

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING October 10, 2017

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Tuesday, October 10, 2017, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Peter V. Fjestad, Jay A. Leitch, Catherine L. Affield, and John E. Hanson. Others attending included: Erik S. Jones, Engineer, and Bruce E. Albright, BRRWD Administrator, Houston Engineering, Inc. (HEI) and landowner.

Chair Van Amburg called the meeting to order at 7:06 PM and announced that the proceedings were being video recorded to aid in preparation of the minutes.

Secretary's Report. The Board reviewed draft minutes for the 9/25/17 regular meeting. **Motion** by Affield to approve the minutes. **Seconded** by Leitch. **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 \$1,987,817.69. Administrative disbursements for the month are \$38,053.01, and for the year total \$384,760.33. Current 2017 accounts receivable totals \$3,961,070.39. Our total income for the year is \$2,529,470.76. Income since the 9/11/17 meeting is \$9,106.88, from the Federal Emergency Management Agency (FEMA) for the final 2011 Spring Flood payment (\$2,021.56), Otter Tail County for delinquent 2017 ditch/property taxes (\$407.30), and the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) for Mediation Project Team (PT) expenses reimbursement (\$3,439.42), and a refund check from Minnesota Department of Transportation (MNDOT) for Project No. 39, Georgetown Levee (\$2,000). The balance of the income came from bank interest and HEI office rental. **Motion** by Leitch to approve the Treasurer's Report. **Seconded** by Fjestad. **Approved.**

Other business brought before the Board included:

Permit No. 17-055, Curt (Kraig) Nelson. Applicant proposes to install pattern drain tile in the E½SE¼, Section 28, Deerhorn Township, Wilkin County. Albright noted that Nelson recently contacted him to inform the Board that this project will be delayed until 2018 or 2019. **Action postponed.**

Permit No. 17-113, Brent Ellefson. Applicant proposes to replace an existing Texas crossing on a private ditch in the SE¼, Section 9, Atherton Township, Wilkin County, with a new approach/culvert. Excess dirt from a new bin site in that same location will be used to build the approach. Jones noted that the next structure to the north is an 84" x 43" (54" equivalent) corrugated metal arch pipe (CMP-A) in County Road (C.R.) No. 32, and the next downstream culvert in the township road is a 60" dia. pipe. Albright observed that Ellefson should have to have a spillway to pass the larger rainfall events.

Permit No. 17-114, Michael Yaggie. Applicant proposes to install an 18" dia. inlet pipe under the road in the NE¼, Section 28, Nilsen Township, Wilkin County, into County Ditch (C.D.) No. 3-Branch 3. Albright recommended permit approval, subject to road authority approval to work within their R/W. He noted that typically, a culvert of this nature would be a ditch system expense. Yaggie has not contacted our office in that regard.

Permit No. 17-115, Clay County Highway Department. Applicant proposes to replace an existing 36" dia. CMP with a new 48" dia. pipe in Todd Affield's driveway along C.R. No. 21 in the SW¼, Section 32, Elkton Township, upstream of Stony Creek. The Highway Department will furnish the culvert in response to a landowner complaint about the undersized pipes his driveway restricting drainage to Stony Creek. Affield has agreed to install it. Albright recommended permit approval, subject to the County staking the culvert grade.

Permit Nos. 17-116, 17-117, and 17-118, Otter Tail Power Cooperative. Applicant proposes boring and installation of fiber optic cable under Wilkin C.D. Nos. 3, 7, and 28, from the Red River along 320th ST to the east in Connelly, Nilsen, and Andrea Townships. Jones recommended permit approval, subject to our standard utility disclaimer and road authority permission to work within their R/W.

Motion by Leitch to approve Permit Nos. 17-113 through 17-118, subject to the referenced disclaimers and conditions. **Seconded** by Affield. **Approved.**

Wentz Tile Complaint. Albright reported that he sent the letter to John Steffl that the Board authorized at their 8/28/17 meeting, notifying him that he had 10 days from the date of the letter (9/26/17) to stop his tile operation or the Board would seek a Court Order. Steffl installed a tiling project last year without a BRRWD permit that outlets via existing ditches to Natural Resources Conservation Service (NRCS) designated wetlands on Harlan Wentz's property in the SE¼, Section 3, Callaway Township, Becker County. Wade Opsahl, Technician, HEI, inspected the tile outlet today and reported that the tile is still open. Albright also contacted Wentz to see if Steffl had contacted him about blocking the outlet, but Wentz has not heard from him. Albright copied the Becker County Attorney on the letter sent to Steffl. He also contacted BRRWD Attorney Tami Norgard, Vogel Law Firm, today regarding enforcement of the Board's order, but Norgard didn't have time to respond before tonight's meeting. Albright explained that typically, the Board would seek a temporary injunction from a Becker County Judge to stop the tile operation, followed by a future hearing to make the block permanent. The Board discussed the problem and agreed that the best outcome would be for the landowners to work out an agreement without further BRRWD involvement. Albright will continue to work with Norgard in this regard.

Haugrud Drainage Complaint. Albright reported on the status of the dispute between the Lindholms and the Haugruds regarding Haugrud's demand that the Lindholms clean the waterway immediately downstream of the culverts through C.R. No. 19 in Section 22, Prairie View Township, Wilkin County, through their Conservation Reserve Program (CRP) acreage. Jimmie Lindholm obtained an estimate for the work. Bryant Haugrud had agreed to pay for the cleanout, but was concerned about the estimated price. To date, no work has been completed.

Trunk Highway (T.H.) No. 9 Drainage. A field meeting has been scheduled on 10/12/17 at 9:00 AM at the intersection of T.H. No. 9 and C.R. No. 87 to discuss a tile outlet concern along T.H. No. 9 in Sections 28/33, Spring Prairie Township, Clay County. The tile water is allegedly affecting trees on a neighboring farmstead.

Rick Gandrud Complaint. Rick Gandrud contacted the office regarding a tile project Kraig Nelson installed last year, that crosses the Gandrud property, in the SE¼, Section 20, Hamden Township, Becker County. Nelson installed an 8" dia. basin control structure outlet tile. Manager Hanson explained that Nelson recently added more tile that uses the same outlet. Gandrud is concerned that the added tile water will overload his 10" tile outlet in the SE¼, Section 20, Hamden Township. He was also upset that no one contacted him about the new tiling. Albright noted that Nelson didn't have a permit to add more tiled acres to his 2016 project (Permit No. 16-123). He suggested that the Board should send Nelson a letter indicating that he will need to submit a permit application of the new tiling, and if this new tile water causes problems for the downstream landowner, other outlet options will have to be considered. **Motion** by Hanson to authorize Albright to send the referenced letter to Kraig Nelson. **Seconded** by Leitch. **Approved.**

Permit No. 16-010, Jerred Jirava. Albright reported that there had been some concern that Jirava was possibly draining unassessed areas to Becker C.D. No. 21 with his tiling project in the N½, Sections 11 and the W½SE¼, Section 2, Riceville Township. Wade Opsahl, Technician, HEI, recently verified that all the tile Jirava installed is assessed to C.D. No. 21 and no benefit violation exists.

Project No. 79, Wolverton Creek Restoration. A meeting was held on 9/26/17 with various state, local, and federal agencies to discuss project easement management/maintenance. The meeting included the Minnesota Board of Water and Soil Resources (BWSR) and NRCS. A two-stage easement process was proposed with the BRRWD taking an easement for construction and future maintenance, and then the State/BWSR following up with their Conservation Reserve Enhancement Program (CREP) permanent easement. CREP funding would only cover easement acquisition on cropland with the exception that 5% of the total easement area could be non-crop or current CRP. CRP acreage can't be rolled over into a permanent CREP or Reinvest In Minnesota (RIM) easement, except as noted. There currently isn't a RIM easement independent of CREP. Albright explained that for acreage currently enrolled in CRP, the BRRWD would have to acquire the permanent buffer easement as a project expense to comply with the DNR permit requirements. Given the complicated nature of the easement acquisition process with the agencies, Albright thought that construction would probably not get started this fall. He thought we could open bids this winter and work with the landowners on easement acquisition, with construction startup next spring. The agencies asked that the BRRWD consider providing surveys of the easement boundaries to be used for the legal descriptions.

The Board briefly discussed the Wilkin County Environmental Office's Conditional Use Permit (CUP). Jones noted that this is the last permit needed for the project. **Motion** by Affield to authorize signature of the CUP application. **Seconded** by Fjestad. **Approved.**

Project No. 78, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). HEI plans to file the preliminary survey report in December.

Project No. 49, Oakport Flood Mitigation. Based on attorney/client privilege, and in accordance with the Open Meeting Law, the Board went into closed session at 8:15 PM to discuss the status of the Kopperud lawsuit. At 8:21 PM, the Board reopened the meeting.

Albright explained that the one of the Wetlands Reserve Program (WRP) mitigations site associated with the Oakport project does not currently meet the wetland specifications needed for it to qualify for mitigation. The neighboring landowner has routinely mowed part of the site, and they also planted trees on the right-of-way (R/W). He suggested that the BRRWD needs to develop a restoration plan for the site, and then he'll work with the neighbor to set limits on their access. There are three other mitigation sites associated with the project that are meeting all specifications.

Ulteig Engineers, Inc. (UEI) is working with FEMA on the levee certification. There are some issues regarding the floodplain mapping and the hydrological model FEMA is using.

Jones prepared an advertisement for bids for the removal of the Pierce spoil stockpile. The bid deadline is 10:00 AM, Monday, October 23, 2017, to be submitted at the HEI office in Fargo. The advertisement has been sent to the newspapers for publishing, and he also sent out bid packages to local contractors. The Board will be able to review the bid results at their meeting that same night.

Project No. 21, Wilkin C.D. No. 13 and 13-Lateral. The channel repair is finished except for spoil pile leveling. There is one stretch on the Thompson property (Section 36, Deerhorn Township) that still needs to be cleaned. One of the owners refused to allow our contractor access to the ditch along their property. Opsahl reported that in general, the ditch was performing noticeably better following the recent rainfall, but the stretch on the Thompson land needs cleaning. Albright will work the landowners to hopefully get this work done.

Jones's hydraulic report showed that Bradley Nelson's request to relocate a C.D. No. 13-Lateral crossing in the NW¼SW¼, Section 23, Deerhorn Township, to the east line of the SW¼ will have only a minimal upstream impact, so that work will be completed yet this fall.

Opsahl is also working with the landowners on Wilkin C.D. No. 22 to obtain Permission to Level Spoil forms, so that as the crops are harvested, the main ditch repair can be completed yet this fall.

Washington, D.C. Delegation Trip. Albright gave a brief report on the trip he attended with the Regional Delegation to Washington D.C. to meet with United States Congressmen Kevin Cramer (North Dakota) and Collin Peterson (Minnesota) and others to present a proposal for the Red River Comprehensive Subwatershed Pilot project, which is a large-scale demonstration pilot project showing the benefits of comprehensive water management. Albright thought that the delegation's proposal was well received; however, NRCS has already spent the current Farm Bill funding on WRP easements. Discussion topics included changing how Farm Bill funding is managed at the Federal level.

F-M Diversion. A Governors' Forum was held on 10/04/17 in Moorhead. Manager Van Amburg attended the meeting. Albright explained that the Diversion Authority (DA) and the Minnesota contingent will each chose eight people to create a task force to formulate recommendations regarding the issues surrounding the Diversion project and the Minnesota permitting concerns. State Representative Paul Marquardt asked Manager Anderson to be on the task force. The Board had a brief discussion about the Forum meeting topics and suggestions for the taskforce process.

Upper South Branch of the Buffalo River. Albright noted that we were recommended for \$1,195,000 in Lessard-Sams Outdoor Heritage Council (LSOHC) funding to do channel restoration work on the South Branch upstream of T.H. No. 9. Funding will be allocated in 2018 by the Legislature. There are still a couple of landowner contacts needed for easements. Albright noted that the Council seems to be impressed with the projects the BRRWD has submitted for their funding, but now we should deliver quality projects to justify the LSOHC support/funding.

Wilkin County Ditch Repairs. The Wilkin County ditch hearings were held 9/26/17 for C.D. Nos. 40, 41, 42, 43, and 44. Albright has prepared Orders for the ditch repairs, which includes the removal and addition of properties, the redetermination of benefits for certain parcels, and the incremental installation of buffer strips and side inlets. **Motion** by Fjestad to approve the referenced Orders for C.D. No. 40, 41, 42, 43, and 44. **Seconded** by Affield. **Approved.**

Albright submitted the landowner R/W payments for the buffer installation, totaling \$205,945.55. **Motion** by Leitch to authorize the R/W payments. **Seconded** by Hanson. **Approved.**

Jones recommended that the Board award the contract for the buffers and side inlets for C.D. No. 40, 41, 42, 43, and 44 to DM Enterprises, Wadena, MN, for their bid of \$39,930.50. C.D. No. 42 was not included in the side inlets bid because they have already been installed for that ditch system. The Engineer's estimate was \$35,000-\$45,000. Because of the good bid we received from DM Enterprises, Jones also recommended that the Board approve Change Order No. 1 to add inlet structures for Wilkin C.D. Nos. 13 and 13-Lateral to the contract for an additional \$24,462. By adding these ditches, the BRRWD will insure full expenditure of the 2013 BWSR Clean Water Fund (CWF) grant for the Upper South Branch of the Buffalo River. **Motion** by Fjestad to award the referenced contract to DM Enterprises and to approve Change Order No. 1. **Seconded** by Affield. **Approved.**

Jones recommended that the Board award the contract for the limited repair of Wilkin C.D. No. 43 west of Lawndale to R. J. Zavoral and Sons, Inc. for their bid of \$108,508. The Engineer's estimate was \$120,000-\$135,000. The BWSR CWF grant funds can also be used for this work. **Motion** by Fjestad to award the referenced contract to R. J. Zavoral and Sons, Inc. **Seconded** by Affield. **Approved.**

1W1P. A meeting was held 9/25/17 regarding the One Watershed, One Plan (1W1P) with the other Local Government Units (LGUs) in our office. Discussions included the development of a draft Memorandum of Agreement (MOA), workplan, budget, project timeline, and setting up a variety of committees: Steering (agency personnel), Policy (elected officials), advisory, and technical advisory. The next step will be to circulate the MOA to the four participating Counties and Soil and Water Conservation Districts (SWCD) for signatures. Albright received a draft copy of the MOA today for review. The completion date for the 1W1P is 12/31/19. The Steering Committee plans to hold another meeting in January 2018.

Since we have started the 1W1P, BWSR notified the Board that we are no longer in non-compliance regarding our Comprehensive Plan update to add the new areas in Wilkin and Otter Tail Counties.

2017 Minnesota Association of Watershed Districts (MAWD) Awards. Albright plans to submit both our final applications for the MAWD 2017 Awards Program before he leaves next week. We submitted applications for the Project of the Year (Oakport Flood Mitigation) and the Program of the Year (Barnesville River Watch), and we are required to submit more extensive applications forms for both by 10/27/17. We need two letters of support for the application. He already has letters for the River Watch program from former River Watch Team Advisor Sheila Carlson and Barnesville School District Superintendent Scott Leslie; and Greg Anderson, Oakport Township Chair 2002 through 2011. Clay County Commissioner Kevin Campbell has also agreed to provide his recommendation for Oakport.

The Board discussed room reservations for the Annual Meeting to be held December 1-2, 2017, in Alexandria. Albright and Managers Fjestad, Van Amburg, Hanson, and Leitch plan to attend. The office will handle the reservations/conference registrations

Manager Fjestad noted that MAWD has hired Emily Javens as the new Executive Director. Javens was formerly the District Administrator for the Yellow Medicine Watershed District. The Board briefly discussed MAWD's need for a lobbyist.

BWSR Drainage Records Modernization (DRM) Grants. The Board authorized HEI to apply for a BWSR DRM grant at their 9/25/17 meeting. Jones recently submitted the application, which will be reviewed before the end of the year. The funding could be used to offset some of the administration costs to transfer our records into M-Files.

2015 Buffer Law. The deadline for the BRRWD to have the legal ditch system buffer strip enforcement policy adopted and submitted to BWSR is 11/01/18. Jones is working on preparing the policy. Albright noted that the Board will be able to combine the work on our Rules revision and the BWSR Buffer Rules and hold the public hearings at the same time.

Red River Watershed Management Board (RRWMB). Manager Leitch reported that the RRWMB has narrowed their field of potential Executive Directors down to 8 candidates. Leitch also noted that the Red River Basin Commission has a large group of candidates for their Executive Director position.

SWCD Soil Health Workshop. The Becker SWCD sent the BRRWD a thank you note for our contribution to the Soil Health Workshop. Albright and Managers Van Amburg and Hanson attended the event in near Lake Park.

2017 Interagency Workgroup Report. The Board discussed the 2017 Report of the Interagency Workgroup on Water Reuse, titled "Advancing Safe and Sustainable Water Reuse in Minnesota". Albright noted that several Twin Cities Administrators expressed concerns over the proposed legislation at a recent Minnesota Association of Watershed Administrators (MAWA) meeting.

Project No. 77, Clay C.D. No. 51-Lateral. The Board went into closed session at 9:08 PM to discuss the status of the Norby lawsuit. They went back on record at 9:10 PM.

Office Copies/Printers Contract. Liberty Business visited the office last week to review the BRRWD's copier/printer contracts. We are in year 3 of our five-year lease for the multifunction copier. Currently, all the office copier needs are being met by the contract.

Ditch Cleaning Violation. HEI staff reported unauthorized cleaning on about 0.5 miles of Wilkin C.D. No. 2 in the NW¹/₄, Section 3, Sunnyside Township, and then several hundred feet along the south side of T.H. No. 210 east of Breckenridge. The Board reviewed photographs of the work. Opsahl reviewed the work and reported that the ditch will need additional maintenance as the culverts are still standing about half full of water. There was a similar incident on Wilkin C.D. No. 1B this summer. Albright suggested that the Board have HEI investigate to find out who actually did the work and prepare a restoration plan. Albright will send a letter advising that in accordance with Minnesota Drainage Law (M.S.A. 103E.081, Subd. 2), BRRWD permission is required for work in legal ditch systems. He will work with the identified violator(s) on ditch restoration and try to help them understand that in the future, they need to work with the BBRWD on ditch cleaning and that this type of work requires BRRWD review and approval.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
AmeriPride	09/30/17 statement (2) - rugs	Admin.	\$ 64.14
Barnesville ISD #146	River Watch FY16-17 excess costs	M.S.A. 103D.905, Subd. 3	\$ 597.82
Barnesville Record-Review	09/30/17 Statement, Hearing notices (3)	Wilkin C.D. Nos. 40, 41, 42, 43, & 44	\$ 3,078.00
Bruce E. Albright	Fall Tour Meal/Drinks	Mediation PT	\$ 594.27
Bruce E. Albright	Washington Trip Meals	Mediation PT	\$ 558.21
Chris Hoppe Lawn Care Service	#8112015, Aug. & Sept. Mowing	Admin.	\$ 961.88
City of Barnesville	#10004959, Phone/Internet/Utilities	Admin.	\$ 629.73
Daily News	Wilkin Ditches-Hearing Notice	Wilkin C.D. Nos. 40, 41, 42, 43, & 44	\$ 2,689.20
Erik Jones	Hornbachers Cookies/Donuts	Mediation PT	\$ 38.94
HEI	September Billing Summary	Varies-See Attached	\$ 138,600.56
MAWD	Annual Meeting Registrations (5)	Admin.	\$ 1,195.00
Minnesota BWSR	Wetland withdrawal/stewardship fees	Elkton Wetland	\$ 4,456.40
Premium Waters, Inc.	#366590-09-17, Office water	Admin.	\$ 34.37
Purchase Power	September postage	Admin.	\$ 301.50
Richards Transportation	#10575, Fall Tour Bus Rental	Mediation PT	\$ 600.00
RMB Environmental Labs	#373568, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 1,106.00
RMB Environmental Labs	#373877, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 522.00
RMB Environmental Laboratories	#374460, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 553.00
Roger Lundberg	Beaver Control	Varies	\$ 2,715.98
RRBC	2018 RRBC Summit (4)	M.S.A. 103D.905, Subd. 3	\$ 900.00
RRVCPA	9/1/17-10/1/17 Service	Pj. 49, Oakport	\$ 84.14
Ryan Beattie	#100, Beaver Control	Varies	\$ 480.00
United States Treasury	3rd QTR Form 941	Admin.	\$ 1,101.60
Vogel Law Firm	#204148, September billing	Pj. 39, Georgetown	\$ 964.00
Wilkin County	Application Fee	Wolverton Creek	\$ 200.00

Wilkin County Hwy Dept.	Surveying/Repairs	Varies	\$ 12,801.42
WREC	08/18/17-09/17/17 Service (2)	Pj. 46, Turtle Lake	\$ 71.09
Xcel Energy	08/26/17-09/19/17 Service	Pj. 49, Oakport	\$ 85.55
Xcel Energy	08/23/17-09/24/17 Service	Admin.	\$ 67.32
			\$ 176,052.12

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

Next Meeting. The next regular meeting will be held on Monday, October 23, 2017, at 7:00 PM in our Barnesville office.

Adjournment. **Motion** by Leitch to adjourn the meeting. **Seconded** by Fjestad. **Approved.** Chairman Van Amburg adjourned the meeting at 9:20 PM.

Respectfully submitted,

John E. Hanson, Secretary