

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING March 23, 2015

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, March 23, 2015, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Breanna L. Kobiela, Mark T. Anderson, John E. Hanson, Catherine L. Affield, Troy E. Larson, and Peter V. Fjestad. BRRWD Staff attending included: Erik S. Jones, Engineer; Wade Opsahl, Technician, and Julie Jerger, Resident Senior Administrative Assistant, Houston Engineering, Inc. (HEI), and Attorney Tami Norgard, Vogel Law Firm. Others attending included: Jenny Mongeau, Clay County Commissioner; Lyle Hovland and Stephanie Miranowski, Wilkin County Commissioners; Jared Nordick, Wilkin Soil and Water Conservation District (SWCD) Supervisor; David Morken, Pat Otto, Trana Rogne, Mark Askegaard, Directors, MNDAK Upstream Coalition; and landowners: Jay Nord, Michael Brandt, Darin Brandt, Michael Bice, Ardean Buelmeier, Greg Anderson, Steve Bulik, Kevin Askegaard, Bradley Nelson, Shelley Lewis, Merrill Miranowski, Don Nelson, John Ready, Gerald Zimmerman, Kristi Houska, Marcus Larson, Robert Askegaard, and Charles Anderson.

Chairman Van Amburg called the meeting to order at 7:00 PM. He announced that the proceedings were being recorded to aid in the preparation of the minutes. He noted that Bruce E. Albright, BRRWD Administrator, was ill and wouldn't be able to attend tonight's meeting.

Secretary's Report. The Board reviewed draft minutes for the 03/09/15 regular meeting. **Motion** by Affield to approve the minutes. **Seconded** by Fjestad. **Approved.**

Treasurer's Report. Jerger provided the Board with a brief a financial update. Cash on hand is \$1,673,751.46. Income since the 03/09/15 meeting totaled \$554,951.45. Payments came from the Minch Family LLLP (\$10,000) for their second Project No. 77, Clay County Ditch (C.D.) No. 51-Lateral, petition bond payment and from Wilkin County (\$544,951.45) for the transfer of their ditch systems to the BRRWD in conjunction with the Watershed District Enlargement (WDE) process.

Jerger also briefly reviewed the items included in the Board's meeting materials.

Business brought before the Board included:

Project No. 07, Clay County Ditch No. 39. Landowner Gerald Zimmerman appeared before the Board to discuss his experimental sub-irrigation/tiling water appropriation project in Sections 31 and 32, Morken Township, Clay County. There was a hearing held in 2012 that allowed him to place temporary structures in the ditch (Minnesota Statutes Annotated (M.S.A.) 103E.227) for three years. Zimmerman is working with Xinhua Jia, Ph.D., P.E., Associate Professor, North Dakota State University (NDSU), on a three-year project titled, "Impact of Drainage Water Management on Soil Phosphorus in the Red River of the North Basin", with funding from the Sustainable Agriculture Research and Education (SARE) Program, which is now in the final stages of completion. The BRRWD submitted a 2005 Clean Water Fund (CWF) grant application for work on the ditch system outlet, which did not get funded. Zimmerman plans to approach Natural Resources Conservation Service (NRCS) to apply for funding for the same work (approximately \$60,000-\$70,000), which would include a series of rock drop structures in the last mile of the ditch channel to address downcutting in the ditch bottom. Jones

noted that the structures could be placed to facilitate Zimmerman's water appropriation project. Zimmerman discussed some changes that could improve his sub-irrigation system, which has now been expanded to cover four quarters of land. He has installed and removed the temporary mini-dams that were approved at the 2012 hearing, which have now been used for three years. He would like to replace them with permanent pumping stations. Zimmerman would like to continue his project for another three years. Jones commented that BRRWD ditch repairs could be coordinated with Zimmerman's project, and we could also combine our repairs with his project into another grant application that would benefit both Zimmerman and the ditch system. NDSU will continue water quality monitoring of the site. **Motion** by Anderson to continue to work with Zimmerman regarding his sub-irrigation project on C.D. No. 39 for two more years. **Seconded** by Hanson. Larson brought up the issue of water rights regarding appropriation of water from a public drainage system. Zimmerman noted that he has already obtained a water appropriation permit from the Minnesota Department of Natural Resources (DNR) for his project. Attorney Tami Norgard commented that there could be a challenge from someone downstream claiming that Zimmerman is taking water away from them, but she pointed out that Zimmerman has the right to use a reasonable amount of public waters. Zimmerman explained that he will need approximately 32 million gallons of water to apply 2" of water per quarter. His goal is to apply the water soon enough so that it will be stored in the subsoil in case it's needed later in the growing season. Fjestad thought the Board could approve Zimmerman's request since there has been no downstream landowner complaints yet, and he already has a permit from the DNR to appropriate the water. **Approved**.

Permit No. 15-012, Kurt Krueger. Applicant proposes to clean a road ditch in the NE $\frac{1}{4}$, Section 7, Manston Township, Wilkin County, along County Road (C.R.) No. 182 for approximately 0.75 miles to Wilkin County Ditch (C.D.) No. 13-Lateral with approximately 1' maximum cuts and reset the existing approach culvert along C.R. No. 182 to grade. **Motion** by Anderson to approve Permit No. 15-012, subject to County approval to work within their road right-of-way (r-o-w) and downstream landowner approval. **Seconded** by Fjestad. **Approved**.

Permit No. 15-013, Bruce Yaggie. Applicant proposes to install pattern tiling in the E $\frac{1}{2}$, Section 12, Meadows Township, Wilkin County. Water will be pumped via a lift station to drain west through the middle of the adjacent property via an existing waterway, eventually to C.D. No. 6A. The Managers looked at the LiDAR maps on the overhead monitors and had an extended discussion about the downstream landowner notification process. Jones noted that Yaggie has indicated on his application that he has talked to the downstream landowner. Jared Nordick asked about where the lift station would be located and where the water would drain. Jones explained that the pump would be located in the middle of the section adjacent to the existing waterway. **Motion** by Fjestad to approve Permit No. 15-013, pending receipt of a downstream landowner release form from Russell Henderson. **Seconded** by Anderson. **Approved**.

Permit No. 15-014, George Peters/Cromwell Township. Albright worked with Cromwell Township in 2014 to obtain a DNR permit to work in protected waters to replace two existing culverts in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, Cromwell Township, Clay County, through 220th ST N, with a 58"x 36" dia. x 50' long corrugated metal pipe arch pipe (CMP-A). The CMP-A will be placed at the same location as the existing culverts at the same elevation as required by the DNR permit. **Motion** by Hanson to approve Permit No. 15-014. **Seconded** by Larson. **Approved**.

The Managers discussed the BRRWD's downstream landowner notification process and scope. Jones will follow up on the issue.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. The Board received the proposed Findings and Order via email last week for their review. They also received several pieces of email and documents from both Attorney Zenas Baer and Attorney Roger Minch regarding the Preliminary Findings. Attorney Norgard commented that she has advised the two opposing Attorneys that the Board will not be taking any more testimony regarding this issue. The Board approved the Preliminary Order at their 02/09/15 regular meeting, subject to the preparation of the Findings. The Board discussed the Findings and Order that Albright prepared with Norgard's input. **Motion** by Fjestad to adopt the Preliminary Findings and Order. **Seconded** by Kobiela. **Approved.** Attorney Norgard explained that following a failed appeal of the Project No. 74 Preliminary Findings and Order by Attorney Zenas on behalf of Robert Norby, we now know that this preliminary Order can't be appealed. Opportunity to appeal comes after the Final Hearing is held and the Final Order for the project is adopted.

Project No. 75, Wilkin C.D. No. 31-Lateral. The office mailed easement agreements to the four landowners affected by the project following the last BRRWD meeting. To date, we have received no response.

Project No. 56, Manston Slough Restoration. HEI opened bids for the native grasses seeding today. B&J Landscaping, Elbow Lake, MN was the apparent low bidder with a base bid of \$45,027.30. Jones noted that the most significant cost saving for B&J Landscaping was that they will be able to harvest some Conservation Reserve Program (CRP) acreage for the site mulch. Opsahl noted that B&J Landscaping did a good job that last time they did some work for the BRRWD. **Motion** by Hanson to accept B&J Landscaping's bid for the project's native grass seeding and to forward a contract for their signature. **Seconded** by Affield. **Approved.**

Later in the meeting, Jerger noted that the Manston project was selected as one of the 2015 Finalists for the Minnesota Environmental Initiative (MEI) Award in the Natural Resources category. The Awards Ceremony will be held on May 21, 2015, at the Nicolet Island Pavilion, Minneapolis, MN.

Project No. 49, Oakport Flood Mitigation. Van Amburg commented that we are waiting for the State Legislature's decision on project funding. Bills have been submitted by Representative Ben Lien in the House and by Senator Kent Eken in the Senate for \$17 million, which includes funding for Oakport (\$5.66 million). If the Legislature passes the \$17 million bonding bill, Van Amburg was hopeful that we will be able to get the funding needed to finish the Oakport project in 2015.

Project No. 39, Georgetown Levee. The Board reviewed an update from Attorney Corey Elmer regarding the efforts to obtain modifications to the Greywind mortgage from US Bank. At this point, Greywind is not able to obtain a home loan to pay off his mortgage, but his son might be eligible for a home loan, so that possibility is being explored.

Attorney Norgard suggested that the Board also consider condemnation of the property, and she explained the condemnation process. If the BRRWD decides to approve a resolution of condemnation for the property, it would initiate an entirely new process, and the bank would probably refer the issue to a different division where new staff might be able to take a fresh look at the issue. The first step in the condemnation proceeding would be for the Board to approve a Resolution of Condemnation and to have the old Greywind house appraised. After discussion regarding the actual value of the house vs. the mortgage amount and the condemnation process, **motion** by Anderson to approve a Resolution of Condemnation for the Greywind house, which includes the authorizing an appraisal of the old Greywind house. **Seconded** by Fjestad. **Approved.** Once the homeowner is served with the BRRWD's resolution notice and appraisal, the homeowner has 60 days to review the appraisal and obtain a different appraisal or negotiate with the BRRWD. After the review period, if US Bank still not able to work with the BRRWD on Greywind's loan modification, we could file the condemnation petition with the Courts.

Later in the meeting, the Board discussed the appraisal with Charles Anderson, ARC Appraisals, who said that he has visited with Albright regarding this property, and indicated that he would be available to do the work in the near future.

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). Anderson noted that one of the petitioners is working with Albright and Attorney Norgard on the petition requirements, as the petitioners have had some trouble getting signatures to create a diversion on the County line. Norgard will seek clarification of the process.

Project No. 23, Becker C.D. No. 15 Repair. Albright plans to contact the United States Fish and Wildlife Service (USFWS) regarding the requested repair of the ditch channel starting in the SW¹/₄SE¹/₄, Section 11, Audubon Township. Nanik Construction was hired to repair C.D. No. 15 through the Hamden Slough National Wildlife Refuge (NWR) last fall, but he did not start the work. USFWS is currently in litigation with Nanik regarding his appeal of their decision to cancel his contract and assign their funds to the BRRWD to have the repairs completed. The BRRWD's ditch repairs are on hold until the legal issues regarding the USFWS and their contractor can be resolved. **Tabled.**

Mediation PT. The PT met on 03/19/15, and the next PT meeting has been scheduled for Thursday, May 07, 2015, at 7:00 PM in the BRRWD office.

Barnesville Township Area Drainage. Van Amburg noted that this project was a topic at the 03/19/15 PT meeting. Jones reported that he is getting close to having enough information to share with landowners at a meeting to get feedback from them regarding a number of issues, including existing conditions, channel restoration, retention site locations, and rural residence protection.

Upper South Branch of the Buffalo River Erosion Concerns. Fjestad reported that the PT discussed Carolyn Swenson's proposed project for her property in the NE¹/₄, Section 6, Manston Township, Wilkin County. There are some impediments to using the Environmental Quality Incentives Program (EQIP) funding for the dike installation on Swenson's property because it was enrolled in CRP. Albright will contact the Wilkin County Farm Service Agency (FSA) Committee to discuss possible alternatives for Swenson's CRP contract.

Wolverton Creek/Comstock Coulee. The NRCS will contact Albright regarding their funding criteria for the proposed project in Wilkin County. The 2015 EQIP signup deadline is 04/17/15. Van Amburg thought that the landowners need to have a conservation plan in place to qualify for EQIP. Jones noted that HEI has the maps prepared for the first 6.5 miles of the channel repair, and Fjestad commented that we need to encourage landowners to apply for the EQIP funding for the project on their property. He added that since the DNR permit for the channel work has a completion deadline, the BRRWD has to keep working to complete the project in a timely manner.

Haick/Peppel Wetlands Reserve Program (WRP) Site. Jones reported that the plans have been completed, except for two items. There is a wet area along Trunk Highway (T.H.) No. 9 that could be drained into the retention site. Jones is working with the wetland agencies to consider mitigation for the wetland area. Once conditions permit this spring, soil borings will be completed to help determine where the best locations will be to build the embankments. We will also need to meet with the landowners to discuss the updated plan and what the next steps will be.

Stony Creek Detention. Jones noted that at their meeting on 03/12/15, the City of Fargo referred our funding application to their Technical Committee for review. Anderson commented that this is the first funding application the City has received for retention sites associated with the F-M Diversion project, so they want to be sure they follow the process precisely. Both Managers Anderson and Van Amburg complimented Jones on his project presentation to the City.

At the 03/23/15 meeting, the Board accepted Terracon Consultants Inc.'s estimate of \$17,500-\$19,500 for preliminary geotechnical soil testing for 10 borings throughout the proposed project site. Jones provided the Board with the Terracon contract for signatures.

Revised Watershed Management Plan (RWMP)/WDE. Van Amburg noted that the Minnesota Board of Water and Soil Resources' (BWSR) Northern Committee has a meeting scheduled on April 8, 2015. The BRRWD still needs to schedule Technical Advisory Committee (TAC) and Citizen Advisory Committee (CAC) meetings. The goal is to have the meetings and a draft plan completed as soon as possible, so BWSR can begin their 60-day review period.

To date, Bois de Sioux Watershed District (BDSWD), has not contacted the BRRWD regarding the new proposed boundary petition.

Army Corps of Engineers (COE) F-M Diversion. The Board reviewed proposed revisions for 2015 Diversion Authority (DA) budget (\$137,100,000). The revised budget removed funding for the Oxbow/Hickson/Bakke (OHB) dike, but left in funding for the continuation of flood mitigation work and buyouts within the City of Fargo, funding for the Minnesota DNR's Environmental Impact Statement (EIS), NDSU studies, and hardship case buyouts. Attorney Norgard discussed funding in the budget for the EIS, in-town levee construction, and hardship buyouts. She explained that this version of the 2015 budget was prepared by the DA based on discussions at the BRRWD's 02/09/15 meeting when representatives from the DA attended. The Board had expressed the desire to have the EIS completed before we make a decision about budget approval. Norgard pointed out that the budget has funding needed to complete the EIS, so the Board should consider if they could at least approve the EIS funding in the budget.

Lyle Hovland pointed out that the Richland-Wilkin Joint Powers Authority (JPA) opposes the BRRWD's approval of the 2015 budget. He is also a member of the BRRWD's Advisory Committee, and as such, he expressed his concern about the BRRWD's approval of the 2015 DA Budget prior to the completion of the EIS. He pointed out Minnesota Governor Dayton and DNR officials have stated that any work on the project including dike construction and land acquisitions that advances project construction is illegal until the EIS has been completed. By approving the 2015 Budget, the BRRWD could be violating Minnesota law.

Van Amburg observed that the Board has received a variety of perspectives regarding the legality of the BRRWD approving the 2015 Budget. Fjestad stated that during a conversation he had with Kent Lokkesmoe, Administrator, Management Resources Bureau, DNR, on 03/03/15, Lokkesmoe told him that the BRRWD must not vote on the DA Budget until the EIS has been completed. According to Fjestad, Lokkesmoe added that the BRRWD could approve funding for the DNR's EIS and Fargo in-town projects, but to approve anything more in the 2015 Budget could affect the DNR-BRRWD working relationship. Van Amburg pointed out that the Board is receiving "mixed messages" regarding this issue, and if Lokkesmoe wishes to advise the BRRWD regarding this issue, he should forward his comments to the Board in writing.

Hovland asked the Board if they were familiar with the Amicus Brief filed on 03/12/15 by the Minnesota Attorney General's Office on behalf of the DNR adding their support of the preliminary injunction being sought by the Richland/Wilkin JPA. Norgard noted that this information was forwarded to the Managers.

Van Amburg noted that the Board also received a Litigation Status Report from Attorney Erik Johnson, who represents the DA. Norgard pointed out that the City of Moorhead and Clay County have already approved the 2015 Budget. She noted that DNR's position regarding the interpretation of the illegality of approving a project prior to an EIS might have been construed in different ways.

Anderson asked when the Richland-Wilkin JPA injunction lawsuit decision is expected. Hovland thought the court decision would be released after the 03/27/15 court date. The preliminary EIS could be ready by August 2015. The Final EIS could take as long as November 2015 or spring 2016. **Motion** by Hanson to table a vote on the 2015 DA Budget until the Board has had time to review all the information they have received. Affield offered a "friendly" amendment to postpone the vote on the Budget until the EIS has been completed. **Seconded** by Fjestad.

Clay County Commissioner Mongeau asked the Board if they planned to tell the DA to halt spending from the current Budget, which has not been approved by all the entities on the DA. Anderson observed that this would be a legal issue those entities would have to address. He asked Norgard what might be the ramifications of the BRRWD being the only member of the DA not to approve the budget. Norgard thought that if the BRRWD doesn't approve the Budget, the DA could dissolve the JPA and create a new entity with the five stake holders, or they could route the North Dakota sales tax proceeds and other North Dakota monies through the North Dakota JPA to fund the original 2015 budget without going through the JPA approval process. Anderson noted that sooner or later, the DA will need BRRWD permits for project construction in Minnesota, and questioned if they would really end our membership on the DA. He said that his biggest concern was that we were following the law regarding budget approval. There was a brief discussion about the differing legal opinions regarding this issue.

Norgard pointed out that a Board decision to table approval of the budget that contains funding for the DNR's EIS until the EIS is completed is not consistent, and might not be defensible in Court. She explained that in a legal challenge, the BRRWD's decision to table Budget approval until after the preliminary EIS is completed could be characterized as "arbitrary". She reiterated that her main concern is that the Board's decision is defensible.

Hovland pointed out that the EIS funding was already allocated in the 2014 budget. He questioned why it was in the 2015 budget. Norgard explained that the 2014 funding was spent, and the DNR asked for more money in 2015. Fjestad commented that as an incentive to move the EIS along, we could tell the DNR that when they finish the EIS, the BRRWD will approve the funding. Kobiela agreed that the Board should table a decision tonight regarding a vote on the budget, but was concerned about tying the vote to the completion of the EIS, since it could be a long time before that is finished.

Mark Larson asked a number of questions regarding the DA's budget. He first wanted to know if it would be legal for the DA to dissolve the JPA just because the BRRWD delays their approval of the 2015 budget. He also asked if the other entities would have to rescind their approval of the full budget and approve the revised budget if the BRRWD approves it. Larson also pointed out that there was carryover funding from 2014 to complete the EIS. Van Amburg thought that the DA could remove the BRRWD if they chose to do it. Anderson agreed that the DA could remove the BRRWD, but he didn't think it would be a wise choice, since the Diversion project will need permits from the BRRWD in the future. Norgard explained that the DA could just abandon the JPA and reorganize without the BRRWD. She noted that the DA has discussed the question about the other entities needing to approve a revised budget if the BRRWD approves a revised budget. She added that the BRRWD could approve the DNR EIS funding. Norgard also explained that while there had been carryover funds for the EIS, she understands from discussions with the DA that the DNR EIS 2014 funding has been spent. Larson pointed out that if the DA is spending money from the 2015 budget without all six entities approval, the DA is spending unauthorized funds. He thought that the 2014 carryover funds should have gone entirely to the EIS, not to other features that have not been approved by all the DA members. Norgard explained that costs associated with the 2014 budget items were higher than anticipated, but she couldn't speak to how the funds were spent. She said that it does appear that the DA is spending money from the 2015 budget, and she could research a legal remedy if the Board wished to pursue that issue.

Van Amburg expressed concerns about the length of time the EIS could take to be completed. Anderson agreed that the EIS is taking longer than expected. Anderson suggested that the Board vote on the pending motion to table or postpone action on the DA's 2014 budget until the DNR's EIS is completed and the Managers have had time to review the findings. Affield felt that the Board needs more time to review the information. She was concerned that the Board didn't get the revised budget information until late this afternoon, and she wasn't comfortable with making decisions without more time to review the issues. Van Amburg was concerned about postponing the budget vote until the final EIS is completed. The preliminary EIS that is predicted to be done in August will be complete, except for the advisory comments. He thought the Board would have enough information to make a decision about the budget at that time. Van Amburg added that if the Board wishes to side with the opposition and not approve the 2015 DA Budget until 2016, then that's the decision we need to make. Manager Larson pointed out that he is not opposed to the City of Fargo having flood protection, but he wished that the entities on the DA would simply follow the legal process/rules without putting the BRRWD in the middle of the controversy between Fargo and the DNR. Van Amburg felt that approval of the budget would help Fargo with flood control. Fjestad pointed out that the BRRWD hasn't approved a DA budget in the past. Van Amburg, Kobiela, and Norgard corrected him by explaining that when the BRRWD approved the DA's JPA in 2013 and the Amended JPA in 2014, they also approved the DA's annual budgets. Norgard repeated her concern that by delaying a vote on the budget until after the EIS is completed, the BRRWD is creating the risk of a legal challenge. She stressed that their decision could be considered arbitrary and inconsistent because it could delay EIS completion, the very document for which they are waiting. Larson asked how the BRRWD should handle the issue of the illegality of budget approval. Norgard's opinion was that a Board decision to approve the EIS funding in the 2015 DA Budget would be defensible in court, even if they decide to table the rest of the budget.

Commissioner Mongeau reported that she talked with Governor Dayton last Monday, who stated that none of the Diversion project should go forward. Mongeau, who serves on the DA's Land Management Committee, noted that there are two parcels in Holy Cross Township that the DA is moving forward to acquire. She reiterated that the Governor told her no project that would spend money and would negatively affect Minnesota should go forward. Mongeau said that the Governor has not changed his position on this issue. Van Amburg thought that these parcels were hardship cases where the landowners have requested a buyout. Mongeau commented that they are not listed as hardship cases. Mongeau thought the parcels (Sections 28 and 34) were out of the staging area. Norgard said she was under the impression that both requests were from landowners who were feeling pressure to sell and can't find buyers, and questioned how those buyouts would hurt Minnesota residents. Van Amburg didn't think the Board would want to stand in the way of hardship buyouts.

Don Nelson thought there should be enough funding for the EIS in the carryover 2014 budget. He commented that there was money in the revised budget for land acquisition, acquisition management, legal, engineering, construction management, utility relocations, etc. He pointed out that all of these expenditures might not be needed, depending on the DNR's EIS. Van Amburg noted that the land acquisition budget allocations were mostly for buyouts in North Dakota. Norgard commented that she understood that the acquisitions removed from the revised budget were for diversion channel easements.

Van Amburg suggested that the Board at least consider approving the EIS funding in the budget. Anderson thought that the Board should vote on the pending motion first. Fjestad made comments regarding the DA entities budget votes and thought that the Board had to approve the budget unanimously for it to pass. Kobiela pointed out that the BRRWD vote doesn't have to be unanimous, but the six DA entities need to unanimously approve the budget. Norgard again advised that Board that they could approve the EIS funding without approving the rest of the budget until the EIS is completed. The Board clarified the earlier motion, as referenced above and Van Amburg called for the vote. Fjestad voted in favor. Larson, Affield, Kobiela, Hanson, and Anderson were opposed. The motion was **disapproved**. After a brief discussion, **motion** by Hanson to approve only the portion of the 2015 DA

Budget that provides funding for the DNR's EIS (\$1.5 million). **Seconded** by Anderson. **Approved** unanimously. The Board discussed possibly approving other items in the budget including Fargo in-town flood projects and hardship land acquisitions. Norgard suggested that if the Board is interested in considering approval of other budget items, they should direct Van Amburg, who is a non-voting member of the DA, to ask the DA for a more detailed breakdown of the budget items at the DA's next meeting.

Hovland commented that he didn't think that Board should have ever become involved with the JPA. He was concerned that having a "seat at the table" has only caused the BRRWD turmoil and put the Board in a controversial position regarding the F-M Diversion project. He thought we should only be involved with the Diversion project as a permitting authority. He noted that this will be a discussion item at the Advisory Committee meeting on 03/31/15. Anderson has also been attending the DA meetings, and he noted that the Diversion project is an important project to the region. He added that he didn't have a problem with funding work within the City of Fargo for in-town levees and non-channel right-of-way land acquisitions. The Board agreed to review the budget information and to continue the discussion at their next meeting.

Redetermination of Benefits for Clay C.D. Nos. 9, 32, and 33. The Viewers' Reports were filed. The Redetermination Hearing is scheduled for Thursday, April 9, 2015, at 7:30 PM in the Moorhead City Hall Council Chambers. The Viewers will be available to meet with landowners on Tuesday, April 7, 2015, from 1:00 PM-4:00 PM in the Clay County Courthouse. Hearing notices have been sent to the newspapers, and the property owners' statements and notices will be mailed this week.

MAWQCP. Fjestad commented that work continues on the Minnesota Agricultural Water Quality Certification Program (MAWQCP). There are a few new producers who are working with the Wilkin and West Otter Tail SWCDs on certification.

Elkton Township Wetland Restoration. Jones reported that we have completed the first year water quality monitoring, so the BRRWD will be eligible for 20% of the banking credits this year.

Landowner Chuck Anderson discussed his crop loss claim in the W½, Section 28, Elkton Township, Clay County. During the construction of the restoration project, which started in 2013, the contractor, Ziegler Excavation, Inc. plugged a culvert downstream of Anderson's property, which backed up water onto Anderson's fields. Jones displayed LiDAR maps of the areas for the Board's review. The maps show the fields where Anderson experienced the initial crop loss in 2013 and additional damages in 2014. His estimated crop loss and associated expenses for the two years totals \$177,441.68. Anderson's claim will be filed with the contractor, who should have liability insurance to cover Anderson's loss. If the contractor's insurance doesn't come through, Anderson will come back to the BRRWD.

Wolverton Creek/Comstock Coulee CWF. HEI is working on the maps identifying landowners along the channel that will be affected by the project for the NRCS, and when the maps are ready, the BRRWD will hold another landowner informational meeting. Currently, there is a sign up period running for the Red River Basin EQIP, which ends April 17, 2015.

BRRWD Advisory Committee. The annual Advisory Committee meeting will be held on Tuesday, March 31, 2015. Notices have been sent.

Ditch Repairs. HEI prepared recommendations for a number of ditch system slope repairs, including Clay C.D. Nos. 10, 41, 32, 33, and 11. Jones solicited a bid from Terracon for geotechnical analysis for each ditch. The total estimated cost was approximately \$9,000 to \$11,000 per ditch system. **Motion** by Fjestad to authorize the Terracon to complete the referenced geotechnical investigations, as ditch system expenses. **Seconded** by Larson. **Approved.**

Special Meeting Topics. The Board's special meeting topic tonight was to review our short, immediate, and long term goals. The Board also plans to update their Rules this year and received copies of other Watershed Districts revised Rules at their 2/23/15 meeting for review.

The Board discussed the BRRWD's goals for succession planning in conjunction with the BRRWD Administrator's position. Wade Opsahl, HEI, was named in the 2015 HEI contract as the Assistant Administrator. Fjestad commented that he would like to see Opsahl spending more time in the Barnesville office to assume some of Albright's workload. The Board discussed the issues associated with the office staffing and workload sharing. Opsahl commented that currently his time is already nearly 100% dedicated to BRRWD projects as our field technician, and he questioned if another person would be a better fit for the role of Assistant Administrator. He feels he is more useful to the BRRWD continuing in his current role. The group discussed the administrative qualifications we would need to look for in an assistant for Albright. Jones suggested that the HEI staff could meet to discuss workload assignments and staffing to determine what kind of skills we are looking for in a new hire.

Jared Nordick asked the Board to clarify what they mean by the term "adequate outlet" in regards to our permitting system for tile projects, and how far downstream do permit applicants go to be sure the downstream landowners are notified. Jones explained that the downstream notification developed as a result of tiling outlets that cross other people's property, or when a tile project outlets into a road ditch that flows past neighboring property. The Board felt that these landowners had a right to know about the proposed work and comment on it. Nordick pointed out that there are landowners in the BRRWD's new area who really don't know what the Rules are yet. Jones explained that maintenance work does not require a BRRWD permit.

Nordick asked if he would need a BRRWD permit to install NRCS funded rock drop structures in a coulee that runs through their property to address some sloughing problems. Jones said that he would need to apply for a permit.

Opsahl said that we will get a downstream notification form linked on the online permit application BRRWD Website page so the public can access it when submitting their applications. Norgard asked if the Board was talking about an actual flowage "easement" similar to North Dakota's requirements. Jones noted that our form is just for downstream landowner notification. Larson felt that downstream notification was a way to solve problems before they begin for both the BRRWD and landowners.

Nordick also commented that it appears that Albright could use an assistant to lighten his workload. The group agreed that Albright possesses many talents that will be hard to duplicate in a future successor.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Agassiz Mechanical, Inc.	#216373, switch furnaces to natural gas	New Office	\$ 460.00
Braun Intertec	#B023652, services through 02/20/15	Pj. 71, Moorhead 50th AVE	\$ 2,669.50
Bruce E. Albright	03/13/15 Viewers' breakfast, Fry'n Pan	Clay 9, 32, &33 Redet.	\$ 38.91
Bruce E. Albright	Legislative Reception - lodging/meals (3)	Admin	\$ 572.43
Jared Nordick	02/16/15 MAWQCP Forum meals	MAWQCP	\$ 592.00
Joel Carlson, Inc.	April Lobbyist fee	Admin	\$ 850.00
Liberty Bus. Systems, Inc.	#186022, Copier Contract 03/27-06/26/15	Admin	\$ 386.89
Network Center	#000033009, battery backup	Admin	\$ 1,363.25
Premium Waters, Inc.	#366590-02-15, office water	Admin	\$ 41.62
RRBC	2015 contribution	RRBC	\$ 25,000.00
Vogel Law Firm	#149650, February billing	Pj. 56, Manston	\$ 384.00
Vogel Law Firm	#149651, February billing	Pj. 39, Georgetown	\$ 2,210.65
			\$ 34,569.25

Motion by Anderson to approve payment of the bills. **Seconded** by Fjestad. **Approved.**

Next Meeting. The next regular meeting will be held on Monday, April 13, 2015, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 10:05 PM.

Respectfully submitted,

John E. Hanson, Secretary