BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

MINUTES FOR MANAGERS' SPECIAL MEETING

November 3, 2008

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a special meeting on Monday, November 3, 2008, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, John E. Hanson, Gerald L. VanAmburg, E. Robert Olson, and Curtis M. Nelson. Others attending included BRRWD Administrator Bruce E. Albright, Erik Jones, Engineer, and Julie Jerger, Houston Engineering, Inc. (H.E.); David L. Overbo, Engineer, Clay County Highway Department; Allen Milbradt, Minnesota Department of Transportation (MNDOT), Mark Carr, Supervisor, Elkton Township; and landowners: Bill Austin, Margo Brady, Craig Halverson, Brian Halverson, Scott Skauge, Ron Voller, and Tom Voller.

Chairman Ellefson called the meeting to order at 7:05 PM and introduced the Managers and Staff. He noted that the proceedings were being taped to aid in preparation of the minutes.

Business brought before the Board included:

Permit No. 08-73, William Austin. Albright gave a brief history of the ongoing water problems along 140th ST and County State Aid Highway (CSAH) No. 10 west of Downer. Water overtops 140th ST and flows west into Margo Brady's farmstead in the southeast corner of the NE¼, Section 20, Elkton Township, Clay County. This summer, following a heavy rainfall event, Brady's buildings were flooded again. The Board has been working with Brady and the other landowners along the north ditch of CSAH No. 10 in Section 20 regarding the condition of the ditch and their flooding problems. Clay County Ditch No. 55 runs along the south side of CSAH No. 10 west through two new culverts in Interstate-94 (I-94) and then through CSAH No. 21 where it heads north on the west side of CSAH No. 21 and eventually west again along CSAH No. 10. The north ditch of CSAH No. 10 drains west through a culvert under I-94 where it also outlets to County Ditch No. 55 west of I-94 near the northwest corner of Section 20. May, Austin filed a permit application to pattern tile approximately 156 acres in the SW¼, Section 16, Elkton Township. His plan was to drain 40 acres south to County Ditch No. 55 on the north side of CSAH No. 10. The rest of the property was going to drain north to County Ditch No. 58 through 85th AVE S. The Board approved Austin's permit at their 9/22/08 meeting, subject to the establishment of an adequate outlet to the west along the north side of CSAH No. 10 for the 40 acres he planned to drain there. After the Board approved the permit application, Austin notified Albright that his contractor couldn't drain the tile water north to County Ditch No. 58, but would have to take all of the water south to CSAH No. 10. Austin filed a petition to add the remainder of his land in Section 16 to the County Ditch No. 55 benefit area. Currently, Austin still has a pending permit for his tiling project. The Board held a field meeting on 9/29/08 with all the affected landowners to discuss various drainage options. Landowners on the north side of CSAH No. 10 have had significant flooding problems and feel the ditch culverts need repair. Clay County provided a limited survey, just showing the culvert elevations along the north side of CSAH No. 10. The ditch along CSAH No. 10 has good grade, but on the west end where it goes north along I-94, it is flat. The culvert in Scott Skauge's driveway is too high. It was suggested that if the culvert were going to be reset, this would be a good time possibly to resize it. All five driveway culverts are the same size (24" dia. pipes) and could be increased. Earlier this fall, Albright put together an agreement for the landowners regarding Austin's tile project and cleanout/ culvert work for the north ditch along CSAH No. 10. During these negotiations, we had a series of heavy rainfall events. Austin's tiling contractor moved out of the area. On 10/14/08, the
Board authorized H.E. to conduct a survey of the north ditch of CSAH No. 10, as a BRRWD Survey and Data Fund expense, and to schedule a special meeting. The survey started from the two centerline pipes in I-94 north of CSAH No. 10, and continued upstream to 140th ST. H.E. completed their survey last week.

Brian Halverson asked what the fall was from 140th ST to I-94. Albright said there is about 5' of fall in that stretch of the ditch. Albright noted that the ditch flattens out significantly on the west end adjacent to the Voller property with a 0.01% grade. Water doesn't drain well through I-94, as the culverts are too high. Albright asked Allen Milbradt, MNDOT, if MNDOT might be willing to consider installing another culvert at a lower elevation in that location. Milbradt said that MNDOT hasn't scheduled funding for that type of work. Albright noted that any work we do along the north ditch of CSAH No. 10 will just bring more water into this area and could impact the Voller property. Albright added that there is plenty of room in this area to grade the ditch to drain. If MNDOT could add another culvert through I-94 about 1.5' lower, water would drain north to the new culverts and eventually to Clay County Ditch No. 55.

The group then discussed the problem of water overtopping 140th ST and flooding Margo Brady's farmstead. Albright pointed out that since there is only about 400 acres draining to this area, we should be able to find a solution. He noted that the ground is currently saturated, and there is 5' of fall on Dave Schroder's field west to 140th ST. Water drains down to Brady's corner along the north side of CSAH No. 10 where there is about 1.5' of sediment in the ditch, according to H.E.'s survey. Schroder has indicated that field drainage is not a problem for him, as his field has enough fall to drain off quickly. H.E.'s survey shows that there is sediment between all five culverts along the north side of CSAH No. 10. Since the ditch is flat on the west end, cleaning won't accomplish anything adjacent to the Voller property going north along I-94.

Tom Voller noted that their previous renter had tried to clean the ditch to improve drainage going north, but it really didn't help, as the I-94 culvert is too high.

David L. Overbo, Engineer, Clay County Highway Department, commented that the County's policy is that they won't pay for ditch cleaning. The group discussed enlarging the driveway culverts. Albright noted that the Vollers might object to cleaning the upstream ditch and enlarging the culverts, since the I-94 culvert is too high and won't convey low flows from the east. Brady observed that after the 2" rainfall on 6/06/08, 140th ST overtopped. Brian Halverson suggested that we could use the spoil from cleaning the CSAH No. 10 ditch to raise 140th ST. The group discussed the downstream drainage along the Voller property.

The group discussed William Austin's permit application to use County Ditch No. 55 as the outlet for his tiling project. Two possible outlet routes for the tile water would be to bore a culvert through CSAH No. 10 at 140th ST to County Ditch No. 55, by Craig Halverson's driveway, or through 140th ST from the north ditch of CSAH No. 10 on the east side of 140th ST.

Albright questioned that if we can agree on a solution to the drainage issues, who is going to pay for the work and where is the spoil going to be placed. We will probably have to haul it off-site. The group discussed placing the spoil on 140th ST to raise it. Brady said that the road did not overtop recently where she had added gravel. She felt that the Township should reimburse her for the gravel, as the Township is responsible for road maintenance. Elkton Township Supervisor Mark Carr noted that they can't afford to raise every road in the township that overtops when it rains. In addition, 140th ST was originally just for field access and is categorized as a minimum maintenance road. Jones noted that raising 140th ST could impact CSAH No. 10 if 140th ST were too high.
Ellefson discussed boring a pipe under I-94 at a lower elevation by Craig Halverson's driveway to pick up the low flows to address the drainage problems on the Voller property. He thought that if we could add a low flow pipe, clean the north CSAH No. 10 ditch, and enlarge the culverts, everyone could benefit. Brian Halverson noted that there is a gate on the southwest end of the culvert on the curve in CSAH No. 10 in the northwest corner of Section 20. He felt that gate should be removed, as it restricts flows.

Tom Voller suggested that the Board consider boring a culvert through CSAH No. 10 west of Craig Halverson's driveway to County Ditch No. 55. Craig Halverson was opposed to this proposal as his farmstead already floods. Brian Halverson noted that the drainage problem on the north side of CSAH No. 10 is caused by the I-94 culvert that is set too high. Ellefson suggested that possibly a smaller low flow pipe could be bored through I-94.

Milbradt said that MNDOT has allowed the drilling of culverts through their roads as long as the inlet and outlet is off the right-of-way (r-o-w) so that MNDOT would not be responsible for any maintenance issues. He added that MNDOT could grant a permit, but would not pay for the work. Jones estimated that it could cost approximately $200/foot to bore a 24" dia. pipe under I-94.

Overbo commented that we should review the H.E. survey to determine how much dirt needs to come out of the north ditch. Then we may need a hydraulic analysis to provide documentation showing that the culverts are undersized. He estimated that six 36" dia. x 40' long culverts (or arch equivalents) could cost approximately $5,500 each. Flared ends for the culverts would be about $700 each, or approximately $8,400.

Albright pointed out that cleaning the north ditch and upsizing the culverts would help all the parties, except the Vollers, who are just going to receive more water without an adequate outlet.

Bill Austin suggested that the BRRWD organize a committee to review the issues and present a recommendation at the next BRRWD meeting regarding drainage solutions and the fate of his tiling permit. Albright said that we had hoped to find solutions and make a decision on Austin's permit at tonight's meeting. Austin felt that we should clean the CSAH No. 10 north ditch first and then wait to see what happens with the downstream drainage before taking further action.

Ellefson suggested that the Vollers consider off-channel storage on their land and he explained that process. Albright estimated that with the various available programs and the BRRWD easement payment, the landowners could receive up to $2,500/acre in easement payments for the use of their land if they decided to convert it to off-channel storage. The group discussed this proposal.

Mark Carr asked where the next outlet through I-94 is located after the culvert from Vollers' property. He questioned if it would be feasible to clean the I-94 ditch north to the next outlet. Albright asked if MNDOT would object to cleaning the I-94 ditch to County Ditch No. 58, which is the next downstream drainage system. Milbradt mentioned that there would be federal restrictions that we would have to deal with in terms of drainage along a federal highway.

Ellefson returned to the subject of boring a culvert under CSAH No. 10 west of Craig Halverson's driveway to take the low flows away from the Voller property to Clay County Ditch No. 55. Jones didn't think there would be enough elevation difference to drain all of this water south. Albright also noted that it is difficult to drain water south, and because of the elevation, the water on the north side of CSAH No. 10 will not go south until the water on the south side of CSAH No. 10 has already gone down because the gate will be closed. Jones explained to the group that the survey datum differs between the elevations used last summer during the work on County Ditch No. 55 on the south side of the road and the recent survey on the north
side. After calculating the datum difference, there would only be about 1' or less to work with to install a culvert west of Halverson's driveway. Jones estimated that it could cost between $15,000 and $20,000 to bore a culvert through CSAH No. 10 in this location.

The group discussed boring a smaller culvert through CSAH No. 10 at 140th ST. Ellefson suggested installing a 12" dia. culvert in this location to take Austin's tile water directly to County Ditch No. 55 on the south side of CSAH No. 10. In addition, we could clean the north ditch and reset the culverts. Ellefson is aware that the Halversons oppose a culvert in this location because of concerns about overburdening County Ditch No. 55. The landowners on the north side of the road would have to pay for cleaning the County road ditch. The County would pay for the new culverts, which would be placed on the new ditch grade. However, the Vollers property will not benefit from any of this work. Albright discussed cleaning the ditch along I-94 to CSAH No. 10. It appears that it might not help much to clean this stretch of ditch, as it is essentially flat. Albright asked the group how they will find the money to do the proposed ditch/culvert work, and who will do it. Brady suggested that Ziegler Construction, Inc., could do the clean out. Ellefson suggested that the BRRWD could stake the ditch and supervise the work.

Tom Voller pointed out that all this work will only drain water faster to their land, where it can't get away. County Ditch No. 55 has never really benefited their property because their outlet to the ditch through I-94 is too high. The proposed ditch cleaning will not benefit their property either. Voller added that their renter cleaned the ditch along their property 10 years ago, but it didn't do much good, as the I-94 outlet culvert is too high. Voller pointed out that if Austin is allowed to add his tiling drainage to the north ditch, it will only add to the low flow problems because it will flow continuously for quite some time. A discussion followed regarding Austin's tiling project impacts to the CSAH No. 10 north ditch/Vollers' property and County Ditch No. 55. Voller would like to see a culvert through CSAH No. 10 west of Craig Halverson's driveway to handle the low flows from their property. Jones estimated the cost to bore the culvert could be about $22,500 for that work, and it would only be about 0.6' (7.2") lower than the I-94 culvert. Vollers thought that this would still help and is better than nothing.

Austin suggested that if the BRRWD approved his permit to drain his tile project to the north ditch of CSAH No. 10, and if it proves to be detrimental to the homeowners along the ditch, then with Halversons' approval, he could bore a culvert through CSAH No. 10 to County Ditch No. 55 at 140th ST. The BRRWD would have to hold a hearing on Austin's petition to add approximately 120 acres of land to the benefit area of County Ditch No. 55.

Ellefson asked Skauge and Brady if they would be willing to pay their share of the ditch cleaning costs. Both landowners said they would help pay for the work. Brady offered to store the spoil on her property. Overbo said that the County could haul the spoil with their trucks and do the project staking. Albright pointed out that subject to weather conditions, this is probably going to be a 2009 project. Ellefson asked what we could expect the Vollers to pay for the ditch cleaning. Ron Voller pointed out that the ditch cleaning doesn't benefit them. Albright noted that they would benefit if there were a pipe were installed through CSAH No. 10 west of Craig Halverson's driveway. Voller said they would be willing to contribute to the project costs if they could have the referenced low flow culvert. Tom Voller noted that if all the other features of the project come together, they would have no objections to Austin adding his tile drainage to the north ditch of CSAH No. 10. Ellefson suggested that the BRRWD could pay some of the costs to bore an inlet into County Ditch No. 55 as ditch system expense, since we do this on other ditch systems.

A discussion followed about possible cost share options for the CSAH No. 10 north ditch cleanout. The Vollers asked if Jones could put together an itemized cost estimate so they can make a decision regarding their contribution to the project.
Jones noted that the additional gated culvert through CSAH No. 10 should not affect Halverson's drainage, as the south ditch will have to drain out before the north ditch water could enter County Ditch No. 55. A discussion followed about the drainage patterns along the south line of Section 17. Several years ago, a culvert was removed from 140th ST near the northwest corner of Section 21 that had drained water directly west to the I-94 culvert. Austin could have used this culvert to drain his tiling project. There is a minimum maintenance road along the south line of Section 17.

Albright asked the group if they would be satisfied if Jones would put together a cost estimate for the work that was discussed tonight. The estimate will include an 18” dia. culvert/flapgate through CSAH No. 10 west of Craig Halverson's driveway; cleaning the CSAH No. 10 north ditch with the County providing staking, spoil hauling, and Skaue's driveway culvert reset/patch. Jones will also provide a formula for sharing the costs. The landowners can contact others who they feel might benefit from the ditch cleaning project to see if they would be willing to contribute also. Jones could prepare the recommendations for the Board's review at an upcoming meeting. If the Board approves his recommendations, we could mail the information to the affected landowners for their review and comment. The group agreed to the proposal.

Brady briefly discussed her concerns about having to pay for the gravel she added to 140th ST this summer. She claims that the Township gave her permission to have gravel applied to the township road in a flooding emergency. She didn't feel she should have to pay for the gravel. Mark Carr explained that the Township Supervisor Brady talked to didn't understand that she expected the Township to pay for the gravel. He said that the Township doesn't provide funding for work on minimum maintenance roads.

Austin asked if the BRRWD would approve his permit. The Board felt they should have an agreement regarding tonight's discussions in place first before they approve his permit. A hearing is also needed on his petition to add land to County Ditch No. 55 benefit area.

**Project No. 38, Farmstead Ringdikes.** The Board discussed the Dale and Missy Grindahl easement to place part of the Kragnes ringdike on their property. It appears that the part of the proposed alignment is on their mound septic system, so the plan will have to be revised. Some trees will also have to be removed, and Grindahls would like to be reimbursed for them. Opsahl estimated that the trees are worth about $750. Albright will meet with Grindahls at 5:30 PM tonight to get the easement signed. Olson will go along with Albright. **Motion** by VanAmburg to approve the dike alignment changes and the extra tree expense. **Seconded** by Hanson. **Approved.**

**Schlauderhoff Project.** The office received a Minnesota Department of Natural Resources (DNR) comment form for this project along Hay Creek in Section 11, Elkton Township, Clay County. The Board supports this type of erosion control project and had no comment on the project.

**Fargo Southside Flood Control (FSSFC) Project.** Albright and Managers VanAmburg and Olson met this morning with Tim Magnusson, Clay Planning & Zoning; Robert Zimmerman, City of Moorhead; and Michael Redlinger, Moorhead City Manager, regarding the FSSFC impacts on the Minnesota side of the Red River. Albright noted that the City of Fargo asked if the BRRWD would assist the consultant who is conducting the Environmental Assessment (EA) to obtain permission from the landowners on the Minnesota side of the Red River to access their property. The City of Fargo would like to meet with the BRRWD this Wednesday to discuss this issue further. The Board discussed this request. VanAmburg and Olson agreed to attend the Wednesday meeting to hear the City's request and bring back the information to the Board for their review.
The Army Corps of Engineers (COE) has scheduled a meeting on 11/17/08 at 7:00 PM in the Moorhead City Hall to discuss their Fargo-Moorhead COE Feasibility Study for an area wide flood control project. The Board had an extended discussion regarding the FSSFC project and the COE Study.

**Project No. 49, Oakport Flood Mitigation.** The office received a letter from Carl Pierce, who owns a large tract of property in the Oakport project area in the N½, Section 17, Oakport Township. Pierce expressed a number of concerns regarding the project. Albright will respond to Pierce's letter. A Technical Committee meeting will be held on Thursday, November 6, 2008, in the Oakport Town Hall. An Open House has been scheduled for 11/25/08 at the Hjemkomst Center from 3:00 PM to 9:00 PM to present project and property owner information to the public. The Final Hearing is scheduled for 12/01/08 in Dilworth Community Center at 7:00 PM. Hearing notices will be mailed to the property owners, and *The Forum* will publish the notice. The Appraisers' Report has been filed. The benefits will be based on property market values. Albright mentioned that after the 1997 spring flood, there were about 100 landowners who signed a petition, stating that they would be willing to donate their land for a flood protection project. He observed that 10 years later, he doubted if the landowners felt the same way. Appraiser Chuck Anderson will establish easement rates based on current land use. We will attempt to sign as many easements as possible using those rates. For those who will not sign an easement based on Anderson's rates, we will have to do individual appraisals. If they still are not satisfied, the last step might be condemnation.

Albright closed on the Buckman buyout property last week. The office sent a DNR pay request for the buyout expenditure and another for general expenses that together total approximately $400,000. There are two more pending buyouts (Skalicky/Roderick) coming up this month. Albright has requested that Pat Lynch, FDR Hydrologist, DNR Waters, prepare a new grant agreement for an additional $1 million ($5 million to $6 million).

**Project No. 63, Grove Lake.** The office has prepared the David Haugrud easement. The total payment is $1,398.31. Motion by VanAmburg to approve the referenced easement payment. Seconded by Nelson. Approved. Albright will contact him to get it signed.

Jones distributed the bid tabulation sheet for the Grove Lake project. Steven Johnson Excavation is the low bidder at $47,335.00. Jones let Johnson know that there will still be at least two weeks before construction can begin. Gene Prim and Kern Kuhlmann contacted the office with concerns regarding the elevation of Maple Lake. They feel the lake is about 3’-4’ higher than normal. Jones said that H.E. will be surveying the Maple Lake outlet channel tomorrow. He will compare H.E.'s survey results with DNR survey data, which established the Ordinary High Water (OHW) elevation for Maple Lake.

The office will prepare a draft road agreement for Scambler Township approval. The West Otter Tail Soil and Water Conservation District (SWCD) has decided that the project can be identified as a conservation project. Jones will be able to apply for a grade and fill permit from the County, not a Conditional Use Permit (CUP), which will expedite the project development process. Motion by Nelson to authorize Ellefson to sign the grade and fill permit application. Seconded by Hanson. Approved. Jones will forward the application to Otter Tail County. Mark Aanenson is working on the wetland delineation. It appears that we will have about 1,100 sq. ft. of wetland impacts (0.025 acres). Wetland credits cost about $12,000/acre and must be mitigated at a 2.5:1 ratio. Jones noted that the case could be made that the wetland acreages exists because the lake is high. Motion by Hanson to allow Jones to proceed with the wetland mitigation process. Seconded by VanAmburg. Approved.

The Board decided to wait until the 11/10/08 meeting to award the contract. Jones felt that some of the pending issues might be resolved by that time.
Minch Lawsuit. Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 10:22 PM to discuss the lawsuit status. At 10:27 PM, the Board reopened the meeting.

LaBelle/Duck Lakes Outlet. Jones contacted landowner Loren Jetvig for information regarding the lake elevation and outlet in Section 35, Cuba Township, Becker County. He indicated that the lake has been higher than it is currently and would not give permission for H.E. to survey the lake outlet on his property. Opsahl surveyed the lake today and recorded the elevation at 1311.07. The DNR’s Ordinary High Water (OHW) elevation is 1308.9. The highest recorded elevation is 1311.1. The run out elevation is 1310, so it appears there must be a blockage somewhere downstream on Jetvig's property. Jones will call Jetvig again with the new information to see if he will allow an outlet survey.

Clay County Ditch No. 9. The Board reviewed plans for the roundabout intersection that MNDOT plans to construct where Trunk Highway (T.H.) No. 75 intersects with County Road (C.R.) No. 12 south of Moorhead. Jane Butze, MNDOT, submitted preliminary plans for the Board's review. Jones noted that MNDOT will need to allow adequate ditch r-o-w and provide a hydraulic survey that shows there will be no changes to the ditch.

Adjournment. Chairman Ellefson adjourned the meeting at 10:33 PM.

Respectfully submitted,

John E. Hanson, Secretary