

Bottomlands Management and Property Owners Task Teams notes from 08/15/2007.

Team leader: Ben Purdy  
Team facilitator: John Wyrwas  
Team note taker: Todd Kalish

In attendance were Ben Purdy, Todd Kalish, John Wyrwas, Don Tilton, Bill Lane, Ed Martel, Bob Kaufman, Bruce Carpenter, Dick Steiger, Nancy Steiger, Nancy Wieland, Chris Maxbauer, Dennis Aloia, and Bruce Hooper.

*Review and approval of agenda (Ben):*

Changes: Todd will fill in for Jennifer Jay and Ed suggested adding two items to the agenda 1) discussion about the Varnum bottomlands ownership issue 2) Part 303 issues concerning the Boardman Pond drawdown.

The changes and additions were agreed to by the entire team.

There were questions as to why Jim Pawloski wasn't at this meeting. It was stated that he would likely attend the Aug. 28 meeting.

*Approve 7/18/2007 meeting notes (Ben):*

Wyrwas indicated that a statement captured in the notes was incorrect. Jim Pryor stated at the 7/18/2007 meeting that no member of the Implementation Team owned property or lives in Grand Traverse County. Wyrwas and Kalish stated that four IT members live in Grand Traverse County (Dennis Aloia, Richard Lewis, Joe Kaltenbach, and Todd Kalish).

Purdy gave an update of new sign placement around the Boardman Pond. The GT Conservation District has placed signs suggesting take-out at the Lone Pine trail head and have installed snow fence near the boat launch to increase the visibility of informational signs.

Lane thought it was contradictory to put in signs requesting take-out at the Lone Pine trail and install a take-out dock near the boat launch. Purdy responded that the new take-out platform by the boat launch is being used quite a bit.

Martell asked why the GT Conservation District did not obtain a DEQ or Natural Rivers permit for the take-out platform.

Purdy responded that the Conservation District did obtain the permits and they are posted at the site. Purdy also stated that newly exposed garbage is a concern at the Boardman Pond and the Paddle Club has volunteered to pick up the newly exposed garbage once the drawdown is complete.

The GT County's risk assessor will be visiting the Boardman Pond area on Aug. 22. Alpers was concerned that might not be soon enough

*Update on the status of the drawdown (Aloia, Tilton, and Purdy)*

Tilton stated that the drawdown monitoring continues on a weekly basis. The entire outflow from Boardman Dam is currently going through the penstocks, and the drawdown is at approximately 13 feet. He stated that the railroad engineers evaluated the erosion site on the west end of the pond and determined that there is no imminent danger due upon the railroad due to the drawdown or the slumping of the bank. We have a new intern taking photographs of the pond since the previous intern program expired last week.

Bruce would like to meet with the new intern to add his pictures. He thinks the intern's pictures do not adequately assess the drawdown. Tilton is happy to incorporate Bruce's pictures. Bruce was concerned that the pictures he sent to Jennifer were not posted on the internet. Todd stated that the reason was that the pictures were too large, and need to be modified before posting otherwise they will crash the internet site. If people want to request posting pictures to the web site, they need to be sent in a form that is not too large to crash the site.

Alpers questioned the actual height of the drawdown to date. He believes it is greater than 13 feet and would like to take a reading in a place other than at the powerhouse. There was discussion that it would be easy to measure the actual drawdown height, and ECT will do this in the near future.

Wyrwas questioned whether or not the drawdown has to be at 17 feet by Aug. 31. Tilton stated that the water level must be 17 feet down by Aug. 31 according to the DEQ permit.

Alpers asked if there was a plan to bring the water level back up. Tilton stated that dam retention is part of the engineering and feasibility study and will be evaluated. The Consent Agreement (DEQ and Grand Traverse County) states that a decision must be made regarding Boardman Dam by Dec. 31, 2008 as to how the County will either bring the dam into compliance with State Dam Safety Standards, or remove or modify it.

Martel asked if anybody has been told by the DEQ that you need a Part 303 permit for drawdown of Boardman Pond. Tilton stated that if the dam is removed, all pertinent permits will be applied for.

*Update on the process for bottomland options (Todd Kalish)*

Todd presented Jennifer's notes from the 7/18/2007 meeting and began a discussion about the possibility of the BRDC generating possible management options for exposed bottomlands on Boardman Pond. Todd indicated that certain information is needed for the BRDC to make informed recommendations regarding the disposition of the dams, and bottomland management likely one of them. The team agreed that we should move forward as a team to generate potential bottomland management strategies. We will begin this process at the September meeting.

Martel stated that we should not assume the County owns the Boardman Pond bottomlands. He said that two professional surveyors indicated to him that the County

may not own the bottomlands. Martel stated that he believes the Varnum opinion is flawed because several questions were not addressed. Therefore, Martel will put these questions in writing and forward them to the BRDC so we can forward them to Varnum for additional clarification.

Lane stated that the County will likely not render a decision on bottomland management.

Martel stated that all dam removal people are members of a society that try to avoid wetland issues at all costs. Todd questioned the validity of that statement. "All dam removal people" is an ambiguous term and these people should not be pigeon holed into the views of one society.

Martel elaborated that the BRDC should not assume the Boardman Pond bottomlands are owned by the County when we begin defining and recommending management options. Nancy stated that we can proceed through this process by following a matrix that includes County owned bottomlands and non-County owned bottomlands. There was dissention regarding this issue since the BRDC completed an exhaustive public process (in which all Boardman Pond property owners were invited and alerted of through a variety of means including certified letters to all of their homes) to hire a neutral, appropriate, competent lawyer to give us an opinion on who owns the bottomlands. That opinion stated that the County owns the bottomlands.

Martel stated that the GT Conservation District should be ashamed that they are not concerned about the destruction of wetlands caused by the drawdown.

It was stated that destruction in some people's views is restoration in others since (according to ECT) the drawdown will expose more wetlands than existed before the drawdown, and the river is restoring itself to its natural state.

There was a question as to whether or not the property owners could put in docks that extend across exposed bottomlands?

Martel questioned why the County couldn't say it's ok to put docks into exposed bottomlands, and also said the property owners should just do it.

Martel stated that the Boardman River Natural Rivers Act states that the dams are important for the ecology of the River and this is contradictory to the drawdown. Questions were raised to produce the exact wording in the Natural Rivers Act that stated this, and were not provided.

Martel asked what actions are going to be taken to assure pipes don't freeze in the Boardman Dam over the winter.

There was discussion and clarification as to what "dam" actually refers to.

ECT and the County will provide more information regarding proper winterization techniques at next months meeting.

Dec. 1 was determined as a deadline for recommending bottomland management options to the BRDC.

Martel stated that the County is not participating in the drawdown Contested Case hearing, and it would speed things up if they were involved. He stated that it is difficult to involve the County In any type of negotiation because they won't talk to him due to the Circuit Court case.

The BRDC was formed primarily to create an open forum that involves all interested citizens and stakeholders in the determination of a dam disposition recommendation. The choice of some to enter into a court case and inhibit communication was not the recommendation of the BRDC.

Martel asked why spillway capacity wasn't ever mentioned in the drawdown process and why one spillway wasn't not used in the calculation of the pmf studies. This is not a question this team can answer, but it was noticed that that question was addressed in the Preliminary Injunction hearing.

Carpenter asked if he can use the bottomlands. It was stated that he must comply with all laws and obtain all pertinent permits.

Martel read portions of Varnum's report, and once again stated that new questions need to be asked and addressed.

Wyrwas indicated that the court case would be null and void if we could all work together to come to an agreement regarding bottomland management issues.

Martel stated that the BRDC makes a lot of decisions in the absence of the property owners and that the BRDC has to follow the Varnum opinion, but he doesn't.

Wywas, Purdy, and Kalish indicated that the BRDC is a very open process, and questioned Martel's statement about not involving property owners.

Martel stated that GT County made the assumption that they owned the Boardman Pond bottomlands when they applied for the permit to draw the Boardman Pond down.

Aloia stated that that is absolutely not true. The County assumed they owned the dam, not the bottomlands.

Martel asked who is responsible for the destruction of wetlands on private bottomlands. He stated that the property owners should have been involved in deliberations about the drawdown permit and Consent Agreement because they have a vested interest in the bottomlands.

Hooper reiterated that wetland destruction isn't what our environmental consultants have reported to us on a weekly basis. Our consultants are reporting that the drawdown will restore wetlands.

Martel stated that public trust issues were avoided, and only Part 315 issues were addressed.

Aloia questioned whether or not this meeting was the best place to discuss this subject matter.

#### *Next Steps*

1. This team will begin developing Boardman Pond management options at the next meeting on Sept. 12 from 5:00-7:00 at the Civic Center (if available).
2. This team needs to coordinate the development of management options with the Scope of Work team's efforts to develop a dam disposition decision-making matrix.

Carpenter asked if we could put more signs around Boardman Pond publicizing the BRDC web site. He volunteered to make the signs.

Purdy stated that all the signs the GT Conservation District put up have the web site on them.

Todd will not be able to attend the next meeting, or any meeting that is on Monday or Wednesday night. Therefore, the team needs to assign a new note taker.

#### *Meeting evaluation*

Most comments were that it was a good meeting and it was a good exchange of ideas. It is good that we can all talk about controversial issues in a respectful manner. It is good to see that there are a lot of different views about various issues, and people are voicing their concerns. We need to be extremely respectful of different views. There are a lot of issues we discussed tonight that this team can't address, and it is not appropriate for us to take time out of peoples busy schedules discussing issues that are not on the agenda and don't pertain to the mission and purpose of this team. We need to begin acting on solid decision items by following the decision-making process we all agreed to. We will use the decision-making process at the next meeting.