

**Boardman River Dams Committee  
Meeting Minutes  
August 29, 2006; 6:00 – 8:00PM**

**Attendees:**

Claudia Agemak, Dennis Aloia, Ron Alpers, Tom Barker, Robin Beardsley, Susanne Biteman, Mark Breederland, Bruce Carpenter, Wally Chappel, Lew Coulter, Beverly Cuthbert, Michael Donahue, Tim Dunlop, Brett Fessell, Peggy Fry, Carole Groves, James Hoogesteger, Jennifer Jay, Mark Johnson, Sarah Johnston, Todd Kalish, Joe Kaltenbach, David Kelly, Leslie Knopp, Russ Knopp, Kyle Kruger, William Lane, Herb Lemcool, Kristin Maciorowski, Jim McIntyre, Al Morse, Troy Naperala, John Nelson, Scott Parker, Jim Pawloski, James Pryor, Bridgette Radu, Gabe Schneider, Sandra Sroonian, Wayne Swallow, Don Tilton, Dale Worfel, 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://www.theboardman.org>

**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. Update on Boardman Dam License Transfer and Impact on Boardman Pond**

Todd Kalish, Michigan DNR, Jim Pawloski, Michigan DEQ, and Joe Kaltenbach, Traverse City Light & Power reviewed the reason for surrender of license and the safety standards of FERC and the DEQ, as well as the concerns that DEQ has with the Boardman Dam. The dams will be regulated by Michigan DEQ as soon as the FERC license is relinquished, a process which will be complete by the end of this calendar year. The licenses have been surrendered by Traverse City Light & Power and there are now time constraints due to the decommissioning process. [**Note:** refer to letters sent to Traverse City Light & Power by [FERC](#) and [Michigan DEQ](#) sent as an addendum to meeting minutes by TCL&P]

Under DEQ Dam safety statute, Sabin, Brown Bridge and Boardman Dams are all classified as ‘high hazard’ dams. Additionally, the Boardman Dam falls in the category with the highest requirements for spillway capacity. A dam with a height of 40’ or higher falls into this category and must have the capacity to pass the one-half Probable Maximum Flood (PMF). Boardman Dam does not have that capacity.

There was a public meeting held on August 21<sup>st</sup> with the purposes of bringing everyone together and discussing openly the situation surrounding the Boardman Dam and to discuss what would need to be done to bring Boardman Dam into DEQ regulatory compliance. This was an informational meeting only and no decisions were made. The alternatives discussed at that meeting are:

- Improve spillway to DEQ specs
  - Maintain water elevation
  - Cost of at least \$714,000.00 (does not include necessary work to Cass Rd.)
- Improve spillway and lower water elevation
- Lower water elevation
  - Develop consent agreement to fully comply with DEQ standards within 4 years

Any chosen option must be completed within one year.

The DEQ has proposed TCL&P engineers do analysis to gauge the impact of drawing the pond down 17’. State models were used for this analysis, thus there would be no perceived benefit in hiring different engineers to review the modeling. [**Note:** Refer to the attached [bathymetry map](#); depths noted are current, not reflective of the draw-down] Drawing down the pond will allow for more water storage

in the event of a one-half PMF. This would be a temporary drawdown until the dam is brought into compliance. Drawing the pond down provides a cost free mechanism to dramatically increase the safety right now. This does not bring the dam into compliance, DEQ is asking for a schedule to further bring it into compliance. DEQ knows that it takes time and resources to bring it into compliance; a temporary draw down allows for this time.

Another purpose of the August 21<sup>st</sup> meeting was to gather information to be presented at the August monthly BRDC meeting. It was stressed that public education as to what it would mean to not be in compliance with a one-half PMF was a necessity. The DEQ warns that the consequences of the dam failure are real. If any of the three dams fail on the Boardman, the people who live along the river, businesses located on or near Logan's Landing, sections of South Airport Rd and the city of Traverse City are in danger and loss of life would be likely. The half PMF would require approximately 10"-12" of rainfall in a two-day period. Other causes could include rapid melt of snow with high moisture content. These situations do and have happened. Reference was made to two instances in the UP in recent years. *[Note: The following definitions of "High Hazard Potential Dam" and "Half Probable Maximum Flood" are taken from the Michigan DEQ website and provided here for addition clarification. "Half probable maximum flood" means the largest flood that may reasonably occur over a watershed, and is derived from the combination of hydrologic runoff parameters and the half probable maximum storm that produces the maximum runoff." "High hazard potential dam" means a dam located in an area where a failure may cause serious damage to inhabited homes, agricultural buildings, campgrounds, recreational facilities, industrial or commercial buildings, public utilities, main highways, or class I carrier railroads, or where environmental degradation would be significant, or where danger to individuals exists with the potential for loss of life.]*

**Discussion:** Many concerns and questions were raised regarding the proposed drawdown, including:

- Timing of this as it relates to the pending determination of property owner rights forthcoming from Varnum. What happens during the draw-down process to the bottom lands? Who is responsible for erosion control, monitoring and removal of invasive species, etc.? Question to the county: what are they going to do before the issue is decided? Dennis Aloia, Grand Traverse County Administrator comments that the County Board is very concerned about the property owners and the property. If the draw-down is only 2' this fall, as is suggested, that amount isn't going to make a big difference to the bottom lands, and hopefully by spring, when further drawdown is required, there would be a determination from Varnum.
- Timing of this as it relates to the Engineering and Feasibility Study. Why would the integrity of the BRDC purpose statement not be totally invalid if this is allowed to happen before the Engineering and Feasibility Study results are in? Does the draw-down limit options for recommendation from the study? Answer: This does not preclude ANY options from the Engineering and Feasibility Study recommendations. It is a temporary drawdown. Drawing the pond down does not preclude the option of bringing the level back up in the future. The ECT consultants should be instructed that this draw-down should not be taken into account for their recommendations. At no time should it be determined that the pond property owners have "been without the pond (as is) and thus won't ever get it back. Don Tilton, ECT Inc., comments that the timing of the draw-down is consistent with safety and considerations of vegetation and study data and notes that the DEQ has obviously considered these issues. To the issue of the purpose statement of the BRDC, it was commented that this situation emphasizes the need for this committee to continue their work. This is a real safety issue, yet these questions are valid and need to be heard.

- Drainage into and out of the Pond. What about the exposed sediment contamination and transfer downstream and what is the result of the contamination study? Answer: There are no significant concentrations in the Pond, but a more detailed analysis will be completed during the Engineering and Feasibility study. Drainage will continue along the original river channels. It was suggested that the bathymetry map should be adjusted to reflect the historic river channel.
- Licensing issues and safety determinations. A dam must be licensed by FERC or the DEQ. If a dam doesn't have a FERC license it is automatically regulated by the State. The DEQ has been asked and has rendered their decision on what must be done in order for DEQ to take over the dam. DEQ has stated that they will take over only with the draw-down and the agreement to come into compliance with state standards. FERC has granted an extension until the end of the year to come to this agreement. FERC will not relinquish the licenses until those requirements are met. Does the pond have to be drawn down before DEQ takes it over? Answer: No, the drawdown schedule has not been finalized, but must be complete within one year. The dam has been there for 100 years, when did it get declared unsafe? FERC says that right now the dam is fine, but the dam does not meet the DEQ requirements. FERC is coming to inspect the dams in September due to the license surrender process taking so long, and there is likely going to be discovered problems. FERC has acknowledged that Boardman is a problem, but we do not know their required fix. FERC accepts the Boardman Dam spillway "as designed", but the DEQ does not. FERC has mandated changes to Brown Bridge Dam, but not as yet to Boardman, while the opposite is true with DEQ standards and requirements. However, TCL&P has repeatedly said that they are surrendering the license; if they don't FERC can mandate the expensive repairs at Brown Bridge and then go from there (on to Boardman). This is their (TCL&P's) decision as a business. In response to questions raised about the membership of the Implementation Team (specifically the lack of a pond owner representative), reference was made to the [Settlement Agreement](#), wherein the Implementation Team was formed and membership determined. In response to questions of the license being frozen with FERC or sold to potentially interested companies for continued hydro use, reference was made to meeting minutes from April, 2006, where the issue of exempt licenses was discussed and the Implementation Team and BRDC determined that transferring exempt licenses was not in the best interest of the community. The exempt license issue was also reviewed by Kyle Kruger, Michigan DNR. These dams could still be used to produce hydro power, but an interested company would need to acquire a new license and meet safety and environmental standards. Traverse City Light & Power has determined that they will surrender their FERC license. What will FERC require of the dam owners if the delicensing process does not go through (if the DEQ and the dam owners cannot reach an agreement)? Dennis Aloia states that the DEQ is going to ask the County Board to make a decision on this. The County has expressed their concerns and their desire to wait for any action until the Engineering and Feasibility study is done. DEQ has been cooperative, but this is not agreeable to them. The County Board does not want to see the pond drawn down. However, consideration must be given when the safety of the people and businesses downstream of the dam is in jeopardy. What happens if the County Board does not sign an agreement? What will FERC do? Dennis Aloia has asked to meet with FERC to ask this. FERC regulates TCL&P, not the County. Options could include that FERC could let the license go to the jurisdiction of DEQ, or FERC doesn't give up license, maintains control and enforces changes to be handled by County. The County will work out the best agreement possible with DEQ and will consider what the implications with FERC are by not coming into an agreement. Options will be explored, but so far these are not the options the County had hoped for. There will be a Ways and Means meeting on the third Tuesday in September; additionally the County Board will hear this issue at the next County Board meeting. Safety issues also include those along the pond; if the pond is drawn-down 17' there will be a wall that people can fall off. Will there be fences?
- Question: the BRDC appropriated money for determination of bottom land ownership; should the BRDC have a legal team make this determination too?

- Lack of appropriate notice to the August 21<sup>st</sup> meeting with regards in accordance with the BRDC processes. It was stated that the meeting was noticed in the Record Eagle. However, it was also stated that the Implementation Team has lost credibility in the process. BRDC members have worked in this committee to build trust and the Implementation Team has thrown that away by holding this meeting without appropriate notice. The reaction should have been anticipated; in one meeting trust has been destroyed and the Implementation Team deserves to be chastised. The Implementation Team should have waited for the two weeks notice period to hold any meeting, as is part of the BRDC process. It should be resolved that this will not happen again. In response, Todd Kalish, Chair of the Implementation Team apologized and stated that no decisions were made at the meeting; it was informational only and very difficult to arrange given the number of people from throughout the state that were necessary to attend. Todd expressed that additional notice should have been given, and this oversight will not happen again.

## 2. Standing Team Reports

### o Communications:

Speaking to many of the concerns expressed tonight, the communications team has put forward a resolution to present to the full BRDC: *"The members of the Boardman River Dams Committee, in the interest of an open and transparent public process to study all options before determining the fate of the Boardman River dams, request the Michigan DEQ and Grand Traverse County delay taking action that will lower the water level of Boardman Pond, until the Engineering and Feasibility study and public process to study alternatives is complete\*\*.* Both the Michigan DEQ and Grand Traverse County have committed to this process, and the Boardman River Dams Committee believes taking action at this time to lower the level of the pond will undermine public trust for the process now underway."

The resolution is passed with the following addition: *\*\*\*unless it is demonstrated that there is an imminent safety hazard associated with leaving the pond level at its current level.*" This resolution now goes to the Implementation Team for action. [NOTE: there will be an Implementation Team meeting September 14<sup>th</sup>, 6:00pm to respond to this resolution]

If approved by the Implementation Team, the resolution should be presented to all County, Townships, DEQ and elected officials with the hopes that they would also pass and send this on.

The Communications Team views this resolution as an opportunity to inform more people what is going to happen and to attempt to slow it down, as well as a validation of the public process.

Concern was expressed regarding the timing of this resolution. If not approved by the Implementation Team soon enough, the draw-down could already be started before this could get presented to other government agencies.

**Decision:** *The Implementation Team will hold a special meeting prior to the September 26<sup>th</sup> BRDC meeting to decide on this issue. [Note: The meeting was later arranged to be held September 14<sup>th</sup> at 6:00PM in Room 211, Great Lakes Campus/Hagerty Center]*

### o Finance:

There is a need for more representation on the committee, including a river and a pond riparian owner. Refer to attached Finance Team notes for complete information.

## 3. Scoping Team Report - Draft Scope of Work for the Engineering & Feasibility Study

The Draft Scope of Work is on the website [www.theboardman.org](http://www.theboardman.org) and the two week opportunity for public feedback has begun. Hard copies of this Draft document are also being mailed to the BRDC members (those who do not have email) and otherwise available by request at the Project Office. The document will also be available on the City and County websites. The Request for Qualifications document could be referred to in order to compare similarity and accommodation of issues and questions. Don Tilton and Scott Parker from ECT, Inc. address the BRDC. ECT submitted a Draft submitted on August 11<sup>th</sup> and held subsequent meetings on the 15<sup>th</sup>, which included meeting with the

Army Corps of Engineers. The USACE will be developing their own Scope of Work and it will reflect the ECT Scope. The USACE and ECT are committed to working together on this project to avoid extra costs and duplication of efforts. The most recent Draft (submitted on the 24<sup>th</sup>) reflects revisions based on comments received. The scope was structured to demonstrate what the flow of the study needs to be in order to analyze and recommend alternatives. It is broken into phases, beginning with Communications and public education, which will be done in conjunction with the BRDC and the Communications Team.

The cost estimate will be completed soon and ECT is under the assumption is that the funds will be available. The USACE has indicated that they intend to use some of their funds for bathymetry study. Michael Donahue reviews the aggressive timeline and explains that, while it is aggressive, the Scoping Team has been working on this for a month and is confident that this is not unreasonable. The scoping process mirrors that of the RFQ process. The timeline is as follows:

- **August 28:** Draft SOW posted to BRDC web site for public review and comment
- **September 11:** End of 2-week public comment period; comments submitted to ECT on ongoing basis
- **September 13:** ECT submits revised draft to Scoping Team- meeting to review/ refine/ approve
- **September 14:** Informational IT/BRDC meeting to review recommended SOW
- **September 15:** Scoping Team submits recommended SOW to IT/ BRDC
- **September 26:** Final draft presented at IT/BRDC Meeting for approval

#### **4. Project Facilitators Report**

Due to time limitations, this report was brief and included a call for more involvement from the broader community. The Project Facilitation Team is interested in feedback as to how to get more involvement. The call for co-chairs was repeated. A chief charge of the Team Chairpersons is to strengthen communication between teams. Support and training will be provided, including facilitation principles and techniques. Please refer to the roles and responsibilities for Co-chairs on our website:

<http://theboardman.org/d/co-chair.pdf>

#### **5. Agenda Items for September 26 Meeting**

Fiscal Team Update  
Scope of Work IT action

Meeting adjourned at 8:10 PM

Submitted: September 5, 2006  
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