

BUFFALO-RED RIVER WATERSHED DISTRICT

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MEDIATION PROJECT TEAM MINUTES

December 10, 2015

The Buffalo-Red River Watershed District (BRRWD) Mediation Project Team (PT) held a meeting on Thursday, December 10, 2015, at 1:30 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, Ted Rud, 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); Larry Martin, United States Fish and Wildlife Service (USFWS) and Fergus Falls Wetland Management District (WMD); Robert A. Zimmerman, Engineer, City of Moorhead; Lynn Foss, Clay Soil and Water Conservation District (SWCD); Rodger T. Hemphill, Area Hydrologist, DNR; Brian Winter, Program Director, The Nature Conservancy (TNC); Nicholas Brown, DNR Wildlife; Edward J. Musielewicz, District Conservationist, Natural Resources Conservation Service (NRCS); Ross Aigner, Landowner/Wilkin SWCD; Peter Mead, Becker SWCD; and Tara Mercil, Minnesota Pollution Control Agency (MPCA).

Absent were: Troy E. Larson, Breanna L. Kobiela, and Cathy L. Affield, BRRWD Managers; Mandy Erickson, Fisheries, DNR; Anthony Nelson, Pheasants Forever (PF) and Clay SWCD; Mike Oehler, DNR Wildlife, Fergus Falls; 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); 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); Don Bajumpaa, District Manager, Wilkin County SWCD; Shawn May, USFWS and Detroit Lakes WMD; Julie Aadland, Area Hydrologist, DNR; and Keith Weston, Red River Retention Authority (RRRA)/NRCS.

Bruce Albright, BRRWD Administrator, called the meeting to order at 1:30 PM. Group introductions were made, and Albright noted that the meeting was being recorded to aid in the preparation of minutes. He also noted that a sign-up sheet was being circulated to record attendance.

Business brought before the group included:

Meeting Minutes. Draft minutes for the 09/10/15 Mediation PT meeting were distributed with the meeting notice. One minor correction was noted. **Motion** by Fjestad to approve the minutes, subject to correction. **Seconded** by Zimmerman. **Approved.**

Albright gave a brief summary of a few active projects. He stated the majority of the 2015 field work has been concluded, with ongoing construction on only a couple of projects. The mild weather has allowed the contractor to continue working on the Hawley Buffalo River Restoration Project Phase II. He also noted the BRRWD has been able to complete some last minute projects with landowners as well. He stated this year has allowed time for the BRRWD to address the current needs of landowners since there were no emergencies/floods. Albright mentioned that he and the BRRWD Managers recently attended the Annual Minnesota Association of Watershed Districts (MAWD) Convention on 12/03/15-12/05/15 in Alexandria.

He noted that the DNR named the BRRWD the Watershed District of the Year, which included a framed print. He also informed the group that the 2015 MAWD Project of the Year award was presented for the Manston Slough Project Restoration. Albright stated this project's success was due to the collaboration of several agencies, including two federal agencies, two state agencies, along with the local Watershed District. Van Amburg stated it is through the partnerships of multiple agencies that allow such projects to be possible. He also expressed gratitude to Albright, Jones, Eskro, and Rud for their design, development, and problem solving applied throughout various projects. Van Amburg felt it was important to recognize why the BRRWD receives these awards and whose work makes it possible.

Barnesville Township Area Drainage Study. Albright gave a brief history of this project's development. He stated there have been several problems addressed over the years. He noted that two DNR protected water courses (Whisky Creek and an unnamed tributary to Whisky Creek) are located within this area. Albright stated that landowners have encouraged the BRRWD to move forward with a project for this area. He said the next steps should be to begin designing a project. Then, if supported by the PT, the BRRWD could begin additional informational landowner meetings to review the comprehensive plan and discuss easements.

Using the overhead monitors, Thomas Eskro, HEI, presented a map he distributed to the group showing the survey areas for two pipelines that cross through the project area. Eskro noted the pink lines on the projected map represent the Magellan Midstream Partners LP and NuStar Energy LP pipelines which currently run beneath the prospective retention site. These pipe lines have presented a problem that is in the process of being resolved. He stated there are alternative alignments available for the retention/impoundment sites currently being studied in Sections 27, 28, 33, and 34, Barnesville Township. He said the project plan would include the best possible flood damage reduction (fdr) and natural resource enhancement (nre) features.

Eskro explained that Clay County Ditch (C.D.) No. 34 is a channelized portion of Whisky Creek running through Sections 18 and 19, Barnesville Township. Eskro described some potential project features that could be applied in this area, including moving existing levees that impinge on the channel, along with channel restoration of the unnamed tributary to Whisky Creek, where the survey shows the greatest channel sedimentation (2'-3').

Eskro stated that field meetings were coordinated with Magellan and NuStar this past summer to perform pipeline depth readings throughout the project area. Eskro showed where the potential retention sites were located while referring to a displayed map. He explained that the pipelines also cross under/through Clay C.D. No. 34. He noted that BRRWD Attorney, Tami Norgard, provided the BRRWD with Federal and State Laws regarding pipeline depths. The absolute minimum pipeline depth for an interstate pipeline is 30". Jones noted that if the pipeline is newer than 1979, the State requires the line to be at least 4.5' deep. Eskro reported that 70%-80% of the pipelines in the study area are less than 30" deep.

Don Schultz, DNR, asked if the pipelines were initially installed at these shallow elevations. Jones and Eskro stated it is unknown if the lines were installed this shallow or if they have lifted over time. Edward Musielewicz, NRCS, said he was familiar with the Viking pipeline. He said similar issues have been noted with this company's pipelines in Becker County. Jones said the pipeline companies are NuStar and William Brothers. Jones informed the group that a meeting still needs to be held with the pipeline companies to discuss the proposed plan and ways to work together. Jones feels the companies are willing to cooperate.

Albright asked if the additional survey on an unnamed waterway south of the Wilkin County line had been completed as requested by the landowners. Jones confirmed that it had been finished. The survey showed minimal (0-1') sediment in this stretch. Albright asked if the structure sizings were appropriate on the

unnamed tributary. Jones said that he believes they were and that the culverts slowly increase in size further downstream.

Eskro described the stream restoration components for the unnamed tributary to Whisky Creek. He explained in depth the elements considered to estimate the project costs. He stated the proposed easement acquisition boundary is approximately at the 10-year flood elevation. Jones stated this boundary only extends an additional 50' in certain areas where the channel bank has a high ridge. Albright questioned why the survey did not extend through Section 33, Barnesville Township. Jones explained the most sediment laden stretch of channel was evaluated. Albright explained that he and landowner Frank Schindler conducted a field review on 12/08/15. Albright observed the condition of the channel in Sections 31, 32, and 33, Barnesville Township. He stated the channel is completely blocked. Jones stated the survey results reflected very little sediment through Sections 31 and 32, Barnesville Township, and Section 33 was not surveyed. Albright felt the survey should be extended through Section 33. Jones and Eskro noted the concern. Eskro stated the estimated preliminary project cost is approximately \$2.8 million, which includes channel excavation and the acquisition areas/easements. He informed the group that an application was submitted to the Fargo-Moorhead Diversion Authority (DA) for funding for the Barnesville Township Detention Study. The DA has a budget meeting scheduled for Tuesday, December 15, 2015. Jones explained in detail the calculation used by the DA to determine the maximum potential contribution of \$1.2 million for the entire project. Van Amburg asked how many acres are included in the easement area on the map. Eskro stated there are approximately 54 acres of cropland and 145 acres of non-crop land.

Albright mentioned it is possible that BWSR will be setting aside a portion of Reinvest in Minnesota (RIM) funds specifically for channel restoration projects. Pete Waller, BSWR, confirmed this was correct.

Albright stated the BRRWD will need to hold meetings with the Clay SWCD to begin implementing the new bufferstrip laws. Albright mentioned bufferstrips for this project should be completed in accordance with the new law. The deadline for completing a grassed bufferstrip along this DNR protected watercourse would be November 01, 2017.

Ross Aigner, Landowner/Wilkin SWCD, asked what type of easements would be used. Jones said this is yet to be determined. It would be ideal to utilize applicable programs. He said it would be preferable to have a permanent easement.

Albright mentioned that NRCS ag land easements may be an option. Musielewicz stated the two most appropriate programs would be the Agricultural Conservation Easement Program (ACEP) or the Grasslands Reserve Program (GRP).

Albright stated the next step would be for the BRRWD to determine retention easement values and the combination of potential Federal and State programs. Albright suggested the possibility of enrolling some easements in the Reinvest in Minnesota (RIM) Program since these rates would be based on individual townships. The RIM Program would also apply to non-crop land areas. Albright said easement values could also be based on county market values or land appraisals, completed in the same manner as the Wetland Reserve Program (WRP). Albright asked if the WRP only pays for cropland. Musielewicz explained that it pays for both crop and non-crop areas. He stated that a 6:1 ratio would apply.

Don Schultz, DNR, asked if the shaded areas on the map represents the required buffer strips. Jones stated not necessarily. Albright explained this area was based on a model for a proposed 10-year flood event on the channel. Albright said the required 50' buffers would be placed in areas where there is less buffer required because of topography, etc.

Aigner asked if the bufferstrip boundary would be re-aligned in areas where it is irregular in shape, like in Section 15, Barnesville Township. Jones stated we would be working with landowners to modify this line to fit better with their farming practices.

Albright stated it is important for the BRRWD to identify a secure source of funding for these types of project. Waller suggested the BRRWD be proactive by asking for a program to support funding for channel restoration projects. Albright mentioned one source of funding could be from the Red River Watershed Management Board (RRWMB). The BRRWD would have to increase their tax levy in order to join this Board. The Watershed District could then be eligible for funding based on the RRWMB's STAR Value calculations. Concerns with being RRWMB members include the need to increase landowner's taxes and the possibility of not receiving our share of the funds back.

Wetlands Reserve Program. Musielewicz informed the group that Alice Klink has relocated to Ohio. Musielewicz stated that there has been little progress with the WRP at this time. He mentioned that Minnesota received \$4.5 million dollars under the Red River Basin Initiative for the 2016 Environmental Quality Incentives Program (EQIP). He explained the EQIP scoring deadline was 11/20/15. The NRCS is now evaluating applicant eligibility. The NRCS will rank and score "high priority" applicants. However, the Red River Basin Initiative may ask the NRCS to rank and score "medium priority" applicants as well. He stated a high priority application in the Red River Basin is one that has a drainage water management (DWM) associated with it or has flood storage. He mentioned the majority of the water sediment control basins and grade stabilization projects in Becker County are "medium priority" projects. Albright re-iterated the EQIP signup ended Friday, November 20, 2015 and that the NRCS is currently ranking and scoring the applications to ensure they meet eligibility requirements. Albright asked Musielewicz if he knew when the next signup might be. Musielewicz stated that signup is continuous, but he does not know when the 2017 application deadline will be. He mentioned that NRCS State Conservationist Cathee Pullman is trying to set an earlier deadline to allow the NRCS more time for planning. Musielewicz said there has been \$21.2 million awarded to Red River Basin projects during the fiscal years of 2011-2015. To date, Minnesota has been awarded approximately \$12.5 million of that funding. Musielewicz stated that additional funding has been granted from the Clean Water Legacy (CWL) for certain projects in Becker County. He also noted that the Becker SWCD has offered to fund approximately 90% of project costs for any water and sediment control basins and grade stabilization projects completed, if the landowner implements all the best management practices (bmps) needed for the project. Some bmps that may be applied include buffer strips, tillage practices, and treating all concentrated flow erosion. The goal is to give the landowner an incentive to implement a resource management plan to attempt to reduce erosion from that parcel. The District would also assist with funding for the installation of any required buffer strips. The NRCS would proceed with progressive planning if the landowner was not interested in bmp implementation. The landowner would still receive funding from EQIP, but they would not qualify for any additional state funding. Albright asked if approximately 50-60% of project costs are covered with EQIP. Musielewicz confirmed that was correct.

Van Amburg mentioned that EQIP was a potential source of funding for the Wolverton Creek project. He asked if a conservation plan was required prior to signing up. Musielewicz said a plan is needed for the practice itself. Van Amburg stated that the landowners involved with this project thought their entire farm needed to be included in the conservation plan in order to qualify for EQIP. Musielewicz thought that might be the case if the Conservation Stewardship Program (CSP) was used, but the CSP would not be used in this situation. Musielewicz stated he understood how landowners might have misinterpreted the EQIP rules. He stated it was possible to obtain EQIP funding through the Minnesota Agricultural Water Quality Certification Program (MAWQCP). Musielewicz explained in this situation the landowners would have to have an evaluation and certification of all of their crop acreage in order to get the EQIP funding for additional farm enhancements. BRRWD Manager

Anderson asked if land in North Dakota needs to be evaluated as well, if a landowner has land in both Minnesota and North Dakota. Musielewicz stated that they would not.

South Branch of the Buffalo River. Jones and Eskro presented a map showing the potential projects on the Upper South Branch of the Buffalo River. At the 09/10/15 PT meeting, Jones had discussed channel restoration and setback levees in Sections 32 and 33, Atherton Township, Wilkin County, and Sections 5 and 6, Manston Township, Wilkin County, beginning at Trunk Highway (T.H.) No. 9 and continuing downstream to Wilkin County Road (C.R.) No. 30. Jones investigated the potential benefits of continuing the setback levees downstream to the Wilkin-Clay County line. He stated all three components: channel cleanout, set back levees and retention, would need to be used in order to show a benefit in extending the project to the county line. Eskro stated at the Wilkin-Clay County line there is a 10% peak flow reduction and 15% volume reduction, if all three components are applied to the project. He explained that setback levees are not necessary in Sections 19 and 30, along Deerhorn Creek due to the ground elevation already being above the 100-year floodplain. The setback levees range from 0' to 5' for the length of the project. This elevation protects the 100-year floodplain plus an additional 3' of free board.

Someone asked if the flows are based on the current impaired sediment status of the channel. Jones stated the peak flow and reduction data presented reflects all project features being incorporated and breakouts prevented.

Using the overhead monitors, Eskro, displayed a map he distributed to the group and explained the channel restoration and the possible retention components along the South Branch of the Buffalo River. He noted an area of importance involving the Haick/Peppel Wetland near the inlet of the retention site. The new drainage ditch needs to be offset 250' from the wetland to minimize lateral effects on the wetland. The South Branch alignment will need to meander south, keeping its sinuosity, in order to decrease impacts on the channel geomorphology. Eskro explained the retention site will be constructed through what is currently the river channel. This will allow the diversion inlet channel to flow into the retention site without having lateral effects on the wetland.

There are two building sites currently in the proposed retention area. Jones said it might be possible to work around the building site on the north side of the retention site, but it would be difficult to work around the second farmstead in Section 32, Atherton Township, Wilkin County.

Anderson stated that he farms approximately one third of the land in this area, and there is good possibility for it to be established as a retention area along with wildlife habitat.

Aigner stated that during a conversation with a BWSR employee, he was informed that Lessard-Sams Outdoor Heritage Council (LSOHC) might be a source of funding for projects incorporating the re-meandering of a channel. He also asked if it would be possible to use Sections 9, 10, 11, and 12, Manston Township, to re-meander the river channel. Aigner mentioned that landowners have also questioned why Sections 10, 11, and 12, Manston Township, are drained so well when there is very little cropland in this area, and why water is not flowing in the original river channel. He mentioned that local farmers also questioned the purpose of Wilkin C.D. No. 44, which runs through this area. Albright gave a brief history of C.D. No. 44. He stated this ditch was originally established as Judicial Ditch (J.D.) No. 3 in the late 1800s. It currently flows directly west through the Wildlife Management Area (WMA). Albright stated C.D. No. 44 has been a low maintenance ditch. He also noted that most of the land surrounding this ditch has now been entered into various permanent conservation programs. The group discussed in depth possible opportunities that could be applied to these Sections. Albright re-stated part of Aigner's question that if a more comprehensive project was constructed to re-meander the channel, restoring it to the old South Branch of the Buffalo River, would LSOHC allow more funding for this project? Aigner responded that it would be worth addressing with LSOHC based on the information he obtained from John Jaschke.

Aigner also mentioned the new buffer strip requirements may also help secure project funding. The group continued to discuss in depth the current conditions and possibilities of re-meandering the channel within Sections 10, 11, and 12, Manston Township. Jones will look into this possibility for the next PT meeting. Aigner felt project possibilities in this area had to be explored, before asking downstream landowners to use agricultural lands for project features.

Stony Creek Comprehensive Project. Jones met last week with Minnesota Department of Transportation (MNDOT) regarding their requirements for installing a new culvert through Interstate-94 (I-94), and they indicated they were willing to work with the BRRWD on this project feature, but they are concerned about their potential project assessment. Rud stated they are waiting for a response from the DNR Dam Safety Office regarding the dam classification.

Rud explained the components of the project which includes construction of setback levees along Stony Creek/C.D. No. 31, creating an approximately 200'-250' corridor where the river can meander. Rud explained there would be an inlet diversion structure, such as stop logs, which will allow more water to flow into the retention site during spring runoff. He stated the retention site inlet was designed further upstream in order to achieve better flood control. Jones explained that the basin in this area is deeper which allows for more efficient storage. There will be approximately 7,000 acre-feet (ac.-ft.) of gated storage. He also mentioned that an application for the Multipurpose Drainage Management Grant through the BWSR was unsuccessful.

Rud continued to give an in depth update on their project design and model results. Jones stated that if the structure breached, it would create the same flood impact as what already exists in the downstream locations for the 100-year event.

Albright commented that the landowners are willing to work with the BRRWD once we establish the easement values. Albright brought up the topic of RRWMB membership in regards to the Stony Creek project. He suggested that HEI could evaluate two different scenarios for this project: short term springtime flood storage vs. long-term flood storage to see how the project would rank according to the RRWMB's "Star Value Method" calculations in terms of contributions to the main stem of the Red River. Albright pointed out that if the BRRWD is going to consider RRWMB membership, the Stony Creek project should be designed to maximize the highest Star Value rating to bring in the most potential RRWMB funding. Waller mentioned funding could be available through the Targeting Watersheds Program, which has a total of \$18.75 million available. Applications will be accepted beginning February 1, 2016 and ends March 9, 2016.

Hawley-Buffalo River Restoration. The DNR notified the BRRWD that they had funding available from the LSOHC, which could be used for Phase II, which had to be spent by 06/30/16. Jones reported that Phase II of the project was bid and construction began on 11/16/15. Rud explained there was a design modification applied to avoid relocating a bridge within the Hawley Golf Course. The revised design achieves the same channeling benefits. He said straight channel sections will contain rock riffles to help direct water to the center of the channel, and erosion control structures (wood tow debris) will be placed on the outside channel bends. The project is nearing completion with the erosion control blankets and native grass seeding to be completed on 12/11/15. Jones mentioned there will be a small amount of clean up performed in the spring of 2016. Albright mentioned that we had an ideal fall to complete this project. He stated it worked well since conditions required the funding to be used by 06/30/16.

Manston Slough Restoration. Albright reported that the stop logs will be in place for next spring's runoff. He proposed scheduling a meeting with the agency partners sometime during the spring runoff to evaluate

the project features. Aigner asked Albright if he was surprised at how dry it was on the north side of C.R. No. 26 this summer. Albright commented that it has been a dry year overall.

Oakport Flood Mitigation. The BRRWD received a \$5.53 million grant to complete Phase 4. Albright reported the contract was awarded to RJ Zavoral and Sons, Inc. The contractor will begin construction next spring, as soon as weather permits. The proposed completion date is 11/01/16.

Wolverton Creek/Comstock Coulee. Albright reported the application for funding through LSOHC was unsuccessful. Jones said Larry Puchalski, Project Manager, COE, requested additional information pertaining to the projects' wetland impacts in order to complete a general permit.

Albright suggested that the BRRWD Board should start working on setting up the watershed management district (wmd) to provide funding for the local share of the project costs. He thought we should give the Phase I landowners the maps showing which properties will be included in the project area and then encourage them to submit an EQIP application to the NRCS.

Georgetown Levee. Albright reported the project has been completed. He mentioned that the DNR approved an amendment to their grant that adds \$109,000 to cover the final costs to close out the project, which will expire on 03/31/16 to be sure all bills are processed.

COE F-M Diversion Authority. A public informational meeting was held to review the Draft Environmental Impact Statement (DEIS) on 10/14/15, at the Courtyard by Marriott, Moorhead, MN. The comment period ended on November 1, 2015. The DA is in the process of responding to the public comments in accordance with the EIS process. The final EIS will be sent out after the responses have been completed. Albright mentioned the final EIS will have a final review for certain items.

Albright informed the group that there is a meeting scheduled on Tuesday, December 15, 2015 at 11:30 in the Fargo City Commission room to bring all entities together to review the 2016 proposed budget and possibly a new cost estimate for the entire project.

Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategy (WRAPS). Tara Mercil, MPCA, stated a new project manager has been assigned to the Buffalo River WRAPS/TMDL Project. She reported that the MPCA is working on the responses to comments received regarding the draft TMDL. The expected completion date is within the next several months.

Mercil reported that the Upper Red River draft TMDL/WRAPS has been prepared. There is a meeting scheduled for Monday, December 14, 2015, at the BRRWD office to meet with the local watershed managers regarding the bmp implementation table. The public outreach meeting is tentatively scheduled for Thursday, January 7, 2015, at 1:30 PM at the BRRWD Office. The expected completion date for this project is 06/30/16.

Otter Tail River Restoration. Albright reported that at the Lower Otter Tail Meeting held on Tuesday, December 8, 2015, the COE representatives suggested the BRRWD submit a resolution letter to the COE, asking them to conduct a study for a possible Section 1135 Habitat Restoration project to evaluate the section of the Otter Tail River that the COE channelized and straightened in the 1950s and to consider developing an ecosystem restoration project. Albright stated the next step will be to schedule an informational landowner meeting in January or February.

Albright informed the group that the Wilkin SWCD's application for a BWSR grant in the amount of \$203,000 was approved. The Wilkin SWCD also has a couple more applicable grants available for the

Otter Tail River Project. The BWSR funding will match the Environmental Protection Agency (EPA) grant for \$242,000.

Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE). Albright and Jones plan to have the new RWMP completed for review at the January 2016 BWSR Executive Board meeting. Following this meeting, we will distribute the Plan to various agencies for a 60-day review. The next steps will be to hold the Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC) meetings.

Activities Update. Albright distributed a copy of the 11/09/15 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 November 1, 2017, and all of the County ditches buffered by November 1, 2018. Albright stated the BRRWD plans to meet with local SWCD this winter to discuss a timeline regarding installation of the required buffer strips.

RRWMB Membership. One of the BRRWD's goals is to find a source of long term funding for retention projects. A good source could be from the RRWMB, if we became a member. Albright mentioned the pros/cons of being a member that were discussed earlier during today's meeting. RRWMB membership will be discussed further at the 12/28/15 regular BRRWD meeting.

Next Meeting. The next BRRWD Meditation PT meeting is tentatively scheduled for Thursday, January 28, 2016 at 1:30 PM, in the Barnesville office.

Adjournment. There being no further business to come before the group, Albright adjourned the meeting at 4:20 PM.

Respectfully Prepared and Submitted by

Bruce E. Albright, BRRWD Administrator