MINUTES FOR MANAGERS' MEETING
November 13, 2006

A regular meeting of the Board of Managers, Buffalo-Red River Watershed District (BRRWD) was held on Monday, November 13, 2006, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, Curtis M. Nelson, E. Robert Olson, and John E. Hanson. Others attending included: BRRWD Administrator Bruce E. Albright, Erik S. Jones, and Julie Jerger, Houston Engineering, Inc. (H.E.); Jimmie R. Nelson, Supervisor, Kurtz Township, and landowners Terry Czichotzki, Terry Leach, Verne Leach, Ronald A. Stulz, Ken Shellack, Randy Shellack, Gary Shellack, and Paul Brendemuehl.

Chairman Ellefson called the meeting to order at 7:00 PM. He noted that the proceedings were being taped to aid in preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes for the 10/23/06 regular meeting. **Motion** by Nelson to approve the minutes. **Seconded** by Hanson. **Approved.**

**Treasurer's Report.** The Board reviewed the monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the Accounts Receivable report. Albright noted that with current Oakport home buyout financial activity, the office didn't have time to finalize all the Midwest Bank entries before the meeting tonight. The balance sheet totals are off slightly, reflecting the need for interest expense adjustments. We will have a corrected balance sheet tomorrow morning before the checks are printed.

The BRRWD received approximately $194,000 since our last meeting. The Minnesota Department of Natural Resources (DNR) sent final grant payments for the 2005 Ringdike program and Project No. 54, Whisky Creek Tributaries. The DNR also sent reimbursement for their share of the home buyout costs for Project No. 49, Oakport Township. Eunice Stensland made the final payment for her 1998 ringdike project. Olson noted that we should add the pending bond sale proceeds for Project No. 57, City of Moorhead/Interstate-94 (I-94), and Project No. 51, Clay County Ditch No. 68-Establishment, to the Accounts Receivable report. Albright will make this addition. **Motion** by VanAmburg to approve the Treasurer's Report. **Seconded** by Olson. **Approved.**

**Business brought before the Board included:**

**Stulz/Fischer Drainage Issues/Concerns.** Albright gave a brief history of the drainage problems in Section 25, Moland Township, Clay County. The Board of Managers conducted a field review on 9/07/05. Albright read a letter that the BRRWD sent to the landowners on 10/06/05 with recommendations to resolve this ongoing dispute. At their 9/12/05 meeting, the Board approved a motion designating the area conditions as of 9/07/05 as status quo. Anyone planning any future projects to alter the drainage in Section 25 must apply for a BRRWD permit. The Board also stated that they would take action on any violations in accordance with our Rules. The Board also endorsed David R. Watt's (Stulz's renter) area drainage plan. To date, the landowners have not implemented any plan to resolve these issues.
Ronald Stulz alleged that Dale Fischer used a scraper this fall to build a dike on the east-west property line in Section 25. He claims that a witness saw Fischer haul several scraper loads of dirt to raise the property line. Stulz had photographs of machinery tracks leading from Fischer's field to the newly constructed property line dike. Stulz said that last fall when the Managers conducted their field review, the grassed area between the two parcels was level, now it is significantly higher. He added that Fischers also backed over the property line post and replaced it with another post in a different location.

Stulz also alleged that this spring, Keith Fischer covered the 6" dia. culvert when he worked along the cart trail on the north-south property line in Section 25. He also blocked approximately 200'-300' of a natural swale on his property, effectively cutting off Stulz's outlet to drain his property west to Ditch No. 2.

Ellefson pointed out that if Stulz's property can't drain, water will collect in this area and eventually seep into Fischer's field. Olson said that Dale Fischer contacted him last summer regarding this issue. Fischer wanted to find a solution to this issue, but when Olson contacted Stulz, Stulz was not interested in negotiating. Albright expressed regret that the neighbors didn't adopt Watt's plan or another version to install a ditch to drain all the area water north to Ditch No. 2. VanAmburg suggested that we have our Attorney, Tami Norgard, write a letter to Fischers, directing them to restore the property line to the documented 9/07/05 elevation and open the plugged culvert/swale by 12/01/06. Motion by VanAmburg to refer these issues to Attorney Norgard for her review and recommendations. Seconded by Nelson. Approved. Albright will schedule a meeting with Norgard this week. He will send copies of any letters to Stulz.

**Permit No. 06-104, Paul Crume.** Pauline Sannes and Crume attended the 10/10/06 BRRWWD meeting to discuss their permit application to install a dike along the quarterline in the NW¼, Section 17, Riverton Township, Clay County. Crume alleges that last fall, his neighbor, Paul Brendemuhl, drained a low area in the NE¼, Section 17, onto their property in the E½NW¼, Section 17. Manager Olson and Wade Opsahl, Technician, H.E., conducted a field review on 9/21/06. On 10/19/06, Albright obtained Farm Service Agency (FSA) aerial photographs that show Crume's property was dry in 2003, 2004, and 2005. Photographs from 2006, after Brendemuhl's alleged drainage work, show a wet area in their field. At the 10/23/06 meeting, the Board agreed that the evidence supported their claims that Brendemuhl's ditch did cause drainage problems, but they were reluctant to approve a property line dike. Instead, they directed Albright to send a letter to the landowners asking them to work together to find a different route for Brendemuhl's drainage that benefits both parties.

Paul Brendemuhl, who couldn't attend the 10/10/06 meeting, discussed his drainage work with the Board. He used a 1' wide "whirlybird" ditcher. Brendemuhl has not talked to Crume or Sannes regarding his project. Rodney Schmitt was Crume's former renter. The group discussed possible alternative drainage routes. The landowners would also have to avoid working in an identified wetland area near the property line. Albright suggested that Brendemuhl contact Kevin Kassenborg, Clay Soil and Water Conservation District (SWCD) to conduct a survey to see if the water would drain south to a nearby drainage ditch. Albright provided Brendemuhl with Crume and Sannes' phone numbers. Tabled pending the SWCD survey results.

**Permit No. 06-111, Verne Leach.** Leach would like to install a dike in the N½SW¼, Section 32, Riverton Township, Clay County, to block drainage coming from his neighbor's (Kenneth Schellack) field. Twenty years ago, Leach installed an east-west plow furrow through a quarterline ridge to help
drain his neighbor's field. Leach now claims that a new survey shows that Schellack's low area could drain south through an existing piped outlet into Clay County Ditch No. 21. He requests that his neighbor reroute his drainage because the water is causing problems on the west end of his field.

Leach claims that there is a 2' drop to the south in less than 0.5 miles. The Shellacks, who own the SE¼, Section 32, had the Clay SWCD conduct an area survey to see if their water would drain south to Clay County Ditch No. 21. That survey shows that the land drops about 2' to the north. In order to get water to drain south, they would have to lower the ditch culvert about 2.5'. The ditch bottom is too shallow to lower the culvert this far.

Nelson noted that he and Wade Opsahl, Technician, H.E., conducted a field review on 10/09/06. He didn't think there was a large amount of water that flowed onto Leach's property. He added that they noticed a natural ridge on Shellack's property. The survey shows that this ridge is 3' higher than Leach's property line.

Leach said that, historically, the area water had not drained across his property. He explained that many years ago, he installed a plow furrow through the property line to drain a small amount of water off Shellack's property. Now, he wishes that he hadn't installed a ditch in that location.

Ellefson asked if the southern part of the Shellack's property drains south to the Clay County Ditch No. 21. Shellack explained that a portion of his property does flow south under the road via a small culvert. Field drainage north of the ridge flows north. He added that to in order to get water to drain south from that point, the cuts would have to be almost 5.5' deep. In addition, Ditch No. 21 would not accommodate the necessary culvert depth.

Albright suggested that Leach's field might be noticeably wetter because Shellack's new renter may be more aggressive with drainage practices. Leach didn't know if that was a fact. Gary Shellack commented that he farmed the Leach property for the last eight years and felt that the water on this property hasn't changed significantly over time. He pointed out that Leach hasn't lost cropland because of the drainage. He agreed that Leach's drainage is slower on the west side of his field, but it does drain out over time.

Leach said that he conducted his own private survey and found a 2' drop from the plow furrow to Clay County Ditch No. 21. Albright said the SWCD survey shows that the plow furrow on Leach's property is 1.2' deeper than the bottom of the outlet culvert to Ditch No. 21. The group briefly discussed the SWCD survey results.

Leach questioned why he couldn't just fill in the plow furrow since he was the one who made it in the first place. Albright explained when the BRRWD adopted their Rules on June 1, 1979, they designated all existing drainage conditions as the status quo. Drainage changes after that date require BRRWD permits. Filling in the ditch is a change and requires that the BRRWD issue a permit for the work. Nelson thought there would still be seepage onto Leach's property even if he filled in the furrow. Leach thought that could be true. Leach noted that many years ago, his neighbor, Will Lass, plugged two small culverts in 130th ST S that drained Leach's property north to County Road (C.R.) No. 12. He said at that time, the BRRWD did nothing to stop Lass and told Leach to find a new place to run his water. Leach explained that since the only other alternative was to direct the water past Lass' farmstead, Lass finally reopened the culverts. Paul Brendemuhl said he has rented the Lass property for the past 15 years. Currently, water from Leach's property drains across the Lass property to a gravel pit, where it stays. Shellack said that if Leach fills in the plow furrow, it would have a
significant impact on his field drainage, as the drainage is already limited on that quarter under the current conditions. **Motion** by Nelson to disapprove Permit No. 06-111. **Seconded** by Olson. **Disapproved.** Ellefson explained the Board's reasoning for disapproving the application. To get the water to flow south would require extensive excavation (5' deep cuts) through the ridge, and because the culvert would have to be at least 2.5' deeper than it is now, there would not be enough grade in the ditch bottom to get the low flow water to drain out. In addition, filling in the furrow would block Shellack's drainage. Ellefson discussed the impacts of our current wet cycle and questioned if Leach thought that this could have affected his drainage. Leach thought it was possible. Albright suggested that the neighbors could consider installing a small 18" or 24" dia. culvert on the line to prevent erosion and help meter flows. The landowners agreed to think about that suggestion. Installation of a culvert would also require a BRRWD permit.

**Merle Nelson Diking Complaint.** On 11/10/06, Merle and Bruce Nelson came to the BRRWD office to ask Albright to field review a fence line dike that Terry Czichotzki allegedly installed on the property line in Section 28, Atherton Township, Wilkin County. They claim that Czichotzki completely blocked a low area in the fenceline that has historically been a spillway for Nelson's drainage. Albright accompanied the Nelsons to the site where he took photographs of the alleged violation. The Board reviewed Albright's photographs. Ellefson also conducted a field review this afternoon and gave a brief report of his findings. Albright noted it was clear that Czichotzki had filled in a low spot to the same elevation as the fenceline ridge, and had been careful not to exceed the fenceline height.

Czichotzki explained that up until the last few years, the low spot was just a small area in the fenceline. Recently, erosion caused by heavy rainfall had widened and deepened the spillway area. Czichotzki said his intention was to restore the fenceline to its original elevation. He added that he wished he had taken a picture before he filled in the area to document the extent of his work.

Albright said the Nelsons were concerned about getting the spillway restored before freeze-up, so over the weekend, they used a scraper to remove the dirt from the low area. Czichotzki had a photograph of their work. He feels their work has significantly enlarged the spillway. He agreed that the Nelson property needs to drain northwest, but he would like to find a way to control flows and reduce erosion. There is a field ditch about 300' south of the cart trial on the north line of Section 25 that is intended to drain Nelson's field, but it needs to be cleaned. As a result, more water goes over the fenceline. Czichotzki said that last summer as a result of a heavy rainfall event, his property suffered extensive erosion damage at this site. He said he only meant to repair the washout, and reiterated that he should have documented the erosion. Albright asked if the landowners would consider installing a metering culvert in this location to prevent further erosion on Czichotzki's property. Czichotzki thought he could agree to a culvert, but Nelsons should also clean the existing ditch on his property so that water can drain in the field ditch and away from the fenceline spillway. Albright said that Nelsons have agreed that this ditch does need cleaning, but also thought that Czichotzki would have to clean the ditch on his side of the property line to keep the water in the ditch. Czichotzki felt that regardless of the condition of his portion of the ditch, there is enough fall from Nelson's property that the water will drain. More discussion followed about alternative drainage options. The Board agreed that both landowners had violated the Rules. **Motion** by VanAmburg to direct Nelsons to clean their existing drainage ditch/culvert in the middle of the quarter to improve field drainage and divert water from flowing to the fenceline spillway. In addition, the neighbors should work together to fill in the fenceline cut and install a 15" dia. culvert in the spillway at the same elevation as Czichotzki's field to slow down flows and reduce erosion. The landowners should complete this work by 11/20/06.
Seconded by Hanson. Approved. Czichotzki agreed with the recommendations. Albright will call Merle Nelson tomorrow morning regarding the Board's decision.

**Permit No. 06-126, Terry Czichotzki.** Applicant has lowered an 18" dia. culvert through the township road (180th ST) in S½, Section 7, Manston Township, Wilkin County, approximately 1' so his field will drain better into Wilkin County Ditch No. 13-Lateral, to which it is assessed. Albright explained that Czichotzki had called the office on 10/09/06 regarding this work. He had the Wilkin County backhoe operator in the area doing other work for him, and he wanted to do this work at the same time. Czichotzki said that the neighboring landowner had no objections to the work, and the Manston Township Supervisors also had given him permission. Motion by Nelson to approve Permit No. 06-126, subject to township approval to work within their road right-of-way (r-o-w). Seconded by Olson. Approved.

**Permit No. 06-101, Rollie Cooper/Robert Klein.** Jimmie R. Nelson, Supervisor, Kurtz Township, discussed his concerns about ditch work Klein is doing on old SubDrain No. 1 located on Klein's property in SE¼, Section 9, Kurtz Township, Clay County. Klein had requested Kurtz Township to reduce a 36" dia. culvert through their road between Sections 8 and 9, which they installed in the fall of 2004. On 9/11/06, Cooper and Klein received a BRRWD permit to install a dike on the south side of SubDrain No. 1 in conjunction with their cleanout project for this ditch. To complete their project, the landowners needed permission from Burlington Northern Sante Fe (BNSF) Railroad and the Township to work and dike on their respective r-o-w. The dike height had to be 6" below the township road elevation. They plan to clean SubDrain No. 1 based on a culvert to culvert grade, according to H.E.'s survey. Brad Fitzgerald, Klein's contractor, called the BRRWD office last week to be sure his work was in compliance with the permit. Klein also called the office on 11/02/06 with a new plan for an L-shaped dike on the property to protect the new homes in this area. Albright advised Klein that he would need a BRRWD permit for that work and that he could call Chairman Ellefson if he wanted someone to look at their proposal. Ellefson talked to Klein, who told him that the township and neighboring landowners had agreed to the new plans for an L-shaped dike.

Nelson said that the Township voted to reduce their 36" dia. culvert down to a 30" dia. opening, but they disapproved the landowners' request to block the township road ditch adjacent to the 36" dia. culvert to divert water away from the two homesteads in the northeast corner of the SE¼, Section 9, to SubDrain No. 1. Currently, water from Nelson's property in Section 10 flows into Section 9 via the 36" dia. culvert. Nelson said that the Township had concerns about Klein's project but they have no jurisdiction over the SubDrain No. 1. Nelson said he had pictures of Klein's work east of the BNSF tracks in the middle of Section 9, adjacent to Kent Karlstrom's property. He reported that Klein installed an east-west berm with a 12" dia. overflow culvert in the north-south ditch on the east side of the BNSF tracks. Nelson was concerned how this work might affect Karlstrom's property. He had been in favor of cleaning SubDrain No. 1 when he thought there was going to be a project to clean the entire ditch to Trunk Highway (T.H.) No. 75, and not just Klein's portion. He said he had encouraged Rollie Cooper to wait with their proposed work until all the landowners along SubDrain No. 1 agreed to clean the entire ditch. The Township decided not to proceed with the legal ditch system process because Karlstrom would end up paying for most of the costs, as he owns most of the adjacent land. Nelson expressed his frustration at the amount of time the township has had to spend on this issue. He questioned if Klein had BNSF permission to work on their r-o-w. Albright said Klein claims that he has talked with BNSF representative who told him it was all right for him to work on their property as long as he filed the necessary paperwork to get a BNSF permit. Nelson questioned if Klein actually received the required BNSF permit. He said that the Township is getting tired of this issue. He questioned if there was a way the Township could acquire jurisdiction over SubDrain No. 1.
Albright noted that technically, the Township should have filed a BRRWD permit application for reducing the 36” dia. pipe in their road. Ellefson noted that the BRRWD had endorsed reducing the pipe size. Nelson pointed out that Klein has never attended a Township meeting to tell them what he plans to do. Rollie Cooper has discussed the project with the Supervisors.

Manager Olson noted that he field reviewed the area on Saturday, but couldn't see the work on the BNSF r-o-w. Dan Rosenfeldt, who rents Karlstrom's property west of the BNSF railroad tracks, was in the office today with questions about where all the water is going to go. Olson noted that Rosenfeldt has done extensive ditching west of the BNSF tracks. The group discussed the elevation of Klein's buildings in the southwest corner of his quarter and the alleged plans for more houses/structures on this property.

Albright questioned how it would affect the township road ditch and local drainage if Klein put a berm in their ditch near the 36” dia. culvert with a spillway approximately 1' lower than the road. Nelson pointed out that water from the north flows south to Ditch No. 32 via this road ditch. Ellefson mentioned that when he talked to Klein, he told him that the landowners to the north had agreed with Klein's proposal and he had told him he could go ahead with his project. Nelson said there was no way that the Township would agree to allow Klein to place a berm in their ditch.

Nelson mentioned that the Township would like to add another culvert on the south end of the east side of their township road between Sections 9 and 16 into Clay County Ditch No. 32 and lower the ditch about 6” to provide grade so the ditch will drain. Nelson pointed out that the Township would like the BRRWD to step in and take jurisdiction over these issues. Ellefson noted that according to what Klein told him on Friday during their telephone conversation, Ellefson felt that all the landowners were in agreement with Klein's proposal and he had told him he could go ahead with his project. Jerger noted that when she talked to him on 11/02/06, he told her the same thing. Ellefson thought that someone should visit the site tomorrow to see what is actually taking place on Klein's property, and if there is any discrepancy from the work described on his permit, we should stop the work until we can figure out what he plans to do. Albright pointed out that Klein does have the right to clean SubDrain No. 1 on his own property. Neither the Township nor the BRRWD has any jurisdiction over this ditch in terms of a legal drainage system. However, the BRRWD Rules still apply. Albright reiterated that Klein has a BRRWD permit to install a berm on the south side of SubDrain No. 1 on his property and to place berms in the BNSF and Township road ditches, pending their respective approval. Olson noted that he voted against that permit approval. Nelson continued to list his concerns about Klein's project. Olson thought we should let BNSF know about the work on their r-o-w. Klein has also talked about installing a berm along the west side of the township road ditch on his property to keep the water in the ditch. By doing this, he will have created his own private watershed.

Albright recommended that Kurtz Township file a permit application to reduce the size of the culvert in the Township road between Sections 9 and 10 from 36” dia. to 30” dia. Albright provided a permit application for Nelson's signature. **Motion** by Hanson to approve Permit No. 06-131 as an after-the-fact permit for Kurtz Township. **Seconded** by VanAmburg. Olson opposed. **Approved**.

Albright said that the Township should file a ditch repair request for an additional culvert and grading on the south end of their township road ditch into Clay County Ditch No. 32. Albright questioned how the Board wants to handle Klein's current project. Manager Nelson agreed with Ellefson that if Klein is doing work that the Board did not permit, we should get the work stopped. Nelson claims that before he built his home, Rollie Cooper asked him how much water the Township road culvert carried. Nelson said he told Cooper that although the culvert was full of weeds and about 1’ of dirt, it could
flow both ways. He also told Cooper that he was building in a low area. Nelson said that the Township did not have a problem with Klein's original plan, which was to clean SubDrain No. 1 from the township road to the railroad crossing and dike the ditch on the south side. However, the plan has changed. Albright asked Nelson if the Township had a problem with Klein diking along the east side of his property on the west side of their road. As long as Klein keeps the dike off the Township road r-o-w, they have no jurisdiction. Nelson said a dike in that location would only hurt Klein's property. Albright noted that to date, Klein has not filed a BRRWD permit application for a dike along the Township road. More discussion followed regarding flooding in Section 9 and Klein's project.

Nelson questioned the status of the hydraulic analysis H.E. is doing for the Nelson and Orlen Valan, Jr. crossing on Clay County Ditch No. 40 in Section 25, Kurtz Township. Jones said that study is nearly complete.

Ellefson summarized that the Board needs to find out what Klein actually intends to do regarding his project to clean SubDrain No. 1. Albright will call Fitzgerald Construction in the morning to stop work on Klein's project until the BRRWD can conduct a field review to figure out exactly what Klein is planning. The Board agreed that they had approved the SubDrain No. 1 cleanout with a berm, but not any diking along the township road and no pipe installations. Jones will investigate the Township's repair request for an additional outlet to Clay County Ditch No. 32 on the south end of their road ditch. He will provide a recommendation for the Board's review at their 11/27/06 meeting. Albright will let Kurtz Township know what the Board decides regarding Klein's activities.

**Project No. 51, Clay County Ditch No. 68-City of Glyndon.** Contractor Ronald Erdman, Allstate Construction, reported that except for a few minor details, the project is about 95% complete. Manager Nelson noted that Erdman has been putting in some long hours on this project recently. Erdman had some questions about riprap placement on the culvert ends. Jones explained that the plans call for riprap on each end of the box culverts and for the rock drop structure on Parke Avenue. Erdman also discussed two work areas where underground utilities were close to the surface. The group discussed a time extension. **Motion** by Nelson to give Allstate Construction a two week completion extension until 12/01/06. **Seconded** by Hanson. **Approved.**

Erdman questioned how to proceed with the seeding/mulching. Jones explained that Erdman could use his own discretion regarding grass seeding, but he must install mulch to prevent erosion in accordance with the Minnesota Pollution Control Agency (MPCA) requirements. Albright noted that part of the seeding will include Conservation Reserve Program (CRP) reseeding, which may require special seed. If it turns out that special seed is necessary, Albright told Erdman to submit a change order for the extra cost. Ellefson explained that no matter when Erdman seeds the grass (fall or spring), he is responsible for a grass cover on the construction site.

H.E. submitted Pay Request No. 3 for Allstate Construction in the amount of $26,267.16, which reflects 5% retainage ($8,748.09). The total value of the work completed less retainage is $145,151.07. The original contract amount is $174,961.84. **Motion** by Nelson to approve the pay request. **Seconded** by VanAmburg. **Approved.** The group briefly discussed the one-year contractor warranty for the project.

**Permit No. 06-125, Menards, Inc. First Addition.** Applicant proposes to construct a storm drainage system for the new Menard's store in Section 15, Moorhead Township, Clay County, along the north side of I-94 in south Moorhead west of County State Aid Highway (CSAH) No. 52. The 65-acre site will outlet to Clay County Ditch No. 47. Albright noted that construction has already started. Moore
Engineering, West Fargo, ND, submitted the permit application today. Tabled pending Jones' review and recommendations.

**Permit No. 06-127, Brian Meyer.** Applicant proposes to repair an erosion site on the Whisky Creek riverbank along his property at 361 2nd ST NE in Barnesville, MN. The riverbank is eroding behind his garage on a stretch of river approximately 80' long, which could cause bank failure and property loss. The existing slopes near his garage vary from 1:2 to vertical. There is a section 20' long with at 10'-12' vertical drop. Repair work will include tree and brush removal, adding fill to the creek slope (1:3), filter fabric and riprap installation to protect against future erosion, and seeding. Meyer has filed local/state/federal project application with copies sent to the DNR, Clay SWCD, and the Army Corps of Engineers (COE). Tabled pending Jones' review and recommendations.

**Permit No. 06-128, Brookdale Baptist Church.** Applicant proposes to do site paving, grading, and utility work for their church building expansion in the northwest corner of the Southfield Estates (40th AVE and 14th ST S) in south Moorhead. It appears that site drainage will flow south to an area holding pond. Tabled pending Jones' review and recommendations. Currently, Jones is waiting for information from Ulteig Engineers, Inc. (UEI). The City of Moorhead has reviewed the plans and UEI made changes to meet the City's requirements.

**Permit No. 06-129, Chris Dankert.** Applicant proposes to install a culvert off from 80th AVE N in the NE¼NE¼, Section 8, Cromwell Township, Clay County. The proposed culvert will be located approximately 80'-140' from the corner of 200th ST and 80th AVE N to provide access to Dankert's property. Motion by Hanson to approve Permit No. 06-129, subject to a Manager field review to check on the proposed culvert sizing, and subject to Township approval to work within their road r-o-w. The Board felt that an 18” dia. culvert should be sufficient. Seconded by Nelson. Approved.

**Permit No. 06-130, Dan Rosenfeldt.** Applicant proposes to install a north-south ditch to drain into County Road (C.R.) No. 67 (80th AVE S) in Section 11, Elmwood Township, Clay County. In Section 14, he also plans to extend the driveway culvert along C.R. 69 (110th ST S), install a shallow ditch along the east side of the new shop, and install a 15” dia. or smaller culvert in the road to their shop. Rosenfeldt feels the work is necessary to provide field drainage, widen his access road, drain roof water, and eliminate a wet area in his driveway that has frost boils in the spring. Motion by Nelson to approve Permit No. 06-130, subject to Manager field review. Seconded by Hanson. Approved.

**Stanley Crume Ditching Complaint.** Albright met with Jane Butzer and Allen Milbrandt, Minnesota Department of Transportation (MNDOT) for a field meeting on 10/27/06 to review Stanley Crume's ditch work along T.H. 10 east of Glyndon in Section 8, Riverton Township, Clay County. Crume sent a letter to the BRRWD regarding several drainage concerns he has regarding MNDOT's work along T.H. 10. Curtis Nelson, Lake Park, operates Crume's property and did the ditch work. According to FSA aerial photographs, it appears the ditch work is possibly draining some designated wetlands. Stanley Crume is concerned about increased water draining by house. He alleges the water is coming from the MNDOT road project in his area. However, from his observations during the field review, Albright said it appears that Nelson's ditching in Section 8 is also directing water towards Crume's buildings. Tabled.

**Minch and Johnson Lawsuits.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 9:30 PM to discuss the status of both lawsuits. At 9:45 PM, the Board reopened the meeting.
**Tande Drainage Concern.** On 10/02/06, Albright sent a letter to Phyllis Girten, the owner of the W½, Section 5, Riverton Township, who lives in Texas, regarding drainage problems in this area and the Board's recommendations discussed at the 9/25/06 meeting. To date, she has not responded. The Board agreed to wait for Girten to contact the office.

Kevin Kassenborg, Clay SWCD, contacted the BRRWD regarding work that Curtis Nelson, Lake Park, has done in the W½, Section 5, Riverton Township, south of the Buffalo River. Nelson installed a ditch off from T.H. 10 that drains directly into the Buffalo River. Albright pointed out that Nelson cut the riverbank to a depth of about 4'–5'. The Board discussed the possible impacts and the need for a permit for work of this nature. Albright suggested that he write Nelson a letter informing him that he needs to have BRRWD permits for this work and that there may be possible violations regarding DNR protected waters. **Motion** by Hanson to authorize Albright to send the referenced letter and set an 11/27/06 deadline for a response. **Seconded** by Nelson. **Approved.**

**Grove/Pete Lakes Outlet.** The BRRWD held a landowner informational meeting on 10/30/06 to discuss concerns regarding high water in the Grove Lake area in northwestern Otter Tail County. The attendees' consensus was for the BRRWD to continue to develop a project for an outlet for Grove Lake. **Motion** by VanAmburg to authorize H.E. to conduct an area survey and develop a plan. **Seconded** by Olson. **Approved.** Jones will contact landowners for permission to survey.

**Dale Fischer Diking Complaint.** On 6/15/06, Albright met with Fischer onsite along CSAH No. 26 to view alleged drainage problems associated with a diking project his neighbor, Gerald Zimmerman, completed last fall on the east-west quarterline in Section 32, Morken Township, Clay County. Fischer, who is the operator of the SE¼, claims that spoil from Zimmerman's ditch cleanout project was placed on the east-west quarterline between their two properties, causing wet areas in his field and delaying his spring planting. Zimmerman claims Fischer has always had a water problem in the SE¼, Section 32. Many years ago, Fischer tried to drain his land north to Clay County Ditch No. 39, but the owner of the NW¼ would not allow them to place a ditch on the line. John Svenkeson, who owns the SE¼, Section 32, also wrote a letter to the BRRWD on 9/29/06 regarding Zimmerman’s dike work. He claims the work made approximately 10% of the cropland, or 14 acres, unusable. FSA aerial photographs from 2003 and 2004 show wet areas in Fischer's field prior to Zimmerman's 2005 alleged diking project. In addition, several of those wet areas are designated as wetlands on the FSA map. Albright will send a letter to Svenkeson and Fischer regarding the FSA photographic evidence, advising them that they will need a BRRWD permit for any drainage activities related to the wetlands in SE¼, Section 32. Sharon Lean, District Conservationist, NRCS, should also review the proposal. The letter will encourage the neighbors to work together to try to find a solution to their drainage problems.

**Stanley Sandman Drainage Complaint.** Sandman contacted the BRRWD office with concerns about a drainage project his upstream neighbor completed several years ago that he now feels is causing erosion problems on his property in Section 28, Highland Grove Township, Clay County. His neighbor did not have a BRRWD permit for the work. Manager Nelson, Sandman, and Opsahl conducted a field review on 10/31/06. They found that Brian Peterman has several ditching sites in Section 28 where he has cleaned and possibly deepened existing ditches to improve drainage. These ditches drain into a low unfarmed area near the center of Section 28 that does not have a defined outlet. When water gets high enough, it breaks out to the south and west across land owned by Sandman, causing erosion and crop damage. Nelson noted that several of the ditches were into the clay 3”–4". Nelson said that Sandman is more concerned with the accumulative effect of the ditching his neighbors have been doing over the years. Nelson thought some of the water could end up draining into Clay
Count no Ditch No. 16.  **Motion** by Nelson to send Peterman a letter advising him that he should file a BRRWD permit application for this work.  In addition, he should consider working with his neighbor to address the volume of the flow coming off Section 28, as it has the potential to cause erosion on his neighbor's property.  **Seconded** by VanAmburg.  **Approved.** Nelson noted that the neighbors could consider developing the low area as a retention site.

**Permit No. 05-40, Nick Manston.** Manston rents land in Section 2, Barnesville Township, Clay County, from Doris Ludemann.  Last year, the BRRWD gave Manston a permit (05-40) to put an outlet ditch/culvert to Clay County Ditch No. 31, to which the property is assessed.  According to the drawings and discussion at that time, the Board assumed that Manston was going to place the ditch on or near the quarterline.  However, this summer when the work was completed, the contractor located the ditch 40' south of the property line and extended it 800' to the east past the quarterline into Manston's property.  David Leach, who is Ludemann's son-in-law, called the BRRWD with complaints regarding this project.  They would have preferred that the ditch be on the line with no extension, as they don't want water from Manston's adjacent property draining onto their land.  Leach wants the BRRWD to require Manston to block the extension and move the ditch to the property line because his project exceeded the permit scope.  The Board discussed Leach's request and reviewed Manston's permit application.  Ellefson felt that this issue was between the owner and the renter.  Olson suggested that we investigate this issue further.  VanAmburg questioned if the permit included the extension.  The Board agreed that the contractor, Ron Erdman, had placed the ditch in an inconvenient location, but it didn't appear that any Rules were violated.  Also, once the ditch is properly sloped, it should be able to be farmed through.  **Motion** by Nelson to authorize Albright to send the affected parties a letter advising them that they should work together regarding this issue, as it appears there are no water management issues for the Board to address.  **Seconded** by Hanson.  **Approved.**

**Solum Ditching Complaint.** Dan and Kevin Solum contacted the office regarding work that Brian and Bryant Haugrud completed in Section 23, Prairie View Township, Wilkin County.  The Haugruds allegedly used their tillage equipment to fill in a waterway on the property line between their land and Solums' property.  It appears that they placed about 2' of fill in the outlet channel.  Albright and Solum reviewed the complaint last Friday.  The Board reviewed Albright's photographs and the FSA maps.  The Board had an extended discussion regarding this issue.  **Motion** by Nelson to send Haugruds a letter with a copy of the Rules, explaining that their work is in violation of the BRRWD Rules, and they need to restore the ditch to the original elevation by 11/20/06.  **Seconded** by Olson.  **Approved.**

**Project No. 57, Moorhead/I-94 Flood Control.** The project has been completed, and the office is working on the bond sale.  H.E. still has to prepare the easements for recording.

**Project No. 56, Manston Slough Restoration.** Jones reported that the soil borings are nearly finished.  Rick St. Germain, H.E., expects to file the Engineer's Report on 12/01/06.  St. Germain has asked Albright to set up a meeting with landowner Dennis VanWechel regarding soil borings on his property.  In addition, Albright plans to schedule a meeting with the road authorities regarding use of their roads.  He will also ask Wilkin County for a Ditch No. 6A benefit map.

**Project No. 54, Whisky Creek Tributaries.** The Board discussed problems with the culvert installation in Greg Settelmeyer's driveway.  Settelmeyer has contacted the office with complaints about the poor installation work.  Contractor Darvin Temanson, Dirtworks, installed the culvert without coordinating his work with Opsahl.  The Board wants Opsahl to check the installation and survey the site.  We may have to reinstall the culvert.
Dennis Drewes, Inc., has not had time to complete the Federal Emergency Management Agency (FEMA) repairs for sections of "east tributary". The work includes installing rock drops, flattening slopes, etc.

Adam Grothmann, Northern States Excavating, could start this week to do the repair work for Scott and Betty Anderson on the impoundment site embankment levee along the north side of Section 14, Barnesville Township. The work will include cleaning the township road ditch and will be a project expense.

**Project No. 49, Oakport Flood Mitigation.** The Steering Committee will meet on 11/16/06 at the Moorhead Police Department. Landowner Jerry Ries has indicated that he plans to attend the meeting to discuss his concerns about the project status.

Albright noted that Corey Elmer, Vogel Law Firm, has scheduled the third home buyout for 11/15/06. To date, we have not received the previous home buyout reimbursement from the DNR. Albright noted that it will be necessary to take out a Midwest Bank loan to cover the cost of the upcoming house closing until we receive the DNR funding. Treasurer Nelson signed the loan documents. The Board discussed loan interest rates.

BRRWD insurance agent John Hoffman, ICS Agency, contacted the office about insuring the buyout properties over the winter. He has found a company that will insure the houses for $75/unit/year or a flat rate of $1,500 for all the homes for one year. The company will only provide liability insurance for the properties. The Board discussed the insurance rates/coverage and decided to take the flat rate quote.

Albright noted that Clyde Trautmann, Professional Property Management, contacted the BRRWD regarding our search for a property management firm to take care of the buyout property this winter. Trautmann submitted his proposal to provide these services for $150/house/month. For 5 houses or more, his rate would be $125/house/month. The Board discussed this proposal. VanAmburg questioned if Trautmann was bonded or insured. The Board suggested that Albright check with the City of Moorhead, Oakport Township, and Steering Committee regarding this proposal and other property management options. Motion by VanAmburg to authorize the Midwest Bank loan, and accept the $1,500 flat rate for the home insurance. Seconded by Olson. Approved.

**Project No. 46, Turtle Lake Outlet.** Sellin Brothers, Inc., removed the defective siphon valve on the outlet of the Long Lake siphon. Opsahl will ship the valve to the manufacturer. Repair costs will be approximately $1,500. Turtle Lake homeowners have been in contact with the BRRWD office regarding the siphon operation.

**Project No. 38, Farmstead Ringdikes.** Albright has not had time to meet with Mark Rustad regarding his concerns about the cost of his ringdike. He added that Eunice Stensland has remitted the final payment for her 1998 ringdike construction. The other landowner, Ross Rehder, came to the office today to discuss payment options with Albright. The Clay County Planning and Zoning Committee will hold their next meeting on 11/21/06. The Butze ringdike Conditional Use Permit (CUP) application is on their agenda for 7:15 PM.

Albright plans to contact Ed Fick, FDR Hydrologist, DNR Waters, to notify him that the project plans have changed for the Kragnes ringdike proposal. The landowners wanted to proceed with two of the three proposed dikes. Jones mentioned that Todd Grugel, MNDOT, was in the H.E. office last
Tuesday and visited with him about the proposed Kragnes ringdike project. Grugel didn't have any significant concerns regarding the proposal. His one comment was that we keep any culvert gates out of the road clear zone because of safety issues.

**Project No. 35, Clay County Ditch No. 47.** Albright noted that Ziegler Construction started work on cleaning Ditch No. 47 today. He commented that this work should help improve the operation of the flapgates on the culverts under the Otter Tail Valley Railroad (OTV) tracks along CSAH No. 52.

**Project No. 32, Hawley EDA Diversion.** Jones reported that Hancock Concrete Products, Inc., is nearly finished with the 60" dia. culvert repair. They applied new concrete and epoxy to the deteriorated sections. Following the repair completion, Jones will send a letter to Hancock, noting that we will continue to monitor the culvert's performance so that we have a written record of our concerns.

**Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1).** Opsahl will meet with the ditch committee to conduct a fall inspection. The Board plans to hold a meeting this winter to discuss the possible improvement and extension of Lateral No. 3.

**Project No. 29, Log Jam Removal.** William Nichol Excavating has not submitted an estimate for the work on the Elmwood Township sites. Albright said that a landowner had reported that during deer hunting, he had noticed extensive beaver activities on the South Branch of the Buffalo River, Stony Creek, and Hay Creek.

**Project No. 27, Clay County Ditch No. 55.** Landowner Brian Halverson called last week to report that MNDOT still hasn't mowed the ditch r-o-w on I-94. Albright will contact Allan Milbradt, MNDOT, regarding this issue.

**Project No. 23, Becker County Ditch No. 15.** Chad Mattson plans to start the ditch repairs for Ditch No. 15 this week or the beginning of next week. Jones and Manager Hanson met with Scott Kahan, USFWS, and Michael Murphy, Manager, Hamden Slough National Wildlife Refuge, regarding the spoil placement for our ditch repair project. Kahan would like to use some of the spoil material to build berms to retain water on their property in Section 9, Hamden Township. The retention areas are located where the ditch system cut across the existing natural oxbows. Larry Hanson, USFWS, will stake the areas next week, and Scott Kahan, USFWS, will send maps showing where the areas are located. During the field meeting, Jones told Kahan we would only be able to work with the quantity of material we get from the cleanout, so we might not be able to build up the berms as high as he might prefer. The next time we clean the ditch (10-15 years), we could add to the berm heights. Jones told Kahan that the ditch excavation would be limited to the channel bottom, and we don't intend to disturb the sideslopes. Kahan was concerned about possible weed problems next year on the spoil banks. Jones said that if weeds become an issue, the BRRWD will have them sprayed. Kahan will issue a permit for the BRRWD to enter their property for the ditch cleanout work.

In Section 10, Hamden Township, Michael Murphy plans to hire a contractor to do the ditch cleanout work in their section of the ditch channel. The Becker County Highway Department has scheduled replacements for both the CSAH No. 12 and 13 crossings in 2007. Albright noted the work could be limited if there is a significant area snowfall.
**Project No. 19, Becker County Ditch No. 21.** The office sent a letter to the ditch system landowners regarding the BRRWD's need to obtain r-o-w/access to Ditch No. 21 to do maintenance and repairs. To date, all of the landowners have returned their permission forms, except David Molacek. The Board agreed to give Molacek until 11/15/06 to return his form.

**Project No. 13, Hay Creek Detention-Bjornson.** Sellin Bros. Construction has completed construction on the south dam repairs. The pool will continue to be operated 1' below the top of the wall.

**Mediation Project Team (PT).** The BRRWD will hold their next PT meeting on 12/07/06 at the MSUM Science Center near Glyndon. The office will send meeting notices.

**Clay County Ditch No. 34.** The BRRWD held a meeting on 10/20/06 in our Barnesville office to discuss a possible project to replace the bridge in the township road between Section 13, Alliance Township and Section 18, Barnesville Township, at the outlet of Clay County Ditch No. 34. H.E. completed a hydraulic study of this bridge in 2001, and Jones recently completed a review of the ditch files at the Clay County Auditor's office. The files show that when the County constructed the ditch in about 1915, a bridge existed at this location; however, the records did not list the size of the bridge. According to Brian Bernstrom, Clay County Highway Department, the County replaced the bridge in 1968, and their records indicated that the original bridge had an open span of 27.5', which is essentially the same as the current bridge opening. When the County inspected it in 1960, the original bridge had approximately 165 square feet (sq. ft.) of waterway area. The existing 1968 bridge has 192 sq. ft. of waterway area according to County records, indicating that the existing bridge is larger than the original bridge. Albright noted that the addition of a culvert or set of culverts along side the existing bridge would probably require a ditch hearing. Dave Overbo, Engineer, Clay County Highway Department, has authorized a survey of the bridge site, and he told Albright he is looking for used pipes. Wilkin County may have used pipes.

**Clay County Ditch No. 11N.** Jones reported that H.E. is still working on the Preliminary Engineer's Report for the proposed Ditch No. 11N improvement project. Landowner Kevin Olsgaard was the main project petitioner.

**Dam Retrofit Funding.** At the 10/23/06 meeting, the Board tabled a request from the Fargo-Moorhead Metropolitan Council of Governments (FM MetroCOG) and the DNR to put together a funding coalition to complete the retrofit for the Christine and Hickson Dams on the Red River. They are requesting that the BRRWD contribute $50,000 (3.9% percentage share) to this effort. The Board discussed this request. **Tabled** until the BRRWD has funding available.

**Becker County Ditch No. 19.** H.E. has completed an area lake elevation survey using Global Positioning Station (GPS). Jones reported that the survey shows that at this time, Buffalo, Rice, and Rock Lakes are at essentially the same elevation. Momb Lake is slightly higher. The office will send the survey to the landowners. Holmesville Township has received their DNR permit to retrofit the second pipe they installed in their road between Rock and Rice Lakes.

**Becker County Ditch No. 5.** Johnston Fargo Culvert has finished assembling the structures and will deliver them to Sellin Brothers, Inc. in Hawley. Sellin Brothers will pour the concrete bases in their shop in Hawley and will haul the risers/bases to the dam sites and set them in place. Mark Green notified the office that he would prefer to have no one trespassing on his property during the deer
hunting season. We might have to delay the work until hunting season is over, or next spring, depending on the weather.

**2006 MAWD Annual Meeting.** The Minnesota Association of Watershed Districts (MAWD) Annual Meeting will be held in Alexandria on November 30-December 2, 2006. Albright will be a presenter for the new Managers' orientation session. All the Managers, except Olson, plan to attend. Albright has submitted the Board's proposed resolution to allow Watershed Districts to pay former Managers a per diem stipend for court appearances. The Board discussed two new resolutions the Delegates will consider at the annual meeting. Albright has submitted the Whisky Creek Tributaries project for the 2006 Watershed Project of the Year award.

**RRWMB Membership.** Managers Ellefson and VanAmburg met with Ray Bohn, MAWD, Don Buckhout, Red River Basin Coordinator, and the Red River Watershed Management Board (RRWMB) representatives on 10/31/06 to discuss our membership. Ellefson and VanAmburg reported that there are still a number of issues on which the BRRWD and the RRWMB do not agree. Ellefson noted that the RRWMB By-Laws allow anyone to serve as a RRWMB Board member. The BRRWD feels that only Watershed District Managers should serve. Bohn, Buckhout, and Ron Harnack, RRWMB Lobbyist, said they will try to put together alternate funding language/methods for the BRRWD's review. The Board discussed other concerns regarding the RRWMB.

**Clay County Ditch No. 32.** Albright noted that a landowner in the northwest corner of Section 15, Kurtz Township, was burning the ditch on 11/08/06 when the fire got away from him and burned a private crossing (bridge) before the Sabin Fire Department could extinguish it. The Board reviewed photographs Opsahl took of the bridge. The Clay County Sheriff filed a report. Opsahl suggested that the Board may want to follow up with the Sheriff and Clay County regarding liability for the bridge damages, as bridge repair/replacement will be a ditch system expense. The Board didn't think it would be fair for the ditch system landowners to pay for the damages caused by one individual. Albright will follow up with the Sheriff.

Landowner Dan Rosenfeldt has requested the repair of several inlet culverts on land he rents in the NE¼, Section 15, Kurtz Township. The existing 20' long culverts are too short to allow safe crossing on the ditch berm. The outlet ends are several feet above the ditch bottom, causing erosion on the ditch banks. Jones recommends replacing two of the inlets with new 24" x 50' corrugated metal pipes (CMP)/flapgates and the other two inlet culverts with 24" x 40' CMP with flapgates. He also recommends extending an existing culvert with a 20' section of 24" dia. CMP and a new 24" flapgate to allow adequate access to the field off the township road. The total opinion of probable cost is $6,875.00. **Tabled** pending availability of BRRWD funding.

**Clay County Ditch Nos. 3 and 65.** A landowner reported that David Skolness is farming the ditch system r-o-w along Ditch Nos. 3 and 65 in Sections 12, 13, 14, and 15, Moland Township. The work is causing ditch bank washouts and field flooding. The Board authorized Opsahl to conduct a field review to document the alleged r-o-w encroachments.

**Stony Creek Crossings.** Opsahl met with Arvid Thompson on 11/07/06 to review a crossing on Stony Creek in Section 13, Humboldt Township, where there is an existing crossing with three culverts near the center of the section that is impassable. The culverts are rusted, separated, and washed out. The landowners would like this crossing repaired with longer culverts to allow access with larger farm equipment. They also requested the installation of an addition crossing 0.5 miles upstream of this site to provide access to a hay field. **Motion** by Nelson to approve the request to repair the existing
culverts. **Seconded** by Hanson. **Approved.** The Board **tabled** the new culvert request until next spring.

**Fargo City Commission.** The City of Fargo is holding a series of informational meetings on the options for the Fargo Southside Flood Control Project. The City Commission has scheduled the meetings for 1:00 PM and 7:00 PM on 12/12/06 and 8:00 AM on 12/13/06. Mark H. Bittner, Fargo City Engineer, is the contact person from more information.

**RRBC Conference.** The Red River Basin Commission (RRBC) has scheduled their 24th Annual Red River Basin Land & Water International Summit Conference for Tuesday-Thursday, January 23-25, 2007, at the Ramada Plaza Suites in Fargo. Advance registrations will cost $155 and are due by 12/31/06.

**Ranum Lake.** Brad Grant, Becker SWCD, contacted the BRRWD regarding an old structure on Ranum Lake near Becker County Ditch No. 15 that they would like to replace. Grant proposed that the BRRWD partner with the Becker SWCD to replace this structure next year. The partnership could include the Becker SWCD, BRRWD, and landowners. Albright suggested that H.E. could prepare a cost estimate for the work. **Motion** by Hanson to authorize H.E. to investigate this proposed repair/replacement project and prepare a cost estimate for the Board's review. **Seconded** by VanAmburg. **Approved.**

**2007 CWLA Surface Water Assessment.** Jones discussed the MPCA Clean Water Legacy Act (CWLA) Surface Water Assessment Proposal grant application that he has prepared for the proposed Wolverton Creek/Comstock Coulee Monitoring Project. At the last PT meeting, the members asked Jones to prepare this grant application. The purpose of this study will be to gather additional information about turbidity, suspended sediment, and discharge on Wolverton Creek. The resulting data would help identify where to implement future best management practices to reduce sediment and turbidity entering Wolverton Creek/Comstock Coulee, and eventually the Red River. Jones explained the details of the proposed project. He noted that the Barnesville High School Water Quality Sampling Team could do the water quality sampling. The application included an estimated project expenditure budget with a total project cost of $143,000, which includes $18,500 of in-kind services, bringing the total grant request to $124,500. The group discussed possible application revisions. **Motion** by VanAmburg to authorize Jones to submit the application. **Seconded** by Nelson. **Approved.**

The following bills were presented for approval:

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Motion by Hanson to approve payment of the bills pending availability of funds. Seconded by Olson. Approved.

Next Meeting. The Board of Managers, BRRWD, will hold their next regular meeting on Monday, November 27, 2006, in the Barnesville office at 7:00 PM.

Adjournment. Chairman Ellefson adjourned the meeting at 12:00 AM.

Respectfully submitted,

John E. Hanson, Secretary