

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING

February 11, 2019

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, February 11, 2019, at 7:00 PM in the Barnesville office. BRRWD Managers present were Jay A. Leitch, Mark T. Anderson, Catherine L. Affield, Peter V. Fjestad, and Troy E. Larson. Others attending included: Bruce E. Albright, BRRWD Administrator, Kathleen K. Fenger, Assistant Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); Kevin Campbell, Clay County Commissioner and Fargo-Moorhead Diversion Authority (FM DA); Bob Zimmerman, Engineer, City of Moorhead; Gregg Thielman, Engineer, Houston-Moore Group, LLC (HMG); Eric Dodds and Joe Herbst, Engineers, Advanced Engineer and Environmental Services (AE2S); Martin Nicholson, Engineer, Jacobs Group, FM DA Project Management Consultant (PMC); and landowners: Don Nelson, Mark Askegaard, Chuck Anderson, Darin Brandt, and Jay Nord.

BRRWD President Leitch called the meeting to order at 7:02 PM and announced that the proceedings were being video recorded to aid in the preparation of the minutes.

Agenda. President Leitch asked for comments or additions to the meeting agenda. Erik Jones, BRRWD Engineer, noted that he had an update for the Managers regarding Project No. 78, Clay/Wilkin Judicial Ditch (J.D.) No. 1-Improvement. With that addition, the agenda was adopted.

Secretary's Report. The Board reviewed draft minutes for the 1/28/19 Board meeting. **Motion** by Manager Anderson to approve the meeting minutes. **Seconded** by Manager Larson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Cash on hand is \$3,419,477.32. Total 2019 administrative disbursements to date are \$41,107.13. Current 2019 accounts receivable are \$6,176,574. Total income this year is \$1,040,768.90. Income received since the 1/14/19 meeting totaled \$1,040,543.90, primarily for 2018 2nd half tax settlements from Otter Tail County (\$1,769.80), Wilkin County (\$12,547.79), Becker County (\$5,872.71), and Clay County (\$238,621.24). We also received Buffer Initiative Contribution payments from Clay County (\$65,864) and Wilkin County (\$41,603.50). The Minnesota Department of Natural Resources (DNR) forwarded the final reimbursement for Project No. 49, Oakport Township Flood Mitigation (\$131,770.86) and the first reimbursement from the Lessard-Sams Outdoor Heritage Council (LSOHC) for Project No. 79, Wolverton Creek Restoration (\$538,795.14). The balance of income came from Midwest Bank account interest (\$3,473.86) and HEI office rental (\$225). **Motion** by Anderson to approve the Treasurer's Report. **Seconded** by Fjestad. **Approved.**

Albright noted that the BRRWD's financial status is strong with the current cash balance at the highest in his recent memory. Most of the cash on hand is earmarked for projects under development or construction. Albright and Fenger met with Midwest regarding an office credit card. General credit cards in Albright and Fenger's names could be issued to be used for booking reservations, registrations, online office supply purchases, etc. A credit limit of about \$5,000 could be placed on the card. **Motion** by Fjestad to authorize staff to acquire two credit cards from Midwest Bank. **Seconded** by Anderson. **Approved.**

Citizens to Be Heard. The FM DA is on the meeting agenda for 8:00 PM to make a presentation regarding the BRRWD permit application, the BRRWD's contest of the DA's DNR permit, and a discussion regarding the Minnesota Land Acquisition Committee/Minnesota-Clay County Joint Powers Agreement (MCCJPA).

Other Business brought before the Board included:

Permit No. 19-004, Pheasants Forever, Inc. (PF). Applicant proposes to restore a series of 26 wetlands in Section 7, Parke Township, Clay County, by removing sedimentation with a scraper. No embankments are proposed. Jones noted there are approximately four of the wetlands near the property line (Nos. 14, 16, 19, and 26) that could potentially drain off the property onto adjacent land. Staff will work with the neighboring landowner, Joseph Robertson, who contacted the BRRWD last fall with concerns regarding area drainage patterns and potential impacts to his cropland. The United States Fish and Wildlife Service (USFWS) started the restorations for PF on the Kasin Farms Tract last fall before obtaining a BRRWD permit. Albright recommended that the Board postpone action on this application until a field review can be conducted this spring. **Action Postponed.**

Permit No. 19-005, PF/USFWS. Applicant proposes to restore five wetlands by removing 6"-10" of sediment with a scraper in the NW¼, Section 28, Orwell Township, Otter Tail County, about 0.5 miles north of the Otter Tail River west of the Orwell Dam reservoir on the Kotts Tract. Wetland No. 1 will be constructed with a ditch plug on the south boundary near property owned by Jay and Mavis Walkup, who weren't concerned with the proposal. USFWS owns the property and PF created the design. Jones recommended permit approval.

Permit No. 19-006, PF/DNR. Applicant proposes to restore 11 wetlands in the SW¼, Section 29, Cromwell Township, Clay County, by using a scraper to remove sediment and spreading the spoil on the upland areas on DNR property. Jones noted that there should be no impacts to neighboring properties and recommended permit approval.

Motion by Larson to approve Permit Nos. 19-005 and 19-006, subject to the referenced disclaimers and conditions. **Seconded** by Anderson. **Approved.** Fjestad questioned why net wetland gains don't get as much recognition as the "net wetland loss" issue, given the increased number of wetland restoration projects constructed every year. Albright thought there is more wetland acreage within the BRRWD now than when he started 40 years ago.

Project No. 79, Wolverton Creek Restoration. Albright reported that the closing on Todd Blilie's property in Section 10, Wolverton Township, Wilkin County, initially scheduled for 2/8/19, was postponed due to the snowstorm and has been rescheduled for 2/14/19 at 2:00 PM in the Vogel Law Firm office in Moorhead. The parties agreed that the BRRWD will purchase Blilie's 19.2 acres for \$150,000. The BRRWD will then work with the Minnesota Board of Water and Soil Resources (BWSR) and the Wilkin Soil and Water Conservation District (SWCD) to enroll the eligible acreage into the Reinvest In Minnesota (RIM) program. Once that process is completed, the BRRWD will sell the 17-acre parcel to Kristi Bixby via a contract for deed. The 2.2-acre parcel with the house and Quonset will be sold to Bixby the same day we buy the Blilie Tract. Albright noted that Bixby has complained that Blilie isn't complying with some parts of the agreement. He assured the Board that if the purchase falls through, the BRRWD will still work with Blilie to acquire the project easement on the land along Wolverton Creek, or if necessary, we start eminent domain proceedings.

Albright noted that we are making progress on Phase 2, which is the channel restoration from County Road (C.R.) No. 30 (Wolverton Road) upstream to the end of the project in Section 17, Mitchell Township, Wilkin County. Albright plans to meet with Ed Askegaard, who owns the quarter where the project ends. The easements have been mailed, and staff plans to work with the landowners who have not returned their options to get this process completed as soon as possible so that we could advertise for Phase 2 construction bids in March/April 2019.

Albright reported that the DNR has about \$150,000 for ringdike funding that has to be spent by the end of June 2019. Landowner Robert Nord lives adjacent to Wolverton Creek on C.R. No. 30 in Section 35, Wolverton Township, Wilkin County, on the downstream end of Phase 2. He has been working for several years with the Natural Resources Conservation Service (NRCS) on a ringdike project. Jones noted that he thought the NRCS had completed a dike design for Nord. Albright suggested that the BRRWD might be able to leverage some of the DNR funds for Nord's ringdike, especially if construction work on Phase 2 is started before the deadline date. Plans are to use some of the suitable material from the creek channel for the ringdike.

HEI staff is also working on the acquisition of the Phase 3 easements/options in Clay County so that the Clay SWCD can start the Conservation Reserve Enhancement Program (CREP) process with the landowners. Albright noted that we hope to complete the Wolverton Creek Restoration in 2019.

The Board discussed extending the construction contract with Sellin Brothers, Inc. to include the next two miles downstream in Clay County where the Clay/Wilkin J.D. No. 1-Improvement project outlets to Wolverton Creek.

Whiskey Creek Restoration. Albright advised the Board that given time constraints/office workload, we would have to reschedule the Preliminary Resolution Hearing to later this spring. Amanda Hillman, DNR, sent information regarding the DNR's River Unit request for project submissions to the Stream Restoration Priority List. This list determines which projects will be submitted for 2019 LSOHC funding. The DNR ranked the proposed Stony Creek Restoration project as No. 2 on their funding list and has earmarked a potential \$1.9 million for this project. Channel restorations for the Otter Tail River, the Whiskey Creek (west of Barnesville), and the South Branch of the Buffalo River are also on the DNR's priority list. Albright noted that currently the Whiskey Creek Restoration project near Kent has not been submitted. In response to a question from Leitch regarding BRRWD workload, Albright explained DNR's Priority List application process. To have funding in place when we are ready to move forward with a project, funding applications need to be submitted well in advance. Jones explained that a potential project could be listed a few years in advance of actual funding. Making the list doesn't mean that the project must be constructed in that year. Albright outlined the steps yet to be completed before the Whiskey Creek project would be ready to construct, potentially in 2020 or 2021. The DNR application deadline is 2/22/19. **Motion** by Anderson to submit a DNR funding application for the Whiskey Creek Restoration project. **Seconded** by Fjestad. **Approved.** The LSOHC funding applications will be due the end of May. The DNR puts together their own priority list, and the LSOHC also accepts/reviews non-DNR funding applications.

Project No. 78, Clay/Wilkin J.D. No. 1-Improvement. Albright met with Shelly Eldridge, Ehlers, Inc. and the Clay County Auditor to discuss a potential \$2.2 million bond sale to finance the J.D. No. 1-Improvement. At their 3/19/19 meeting, the Clay County Commissioners will consider a resolution to proceed with the bond sale. The funds could be available by about 6/1/19. The rate of interest for a 15-year bond is 3.3%. A bid opening is scheduled for 3/8/19 at the Fargo HEI office, and Jones will have a recommendation ready for the Board's approval at their 3/11/19 meeting. When the construction contract is finalized, project costs will be adjusted and submitted to the County prior to their approval of the bond sale resolution/amount.

The Viewers met to review the Crowe Farm Properties Partnership appeal. They recommended a reduction of the benefit rate from \$200/acre to \$120/acre for the S½SE¼, Section 13, Wolverton Township, Wilkin County. The property is managed by Erik Skolness, Farmers National Company, and operated by Todd Blilie. There are three to four culverts in 130th ST that drain part of the property back into Wilkin County Ditch (C.D.) No. 5A for which it is assessed. Albright contacted the Crowe Family and the Wilkin County District Court regarding the Viewers' decision. He will prepare a settlement agreement for the Crowe Family's review and signature. The appeal period expires on 2/14/19. To date, no other appeals have been filed.

Stony Creek Restoration. Albright noted that the Preliminary Hearing date will be rescheduled due to hearing notice publishing requirements and staff work load constraints. He reported that Fenger, Fjestad, and he will be attending the Minnesota Association of Watershed Districts (MAWD) Legislative Reception and Day at the Capitol on February 20-21, 2019. He has discussed Stony Creek funding with our local Legislators, and no one has expressed any opposition. He explained that 2019 is a non-bonding year, but the DNR typically submits legislation for some project funding; however, this year, the DNR has indicated that they have no need for funding. He also talked to the MAWD and Red River Watershed Management Board (RRWMB) Lobbyists regarding the Stony Creek project, and they will include our project on the short list of projects they are preparing to submit to the Legislature for 2019 potential funding.

Albright is working with Ray Bohn regarding MAWD's priority for the Legislature to increase the Watershed Districts' General Administration levy, which is currently capped at \$250,000. State Representative Paul Marquart has indicated that he would support a rate of inflation increase, plus a slight cushion, capped at about \$500,000, but he wouldn't support removing the cap completely.

Wilkin/Otter Tail J.D. No. 2. Jones provided a brief update regarding J.D. No. 2. The Ditch Committee met with the Viewers on 2/4/19 in Fergus Falls. Last fall, Otter Tail County submitted a Clean Water Fund (CWF) grant application to repair gully erosion on the ditch outlet, which was successful. Jones expects to be able to move forward with the repair project this spring. The Joint Ditch Board, made up of three members from the BRRWD plus two Commissioners from Otter Tail County, will meet to officially authorize the outlet repair. They will also review the Viewers' redetermination of benefits recommendations for J.D. No. 2.

BRRWD Bylaws. Van Amburg forwarded a revised draft of the Bylaws to Albright for his input. When Van Amburg returns from vacation, Albright will work with him to prepare a draft copy of the Bylaws for the Board's review at their 3/11/19 meeting. Leitch noted that some of the proposed changes were included in the 1/28/19 meeting minutes.

Red River Basin Drainage Conference. The RRWMB is holding an Annual Red River Basin Drainage Conference on Tuesday, March 19, 2019, at the Marriott Hotel and Conference Center, Moorhead, MN. Topics include Rules and Guidance, Permitting, and Implementing Basin Technical and Scientific Advisory Committee recommendations. The office will handle conference registrations/hotel reservations.

Annual Joint Conference. The RRWMB and the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) are holding their 21st Annual Joint Conference on March 20-21, 2019, at the Courtyard by Marriott, Moorhead, MN. The office will handle conference registrations/hotel reservations.

MAWD Legislative Reception/Day at the Capitol. As previously discussed, Fenger, Albright, and Manager Fjestad plan to attend the Legislative Reception on February 20-21, 2019, in St. Paul. On February 20, the Minnesota Association of Watershed Administrators (MAWA) will meet in the morning and the MAWD Board of Directors will meet in the afternoon. A reception will take place in the evening. On February 21, appointments have been scheduled with our local legislators. MAWD has provided a list of discussion issues. Albright noted that we will also discuss Stony Creek funding.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
AmeriPride	#160500868, January Rug Billing (3)	Administration	\$ 112.76
Barnesville Record-Review	Open House Notice	1W1P	\$ 120.00
Barnesville Record-Review	Final Hearing Notice	Pj. 78, J. D. No. 1	\$ 460.00
Bruce E. Albright	MAWD Day at the Capitol Registrations (3)	Administration	\$ 300.00
Bruce E. Albright	Paper Shredder	Administration	\$ 37.57
Bruce E. Albright	1W1P Meeting- Meals	1W1P	\$ 130.70

Carmen Pattengale	January Office Cleaning	Administration	\$ 195.00
Dennis Olsen	Voucher #V19-03, 08/06/18-12/04/18	Varies	\$ 1,134.80
Eddie Bernhardson	Voucher #V19-02, 08/06/18-01/01/19	Varies	\$ 1,430.00
Fergus Falls Daily Journal	#0119, 1W1P Open House Notice	1W1P	\$ 329.22
Forum Comm. Co.	#2070895, Open House Notice (4)	1W1P	\$ 1,456.00
HEI	February Billing	Varies-See Attached	\$ 99,325.30
JB Construction Services	January Snow Removal	Administration	\$ 200.00
MPS	12/17/18-01/15/19 Service	Pj. 49, Oakport	\$ 31.23
Pelican Rapids Press	#00075676, Open House Notice	1W1P	\$ 228.00
Premium Waters, Inc.	#366590-01-19, January Billing	Administration	\$ 57.79
Purchase Power	Late Fee	Administration	\$ 33.62
RRVCPA	1/1/19-1/31/19 Service	Pj. 49, Oakport	\$ 78.00
Salber & Associates, Inc.	#4244, 2018 W-2s and 1099s	Administration	\$ 393.00
Wahpeton Daily News	Open House Notice	1W1P	\$ 163.62
William Austin	Voucher #V19-01, 08/06/18-12/04/18	Varies	\$ 601.30
WREC	12/18/18-01/18/19 Service (2)	Pj. 46, Turtle Lake	\$ 68.50
Xcel Energy	12/26/18-01/27/19 Gas Service	Administration	\$ 68.23
			\$ 106,954.64

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

Norby Lawsuit. Albright forwarded a summary of the Norby lawsuit to the Managers. The trial is scheduled to begin on April 11, 2019. The BRRWD has asked for a summary judgement. To date, the Judge hasn't ruled on that motion.

Permit No. 19-003, Metro Flood Diversion Authority. At 7:50 PM, President Leitch recessed the meeting to wait for Bob Zimmerman, City of Moorhead Engineer. The FM DA is on the agenda for 8:00 PM to discuss their Diversion permit. Zimmerman was delayed because the City Council meeting time coincides with our meeting.

At 7:53 PM, President Leitch reconvened the meeting. Zimmerman noted that the DA is currently attempting to contact all of the potentially impacted property owners. He added that information they will provide to the landowners will continue to change as the project evolves. Zimmerman asked for the Board's input regarding the acquisition process since we have a closer relationship with the landowners. He added that he and the other project engineers, Gregg Thielman and Eric Dodds, plan to attend the next several BRRWD meetings to facilitate the Board's review of the project permit application.

Eric Dodds, Engineer, AE2S, Diversion PMC, gave a presentation regarding the Property Rights Acquisition and Mitigation Plan. He briefly reviewed an overview of the project features:

- Diversion channel
- In-town levees
- Southern embankment with three gated control structures
- Upstream mitigation area for the temporary storage of floodwaters to mitigate downstream impacts

Dodds also discussed the Diversion land acquisition organizational structure:

- Financial Committee
- Land Management Committee
- Public Outreach Committee

Using the overhead monitors, Dodds discussed the Diversion Project Organizational Structure, including the various entities who make up the DA Board, and the Standing Committees involved with the land acquisition policies, and consultant teams:

- Cass County Joint Water Management District (CCJWMD)-responsible for North Dakota land acquisition
- MCCJPA-responsible for Minnesota land acquisition
- DA
- Land Management Committee
- Other Consultant Teams, including Appraisers and Legal

Dodds discussed the Land Acquisition Structure being developed for the Minnesota acquiring entity, or MCCJPA, based on the North Dakota model, noting that the MCCJPA has invited the BRRWD to provide one member. The Land acquisitions process will be handled by the following hierarchy of entities:

- Proposed acquiring MN Entity-MCCJPA
- Legal Services-Onstad Twichell, P.C.
 - Purchase Agreements
 - Condemnation
- Project Management Consultant-Jacobs Group/AE2S, Eric Dodds
 - Manage property acquisition process
 - Policy development
 - Contracting management
 - Reporting and cost controls
 - Appraisal review
 - Relocation coordination
- Appraisers-Crown Appraisers, Inc.
 - Property valuation
- Land Agents-HMG, ProSource, and Ulteig Engineers, Inc. (UEI)
 - Relocation Specialists
 - Landowner Negotiations.

Dodds discussed Version 4 of the current Property Acquisition and Mitigation (PRAM) Plan, which was drafted over several years in coordination with the Army Corps of Engineers (COE), and in consultation with the North Dakota State Water Commission and the DNR. He noted that this is also an evolving document, and he expects there will be future versions. The PRAM v4 was submitted to the DNR with the DA permit application. The PRAM v4 will be updated to reflect the DNR's permit conditions specific to property acquisition. He listed the property acquisitions components needed for the project:

- Diversion Channel footprint
- Southern Embankment footprint
- Upstream Mitigation area flowage easements
- Environmental Mitigation projects easements
- 1,200 + parcels
- \$500 million in land rights
- 8-year acquisition process duration

Dodds noted that the \$500 million land mitigation cost estimate is included in the \$2.754 billion total project cost estimate. He explained that the project is required to purchase "Property Rights" from landowners, which include flowage easements on land and buyouts or other mitigation for structures. Other mitigation measures required for impacts to agricultural property and public land would include post-operation debris clean-up and repair for private and public lands and supplemental crop loss mitigation for summer flood events where federal crop insurance is not applicable. If landowners have concerns or are dissatisfied with the mitigation options, a Dispute Resolution Board will be established to negotiate with the landowners. Dodds explained that the property impacts are determined by the project designers, and the property valuation

is determined by an independent appraisal, according to State Law. The landowner will receive "Just Compensation" for their real estate and "Relocation Benefits" for moving, relocation, and re-establishment.

Dodds discussed possible options for the post-operation repair and clean-up program for private and public lands. For private lands, the landowner could allow DA hire contractors to access the private property to pick up debris with a signed voluntary right-of-entry agreement. The public clean-up program would mirror the Federal Emergency Management Agency (FEMA) disaster assistance program where the government entities contract private firms for repair and clean-up and then submit the costs to the DA for reimbursement.

Regarding the supplemental crop loss program, Dodds explained that summer operation of the project is extremely unlikely, as the project operation begins at a river stage of 37', and the largest summer event in history was in 1975 when the river reached 33'. However, if the project were operated during the summer season, growing crops would suffer damage, and federal crop insurance would not apply. To address landowners' concerns, the DA will provide a crop loss program for summer events by utilizing Federal Crop re-insurers and existing insurance structure to offer a no-cost rider product to producers for up to 90% coverage.

Dodds explained how the Dispute Resolution Board would function in the event a property owner felt they have been impacted by the project but did not receive just compensation. Typically, this scenario would result in a law suit. The Dispute Resolution Board offers a forum for landowners to file claims and provides an independent and fair process for landowners to determine damages, avoiding expensive legal action for both the property owner and the DA. This administrative process was modeled after the North Dakota State Water Commission process created for the Devil's Lake Outlet Project.

Currently, the DA is working with the DNR to ensure that they are interpreting the DNR's land acquisition conditions correctly. He discussed the workflow process for the Master Land Acquisition proposal:

- Design established by the PMC
- DA approval to begin negotiations
- Contact with property owner
- Boundary survey completed
- Fair market value determination-appraisal approved
- Offer of Just Compensation to property owner
- Negotiations with property owner
- Relocation and reestablishment benefits agreement
- Purchase agreement signed
- Property closed

To date, the DA has acquired approximately 200 properties using this process. Working with Crown Appraisals, the DA completed their Phase 1 appraisals in 2018. Phase 2 is expected to be completed in 2019. The appraisal process determines the value of the upstream properties that will occasionally and temporarily be used to store flood waters by considering the depth, duration, and frequency of flooding for a once in 20 years event.

Dodds pointed out easement acquisition process changes for organic farmland. An early buyout option has been added to the process so that the producers can keep farming the land while they acquire and certify new organic farmland in a different location. The DA had already purchased two organic parcels a few years ago.

Dodds explained the agriculture mitigation planning process. Their work is based on several recent flowage easement studies. The Phase 1 Study was initiated in January 2018, led by Crown Appraisals, Inc. Their focus was on researching comparable sales data and building a regression model to analyze market value

changes due to similar flood risk in other areas across the nation. The Phase 1 Study findings will be the foundation for specific parcel flowage easement valuations in the Phase 2 Study. The Phase 1 Study confirmed the availability of market data through a nationwide investigation in North Dakota, Minnesota, Missouri, Nebraska, and Iowa. The regression model was based on 1,644 comparable sales that might have had flood damage or existing easements. They considered 12 different attributes derived from this market data research to establish fair compensation values. The Study found two temporary flooding impacts:

- Easement Impact: 8%-10% property value reduction
 - Loss of development rights
 - no development in the operating pool
 - restricted development outside the operating pool
 - Loss of right not to be flooded.
- Temporary Flooding Impact: 7%-25% property value reduction
 - Additional flooding in some areas
 - New flooding in other areas
 - Potential loss of growing days

Not all parcels will experience the same impact. Dodds noted that at this point, there are no specific parcel evaluations prepared. Individual appraisals/valuations will be part of Phase 2. The Phase 1 study determined that the total property value reduction caused by potential project impacts, combining both loss of property rights and increased flood risks, would fall between 15% and 35% of the property fair market value. The landowner would then be offered a percentage of his property's value, based on the potential project impacts. Dodds commented that the estimated easement costs from the Phase 1 study findings are consistent with the overall Diversion project cost estimate.

Phase 2 of the Flowage Easement Study will be to apply the Phase 1 findings to individual appraisals/evaluations. The appraisal team will review individual impacts and will prepare a "before" (project impacts) and "after" (project impacts) evaluation. The "after" value will be expressed in terms of a percentage of the "before" value. The goal is to complete the Phase 2 work in 2019, so that the DA is ready to start working with landowners to acquire their easements in 2020.

The DA is currently updating the upstream mitigation area to reflect the DNR's Dam Safety and Public Waters Work Permit conditions. The flowage easement pools are defined by the frequency of flood event:

- Operating pool (100 to 500-year events)-Floodway
 - Flowage easement with developmental prohibition
- Maximum pool (Probable Maximum Flood (PMF)).
 - Flowage easement with developmental restriction to the PMF elevation

Three structure mitigation "categories" are defined by property location within the two pool types:

- Category 1-Within the Operating Pool
 - Mandatory Buyout and structure removal
- Category 2-Within the Maximum Pool
 - Offer Buyout or Consider other Mitigation if structure is impacted
 - Potential ringdikes, floodproofing
- Category 3-Outside the Maximum Pool
 - Offer Buyout or Consider other Mitigation if structure is impacted
 - Potential ringdikes, floodproofing

Flowage easements in Clay County total 4,233 acres in the operating pool area and 111 acres in the maximum pool. In Wilkin County, there are 427 acres in the operating pool and 3,542 acres in the maximum pool. Residential/structure sites in Clay County total 14 in Category 1. In Category 2, there are 2 sites. Wilkin County has 12 residential structures in Category 2. Dodds discussed four sample upstream mitigation situations. He noted that in certain cases, the DA will buy more land than is needed to satisfy the landowner, and they also will work with property owners regarding the timing of the buyout/relocation within the potential 5-plus year project development window.

Dodds discussed the next steps in the property acquisition and mitigation process:

- Outreach to all impacted property owners
- Complete the Phase 2 easement study
- Finalize the hydraulic modeling, including FEMA approval of the Conditional Letter of Map Revision (CLOMR), which will finalize the 100-year floodplain impacts and possibly change the easement acquisition for some properties
- Update the North Dakota State University (NDSU) Ag Impacts Study
- COE complete Southern Embankment design
- Continue "Early" acquisition as necessary for hardships, etc.

Anderson commented that the DA should contact all the landowners within the mitigation area with concrete facts and easement values as soon as possible. Anderson also asked about the "quarter-mile" issue. Bob Zimmerman explained that at this time, the DNR has only recommended that any property within a one-quarter mile downstream of the proposed dam structure should be bought out. He noted that the DA has not decided if they plan to follow that recommendation to buyout all property or to allow them to remain and only limit any future development. Zimmerman indicated that a decision to buyout all existing properties on the downstream side would be a financial and logistic challenge. He explained that neither the DNR nor the COE have the authority to require the quarter-mile buyouts. Anderson also asked if the Minnesota Pollution Control Agency (MPCA) was concerned about the location of the gas station and agronomy building in Comstock between the proposed levee and the Trunk Highway (T.H.) No. 75 road ditch. Gregg Thielman, HMG, explained that the most critical dam breach locations are further north. He thought that issue could be reviewed. Albright questioned the proposed DA dam elevation compared to the DNR's permit maximum height-of-dam elevation (928.5). Thielman explained that the general height of the dam is within the approximate 928.5-929 range with the higher elevations (931) around the hydraulic structures. The engineers are working on a map showing the elevations and height of the dam along the profile.

Zimmerman noted that the Upstream Mitigation Area acreage amounts in Dodds' slide presentation reflects the DA's interpretation of the DNR permit conditions. The DA is currently working with the DNR to confirm that they have interpreted the permit correctly. He explained that the Diversion project will not provide protection for the 500-year flood. It will provide for 500-year mitigation. In Fargo, this event will still be 40'. He clarified that the 427 acres in the Operating Pool in Wilkin County will be impacted by the 500-year flood, while the 3,542 acres in the Maximum Pool area in Wilkin County will only be impacted by the Probable Maximum Flood, which is about 200,000 cubic feet per second (cfs) flood frequency. Albright suggested adding a column to the slides showing impacts to the various properties without the project. There was a discussion about the east-west embankment along Clay C.R. No. 50. Zimmerman said that the COE has not yet determined the exact location of the embankment. He suggested that the BRRWD could specify a preferred location in our BRRWD permit requirements. Dodds noted that the DA would prefer to locate the embankment to the centerline of the road instead of building it north of C.R. No. 50 on cropland.

President Leitch thanked Dodds for his presentation. He noted some minor corrections to the Property Right Acquisition and Mitigation Plan v4, which he will discuss later with the Engineers. He thought that the DNR permit left too much to interpretation and noted that the BRRWD would be meeting with them next week to

clarify some issues. Zimmerman offered to provide further Diversion project information to the Board if necessary.

Albright noted that the Board will be meeting next week with the DNR via Skype to discuss the BRRWD's contest of their permit. The group discussed a BRRWD appointment to the MCCJPA, currently comprised of representatives from the Clay County Commission and the City of Moorhead. Kevin Campbell, Clay County Commissioner, explained that the MCCJPA would have the authority to buy property in Minnesota. Campbell explained that there were two ways the BRRWD could participate on the MCCJPA. The BRRWD could be a legal member of the JPA, or the agreement could be structured so that the BRRWD would only have a voting position on the Land Acquisition Committee. Campbell explained that the Diversion has prepared draft letters to all the impacted landowners, but the mailing is delayed awaiting authorization from the MCCJPA, which isn't formally organized yet, so he hoped that BRRWD could make a decision soon.

Leitch commented that he would be in favor of the BRRWD having a voting member on the Land Acquisition Committee but not be a member of the JPA, and he volunteered to serve in that capacity. **Motion** by Leitch to appoint himself to serve on the Land Acquisition Committee with voting privileges, with the understanding that the BRRWD will not be a legal member of the MCCJPA. Anderson noted that since this topic wasn't related to the actual easement acquisitions, he considered himself entitled to vote. **Seconded** by Larson. **Approved.** Campbell will contact Leitch when the next Land acquisition Committee meeting is scheduled to review the draft JPA.

Next Meeting Agenda. Albright suggested that the Board add a One Watershed, One Plan (1W1P) status update to the next meeting agenda.

Next Meeting. The next regular BRRWD meeting will be held on Monday, March 11, 2019, at 7:00 PM in our Barnesville office. The second February meeting (February 25) will not be held because several of the Managers will be absent.

Adjournment. **Motion** by Anderson to adjourn the meeting. **Seconded** by Affield. **Approved.** President Leitch adjourned the meeting at 9:05 PM.

Respectfully submitted,

John E. Hanson, Secretary