

**Bottomlands Management and Property Owners Issues  
Meeting Minutes - 6/20/07**

**Attendance:** Nancy Hampel, Tom Rozich, Todd Kalish, Andy Knott, Jim McIntyre, Bruce Hooper, Landa Alpers, Ron Alpers, Larry Burns, Don Tilton, Chris Maxbauer, Craig Poddig, Herb Lemcool, Carole Groves, Dennis Aloia, Bruce Carpenter

Agenda Item:

**Determine if we will continue to use Labeled Decision Making Process:**

It was decided to continue using the Labeled Decision Making Process, but modified as follows:

1) We will only use the II.A (Consulting decision: Leader consults with the group and then makes the decision), II.B (Will live with decision: After discussion a decision is proposed and each member decides, out loud, they will live with that decision (requires back-up decision style), III.A: Hand-over decision (Leader gives authority to an individual or group).

2) We will not use (on a regular basis) the I.A, I.B, or II.C decision-making styles.

**Amendment of May minutes:**

The following amendments will be made to the May 16, 2007 minutes:

Page 1: typo (change "is" to "if"; first word of last paragraph)

Page 2: The planned proposed drawdown is approx. 2" per day (not 1" per day);

This will reduce (as opposed to "avoid") wave erosion...

Eurasian milfoil is present (not "may be")

**Review and approve agenda :** no additions

**Definition of "Bottomland"** - Bruce Carpenter: "*Bottomland* means the land area of an inland lake or stream which lies below the ordinary high-water mark which may or may not be covered by water".

Other definitions found by Jennifer Jay: "low-lying alluvial land near a river", and "low-lying areas that are likely to be classified as wetlands".

Question: Does an impoundment create a different scenario for "bottomlands"?

Tom Rozich: Correct term may be "over-flowed land".

Discussion of high water mark on pond; What is the ordinary high water mark? Should we get the answer from TCLP? It is in the Gannett Fleming report prepared for TCL&P that Jennifer has in the project office. The property owners are seeking definitives. Light and Power says +/- 3"; DEQ holds to +/- 8"; FERC ?

**Action:** Jennifer will find the high water mark information in the Gannett Fleming report for the next meeting.

**Update on status of drawdown:**

Dennis Aloia: The drawdown began Monday (June 18<sup>th</sup>); and is proceeding at a rate of approximately 2"/day on average, but lowering is not an exact science and there may be fluctuation to the amount per day. Numbers are being sent to DEQ so they are aware of how the drawdown is going. There will be an issue after about 3' of drop with the transducer being out of water; it will either have to be lowered back

into water or readings will need to be done manually. Dennis and some County Commissioners toured the pond today.

An appeal has been filed on the permit. The petitioner has been given until July 11<sup>th</sup> to file additional paperwork. They are going through the administrative appeal process; Dennis has heard that there may be an injunction filed. DEQ called to ask if the County would be intervening. County doesn't believe so. Tom Rozich states that they (the DEQ) are likely questioning the standing of the petitioner; whether or not he is a property owner. Dennis says that according to the registrar of deeds states, a party doesn't have to be listed. Question: How does an appeal differ from an injunction? An injunction would permanently stop the drawdown. To file an injunction would likely not be well received unless the administrative appeal of the permit had been done, that is likely why this step was initiated. Apparently however this appeal could take 3-6 months, and the DEQ states that there is an agreement in place to drawdown by August 31; the County will not stop unless and until there is an injunction approved.

### **Report from intern and update on drawdown process:**

Don Tilton states that he met with Andy Schwab who is the intern doing the monitoring; Andy has youthful enthusiasm and appreciates the project and the tasks. Once a week he walks the perimeter of the pond and take photos at recorded stations. He has baseline photos to show him how to proceed, compass bearing to compass bearing. Photo sites include tributaries, etc. Andy is also taking notes on erosion and will record locations and take photos; not just surface erosion, but any kind of wasting of a slope. None is anticipated but Andy will be alert to it. Don showed him some examples and areas where there could be undercutting of banks. Most of those areas are already armored with stone. Andy worked with a botanist in the Artic Circle and is enthused about monitoring vegetation; not just invasives, but anything germinating. Don showed the difference between seedlings and old, buried rhizomes. Lastly, he will participate in a species survey in late July. Andy has done a complete walk through with baseline set of photos and now a second time as well. These will serve as baseline. He will go out weekly and communicates with Don when photos are done so that Don is aware of changes or if Andy would like to add a station due to his observations.

Don walked the pond today to see what the 6" has done. In some areas there is an additional 6' of exposed bottomlands, in other areas it is hardly noticeable. He has looked at all mudflats on South end. There is lots of natural reproduction of boneset, maple seedlings, grasses, cattails, etc. all of which are good. There is also some loosestrife. Don feels the areas that have not revegetated are likely lagging but will be germinating. There are also lots of signs of wildlife use on those areas. Don is glad that people are making their own observations and encourages maintaining that dialogue. Don has also been asked by the County about budgetary considerations should there need to be some bank stabilization to protect private or county land. Steve Largent will be continuing to discuss with Don. It was mentioned that there are whitetail deer taking advantage of new growth of western shore.

Steve Largent reports that the boat launch will be closed as of tomorrow. GTCDC will be adding to the canoe launch due to some exposed nails etc., to allow for safer removal of canoes, etc., at Lone Pine. Is there any plan for small boat? The way it drops off at boat launch it is not likely to have boats until after drawdown is complete and we know what's there. There are some new signs placed around pond as well. Daniel Alpers is presenting at next BRDC meeting his project completed in his Sci-Ma-Tech class. TV7&4 is broadcasting live at 5pm tonight from the boat launch.

Watching for stranded fish and need to report and move to deeper water. Request for suggestions from fisheries guys for how to move stranded fish; Todd Kalish says if anyone sees stranded fish, they need to call him. His office is only 2 miles from pond and he will come. The fish are supposed to be saved and released. There are a variety of nets to use. It shouldn't be an emergency type of thing where all of a

sudden fish are flopping; so if you see a pool or pond start to form, please alert the DNR. Andy is also watching for this.

It was commented that upstream there is newly formed river channel, improved trout habitat, around canoe launch/Lone Pine area. Lots of gravel becoming exposed. Likely a sign of how the stream is going to naturalize. As for stabilization of streambank, will know more as the drawdown continues; may not want to permanently stabilize streambank if drawdown proves to be temporary. There are many simple and effective ways for temporary stabilization. Question: anyway to stabilize the sandbar area so as not to wash sand into river? Loss of sand there should be minimal because it's flat. This is also not a primary site for take-out. If the area becomes more heavily used, additional steps can be taken if needed. Question: is it just the boat launch that is closed, not areas closed to canoes, etc? Just the boat launch; the reason is the drop-off is so extreme that someone could lose a trailer or be injured. It was mentioned that there seems to be an increase in the number of canoes and kayaks. The loons are off the platform. The vegetation planted on the platform is flourishing as well. To the south of the platform there are a pair of swans and the geese have hatched a couple of times. The loons have chicks! There are also apparently more, and larger, turtles.

### **Report status of issues and concerns raised at 5/16 meeting:**

Steve Largent has tried to contact Coast Guard, no call back yet, possibly due to switch in commanders. Signs are posted "ecologically sensitive area, please stay off". Varnum has rendered their legal opinion that the property is owned by County regardless of whether this is a permanent drawdown or not. Copies of the Varnum letter and the DEQ signed permit are both available at this meeting. Regarding the need for more commissioners to be involved, it was noted that 3 were present tonight and it is good that commissioners toured the pond. In response to the need for snacks, Todd Kalish brought snacks this evening. BRDC member Al Morse is in Hospice and has been visited by a few people; he seems to appreciate the visits. At the last meeting it was requested that someone from the Finance Team be at these meetings; Herb Lemcool is present and provided an update (please refer also to Finance Team meeting minutes for full details); while much work is being accomplished, we need more funding to complete the study as there are many parts of the Scope of Work that have not yet begun. There is an impressive amount of work being accomplished by the task teams in completing some of the work in the SOW. The Finance team meets the 3<sup>rd</sup> Tuesday of every month at 9AM in the project office. Herb also reports that there will soon be a new website which will include a blog area along with a request to keep blog conversation civil. Christine Maxbauer asks if the finance committee has looked at the qualifications of the persons who would be doing the economic study and perhaps sought volunteers to do some of this work? Herb Lemcool answers that most of the issues that were decided to study were selected by BRDC and then selected a team compiled by ECT to perform the work. Don Tilton states that they have individuals on the team to fulfill all of the required portions of the study. Additionally, ECT is working with the Finance Team and being really creative in putting this together; for example the Communications Team has done part of the work as volunteers. Christine asks: has the finance team researched foundations? Herb: yes, this is being done continually. Mike Donahue is taking the lead on finding money and doing a good job. Additionally it is noted that Scott Parker has been working with USACE so there is no overlap, etc. The USACE just got a huge appropriation to conduct much of the work and they're in for another appropriations. We need about 500k but have been really successful with funding already.

### **Determine how best to address pondfront property owners issues:**

It was stated that some are actively seeking to stop the drawdown. Craig Poddig states that this group of property owners have signed on to the BRDC process, may have been late in becoming involved, but are actively involved and doing research and having conversations with knowledgeable individuals. Craig stated that Brett Fessell had sent the fish count to Bruce Carpenter and stated that he was unimpressed with the count; Brown Bridge was better count. Craig's brother is an avid fisherman and he said the 3' drawdown in March took down spawning habitat. There is concern that survey results are going to be skewed because damage is already done. These property owners have picked up the DEQ files pertaining to the drawdown and feel that they do not reflect any consideration to wetlands. Despite being involved with the BRDC process, there is a feeling that this mandated drawdown is a red herring. Referring to the maximum recorded water flowage and the standard to which this dam is being held, it appears that common sense is out the door; what's being fought for is what is being removed. While OK with the study, they are emotional about this but they feel like they are being pandered to and the removing of the pond is causing so much damage, even if it is temporary and this is only because of the dam safety, which seems like a ridiculous standard. Craig would like to have a full group meeting of the property owners to see where everyone is stands and has asked Jennifer Jay to facilitate this meeting. Jim McIntyre states that he feels is needed is for the property owners to come up with a formal proposal for the County asking what their plans are for the land and whether or not they will give it back to the property owners. A dialogue needs to begin and questions need to be answered before the end of the E&F study. Why would we move the issue of property ownership up sooner in the process if answers weren't going to be provided sooner? Herb Lemcool states that the open process is foreign and new and the goal is to get this whole process up front and be able to have people join in the decision making process so that by the time a decision is made, everyone agrees or supports it. Herb feels that the County making a decision about the bottomlands would give the impression that there is a foregone conclusion about the fate of the dams. The County can not make a decision until they know what all the public would like to see. Some people want public access, the property owners need to approach county with what they want to see as well. Dennis Aloia states that he took the questions from the last meeting to County board and the board feels that it is difficult to answer questions without results of the study. They feel they don't have enough information to make a decision. If the property owners could formulate the questions and bring them to the county some may be answerable, while others may not. Dennis agrees that it's a good idea for there to be a meeting to focus on those questions. Carole Groves commented that the homeowners have been given lots of attention and some money; there has been a venue for this and so why have another meeting? Steve Largent suggests that at the next meeting we provide time to formulate the questions. Carole states that it will be important to have other members of the public express their opinions so that input is provided by whole community. She also asks clarification as to what property owners are really being impacted by the drawdown as some do not appear to be close enough to be directly impacted. Jim McIntyre replied that the 27 property owners in question have direct access. Bruce Carpenter states that he sent emails to the County and DEQ requesting a meeting because he had new information and was denied. Herb Lemcool states that this is the venue for addressing any questions, not necessarily an additional meeting. He asks: what is it that the property owners want, including a plan of what you'd like to see during this interim phase? Tom Rozich states the issue of property ownership was clear from the beginning; Al Schneider provided his opinion up front. In response to Carole's question: the people directly affected are in Keystone 1 & 2 and the Alpers on the other side; there is also a common area in Keystone sub, and all of residents are impacted. He thinks that the property owners should get together and come up with a list of options of what the county could do. The county could make a decision now stating "when and if". Dennis Aloia states that all of this is supposed to be part of the study; the County doesn't want to make a commitment

if new information is going to become available in the course of the study. Bruce Carpenter states that he still disagrees with the decision of property ownership, referring to 1967 document which platted the Keystone subs.

Andy Knott states that the NEPA document requires that an alternative analysis be conducted and you cannot preclude options by making a decision too early. Todd Kalish comments that the public involvement is a wonderful outcome of this process. He asks however, that people be sure not to represent yourself as the whole BRDC when writing letters or making comments, the BRDC has a protocol a structure and a framework. Todd thinks it would be great to meet within the BRDC process; idea generation etc. The potential problem is that if you meet and Jennifer facilitates then anything you come up with appears to be the whole team; if you make a recommendation it has to go to the whole BRDC. Craig Poddig states that his focus is to keep the water up even bring it back up to its original level. He is going to continue to pursue stopping the drawdown as a priority and with an awareness to time issues. Craig is one of the petitioners and he is investigating options. There are ways to combat the permit and stop the drawdown. Jim McIntyre comments that it is very important to perpetuate the integrity of the process. Things kept in the process vs. kept out of process; we just need to be very careful that when this reaches the public that what is in and out of process is clear. We all agreed to follow process and abide by decisions whether we liked them or not.

Focus of next meeting:

Primarily getting issues out on the table and establishing options to present to the county.

Bruce Carpenter asks if it is necessary to have a judicial process? Dennis Aloia responds that the county has an agreement with DEQ. If the BRDC came to agreement to try to stop drawdown, County still has agreement. If you want to stop the drawdown somebody needs to take it to court and get it to stop. However, there is no money in the process for this. The county is not going to allow their money used to sue itself. Bruce Carpenter says that there is no integrity in the process if what we are studying is already destroyed, and the drawdown is causing serious damage to feeding and reproduction of fish. Don Tilton responds that he simply doesn't agree that the drawdown is causing an ecological disaster. There is no evidence of a fish kill, the wetland vegetation is developing as expected on the mudflats. The waterfowl bred this spring the loons have two chicks. The fish that once spawned in the shallows will spawn in new areas as they develop. The changes are not influencing the existing data studies because many of the studies being reviewed were conducted before the drawdown began. The current studies of the pond are only one part of the existing data review.

The next meeting will be July 18<sup>th</sup> at 5:00 PM; location to be announced.