

# ***BUFFALO-RED RIVER WATERSHED DISTRICT***

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

---

---

## **MINUTES FOR MANAGERS' MEETING October 26, 2009**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, October 26, 2009, at 8:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, John E. Hanson, Gerald L. VanAmburg, Curtis M. Nelson, and E. Robert Olson. Others attending included: Erik S. Jones, Engineer, Josh Kadrmas, Engineer, Wade Opsahl, Technician, and Julie Jerger, Houston Engineering, Inc. (H.E.); Greg Anderson, Chairman, Oakport Township, and landowners: Jesse Swanson and Allen Swanson.

Manager Ellefson called the meeting to order at 8:00 PM. He announced that the proceedings were being taped to aid in preparation of the minutes. Bruce E. Albright, BRRWD Administrator, was absent tonight, but he did provide a memo for the Board's review regarding agenda items.

**Secretary's Report.** The Board reviewed draft minutes for the 7/20/09 special BRRWD meeting. Nelson noted one minor change. **Motion** by Nelson to approve the minutes, subject to correction. **Seconded** by VanAmburg. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. All the 10/13/09 bills were paid, except for the Riley Brothers Construction, Inc., bill for Project No. 49, Oakport Flood Mitigation. Carolyn Drude, Ehlers and Associates, notified Albright last week that the interest rate on the bond sale held in Clay County for several projects and for refinancing older bonds was 2.37%. The bonds were sold to Robert W. Baird Co. in Milwaukee. There were eight bidders. Part of the reason we received such a favorable interest rate is the fact that Clay County was upgraded to "AA" bond status. The Board will be receiving approximately \$1.4 million in about three weeks from the date of the bond sale. Jerger reported that we received DNR reimbursements for the Buffalo River Total Maximum Daily Load (TMDL) water quality project (\$23,355.45) and general expenses for Project No. 56, Manston Slough (\$149,946.00), Project No. 58 (\$92,649.45), Project No. 63, Grove Lake Outlet (\$16,124.62), and Project No. 49, Oakport Flood Mitigation (\$1,012,278.17). We currently have approximately \$1,554,353.69 on hand. Jerger will make the necessary account transfers and mail the Riley Brothers' payment.

### **Other business brought before the Board included:**

**The City of Barnesville.** Josh Kadrmas, H.E., made a presentation regarding the City's dredging project for the Blue Eagle Lake sediment pond on Whisky Creek on the south side of Trunk Highway (T.H.) No. 34. According to H.E.'s survey analysis, which compared the 1989 design to the 2009 actual pond data, there is approximately 5.5 acre-feet of sediment in the pond. At the deepest point, the pond is only about 3' deep, which accounts for the infestation of vegetation. The City of Barnesville plans to dredge the pond hydraulically for a cost of between \$40,000 and \$80,000. There are two sediment dewatering options. The first is to negotiate with the neighboring landowner to install a pond on his property to store the dredged material and allow it to dewater naturally, which would cost approximately \$25,000 to construct the pond plus an undetermined payment to the landowner for the site. The other option is to pump the sediment into dewatering bags, placed in Wagner Park. When the water has filtered through the bag material, the City could use city staff to remove the sediment from the bags. The cost for the dewatering bags is about \$38,000 to \$57,000. The total project costs are estimated to be approximately \$147,000. The City of Barnesville has budgeted \$35,000 for the project.

H.E. will be submitting a Lessard-Sams Outdoor Heritage Council (LOHC) Conservation Partners Legacy (CPL) grant application on behalf of the City. Kadrmas explained that the LOHC grant only requires a 10% match from non-state partners to be eligible, and the grant will cover the rest of the project costs. On behalf of the City, Kadrmas requested that the BRRWD contribute half the matching (5%) funds required from non-state partners for the LOHC application, or approximately \$7,150. The group discussed the dredging process and project costs. The City would like the BRRWD to provide a letter of commitment regarding a contribution. **Motion** by VanAmburg to contribute half the 10% matching funds for the LOHC grant, or approximately \$7,150 and provide a letter of commitment for the grant application process. **Seconded** by Hanson. **Approved.**

**Project No. 49, Oakport Flood Mitigation.** Jessie and Allen Swanson discussed their concerns about the proposed design Ulteig Engineers, Inc. (UEI) developed for her homestead ringdike associated with the Oakport project. They are not satisfied with the design because the current plan doesn't protect her "barn", and they have safety concerns about placing the dike in front of the barn's door. Allen Swanson pointed out that the only door to the barn will be directly adjacent to the dike berm, which could become a safety hazard when they move equipment through those doors. He felt that the current ringdike design would hamper their use of the barn. Jessie Swanson felt that the BRRWD was obligated to protect all her buildings. VanAmburg pointed out that the reason the barn is not protected by the dike is that a dike around the barn would impact the floodway. The group had an extended discussion regarding the location of the dike and the barn and Swanson's desire to have it protected by the proposed dike alignment.

Allen Swanson commented that he thought the purpose of the ringdike was to protect the building, not just the house. He felt the BRRWD had an obligation to protect the barn, as well as the house. Jones explained that the County and the City of Moorhead is required to enforce the floodway regulations, and the ringdike cannot impact the floodway area. More discussion followed regarding a dike design revision that could include a retaining wall, raising/moving/buying out the barn, or a flatter dike slope in front of the barn that would not impact the floodway. Greg Anderson pointed out that the current design doesn't impact the floodplain/floodway, and if UEI changes Swanson's ringdike design, we may have to change other dike designs associated with the project to include outbuildings. He questioned if the BRRWD could justify using state funding to protect a structure that is not a residence. Ellefson felt that each situation has to be judged on its own merit and assured the Swansons that the BRRWD wants to work with each landowner on an individual basis. He wasn't concerned about setting a precedence regarding ringdike construction in Oakport, as the ringdike plans have to be designed according to the site hydraulics. Ellefson suggested that the Board could ask UEI to review Swanson's ringdike design in relationship to the barn. Greg Anderson will discuss Swanson's dike design and alternatives with Kris Carlson, UEI. It appears that we will not be able to build Swanson's ringdike this fall, and UEI could work on an alternate dike design this winter.

The Board briefly discussed the issue of deer hunting on the buyout properties. Swanson encouraged the Board to allow hunting because the deer population is high in her area.

Greg Anderson gave a brief update on the construction progress. He noted that the Senate Bonding Committee will be meeting tomorrow with the BRRWD at 3:30 PM at the Moorhead Technical College to discuss Oakport project funding. Kris Carlson, UEI, will make a project presentation.

Later in the meeting, the Board discussed Lowell Pagel's request to purchase a refrigerator from the Letourneau home, which the BRRWD recently bought. **Motion** by VanAmburg to sell the refrigerator to Lowell Pagel for \$100. **Seconded** by Hanson. **Approved.**

The Board discussed two change orders submitted by Riley Brothers Construction, Inc., for the Pierce and Spiesz properties clean up. The change order for the Pierce property (Phase 1B), which included the disposal of junk metal, cars, etc., was for \$14,000. The amount of the change order for the Spiesz property

(Phase 1B) was \$30,000 for demolition, and \$143,025.50 for cleanup and disposal of debris and junk. The Board reviewed the recommendations from BRRWD Attorney Tami Norgard and Kris Carlson, UEI. VanAmburg, Albright, and UEI met with BRRWD Attorney Tami Norgard last Friday to discuss this issue. Previously, the contractor had submitted a lump sum bid of \$110,000 for the Spiesz site, and the Board requested that they provide an itemized bill, whereupon, Riley Brothers submitted a cost breakdown with a total of \$143,025.50. VanAmburg reported that the consensus from the meeting was for the Board to approve the original lump sum bill of \$110,000. **Motion** by VanAmburg to approve Change Order No. 1 for the Pierce property demolition (\$14,000). **Seconded** by Hanson. **Approved.** **Motion** by VanAmburg to approve Change Order No. 2 for the Spiesz property demolition (\$30,250) and site cleanup (\$110,000). **Seconded** by Hanson. **Approved.** UEI will submit a revised Change Order, which will be added to 11/09/09 bill list.

**COE FM Metro Area Feasibility Study.** The Army Corps of Engineers (COE) held a meeting on 10/19/09 where they released their concepts for the Fargo-Moorhead metro-area flood control plan to the public. The Board discussed the various COE diversion/levee options, the cost/benefit ratios, and funding options. Greg Anderson had a map showing the proposed Minnesota diversion proposal, which he gave to the Board for their review. He pointed out that even with the proposed COE diversion project, Oakport will still probably need the protection provided by the ringdike project. Ellefson added that the COE project could take as long 10-15 years to complete, during which time Oakport Township will need flood protection.

**Permit No. 09-97, Jerry Matter.** Applicant proposes to install overflow culverts on the north and south sides of 320<sup>th</sup> ST as secondary outlets for Project No. 19, Becker County Ditch No. 21, in Sections 10 and 15, Riceville Township. Albright sent a letter to the United States Fish and Wildlife Service (USFWS) and Riceville Township regarding Matter's permit application. Riceville Township has given their approval for the project. The USFWS also approved of the project with a request that the culverts be installed with flapgates to keep water from flowing back into the ditch system once it has drained into their Waterfowl Production Areas (WPA). The Board wanted Wade Opsahl, H.E. to meet with Matter regarding the USFWS request. **Tabled,** pending Opsahl's contact with Matter.

**Permit No. 09-107, Bob Schultz.** Applicant proposes to clean and improve existing ditches in the N½NW¼, Section 35, Riverton Township, Clay County, to improve drainage for agricultural production. **Tabled** pending Manager field review and drier site conditions.

**Permit No. 09-116, Richard Scheffler.** Applicant proposes to pattern tile 64 acres in the W½NE¼, Section 23, Atherton Township, Wilkin County. The tiling will outlet directly to Clay County Ditch No. 42. Scheffler has discussed this proposal with Manager Ellefson, who recommended permit approval. **Motion** by Nelson to approve Permit No. 09-116. **Seconded** by Hanson. **Approved.**

**Permit No. 09-117, Minnesota Department of Transportation (MNDOT).** Applicant proposes to mill and overlay approximately 3.5 miles of the east and west bound lanes of T.H. No. 10 between Moorhead and Dilworth. In his memo, Albright recommended permit approval. **Motion** by VanAmburg to approve Permit No. 09-117. **Seconded** by Olson. **Approved.**

**Permit No. 09-118, MNDOT.** Applicant proposes to install unbonded concrete overlay and one culvert lining on the west bound lane of Interstate-94 (I-94) from T.H. No. 336 to County State Aid Highway (CSAH) No. 10 in Downer. Albright recommended permit approval. MNDOT will line a culvert just south of Project No. 52, Clay County Ditch No. 69, which will reduce the culvert sizing slightly. **Motion** by Hanson to approve Permit No. 09-118. **Seconded** by VanAmburg. **Approved.**

**Robert Norby Permit Application.** Jerger noted that Robert Norby forwarded a letter/permit application regarding his proposed flood repair/control projects along the Buffalo River in Section 22, Kragnes Township, Clay County. **Tabled** pending further review.

**Minch Lawsuits.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 9:41 PM to discuss the status of this issue. At 9:45 PM, the Board reopened the meeting.

**Project No. 65, County Line Outlet.** After the 10/13/09 meeting, Jones submitted information to the USFWS regarding the proposal to pump water from their wetland area. Kevin Brennan, USFWS, forwarded a 30-day pumping permit application. Jones reported on the costs/pumping capacities regarding temporary pumping alternatives. Parke Township and Clay County have pumps that could be rented. The costs range from approximately \$30,000-\$35,000. Wilkin County has tractor power takeoff (pto) driven pump for use as well. Ellefson suggested that the BRRWD could split the pumping costs with Prairie View and Humboldt Townships.

Jones said that landowner Dan Solum still has unharvested beans adjacent to the project area. He would like to have his beans off before the pumping begins. Jones also discussed the use of the MNDOT I-94 ditch right-of-way (r-o-w) to convey water to Wilkin County Ditch No. 41, Branch 5. MNDOT is seeking an opinion from the State Attorney General's office regarding this issue. Ellefson felt that the amount of water that would flow naturally from the high water area to the I-94 road ditch r-o-w versus pumping would be negligible. The Board had an extended discussion regarding pumping costs and options. **Motion** by Nelson to authorize H.E. to implement the temporary pumping option while continuing to work on a permanent outlet, to authorize Ellefson to sign the USFWS 30-day pumping permit on behalf of the BRRWD, and for the BRRWD to split the pumping costs three ways with Humboldt and Prairie View Townships. **Seconded** by Hanson. **Approved.** Jones will schedule a meeting with the Townships and landowners for Friday at 9:00 AM in the Barnesville office to discuss the pumping alternatives.

**Project No. 63, Grove Lake Outlet.** Opsahl distributed a chart showing that the Lake is down approximately 2.5' since it was started on 2/01/09. Jerger noted that was a complaint filed about beaver activity west of Jayson Lass' culvert on 180<sup>th</sup> AVE downstream of the project. Opsahl couldn't find the location of the dam, but will check again. The Board discussed Kern Kuhlmann's crop loss complaint with Opsahl, who thought that Kuhlmann put the acreage into Conservation Reserve Program (CRP) because he hasn't been able to access the property for several years prior to the project. Opsahl will investigate the complaint.

**Project No. 61, Clay County Ditch No. 11 North-Improvement.** Jones noted that Nathan Gannon, Clay County Highway Department, contacted him regarding a slide in the ditch by John Leseth's farmstead. The site was seeded this fall. Due to recent wet conditions and the fact that the ditch slope is steeper in this location than the rest of the project because of the adjacent farm buildings, the slide is occurring in the same location as a previous slide. Jones will investigate and bring back recommendations regarding possible repair.

**Project No. 56, Manston Slough Restoration.** Rick St. Germain, H.E., is working on a LHOC CPL Grant application for Manston Slough, which needs to be submitted by 11/03/09. Up to \$400,000 is available from this grant. **Motion** by VanAmburg to authorize H.E. to apply for and manage the grant application and for Ellefson to sign on behalf of the Board. **Seconded** by Hanson. **Approved.** Jones noted that Lyle Wilkins plans to start the former Holubok farmstead demolition by the end of the week.

**Project No. 54, Whisky Creek Tributaries.** Brian Durensky would like to have Albright visit with Virgil Holt regarding his proposal to clean the ditch on the east side of County Road (C.R.) No. 25 north to the DNR protected waterway just south of Holt's farmyard. Holt's wife, Arlene, recently passed away, and he is now residing in a local nursing home, so Albright will wait until later this fall to contact him.

**Project No. 42, Clay County Ditch No. 67.** At the 5/11/09 meeting, Joy Stumbo, who purchased the former Gina Sandgren/Ross Solwood property (5613 17<sup>th</sup> ST N), discussed her concerns about her 2009 ditch taxes. In February 2008, the Stumbos paid off the special assessments, expecting that this would be the last ditch assessment for their property. When they received their 2009 tax statements, they were surprised to find that there was another ditch assessment. When she checked with her neighbors regarding their assessments, she found that her ditch assessment rate was significantly higher (\$4,250 compared to \$500). When she and her husband, David, purchased the property in 2007, the former owners did not disclose the ongoing ditch assessments, or the benefit rates. Stumbo requested that the Board redetermine the assessment for her property to make it fairer compared to the neighboring properties. The Board agreed to schedule a redetermination of benefits hearing for Stumbo's property.

Stumbo called the office last week regarding the redetermination hearing scheduling and her 2009 taxes. To date, the office has not had time to schedule a hearing. The Board discussed Stumbo's request. Since the Board submits their final ditch system tax levies to the Counties in December, they agreed to eliminate the proposed \$10,000 levy they placed on County Ditch No. 67 in August for 2010 and to set a redetermination hearing date as soon as possible.

**Project No. 38, Farmstead Ringdikes.** Opsahl reported that the Clay County Planning & Zoning Commission approved seven Conditional Use Permits (CUP) for our 2009 farmstead ringdike projects. To date, no ringdikes have been started because of the wet conditions.

**Project No. 31, Deerhorn Creek Flood Control.** Aaron Carr was in the office on 10/21/09 to report that the ditch past his place is not draining. He asked if he could install another culvert. There is a 24" dia. culvert/gate through the levee on his side of the road. The culvert is not draining north because the road ditch is plugged to Deerhorn Creek for about 500'. Carr plans to have Larry Plath do some ditch work in November. The Board discussed if this would be a project expense, as we have cleaned other interior drainage ditches as a project expense. The Board authorized Opsahl to conduct a survey of this area.

**Project No. 24, Wilkin County Ditch No. 44.** Terry Czichotzki has requested a 0.5-mile channel cleanout for County Ditch No. 44. Albright suggested that H.E. should send the project details to Brian Winter, The Nature Conservancy (TNC), as TNC is the neighboring landowner. Jones stressed that the cleanout is only ditch maintenance and not an improvement, and should be paid for as a ditch system expense. **Motion** by Hanson to authorize H.E. to contact TNC regarding the proposed project and to hire William Nichol Excavating, Inc., to do the work. **Seconded** by VanAmburg. **Approved.**

The Board also discussed Czichotzki's request for the BRRWD to hire William Nichols Excavating, Inc., to repair a washout that occurred this spring where water cut through a ridge (berm) and crossed David Yaggie's property along Wilkin County Ditch No. 44, ending at the South Branch of the Buffalo River. Further review/discussion is required.

**Project No. 1, Wilkin County Ditch No. 22.** Opsahl reported that the centerline culverts have been ordered for Lateral No. 2, but to date, William Nichol Excavating, Inc., has not started the work. Wet conditions are delaying the project.

**Mediation Project Team (PT).** The next PT meeting is tentatively scheduled for Thursday, November 19, 2009, at 1:30 PM in the MSUM Science Center.

**Revised Watershed Management Plan (RWMP).** At the 10/13/09 meeting, Jones distributed the draft plan for the Board's review. He asked if the Board had any comments. Jones is making the final revisions. He and Albright are tentatively scheduled to meet with Brian Dwight and Peter Waller, Minnesota Board of Water and Soil Resources (BWSR), on 11/05/09 in the Barnesville office to review the draft plan and discuss their final comments.

**COE FM Metro Area Study.** A meeting has been scheduled for the Metro Flood Study Work Group for Thursday, November 4, 2009, at 3:30 PM in the Fargo City Commission Room. Albright encouraged all Board members to consider attending the meetings in the next month or so, as there will be some very crucial decisions made.

**Minnesota Association of Watershed Districts (MAWD) Annual Meeting.** The MAWD Annual Meeting and Trade Show will be held in Alexandria on December 3-5, 2009. The office has made reservations for Managers Hanson, VanAmburg, and Ellefson. Jerger noted that she faxed Nelson's reservation this afternoon.

**Thank You Card.** Jerger noted that Manager Nelson's wife, Delores, sent the Board a thank you card for the flowers we sent to her during her hip replacement surgery and hospitalization.

**Langness Retirement.** E. Bruce Langness is retiring from UEI, and the Board received an invitation to his retirement party on 11/02/09.

The following bills were presented for approval:

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Barnesville Phone Company	10/25/09 billings-2 lines + DSL	Admin	\$ 165.31
Becker SWCD	#2009-450, Sediment Control Basins (5)	Hay Creek CWL	\$ 5,250.00
Dewey Chapin	Security deposit, Lot 2009-5A	Pj. 49, Oakport	\$ 2,500.00
Dulcie Hoff	Security deposit, Lots 2009-2B/2D	Pj. 49, Oakport	\$ 187.50
HES, Inc.	#838343, asbestos removal	Pj. 49, Oakport	\$ 2,895.00
J&J Braton Properties	November office rent	Admin	\$ 540.00
Joel Carlson	11/09 Lobbyist fee	Admin	\$ 850.00
Johnston Fargo Culvert, Inc.	#162405, culvert	Pj. 48, Clay 59	\$ 2,948.04
Moorhead Public Service	Final billing-700 62nd AVE N	Pj. 49, Oakport	\$ 16.59
Okeson Farms	Sediment Control Project	M.S.A. 103D.905	\$ 1,436.00
Petty Cash	postage, supplies, etc.	Admin	\$ 100.00
Quill	Office supplies, printer toner/drum	Admin	\$ 529.65
Randy Rick	October Property Management fees	Pj. 49, Oakport	\$ 1,005.00
Red River Valley Coop	9/10/09-10/10/09 service	Pj. 49, Oakport	\$ 122.27
RMB Laboratories, Inc.	#113051, BRIWM-S	Buffalo TMDL/SWAG	\$ 384.00
RMB Laboratories, Inc.	#113152, BRIWM-S	Buffalo TMDL/SWAG	\$ 115.00
RMB Laboratories, Inc.	#113242, BRIWM-S	Buffalo TMDL/SWAG	\$ 523.00
RMB Laboratories, Inc.	#113326, BRIWM-S	Buffalo TMDL/SWAG	\$ 65.50
RMB Laboratories, Inc.	#113521, BRIWM-S	Buffalo TMDL/SWAG	\$ 261.00
Roger Lundberg	10/12/09 beaver control	Pj. Nos. 27, 63, 23	\$ 1,080.25
Sellin Bros., Inc.	9/23/09-9/25/09 repairs	Clay 35	\$ 9,017.50
TRN Abstracts & Title F-M	Abstract updates (5)	Pj. 49, Oakport	\$ 790.00
Vogel Law Firm	September billing summary	Admin/Pj. 49, Oakport	\$ 17,204.50
Xcel	8/25/09-9/25/09 service	Pj. 49, Oakport	\$ 65.69
			<b>\$ 48,051.80</b>

**Motion** by Nelson to approve payment of the bills. **Seconded** by Olson. **Approved.**

**Hawley Buffalo River Restoration.** Jones noted that H.E. has submitted a permit application to the DNR regarding channel repair work on the Buffalo River near the trailer park in the City of Hawley. Sellin Brothers, Inc., is anxious to begin the work.

**Next Meeting.** The Board of Managers, BRRWD, will hold their next regular meeting on Monday, November 9, 2009, in the Barnesville office at 7:00 PM.

**Adjournment.** Chairman Ellefson adjourned the meeting at 11:20 PM.

Respectfully submitted,

John E. Hanson, Secretary