

**Boardman River Dams Committee
Meeting Minutes
April 25, 2006; 6:00 – 8:00PM**

Attendees:

Bob Allen, Dennis Aloia, Ron Alpers, Dave Anthony, Bill Arnold, Tom Barker, Amy Beyer, Mark Breederland, Wally Chappel, Beverly Cuthbert, Doug Denison, Mike Donahue, Tim Dunlop, Tim Ervin, Brett Fessell, Gordon Ferguson, Burr Fisher, Jim Galloway, Lee Grant, Warren High, Jennifer Jay, Mark Johnson, Sarah Johnston, Todd Kalish, Joe Kaltenbach, David Kelly, Todd King, Leslie Knopp, Russ Knopp, Kyle Kruger, Bruce Kuffer, Herb Lemcool, Richard Lewis, Scudder Mackey, Kevin McElyea, Jim McIntyre, Shawn Middleton, Mary Miller, Troy Naperala, Peter Neithercut, Scott Parker, Jim Pawloski, Eric Pearson, Carl Platz, Bill Prall, Dustin Ramoie, James Reed, Bryan Ripp, Dana Schindler, Gabe Schneider, Jim Schramm, Sanjiv Sinha, Mike Slater, Aaron Snell, Peter Soltys, Sandra Sroonian, Daniel Stewart, Ted Stoner, Wayne Swallow, Charlie Uhlarik, Tom Wertz, David Wright, John Wyrwas, Peter Zirnhelt

Please refer to the meeting agenda and supporting documents which were reviewed at this meeting. Minutes, agendas, and supporting documents are located on the website:

<http://theboardman.org/b/2006/04/25/april-25-2006/>

Boardman River Dams Committee Statement of Purpose:

“To engage all interests in assessing and recommending the fate of the dams on the main stem of the Boardman River based upon a thorough analysis of options, including long and short-term economic, social, environmental, aesthetic, transportation and ecological impacts upon the community, individuals and riparian owners.”

1. Implementation Team Report

At the March 28th meeting the Boardman River Dams Committee (BRDC) approved the following motion:

“BRDC requests the Implementation Team to meet with representatives from the City of Traverse City, Grand Traverse County and TCL&P and potentially a representative from FERC to explore the possibility and engage in discussion of sending a letter to FERC requesting abeyance of surrender of license, on the condition that such an action would not be overly burdensome to TCLP in terms of monies or other risks.”

On April 12th, the Implementation Team met in response to the (above) request. While contacted, FERC would not take comment on this issue from anyone other than TCLP or an official intervener. The Implementation Team reached consensus that they would not request abeyance of surrender of license. The status of the licenses at Boardman and Sabin is “exempt”. These current exemptions do not reflect what has been learned over the past 30 years on the effects of dams on the aquatic environment. Exempt licenses are held in perpetuity; without surrender there is no opportunity to revise environmental terms and conditions. If the dams are operated in the future, they need to do so with the highest standards. Further, if an abeyance were to be approved, the FERC requirements would remain a liability for TCL&P. The Implementation Team further agrees that Traverse City Light and Power has no further obligation with regards to this issue.

Information regarding the FERC licensing process and requirements can be found at the FERC website: www.FERC.gov

2. Property Owners Issues Team Report and Request for IT Action

The Property Owners Issues Team requested Tim Ervin from the Water Studies Institute to develop a request for proposals to develop a preliminary scope of work to determine property ownership and case scenarios. Four proposals were received in response to this request.

On April 5, 2006 this team adopted the following Recommended Purpose Statement:

“The Property Owners Issues Team (POIT) will work to protect all riparian issues, rights and ownership of the entire Boardman River, its ponds and Boardman Lake.”

Additionally, a sub-committee was formed to determine and provide criteria for selection of a law firm and title company.

On April 8th a subcommittee of the Property Ownership Issues Team met and made the following request for Implementation Team Action:

“After careful consideration of the qualifications of the identified firms relative to Boardman River Riparian issues, we unanimously recommend the BRDC secure Varnum, Riddering, Schmidt and Howlett, Attorneys at Law, to provide legal services for the Assessment of Riparian Ownership and Case Scenarios of the Boardman River Dams Project.

This decision was unanimous and was based on the firm’s overwhelming evidence of qualifications and experience relative to the questions set forth in the RFQ.”

Discussion: Questions were raised by Peter Zirnhelt, President of Zirnhelt and Bowron, along with others present about the following issues:

- selection criteria and selection process
- costs
- scope of work
- local involvement in the process
- duplication of efforts between this process and legal determinations proposed in the E&F study

Regarding selection criteria and costs:

The members of this sub-committee responded that their charge was to determine who was best qualified to provide legal services for the assessment of riparian ownership, and that careful consideration was given in this selection process to all responding firms. The proposals were considered in a similar fashion to that of the RFQ Review Team, with proposals being reviewed, graded, and a final recommendation being made. Sub-committees were given latitude to develop consensus and make recommendations and the riparian owners have been advised to pursue legal counsel.

Regarding costs and scope of work:

Members of the sub-committee indicated that the request for Implementation Team action at this time is ONLY to approve the POIT’s selection of a firm to provide legal services. The next step for the committee will be to develop a scope of work and negotiate fees with the approved firm. Regarding the issue of cost, it was noted that, in deference to these particular property owners (approximately 27 parcels primarily located on the Boardman/Keystone Pond), the County has specified that some monies for this project have to set aside to pursue this legal counsel.

Regarding duplication of service:

Committee members affirmed that the parameters of this request are controllable and the work of the Engineering and Feasibility study will not be duplicated. All or part of the legal questions involved may be removed from the final scope of work in that study. The scope of work for the POIT will be coordinated with the scope of work developed for the E&F Study to insure efficient use of resources.

Several members of the Implementation Team noted that they will not be entirely comfortable with the process until the Property Owners Issues Team meets to further define the scope of work; obtains a total cost estimate based on the scope of work, and conducts an interview with the selected firm. In consideration of this action, these will be necessary sideboards.

ACTION: The Implementation Team accepts and approves this recommendation without approving any funding until the completion of the following sideboards:

- **A defined specific scope of work and tasks related to bottomland ownership issue and scenarios**
- **Hourly rates and a total cost estimate**
- **Personal interviews with representatives from this law firm.**

If the Property Owners Issues Team is no longer comfortable after obtaining this information, they can make a different recommendation to the Implementation Team. The Implementation Team reached consensus on this decision with one member stating that while not in favor of the decision, the action could be approved.

3. RFQ Team Report on Progress and Discussion of Expanded Role

The RFQ Team has met and completed its review of the RFQ's. The team has reached consensus and made a decision of a preferred team, which they will present to the Implementation Team by May 1, 2006. The recommendation will include the preferred team; a process to finalize the selection; and the recommended continued role of the RFQ task team. The Implementation Team will publicly announce its decision following its next meeting. The RFQ team was efficient and there was good interaction among the team. The process worked very well and the scoring system was effective and resulted in highly consistent scores from one member to the next.

4. Presentation on Qualifications-Based Selection Process

Information on the Qualifications-Based Selection Process was presented by Mr. Bruce Kuffer, a professional engineer in Michigan for 35 years. Qualifications-Based Selection (QBS) is an objective, flexible procedure for obtaining architectural, engineering, surveying and other related professional services on public projects.

Please refer to the presentation "Using QBS; A Qualifications-Based Selection Process"; <http://theboardman.org/b/2006/04/25/april-25-2006/> **Please Note:** this is to be used for informational review, and not to be copied or used in any other way. If you have comments or questions about QBS, please call 517-332-2066 or for more information, refer to the website: www.qbs-mi-org

5. Discussion with U.S. Army Corps of Engineers – Project Alignment and General Issues

The BRDC and USACE are both pursuing feasibility phase study efforts. Upon approval of the Preliminary Restoration Plan (PRP), which is currently under review at the Corps Regional Division office, the USACE study would be performed per the authority provided in Section 506 of the Water Resources Development Act of 2000. As the USACE feasibility study process is similar to the BRDC Engineering & Feasibility study process, information is expected to be freely shared so that duplicative efforts are minimized or eliminated. In order to better determine the various roles and responsibilities and to identify what work will be done by the USACE and what will be done by the firm selected to complete the E&F study, USACE and BRDC representatives will be working together closely in the coming months to coordinate and define the scope of these efforts. It is possible that some USACE efforts may be performed by private consultants. Upon coordinating with the BRDC, it may be prudent and it may be possible to utilize the same firm used for the BRDC E&F study for certain tasks. Continuous communication between USACE and the BRDC throughout the study process will be the key to ensuring both initiatives are successful.

The USACE Section 506 authority requires project cost sharing, with 35% of total project costs coming from non-federal sources, minus any allowed in-kind credits. Although the feasibility phase is initially Federally funded, a Project Cooperation Agreement (PCA) will need to be signed with an identified non-Federal sponsor (NFS) prior to initiating the construction phase. Upon signing the PCA, 35% of Feasibility phase costs are recovered from the NFS. Although in-kind credits are not applicable until the PCA is signed, sharing information throughout the study process will likely result in significant overall cost reductions during this phase. Once the PCA is executed, in-kind services, real estate costs, etc. can be credited toward the non-Federal share of construction phase costs.

The BRDC thanks the USACE and specifically Carl Platz, for a spirit of collaboration which is setting new standards of cooperation. Carl Platz is also thanked for organizing the Dam Decommissioning Workshop held April 24th and 25th.

6. Standing Teams Updates

- **Finance: Next meeting date May 30, 2006 4PM, Hagerty Center Room 114**
- **Communications: Next meeting date May 16, 2006, 6PM, Hagerty Center Room 112**

The Communications Team is asked by the Facilitation Team to recommend a strategy to establish contact with riparian property owners who have not responded to the invitation to have a personal meeting with the facilitators to discuss concerns, questions, etc. as they pertain to the dam decommissioning. The committee is also requested to recommend a strategy to engage people who own property in the much larger area encompassing the watershed.

7. Web Site Review

The Boardman River Dams Committee website address is: www.theboardman.org
Updates and revisions will be ongoing and suggestions for additions to the site are encouraged. The interactive features of the site include: an area to submit your email address (BRDC members are strongly encouraged to do this) so that any time an item is posted to the "News" section of the site you receive an automatic email stating that there has been a new posting; a "Frequently Asked Questions" page where anyone can submit a question that will be posted, along with a reply/answer (postings will occur approximately once per week.) This area may eventually expand to include an area for "Comments". All agendas and minutes will be posted, rather than emailed, at the previously arranged schedule (agendas one week prior to meeting; minutes one week after). Standing Team and Task Team meeting dates and notes are posted along with any supporting documents. We are working to archive and post all previous meeting minutes, presentations and important documents. Requests to add documents are encouraged in order to make this site informative, useful, and complete. Please send any requests or suggestions for content to Jennifer Jay; jjay@nmc.edu or 231-995-2617.

***Discussion:** There remains concern regarding communication of issues. We need to be sure that hard copies of minutes along with meeting notices are sent to property owners via US Mail and that meeting notices to reach people 7 days prior to the meeting date. This was adopted as a motion and approved by the BRDC, along with a request for an update on the status of this issue at the next meeting.*

8. Suggested Agenda Items for May Meeting

- Selection of RFQ firm discussion
- Finance committee discussion of accounting system
- Review of how communication is working

9. Other Business

Dennis Aloia reports that there has been a meeting with DEQ. Preliminary discussion reveals DEQ concern regarding the spillway at Boardman Dam. DEQ is discussing their concerns with engineers at TCL&P to see what this may mean. There will be decisions made and costs determined in the near future regarding this issue and more information will be shared at the next BRDC meeting.

Meeting adjourned at 8:09PM

Submitted: May 3, 2006
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