January Boardman River Dams Implementation Team Meeting
APPROVED Meeting Notes

**Date:** Thursday, January 21, 2016 at 1:30 pm  
**Facilitator:** Frank Dituri, Grand Traverse Band of Ottawa and Chippewa Indians  
**Notes:** Nate Winkler, Conservation Resource Alliance  
**Location:** Traverse City Governmental Center, Commission Chambers

**Implementation Team**

- Grand Traverse County
- Traverse City Light and Power Department
- Michigan Hydro Relicensing Coalition
- Michigan Department of Natural Resources
- Grand Traverse Conservation District (Ex officio)
- Watershed Center Grand Traverse Bay (Ex officio)
- Grand Traverse County Road Commission (Ex officio)
- City of Traverse City
- Grand Traverse Band of Ottawa and Chippewa Indians
- US Fish and Wildlife Service
- Michigan Department of Environmental Quality
- Conservation Resource Alliance (Ex officio)
- Charter Township of Garfield (Ex officio)

**IT Members Present:**
- **Frank Dituri** (Grand Traverse Band of Ottawa and Chippewa Indians)  
- **Amy Beyer, Nate Winkler, Kim Balke** (Conservation Resource Alliance)  
- **Christine Crissman** (Watershed Center Grand Traverse)  
- **Rick Westerhof** (US Fish and Wildlife Service)  
- **Scott Heintzelman** (Michigan Department of Natural Resources)  
- **Jim Cook, Marc McKellar** (Grand Traverse County Road Commission)  
- **Tom Menzel** (Grand Traverse County)  
- **Jim Schramm** (Michigan Hydro Relicensing Coalition)  
- **Steve Largent** (Grand Traverse Conservation District)

**IT Members Not in Attendance:**
- Charter Township of Garfield  
- Traverse City Light and Power Department  
- Michigan Department of Environmental Quality  
- City of Traverse City
1. **Introductions** – Introductions were made by those in attendance.

2. **Public comment** – None

3. **Miscellaneous**

   **Agenda deletions/additions** – Agenda item 5 was replaced with a discussion item on the next steps for the IT going forward.

   **Review and potential approval of the December IT meeting minutes** – After brief discussion, the notes were approved by the IT with changes requested by Dituri between meetings.

   **Action items from the December IT meeting** – Reviewed by Winkler; those not complete were noted as owing and placed on the “Pending Action Items” list (at end of these notes) unless determined to no longer be relevant. Any elaboration and/or discussion of items were noted in the action item “Discussion” section.

   **Conservation Resource Alliance (“CRA”) 4th Quarter 2015 invoice and project manager report: discussion and decision (CRA, IT)** – The report and invoice which were included in the meeting packet were discussed briefly and subsequently approved by the quorum of IT voting members present.

   Beyer provided a related update on the agreement between CRA and Grand Traverse County (“County”) noting that the updated agreement will result in a simplified reporting format which will be all-inclusive (not just a report of CRA’s work). Beyer and County legal counsel Chris Forsythe are collectively working on the update to the agreement.

4. **Proposed next steps in Project Partnership Agreement (“PPA”) development: discussion (IT)** – Beyer provided an overview of the upcoming arrangement with the Army Corps regarding Boardman Dam as a preamble to further discussion on the need to develop a PPA for Sabin and Union Street Dams. The primary points of discussion included:
   - There’s an imminent need to identify a non-federal sponsor
   - The County may or may not be the non-federal sponsor (the owner does not need to serve in this capacity)
   - The project schedule necessitates a need to move up the timeline for discussion
   - Will the IT be the convener of study sessions to carry this work out
Dituri noted the study session content should resemble that of a “PPA 101” course.

Balke asked Cook whether or not the Army Corps would be signing an agreement with the Grand Traverse County Road Commission (“Road Commission”). Cook acknowledged there’d have to be an agreement to allow dam removal work occurring within the Cass Road right of way. Cook added that whoever was working within the right of way was going to need liability insurance along with a permit from the Road Commission.

Beyer ended by noting for Menzel’s benefit that the IT was working in the near term on two parallel tracks:

- The Army Corps is going to need a real estate agreement to work on County land with regard to Boardman Dam
- The Army Corps will need a signed PPA to assist with the Sabin and Union Street Dams component under the Great Lakes Fish and Ecosystem Restoration (“GLFER”) authority-the agreement mandates a 35% cost contribution from the non-federal sponsor with a 65% match contribution on the part of the Army Corps

Menzel added that County legal counsel was working on updates to the memorandum of understanding between the County, City of Traverse City (“City”), and the Grand Traverse Band of Ottawa and Chippewa Indians (“Band”). Menzel noted that a driver in this discussion is a question of liability. Beyer responded that the extent of the County’s liability is within the purview of the removal of Boardman Dam.

Beyer continued discussion by adding that the City and the County considered at one time a joint PPA but the Army Corps preferred to have only one non-federal sponsor party to the PPA. The concept could be further explored during future PPA meetings between the Band, County, and City.

Menzel asked about governmental immunity with Dituri pointing out that as a result of the October 6 (2012) incident at Brown Bridge, the resultant notice of violation was issued by the Michigan Department of Environmental Quality (“MDEQ”) to the City but was unsure of exactly how liability will work going forward.

Beyer noted that the Army Corps should be prepared to address the issue of liability during development of the PPA arrangement, i.e.:

- What kind of shared liability does the Army Corps bring to the table
- What can the IT do to assist the Army Corps
• March 2016 is a critical juncture at which these types of issues need to be squared up

Menzel suggested laying the issue of project liability out in straight-forward terms (i.e. using non-technical jargon) when presenting this to the County Board of Commissioners (“County Board”). Beyer wondered as to the County Board’s preference on whom to hear the information from—Menzel’s opinion was that because the crux is liability, the best messenger would be the County’s legal counsel and insurance carrier. Dituri agreed, the County Board’s questions of liability should be directed at legal counsel and insurance carriers.

5. **IT moves ahead: discussion (IT)** – A short discussion amongst the IT members centered on the post-Boardman Dam removal steps especially those concerned with planning for removal of Sabin Dam and modification of Union Street Dam. Items of note include:

   • How does the IT see itself moving forward as the Army Corps takes more of a leadership role in the Boardman Dam removal
   • Members of the IT should convene to develop an IT job description for this period of the project
   • Should there be an alteration to the IT meeting schedule (i.e. a reduction in the number of meetings)
   • There should be a conversation with the Army Corps as to any advisory role the IT may play in the project
   • Working teams of the IT will remain very active

Menzel added that he was not a proponent of meetings unless there is absolutely something to meet about and constructive work to be done. Members of the IT reviewed how the scheduling of working teams occurred and that un-needed meetings are routinely avoided. Menzel concluded that he’s hearing from County Board members that they are not getting information and asking him for information which shows a breakdown in communication.

6. **AECOM update: report and discussion (Dan DeVaun)** – DeVaun presented the following updates on the local effort:

   **Cass Road Bridge**
   • None

   **Dam Removal and River Restoration**
   • Surveyors are scheduled to be in the field the following week to perform a property boundary survey in relation to the Ellul family construction easement
at Boardman Pond. The work is being covered under Work Authorization #5. The easement document is expected to be prepared the following week as well and will need to be signed by all parties by the end of March (2016). Both the Army Corps and the County are in agreement with the reimbursement request made by the Ellul’s

- The Army Corps’ sources sought (“SS”) solicitation process has been completed and a meeting will be held later in the day to discuss the results. The SS process is used to determine the level of interest in a given project by contractors and results in a decision on which contractual and acquisition mechanisms to use going forward
- Currently working with Balke in developing Sabin Dam discussions
- AECOM will be providing construction administration for the Boardman Dam removal and river restoration components of the project
- Field work will be under a separate contract which will allow more funds to be directed toward construction

8. Bottomlands update: report (Largent) – Largent reported on the following items:
   - Trees are being acquired and staged by Black Bear Construction for the large wood installation project planned for Brown Bridge
   - Large wood project permit application still being considered by State regulators, DJ Shook working with Patrick Ertel from the Michigan Department of Natural Resources (“MDNR”) “Natural Rivers” program
   - Trees and shrub seedlings are being ordered for 2016 planting bees
   - Working collaboratively with Traverse Area Recreation Trails (“TART”) to coordinate trail maintenance and closure during Boardman Dam construction

Dituri added that the scope of work proposed in the supplemental environmental plan (“SEP”) resulting from the October 6th (2012) incident at Brown Bridge is being refined. The proposed work will occur upstream of the former Brown Bridge impoundment where the river is currently not in contact with its floodplain and eroding banks predominate, both circumstances due to head cutting of the river through formerly impounded sediment after removal of Brown Bridge Dam.

9. Communications update: report (CRA/IT) – The following items were noted:
   - The joint public hearing with the Army Corps and the Michigan Department of Environmental Quality (“MDEQ”) which will be held at the Grand Traverse Conservation District Nature Center on February 9th (2016)
   - A conference call was held January 7 between members of the Fish Passage Team and representatives of Sea Grant to learn more about their “integrative
assessments” program to see if it would be applicable to public fish passage informational symposiums which are currently in the planning phase

- Balke noted that a comprehensive project booklet is in the process of being prepared by CRA
- Beyer reported that the 2016 communications workplan is being finalized with two items in need of imminent attention-Road Commission outreach surrounding the Cass Road Bridge replacement and outreach to the landowners adjacent to the Boardman Pond

10. Fish Passage Team update: report (IT) – The following items were offered:

- Heintzelman indicated that comments received on the draft “Boardman River Assessment” was in the final stages of being addressed after which the document would be forwarded to himself and Jay Wesley (MDNR Lake Michigan Basin Coordinator) for final review. The subsequent MDNR management plan to be developed for the Boardman River will include consideration of recommendations and feedback garnered during pending public fish passage informational symposiums

11. Prosperity Plan update: report (Christine Crissman) – Crissman reported that the next Prosperity Team meeting would be on February 18th (2016) from 10:00 a.m. to noon at the Traverse City Chamber of Commerce Building in the first floor conference room.

12. Funding update: report (CRA/IT) – Beyer reviewed materials included in the meeting packet as well as initiating discussion of the following:

- Changes to the current funding plan, which after short discussion was approved by the IT
- In-kind services tabulated for review by partners
- Grant proposals that are pending
- Establishment of primary role of Rotary as a funding convener and catalyst
- Potential for upcoming Frey proposal amount request target

Menzel asked for clarification on a County Board misconception that Rotary would be picking up the tab on behalf of the County for any project shortfall encountered. Discussion ensued amongst the IT which bore out that, in actuality, Rotary is prepared and motivated to help cause funds to be committed to the project by other organizations but only after the County has made a firm financial commitment of their own, as owners of Boardman and Sabin Dams.
Dituri reported that the Band will be travelling to Green Bay for the annual Bureau of Indian Affairs (“BIA”) funding meeting. The Band anticipates requesting $400,000 for the project.

13. **Open forum: (IT)** – None

14. **Meeting closing:**
IT meeting agenda and action items were reviewed for February.

Public comment – None

Meeting adjourned at approximately 3:00 p.m.

**Action Items**

**New:**
- **Winkler** to post approved December IT meeting notes to the project website
- **Winkler** to distribute draft January IT meeting notes to the IT
- **Winkler** to contact Tim Lodge and Russ Soyring to obtain a copy of the Anderson and Associates plan developed for the lower Boardman River
- **IT** to provide input on new report format after the next quarter report is distributed
- **CRA** to convene Tribal, County, and City governmental representatives to discuss development of project partnership agreement (“PPA”)
- **DeVaun** to consult Army Corps Real Estate Division regarding pre-bid requirements
- **Platz** to contact County legal counsel Chris Forsythe regarding project liability
- **Winkler, Dituri, Schramm, Westerhof** to convene meeting and develop job description for IT going into and through the Boardman Dam removal phase, with input from **Platz**
- **Menzel** to provide outlook for County representation on IT

**Pending:**
- **Largent** to forward 2014/2015 water temperature data to **Dituri** and **Winkler**
- **CRA** to arrange for a project update to the City Commission and newly elected mayor in 2016

**Discussion:**
None