

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

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## **MEDIATION PROJECT TEAM MINUTES**

December 15, 2016

The Buffalo-Red River Watershed District (BRRWD) Mediation Project Team (PT) held a meeting on Thursday, December 15, 2016, at 1:30 PM at the BRRWD office, Barnesville, MN.

Attending were: Gerald L. Van Amburg, Mark T. Anderson, and Peter V. Fjestad, BRRWD Managers; Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, Ted Rud, Engineer, and Thomas Eskro, Engineer, Houston Engineering, Inc. (HEI); Brian Winter, Program Director, The Nature Conservancy (TNC); Craig Jarnot, Biologist, Army Corp of Engineers (COE); Mike Oehler, Minnesota Department of Natural Resources (DNR) Wildlife, Fergus Falls; Don Schultz, Area Wildlife Manager, DNR; Mandy Erickson, Fisheries, DNR; Rodger T. Hemphill, Area Hydrologist, DNR; Lynn Foss, Clay Soil and Water Conservation District (SWCD); Gabe Foltz, Clay SWCD; Anthony Nelson, Pheasants Forever (PF) and Clay SWCD; Pete Waller, Board Conservationist, Minnesota Board of Water and Soil Resources (BWSR); Jim Haick, Landowner; Shawn May, United States Fish and Wildlife Services (USFWS) and Detroit Lakes Wetland Management District (WMD); and Ross Aigner, Landowner/Wilkin SWCD.

Absent were: Troy E. Larson, Jay A. Leitch, Catherine L. Affield, and John E. Hanson, BRRWD Managers; Larry Martin, USFWS/Fergus Falls WMD; Edward J. Musielewicz, District Conservationist, Natural Resource Conservation Services (NRCS); Peter Mead, Becker SWCD; 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, COE; Evan Ingebrigtsen, Project Manager, Bemidji Field Office, COE; Keith Mykleseth, Assistant Regional Manager, Division of Ecological and Water Resources, DNR; John Lindstrom, Biologist, Ducks Unlimited (DU); Don Bajumpaa, District Manager, Wilkin County SWCD; Jim Ziegler, Minnesota Pollution Control Agency (MPCA); Julie Aadland, Area Hydrologist, DNR; Amanda Hillman, Restoration Coordinator, DNR; Keith Weston, Red River Basin Coordinator/NRCS; Chad Raitz, Fergus Falls WMD/USFWS; Nicholas Brown, DNR Wildlife; and Robert A. Zimmerman, Engineer, City of Moorhead.

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 circulated a sign-up sheet to record attendance.

Albright announced that Craig Jarnot, COE and Gabe Foltz, Clay SWCD are new members attending today's meeting. He asked that each give a brief introduction of themselves.

Jarnot explained that a position was recently developed within the COE to focus on flood damage reduction (fdr) projects as a result of the Federal Farm Bill and the PL 566 Small Watershed program. He noted that he will likely be the project manager for the majority of fdr projects in the Red River Basin. The COE may occasionally require a second project manager mainly for the Section 404 permitting process. Jarnot said he will also be assisting the Watershed Districts with the Concurrence Points process.

Foltz stated that he was hired full time in September to work mainly on the Buffer program. He explained that he will eventually be working with/as the County Agricultural Inspector. Albright briefly explained the Buffer Law. He stated that the BWSR will need to determine who will be enforcing the buffer law by March 31, 2017. BWSR may be required to take authority if an agreement cannot be reached at the County level. He explained there are three components to the buffer law: 1. A 50' buffer will need to be installed along all protected waters and/or wetlands with shore land classification by November 1, 2017, which is the landowner's responsibility. 2. County ditch systems need a one rod (16.5') grassed buffer installed by November 1, 2018. The BRRWD is currently working on this. 3. The SWCD is responsible for developing a map indicating other areas/waters where they think it is necessary to establish buffers. Waller clarified that other waters is a recommendation, not a requirement.

**Business brought before the group included:**

**Meeting Minutes.** Draft minutes for the 10/13/16 Mediation PT meeting were distributed with the meeting notice. **Motion** by Anderson to approve the minutes. **Seconded** by Van Amburg. **Approved.**

**Barnesville Township Area Drainage Study.** Albright announced that HEI is currently working on Concurrence Point No. 1. He briefly listed the Concurrence Points as follows: Project Purpose and Need, Alternatives, Identification of Selected Alternative(s) with the COE determining the Least Environmentally Damaging Practicable Alternative (LEDPA), and Design Phase Impact Minimization. Eskro explained that he has drafted Concurrence Point No. 1, which is the Project Purpose and Need. The need focused on the documented problems within the watershed/sub-watershed, and the purpose is the goals for the overall project. He said that flood issues have been documented through the Federal Emergency Management Agency (FEMA) during the 2009, 2010, and 2011 floods. A Clay County landowner requested financial help through FEMA due to damages caused to his property during these floods. Eskro also noted that there are natural resource degradation issues that have been documented in the Watershed's management plan as well as through the water quality testing performed by the MPCA and others. The MPCA declared Whisky Creek impaired for turbidity and e-coli.

Eskro displayed a map on the overhead screens while describing the project location. Whisky Creek runs west through Barnesville and eventually turns into Clay C.D. No. 34. It then joins with the South Tributary approximately one mile upstream of the juncture of Whisky Creek and the South Branch of the Buffalo River.

Eskro commented that the goals of a local project should be consistent with goals of past regional studies. His examples included the RRBC's Long Term Flooding Solutions (LTFS) study to reduce flooding basin wide on the Red River of the North. The goal of the LTFS is to decrease peak flows by 20%. Several types of models have been completed, and the results show what needs to be completed in each watershed in order to reach the 20% goal. Each watershed performed distributed detention storage studies to determine if it is possible to construct on/off channel impoundments, and to identify locations that could help achieve the set goals. Eskro's Concurrence Point No. 1, ties back to these past studies with the goals of this sub-watershed being consistent with the overall goals of reducing peak flows on the Buffalo River and the Red River. However, the goals of this project also include providing 10-year protection to agricultural land and 100-year protection to farmsteads by solving problems on Whisky Creek and the South Tributary. These goals make this a local need that also creates benefits on a regional basis.

Eskro has been working with Jarnot on the Purpose and Need document, and he feels there is a good draft created that could be formally submitted. He said the next step is to identify and draft all the fdr alternatives into a formal report. Eskro commented that any project would likely have multiple phases to address multiple issues within the sub-watershed. There may be several project features used to meet the goals of the sub-watershed. Some examples given included off channel impoundment, stream restoration, pulling back existing levees, etc. Albright commented that the BRRWD is completing the Concurrence Point now, because there could be a future need for a 404 permit from the COE. This process could also help to determine other potential issues earlier on.

Anderson questioned if there were still pipeline issues. Eskro said that Magellan lowered the pipeline south of County Road (C.R.) No. 2 this summer. Eskro said the pipeline company was going to continue on the other side of a wetland in Section 28, Barnesville Township during their last conversation. Eskro needs to follow up with Magellan to see if it was completed this past fall.

**Upper South Branch of the Buffalo River.** Jones explained that the BRRWD submitted an application for funding through the Clean Water Fund (CWF) in order to complete additional restoration work on the N½, Section 10, Manston Township. However, the Watershed District did not receive this funding. Albright mentioned that there is a balance of approximately \$200,000 available from an existing South Branch grant.

Albright noted that the Deutsch property in Section 11, Manston Township is potentially going to be enrolled into Reinvest in Minnesota (RIM), if BWSR can secure the mineral rights. Albright commented that BWSR will not take an easement unless they have the mineral rights. Haick questioned what the process would be if the mineral rights were not secured. Albright stated we would have to work directly with Deutsch. A bigger issue would be that the expenses for the proposed work in Section 11 would not have access to any BWSR funding, creating a need to raise funds elsewhere.

Albright and Fjestad plan to update the Rogelstads regarding the proposed project status. Albright said that he discussed the status of the project with Dave Yaggie when he was in the office recently. He explained that Yaggie is affected by breakout flows further east. Past flooding caused a large gully erosion through Yaggie's field, that he has repaired to the best of his ability following the 2009 spring flood.

Aigner questioned whose project the recent culvert removals were. Albright said it was the BRRWD's project. He explained that the west end had culverts through the road that were part of an old Judicial Ditch. The culverts were too short causing a road hazard. Manston Township questioned if it was necessary to replace the culverts or remove them. Albright spoke with neighboring landowners and determined the culverts weren't really serving a purpose, so they were removed. Albright noted that hearings will eventually be held to abandon part of the ditch on the north side of the road.

Albright noted that the BRRWD is evaluating options to enroll project lands into applicable programs. He commented that there are several unknown factors at this time. He thought that a general COE permit would be required eventually, but there should not be a need for a full Section 404 permit. Jarnot informed Albright that he should apply for a permit sooner than later. He said there still could be some issues even with a general permit. He explained that the COE has to perform a 106 Cultural Resources property review for all actions/permits. He suggested submitting a pre-application for review even if the project start date is several months/years out.

Albright questioned when the LSOHC applications would be due. Jones replied that they are due in May 2017.

Albright commented that there is a half section of TNC lands located in Section 12, Manston Township. He questioned whether or not the historic river channel came across this area. Winter stated there is no sign of the river channel flowing through here, and that TNC does not want to allow a meandering channel to go through their property. He said it will be best to go around the TNC lands.

Haick questioned what the process is once construction begins. Albright explained that the project would begin at Trunk Highway (T.H.) No. 9 and the work would continue upstream. He said the steps to start a project include identifying the project features, developing a cost estimate, applying for funding, working with area partners to ensure all the necessary permits are in place, advertising for bids, signing easements with the needed landowners, opening bids, and finally, the contractor can begin work.

The group continued to discuss options for the area including the possibility of abandoning a section of C.D. No. 40 to the north.

**Stony Creek Comprehensive Project.** Rud briefly summarized that the Stony Creek Project is another multi-component project located just north of the Barnesville Township Drainage Project. Stony Creek is impaired for e-coli, turbidity and dissolved oxygen (DO). Rud reported that HEI continues working with DNR Dam Safety regarding the dam classification, and that they have submitted additional breach models as requested. Rud said that DNR Dam Safety is currently considering a medium hazard dam classification based off the last models submitted.

Rud explained some potential project components could include pulling back set back levees along the existing channel to provide more of a floodplain and/or constructing an embankment to create a detention site. The potential plan is to direct water from Stony Creek via a diversion channel into the retention area. There would be new box culverts installed through Interstate 94 (I-94), that would direct water into a channel flowing into the impoundment site. Dam Safety's concern is what would happen if a breach event occurred. Rud stated that HEI has evaluated four scenarios from all different directions to determine where flooding might occur.

Rud presented the breach models on the overhead screens as he discussed the results. He explained that they are evaluating the depth times velocity (DV) value. A DV value greater than or equal to 15 has the ability to wash buildings off their foundations, and a DV value greater than 7 is classified as high hazard or dangerous to an adult walking through the water. Any areas that would have less than two feet of water or a DV value less than 7 would require no extra structural protection.

Rud explained the results of the recent models that show two downstream farmsteads would require some extra protection. Ring dikes could be constructed, which would provide protection plus two feet of free board above the worst case breach event for these locations. He also noted there is a warehouse and a house in Section 8, Barnesville Township, that would require some additional protection. There are a couple of properties in Section 32, that could be completely inundated, even in today's 100-year flood event without the proposed project.

Rud announced that he has started working on the Concurrence Points for this project, and he felt they will be similar to the ones being drafted for the Barnesville Township Drainage Project.

Albright gave a brief history and summarized the project components regarding Stony Creek. He explained that Stony Creek, also referred to as C.D. No. 31, was channelized in the early 1900s. He said one project component would include stream restoration along C.D. No. 31. He said the current condition of the ditch is poor, with it being approximately three-quarters full of sediment. Second, the current benefit area of C.D. No. 31 currently lies within about a four square mile area, even though the drainage area extends east of Rollag. Albright said there should be a redetermination of benefits to bring in other areas that are also utilizing this ditch as an outlet. Albright also informed the group that it is possible the inlet channel will be relocated and would come through I-94 at a different location. The idea has been discussed with MNDOT, and they think this could possibly work. Relocating the inlet would add a large expense to the overall project costs.

Albright noted there has been a new development regarding landowner Chuck Anderson. He said that Anderson operates about three-fourths of the land where the impoundment site would be located. Anderson is very interested in a new program called Working Lands Watershed Restoration Program. Waller explained that he is not sure how the program will work yet. He commented that the idea is to have some other function for the land rather than just setting it aside within the impoundment area.

**Wetland Reserve Program (WRP)/Wetland Reserve Enhancement (WRE).** Albright noted that the BRRWD did not receive any funding through the Regional Conservation Partnership Program (RCPP). Albright announced that Keith Weston, Red River Basin Commission/NRCS will be retiring on January 2, 2017. Weston has played a key role in several WRP/WRE projects. Waller said John Frie, NRCS, will be temporarily filling in from the Fergus Falls office. He noted that Congressman Kramer and Congressman Peterson both feel there is still a lot of fdr work that can be completed in the area, and they would like projects to continue.

**Manston Slough Restoration.** The Manston Slough Restoration was completed in 2015, but we did not get to see any water retention due to dry weather conditions. The rains from July 2016 filled the wetland pool to the operating elevation of 972'. Albright explained that Caroline Clarin, NRCS, requested to have the stop logs removed to lower the pool elevation last fall, so their contractor could complete some wetland restorations and tree removals around the perimeter on their Wetland Restoration Program (WRP) lands. Their work includes tree removal and wetland restorations on about 1,000 acres. In the spring when conditions permit, the BRRWD will clean the outlet of the downstream project, Wilkin C.D. No. 13-Lateral.

Winters questioned if a permit was required for straightening a meandering channel located in the northeast corner (Arnhalt) of the project area. Albright explained that a permit was approved with conditions through the BRRWD permitting process.

**Oakport Flood Mitigation.** Albright stated the contractor, R.J. Zavoral and Sons, will complete some final clean up in the spring. The next step will include starting the process to certify the levees through the Federal Emergency Management Agency (FEMA). The landowners will not be required to carry flood insurance once the levee is certified.

Albright announced that the BRRWD is tentatively planning to hold a dedication ceremony in the spring to recognize the Agencies/Legislators that have partnered with the BRRWD on this project over the last 20 years.

**Wolverton Creek/Comstock Coulee.** Jones noted that the BRRWD continues to work with the NRCS to find ways that the Wetland Reserve Enhancement (WRE) program could apply to this project. Albright commented that Todd Blilie purchased Don Hoppe's land/building site. He said that Blilie would like to sell the building site to the Watershed District. Blilie suggested to Albright that Krupichs' could be moved out of Section 4, Wolverton Township, since they cannot get to their house when it floods, and onto this building site in order to have access to their home during flooding.

Jones stated that Conservation Reserve Enhancement Program (CREP) III may be another potential program for easements. BWSR is still in the process of implementing this program. Van Amburg thought there was an agreement between the lawyers for state and federal governments.

**Georgetown Levee.** Albright informed the group that the BRRWD is working with Clay County Commissioner Kevin Campbell on possible permanent road closures. Six road raises and two railroad track closures would be required to get the dike certified: Two are on T.H. No. 75, one on C.R. No. 34, one on C.R. No. 100, and a Texas crossing (Mason Street). Commissioner Campbell plans to propose to the Fargo-Moorhead Diversion Authority (DA) for the roads to be raised permanently, and for this expense to be covered by the DA, since their project design for the F-M Diversion places their outlet near Georgetown.

**F-M Diversion.** The COE was going to hold a meeting last Tuesday with the Farm Bureau and Farmers Union. Aigner explained that the meeting was being held to discuss how the litigation and condemnation processes would work, however, this meeting was cancelled due to in-weather.

Albright stated that the COE is moving forward with the Diversion project. He said they have opened bids and have a contractor hired to start on the staging area inlet. Albright thought that the land for the inlet has not been acquired yet. The COE is hoping to use the "quick take" procedure to acquire property for right-of-way (R/W). This procedure allows the government entity to take immediate possession of the property upon offering to buy it and depositing the amount of the purchase offer with the District Court in the county where the property is located.

#### **Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategies (WRAPS).**

Jones saw that the Buffalo River WRAPS was listed as approved while he was on the MPCA's website. He did not see anything on the Buffalo River TMDL, though. Albright said that we also do not know the status of the Upper Red TMDL or WRAPS at this time.

We also do not know the status of the Otter Tail River TMDL. However, this study area is mainly located upstream of the Orwell Dam and does not really affect the BRRWD.

**Lower Otter Tail River Restoration (LOTR).** Eskro gave a brief summary of the power point presentation from a meeting held on December 9, 2016. He explained that in the 1950s, the COE wanted to provide 10-year flood protection to the farmland. Their project channelized 18 miles of the river channel and enlarged the channel bottom, decreasing the river's length to approximately 11 miles in this stretch. HEI has obtained the plans from this COE project which will be used as a baseline for changes that have occurred over time.

The TMDL results show there are issues with the river including turbidity, and the current vertical side slopes. This initiated the completion of a survey starting at Orwell Dam and extending to the

Breckenridge Diversion Channel. The survey consisted of two components: a sonar boat collecting river channel data and a conventional GPS survey for the outside cross sections.

Eskro has been comparing the new survey results with the COE as-built plans of 1950. He explained that there is approximately 4'-5' of downcutting on the upstream end of the survey area, and there is approximately 8' of additional sediment in Lake Breckenridge. He noted there has been little change in the reaches upstream and downstream of the study area. Eskro displayed some cross section comparisons throughout the survey area. The elevation differences between the oxbows and river channel bottom have been compared to determine what needs to be done to get water flowing into the oxbows in an effort to add length back to the channel. There is an average reconnection elevation difference of approximately 1.5' to 7' for the oxbows studied.

Eskro explained that Ben Cox, COE, is concurrently completing a Section 1135 workplan and contract. Section 1135 is a COE program where they come back to look at carrying out environmental restorations on their past projects. He noted that we will be working together with the COE to minimize duplication of any work.

Albright commented that approximately eighteen months ago it was suggested to evaluate the LOTR. A 319 EPA grant in the amount of \$242,000 was awarded to begin the study work. This was supplemented with a BWSR grant in the amount of nearly \$200,000. This fall the COE informed the BRRWD that we were selected to receive funding through their Section 1135 program. The COE will pay the first \$100,000 of this feasibility study. Any expense over that amount would be split equally between the COE and the BRRWD. Albright explained that the next steps include a meeting in early January with the COE and additional partners to discuss the Section 1135 process. He noted that coordination is key to make everything work. Once the COE meeting has been completed, the next step would be to hold a landowner meeting to keep them informed of the project status.

Aigner questioned what the Archaeological survey results were for the Etten site, repaired this past fall. Jones explained that there were a few things found, but upon further evaluation, it was determined there was nothing of significance. Albright noted that seven species of mussels were identified within the study area and that they had been safely relocated. Aigner also questioned if a 50' buffer was implemented from the edge of the new channel. Jones confirmed that there was a buffer installed that was actually closer to 100' wide. Winter asked who is responsible for monitoring the buffers. Albright said that the Wilkin SWCD will have a contract with the landowners, and they will be responsible for monitoring these buffers. Waller explained this contract is separate from the Buffer Law, and that the contract the SWCD has with landowners states this land will be set aside for at least ten years with regular inspections being performed by the SWCD. He said the SWCD will be required to do the monitoring and reporting of non-compliant landowners regarding the Buffer Law, however, a separate entity will be required to enforce the law. Aigner added that there is a proposed fine of \$500/day/parcel if the buffers are not seeded by a specified date under the new Buffer Law.

**Whiskey Creek Enhancement.** Albright commented that the overall project plan is to complete about twenty miles of channel restoration. He explained that funding to begin this project was received through a BWSR CWF grant attained through the Wilkin County Environmental Office. He stated HEI has been working to be obtain survey data along the approximately 20 miles of channel. Eskro said surveying some sections has been difficult due to the thick tree growth. Jones said they will take the data they have and begin evaluating it. He stated they may be able to use some data from MNDOT for their new T.H. No. 75 project by Kent.

**Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE).**

Albright stated that the BRRWD is considering completing the One Watershed One Plan (1W1P) process. Wilkin County needs to update their water plan by the end of 2018. They suggested that the BRRWD complete the 1W1P now, instead of repeating the process in the near future. Albright said the BRRWD was recently awarded funding to start the map for the entire watershed, which is part of the 1W1P process. The BRRWD is considering applying for additional funding through BWSR who will be selecting more target watersheds to begin the process. Otter Tail County supports the 1W1P and has already approved resolutions to move forward with the process. The BRRWD is waiting for approval to move forward from the Wilkin County Commissioners. He said we still need to discuss this with Clay and Becker Counties to see what they would like to do.

Albright said the next step would be to hold a meeting with the Counties and BWSR representatives to discuss the 1W1P process early in the new year. He stated that the 1W1P takes approximately 18-24 months to complete.

**Activities Update.** A copy of the 11/21/16 BRRWD press release was distributed. Albright announced that Jay Leitch has filled the vacancy on the BRRWD Board as a Clay County representative. He explained that Breanna Kobiela, BRRWD Manager, Clay County, resigned from her position because she moved to Fargo. Kobiela had been a Manager with the BRRWD since 2009.

**Red River Watershed Management Board (RRWMB).** Albright informed the group that the BRRWD held meetings with the area landowners last spring. He said that for 2017, the BRRWD will be seeking the County's approval on petitions to bring in operating funds for the Watershed District. He announced that the proposed 2017 budget is similar to the 2016 budget.

**Next Meeting.** The next BRRWD Meditation PT meeting is tentatively scheduled for Thursday, February 9, 2017, at 1:30 PM, in the Barnesville office.

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

Respectfully Prepared and Submitted by

Bruce E. Albright, BRRWD Administrator