for the seeding and maintain the area for three years, and the BRRWD's costs will be for site preparation. The agreement will eventually be signed by both the BRRWD and the City of Moorhead.

**Wolverton Creek/Comstock Coulee.** The BRRWD received a \$100,000 EcoFootprint Grant from Enbridge, Inc. in association with the Minnesota Association of Resource Conservation and Development Councils, Inc. (MARC&D). Enbridge encouraged the BRRWD to submit another application for 2016 funding. The application period starts on 01/01/16. We should also know in the near future if we have been selected for an interview for the LSOHC grant. We are also hoping to be able to receive funding from NRCS' Environmental Quality Incentives Program (EQIP). Albright suggested that we could use the Enbridge grant funding to start work on the first 0.5 miles of the channel starting in Section 9, Wolverton Township, Wilkin County, at the outlet of Phase 1.

**Georgetown Levee.** The condemnation hearing for the Greywind house is scheduled for Thursday, July 23, 2015, 9:30 AM, Clay County District Court. As soon as we have possession, we will be able to start demolition of the condemned property. We hope to be able to get the contractor back in to finish the project around Labor Day, 2015.

**COE F-M Diversion Authority.** The DNR expects to have the Environmental Impact Statement (EIS) completed by late August or early September. The City of Oxbow has joined the Diversion Authority's lawsuit against the Upstream Coalition.

**Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategy (WRAPS).** For the Buffalo River, MPCA is still completing the report reviews and then will forward it to the Environmental Protection Agency (EPA) for final approval.

The Upper Red River TMDL project is scheduled to be completed by 06/30/16. Public outreach meetings need to be scheduled.

**Otter Tail River Restoration.** The BRRWD's application for an EPA 319 Grant (\$242,000) was approved (subject to federal funding). This funding can be used as a match for a BWSR CWF grant. Jones explained that the funding will be used to partner with Wilkin County on surveying and design work to identify possible restoration areas along the Otter Tail River and some of its tributaries. We have already held two preliminary agency meetings. Albright commented that the DNR Fisheries was very interested in a project for this waterway, which is experiencing severe erosion with approximately 400,000 tons of sediment annually going into the river. Jones discussed the channel conditions and possible designs options. Tara Mercil, MPCA, asked if the COE assists with restorations on channels they straightened in the past. Jones thought there might be a chance that the COE might help fund part of the project costs.

**Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE).** The Bois de Sioux Watershed District (BDSWD) has forwarded the signed petition for the boundary changes with the BRRWD. BDSWD and Otter Tail County are also making changes to their mutual boundary. Both entities signed the petition, and it is now ready for the BRRWD signature. Once all the signatures have been obtained, the petition will be forwarded to BWSR.

Jones and Albright are working on proofing the draft RMWP in an effort to complete the document. Once it's completed, we will schedule one more meeting with the Technical and Citizen Advisory Committees for their final review. Waller asked if the Plan will be ready by the BWSR 09/09/15 deadline. Albright thought it could be ready by that date, and he will keep Waller apprised of our progress.

**Activities Update.** Albright distributed a copy of the 06/22/15 BRRWD press release.

**Bufferstrip Initiative.** Albright briefly discussed the new bufferstrip legislation, which requires all protected waters to have a grassed 50' bufferstrip installed by the end of 2017, and all of the County ditches buffered by the end of 2018. The group discussed concerns about the legislation's language that authorizes the SWCDs to identify "other areas" requiring buffers.

**Next Meeting.** The next BRRWD Meditation PT meeting is tentatively scheduled for Thursday, September 10, 2015, 7:00 PM, in the Barnesville office. The Fall Tour is tentatively scheduled for October 15, 2015.

**Adjournment.** There being no further business to come before the group, Albright adjourned the meeting at 9:20 PM.

Respectfully Prepared and Submitted by

Bruce E. Albright, BRRWD Administrator