

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

BARNESVILLE, MINNESOTA 56514

1303 4th AVE NE  
Email: general@brrwd.org

PO BOX 341

PHONE 218-354-7710  
Website: www.brrwd.org

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## MINUTES FOR MANAGERS' MEETING July 27, 2020

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, July 27, 2020, at 7:00 PM in the Barnesville office. Due to the Coronavirus protocols for public meetings, the Board held an electronic meeting in accordance with Minnesota Statutes Annotated (M.S.A.) Section 13D.021. BRRWD Managers present in the office were Peter V. Fjestad, Catherine L. Affield, Troy E. Larson, John E. Hanson, Gerald L. Van Amburg, and Mark T. Anderson. BRRWD staff attending were Kathleen K. Fenger, BRRWD Interim Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI). Others attending via conference line: Attorney Brent Edison, Vogel Law Firm; and landowners: Leroy Babolian, Elaine Gullick, Jamie Leach, Tom Paulson, Florence Thomason, and Lori Tollefson.

BRRWD Acting President Fjestad called the meeting to order at 7:01 PM.

**Agenda.** Comments or additions to the meeting agenda: Wilkin County Ditch (C.D.) No. 13-Lateral, South Branch of the Buffalo River near Comstock, and the Allen Lenz drainage complaint. **Motion** by Larson to approve the agenda. **Seconded** by Anderson. **Approved.**

**Secretary's Report.** The Board reviewed draft minutes for the 7/13/20 regular meeting. Corrections were noted. **Motion** by Affield to approve the 7/13/20 minutes, subject to correction. **Seconded** by Larson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Cash on hand is \$2,823,476.26. Income since the 7/13/20 meeting totals \$22,844.84. Total income this year is \$3,004,969.51.

The Midwest Bank contacted the office regarding the expiration of the BRRWD's line-of-credit on 8/19/20. The Board discussed renewing the operating loan. **Motion** by Anderson to renew the Midwest Bank operating loan. **Seconded** by Hanson. **Approved.**

**Citizens to be Heard.** Tom Paulson discussed extending the Wolverton Creek Restoration project by regrading the ditch on the east side of the township road for approximately one mile on the west side of Section 21, Mitchell Township, and lowering the culverts within that stretch to match the new grade, so that water can drain north to the project, which currently ends in the southeast corner of Section 17, Mitchell Township. The upper end of the Wolverton Creek Restoration project ends in the SE¼, Section 17, Mitchell Township, Wilkin County. Paulsen wants to improve drainage in Section 21 so that it can better handle drainage coming to the northwest corner of Section 28. A couple of years ago, the Board had indicated that when the Wolverton Creek project was completed, it would provide an improved outlet for an upstream tiling project (Permit No. 17-028) and a farmyard drainage improvement in Section 28. This issue is beyond the scope of the current Wolverton Creek Restoration project. The Board could consider a possible design to drain water in Sections 21 and 28 into the Creek. Paulsen explained that in addition to his land in this area, his neighbor would also benefit from the proposed project extension. **Motion** by Anderson to authorize Jones to work with Paulsen on a potential design that he could submit in the form of a permit application for the 8/10/20 Board meeting. **Seconded** by Hanson. **Approved.**

Homeowner Florence Thomason reported that water is standing in their yard from the Glyndon East Tributary. HEI conducted an investigation a few years ago regarding this waterway. The problems include: Beaver activity, sediment buildup, tree blockages, and undersized culverts on both sides of Trunk Highway

(T.H.) No. 10. The Board reviewed the ongoing issues that are affecting the properties along this Buffalo River tributary near the City of Glyndon. The current problems are occurring because of beaver activity and recent rainfall. Landowner LeRoy Babolian added that the beaver problems have been going on for years and will continue until the drainage problems with the waterway are addressed. In addition, the Board could consider some additional survey work for a project to address the condition of the waterway and a potential watershed management district (WMD) to help pay the local costs for a potential future project and maintenance. **Motion** by Anderson to authorize beaver control on the Glyndon East Tributary as a first step and then to expand HEI's survey investigation of the south end of the waterway to address the landowners' concerns. **Seconded** by Van Amburg. **Approved.**

The Board could consider a comprehensive project to address long-term maintenance. A Minnesota Department of Natural Resources (DNR) permit will be needed to work in the public waterway. Roger Hemphill, DNR Area Hydrologist, has indicated that DNR would be willing to issue a permit for the current maintenance proposals.

Later in the meeting, the Board discussed timing for project development. Once the new One Watershed, One Plan (1W1P) has been approved next year, the Board will only have to hold one project hearing.

#### **Other Business brought before the Board included:**

**FM Diversion Project Lawsuits.** The Board received a report on the status of the Diversion Project lawsuits. The hearing deadlines were extended to allow the DNR to consider the Diversion Authority's (DA) revised Property Rights Acquisition Mitigation, Version 5 (PRAM 5), which was not provided to the DNR or the Minnesota entities until right before the trial. The DNR provided our attorney with the results of their PRAM 5 review last weekend. By August 5, the Administrative Law Judge needs to either have a stipulation from all the lawyers about how to handle the PRAM 5 evidence or a motion by the DA with DNR to reopen the evidentiary portion of the hearing to consider the PRAM 5. The legal representatives will be meeting again this week.

**Permit No. 20-054, Todd Boit.** Applicant proposes to install a new culvert with the south end positioned 1' lower than the existing pipe in the NW¼NE¼, Section 13, Audubon Township, Becker County, off County Road (C.R.) No. 144. The County has agreed to furnish the pipe, and the applicant would install it. Manager Hanson and Wade Opsahl, HEI Field Technician, conducted a field review on 7/22/20. The Board discussed the outstanding drainage violations from 2019 that Boit still has not addressed and current ditching activities that don't comply with BRRWD Rules. He hasn't worked with his neighbors to install a culvert at the proper elevation to address the drainage problems his violations caused on their property on the east side of his driveway. The County would not issue him a permit for a new driveway culvert in their right-of-way (R/W) because they thought it was more appropriate to install it further south through the driveway. Since the County did not issue him a permit, Boit dug a trench with a steep slope and installed a culvert just off the County road R/W. The County wants Boit to slope the trench, so it doesn't cause future erosion of the road inslope. The Board discussed options for Boit's application. The staff prepared a draft letter to Boit for the Board's review, explaining their decision. **Motion** by Larson to deny Permit No. 20-054 and send Boit the referenced letter, based on the fact that Boit has not complied with the Board's 2019 directives regarding his ongoing drainage violations. **Seconded** by Anderson. **Approved.**

**Permit No. 20-063, Brian L. Thomas.** Applicant proposes to pattern tile 264 acres in the S½, Section 10, Kragnes Township, Clay County, outletting to the Buffalo River. According to the BRRWD's Rules, the installation of a control structure is required for pattern tiling projects involving 40 acres or more. Brian Thomas and Ellingson Drainage were notified about the requirement, and they agreed to add this feature to the tile plan. With this addition, Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-065, Brady Olson.** Applicant proposes to install a 24" dia. x 40' long culvert for the driveway for his new house along C.R. No. 95 in the NW¼, Section 11, Oakport Township, Clay County. Jones recommended permit approval, subject to Olson receiving a permit from the County to be sure the culvert is set on the ditch grade.

**Permit No. 20-066, Jesse Stuehrenberg.** Applicant proposes to lower a spoilbank culvert approximately 1' in the E½NW¼, Section 30, Meadows Township, Wilkin County. The culvert outlets to C.D. No. 23. Jones recommended permit approval.

**Permit No. 20-067, Whitt Case.** Applicant proposes a tiling project in the SW¼, Section 28, Spring Prairie Township, Clay County, outletting via a lift station to the east ditch of T.H. No. 9, eventually to C.D. No. 2. Downstream landowner Ryan Zimmerman has a permit to clean the highway ditch to provide an outlet for the tile project. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-070, Whitt Case.** Applicant proposes to install 100 acres of pattern tile in the SE¼, Section 16, Riverton Township, Clay County, outletting via a lift station to an area associated with the Glyndon East Tributary. Jones sent downstream landowner notification forms to the tiling company, advising them that at this time, there isn't an adequate downstream outlet for the proposed tile project. **Action postponed**, pending receipt of the notification forms.

**Permit No. 20-071, Whitt Case.** Applicant proposes pattern tiling in the E½, Section 4, Spring Prairie Township, Clay County, outletting via a lift station into the upper end of Clay C.D. No. 65, which is an adequate outlet. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-072, Whitt Case.** Applicant proposes pattern tiling in the E½E½, Section 16, Moland Township Clay County, outletting via a lift station directly into Clay C.D. No. 3 to which it is assessed. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-073, Whitt Case.** Applicant proposes pattern tiling in the NE¼, Section 32, Flowing Township, Clay County, outletting via a gravity flow directly into Clay C.D. No. 39, with a control structure at the outlet. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Permit No. 20-074, Matthew Bjerke.** Applicant proposes to install water and sediment control basins with surface intakes and underground outlet in the S½, Section 16, Lake Park Township, Becker County. The project was designed by the Becker Soil and Water Conservation District (SWCD) and will only affect Bjerke's property. Jones recommended permit approval.

**Permit No. 20-075, Terry Kohler.** Applicant proposes to install one water and sediment control basin with surface intake and underground outlet in the NW¼NE¼, Section 16, Audubon Township, Becker County. The project was designed by the Becker SWCD and will only affect Kohler's property. Jones recommended permit approval.

**Permit No. 20-076, Terry Kohler.** Applicant proposes to install water and sediment control basins with surface intakes and underground outlet in the SW¼, Section 28, Hamden Township, Becker County. The project was designed by the Becker SWCD and will only affect Kohler's property. Jones recommended permit approval.

**Permit No. 20-077, Barry Nelson.** Applicant proposes to install water and sediment control basins with surface intakes and underground outlet in the NE¼, Section 9, Lake Park Township, Becker County. The project was designed by the Becker SWCD and will only affect Nelson's property. Jones recommended permit approval, subject to township approval to work within their road R/W.

**Permit No. 20-078, Robert Olson.** Applicant proposes to install three water and sediment control basins with surface intakes and underground outlet in Section 8, Parke Township, Clay County. The project was designed by the Natural Resources Conservation Service (NRCS) and will only affect Olson's property. Jones recommended permit approval.

**Permit No. 20-079, Albin Warling.** Applicant proposes to install a grassed waterway and one water and sediment control basin with surface intakes and underground outlet in Section 25, Cuba Township, Becker County, eventually outletting to Becker C.D. No. 9. The project was designed by the Becker SWCD and will only affect Warling's property. Jones recommended permit approval.

**Permit No. 20-080, James Klein.** Applicant proposes to install pattern tiling including control structures in Section 23, Nilsen Township, Wilkin County, with two outlets into Wilkin C.D. No. 31 to which the property is assessed. Jones recommended permit approval, subject to our standard tiling disclaimer.

**Motion** by Anderson to approve Permit Nos. 20-063, 20-065 through 20-067, and 20-071 through 20-080, subject to the referenced disclaimers and conditions. **Seconded** by Van Amburg. **Approved.**

**Permit No. 16-098, Deal Bros.** This permit was approved 3/27/17. Tom Deal is finally ready to move forward with his project to fill in a natural waterway through the middle of Section 10, Andrea Township, Wilkin County, and to install a ditch along the east (C.R. No. 19) and south lines of the NE1/4, outletting to Wilkin C.D. No. 31, as assessed. Deal worked with the Wilkin County Highway Department on this proposal. Jones suggested that the Board could approve an extension to finish the project this year. The Board discussed the need for possible downstream notification and determined that those concerns had been addressed at the time the permit was approved in 2017. **Motion** by Larson to approve the Permit No. 16-098 extension. **Seconded** by Affield. **Approved.**

**Permit No. 18-105, Wilkin County Highway Department.** Applicant requests a modification of this 2018 permit to install a 40" dia. steel liner/grout in each of the two lines of 48" dia. sectional reinforced concrete pipe (RCP) on the east side of Interstate-94 (I-94) between Sections 15 and 22, Prairie View Township, Wilkin County, on C.R. No. 188. In 2018, the County installed the liner in only one of the pipes, and now plans to open the road and replace the remaining pipe. **Motion** by Anderson to approve the Permit No. 18-105 permit modification. **Seconded** by Van Amburg. **Approved.**

**Wilkin C.D. No. 4 Repair.** The Board reviewed the proposed repair of a culvert crossing in C.D. No. 4 through 310<sup>th</sup> AVE between Sections 9 and 10, Foxhome Township. The two existing 42" corrugated metal pipes (CMP) have failed and should be replaced with two lines of 57" x 38" corrugated metal arch pipe (CMPA) due to the height limitations on the road and the elevation of the field. Approximately 500'-1000' of the ditch downstream of the crossing should also be cleaned. The opinion of probable cost is \$10,000 for materials and labor. The Wilkin County Highway Department is willing to do the work. **Motion** by Hanson to approve the proposed repair. **Seconded** by Larson. **Approved.**

**Wilkin/Otter Tail Judicial Ditch (J.D.) No. 2.** The Board granted States Borders Construction, Inc., a contract extension until 7/15/20 at their 6/8/20 meeting. The wet weather continues to delay work, and the contractor is asking for another extension until 8/5/20 to complete the seeding and to clean up the punch list items. **Motion** by Anderson to approve the requested contract extension until 8/5/20. **Seconded** by Affield. **Approved.**

**Project No. 2, Wilkin C.D. No. 13-Lateral.** There is about 1' of sediment downstream of the project outlet on C.D. No. 13-Lateral in Sections 7 and 18, Manston Township. The engineer's estimate to clean about 2 miles of the channel to grade would be approximately \$15,000. **Motion** by Anderson to approve the proposed channel cleanout. **Seconded** by Van Amburg. **Approved.**

**Buffalo River Streambank Restoration.** The Clay SWCD is requesting technical assistance for four more erosion sites along the Buffalo River. Two of them are just downstream of the Troy Wyland site in Sections 28 and 34, Moland Township, Clay County. At a recent meeting, the Board authorized Jones to collaborate with the SWCD to provide technical assistance for alternative repair designs for the Wyland site. The other two sites are just upstream in the same area. Three of the sites could be engineered as one contiguous riverbank erosion project. **Motion** by Anderson to authorize Jones to work with the SWCD to provide technical assistance for these projects. **Seconded** by Larson. **Approved.**

**Whiskey Creek Enhancement.** The Board discussed possible project funding sources, including the Minnesota Pollution Control Agency (MPCA) Section 319 grant program, the Minnesota Board of Water and Soil Resources (BWSR) Clean Water Funds (CWF), the National Water Quality Initiative (NWQI), Conservation Reserve Enhancement Program (CREP), and the Lessard-Sams Outdoor Heritage Council (LSOHC)/DNR Stream Habitat funding. Other funding sources could be the implementation of a WMD fee to raise local funding and the BRRWD's taxing authority through M.S.A. 103D.905, Subd. 3, district-wide levy.

Jonathan Quast, Wilkin NRCS, has signed up nearly \$300,000 in landowner NWQI contracts. Quast is looking for a commitment from the BRRWD to assist the 8-10 landowners who have signed up through the NRCS to pay the 10% program non-performance penalties (approximately \$30,000) for the NWQI contracts if for some reason the project doesn't move forward, and they can't restore the waterway on their property. **Motion** by Anderson to commit the BRRWD to provide assistance to the landowners with NWQI contracts to cover the 10% non-performance penalties if the project doesn't move forward in 2021. The funding could come from our M.S.A. 103D.905, Subd. 3, account. **Seconded** by Larson. **Approved.**

The Board discussed the WMD fee process, which is based on the amount of sediment and runoff contribution to the watershed for the 10-year event. Fee rates diminish in relation to the size of the event for the non-contributing areas, based on soils and runoff. The Board reviewed and discussed the maps showing potential WMD fee rates. Landowners will have the opportunity to comment on the fee rates at the project hearing. State grant funds and the revenue from the WMD fees could be used as local match for federal funding.

The Board also reviewed a map showing an example of various easement areas with the various proposed easement rates. The rates could change based on landowner and Manager input, as the project develops. **Motion** by Van Amburg to adopt Jones' proposed methodology to set the project easement rates. **Seconded** by Hanson. **Approved.**

Landowner Robert Chambers submitted a request for tree removal near a culvert crossing on Whiskey Creek. **Motion** by Anderson to approve the referenced repair. **Seconded** by Larson. **Approved.**

**Pheasants Forever (PF) Biologist.** The Clay SWCD sent a request to the BRRWD to support the PF Farm Bill Biologist position, presently filled by Tony Nelson, through an agreement with the NRCS and PF. PF and the SWCD will both contribute \$29,250 from their BWSR grant funds. The grants cover 90% of the position's salary (\$58,500) with the remaining 10% (\$6,500) to come from the SWCD and local partners. The SWCD is asking the BRRWD to partner with them to pay one-third of the local share (\$2,166) for Nelson's position. **Motion** by Larson to approve the referenced contribution. **Seconded** by Van Amburg. **Approved.**

**Robert Olson Cost-Share Request.** Olson is working with the Clay SWCD to install three NRCS designed water and sediment control basins with surface intakes and underground outlet in Section 8, Parke Township, Clay County. The total project cost is \$18,714.30. The SWCD contributed \$5,000, and Olson is asking the BRRWD to split the remainder of the costs 50/50 with him for a total of \$6,857.15. **Motion** by Van Amburg to approve Olson's cost-share request for the referenced amount. **Seconded** by Hanson. **Approved.**

**Riverton Township 145<sup>th</sup> ST S Drainage Repairs.** The Board had an extended discussion regarding Duane Hansen's drainage violations last year along 12<sup>th</sup> AVE S and 145<sup>th</sup> ST S in Section 16, Riverton Township, Clay County. Jones discussed drainage repair options with a Riverton Township Supervisor, who indicated that the Township is not interested in participating in road ditch excavation. Hansen has also rejected the proposed repair options. Jones suggested that the Board send Hansen a letter, providing the survey information and reiterating the repair proposal, and encouraging Hansen to work with his neighbors to submit a permit application to address their area drainage problems. **Motion** by Anderson to authorize Fenger to send a letter to Duane Hansen, as discussed. **Seconded** by Larson. **Approved.**

**Deerhorn Township Culvert Concern.** Jones discussed the survey results for an approach culvert elevation in Section 24, Deerhorn Township, Wilkin County, along the west side of C.R. No. 11. The approach/culvert that Kenneth Packer had concerns about does appear to be about 1' higher than a straightline grade between the upstream culvert and the downstream culvert in John Thompson's driveway. Jones will provide the survey information to the affected landowners and the County Highway Department. **Motion** by Anderson to forward the survey results, as referenced. **Seconded** by Affield. **Approved.**

**HR Committee Report.** The Board received a report on an investigation of the staff compensation for 2019 and 2018 in association with the potential transition of the office staff from HEI to inhouse BRRWD staff. They discussed a potential version of the BRRWD organizational chart. An HR Ad Hoc Committee meeting has been scheduled for Wednesday, August 5, 2020, at 7:00 PM.

**CWF Grant Opportunities.** The Board briefly discussed potential 2021 funding opportunities. The BRRWD will partner with the Wilkin SWCDs to secure funding for Whiskey Creek Enhancement. The SWCD would be the applicant, as they are for the current CWF grant. Jones noted that PF and the Prairie Chicken Society have provided an appraisal to the Rogelstad family for their property along the Upper South Branch of the Buffalo River in Section 10, Manston Township, Wilkin County. Assuming that sale goes forward, the BRRWD would be able to move forward with Phase 1A construction of the Upper South Branch of the Buffalo River Restoration project. Future phases would begin to address restoration of reaches downstream of T.H. No. 9. Jones suggested that the Board could consider submitting a CWF funding application for this potential project. Another potential CWF application could be submitted for Wilkin C.D. No. 12 to address slope failures next to a farmstead where C.D. No. 12 enters the Red River north of Breckenridge. At their 7/13/20 meeting, the Board authorized Jones to work with the Wilkin SWCD to conduct a preliminary survey investigation, to provide a concept plan, and to potentially submit a BWSR CWF grant application for erosion control. Jones felt that the potential C.D. No. 12 project development was not far enough along to warrant a CWF grant application at this time. **Motion** by Van Amburg to authorize HEI to assemble and submit an application for work along the Upper South Branch of the Buffalo River from T.H. No. 9 to just north of C.R. No. 30. **Seconded** by Hanson. **Approved.**

**The following bills were presented for approval:**

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
American Enterprises, Inc.	#1957, 2020 Mowing, first cutting	Pj. 49, Oakport	\$ 6,600.00
Bridge Communications	Annual phone contract	Admin.	\$ 550.00
Cathy L. Affield	Voucher # 20-15	Admin.	\$ 851.32
Clay SWCD	FY21, 1/3 local Share-PF position	M.S.A. 103D.905, Sub. 3	\$2,166.00
Joel Carlson	August Lobbyist Billing	Admin.	\$ 850.00
Northern States Excavating, Inc.	Grass Seed R/W	Pj. 48, Clay C.D. No. 59	\$ 2,932.50
Pitney Bowes Financial Serv. LLC	Postage Meter Rental Fee	Admin.	\$ 129.00
Purchase Power	Postage	Admin.	\$ 453.00
RMB Environmental Labs.	#506972, WQ Analysis	MSA 103D.905, Sub. 3	\$ 617.00
RMB Environmental Labs.	#507089, WQ Analysis	MSA 103D.905, Sub. 3	\$ 26.00
RMB Environmental Labs.	#509338, WQ Analysis	MSA 103D.905, Sub. 3	\$ 411.00
Thompson Greenery	Trim trees & clean perennial areas	Admin.	\$ 725.00
US Geological Survey	USGS Stream Gauges 10/01/19-09/30/20	MSA 103D.905, Sub. 3	\$ 5,325.00
Vogel Law Firm	#258925 July Billing	COE	\$ 61,679.64
			<b>\$ 83,315.46</b>

Thompson Greenery was hired to clean up the office landscaping earlier this summer for an estimate of \$600-\$700. The bill is on tonight's list. Darrel Thomas has advised staff that there's still some work left to finish the job that would cost an additional \$300-\$400. The Board authorized Fenger to have Thomas complete the work. **Motion** by Anderson to approve payment of the bills. **Seconded** by Larson. **Approved.**

**Next Meeting.** The next regular BRRWD meeting is scheduled for August 10, 2020, at 7:00 PM in our Barnesville office via teleconferencing, depending on the COVID-19 meeting restrictions.

**Adjournment.** Acting President Fjestad adjourned the meeting at 9:17 PM.

Respectfully submitted,

John E. Hanson, Secretary