

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

BARNESVILLE, MINNESOTA 56514

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## **MINUTES FOR MANAGERS' MEETING November 23, 2009**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, November 23, 2009, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, John E. Hanson, Gerald L. VanAmburg, Curtis M. Nelson, and Breanna Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Julie Jerger, Houston Engineering, Inc. (H.E.); John Young, Jr. and Stacey Riedberger, Council Members, City of Hawley; Joel and Scott Sellin, Sellin Brothers, Inc., and landowners: Jason Spiesz, JoAnn Spiesz, Orville Spiesz, Tony Spiesz, John Kava, James and Pam Thesing, and Mark Braton.

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

**Secretary's Report.** The Board reviewed draft minutes for the 10/26/09 BRRWD regular meeting. **Motion** by Nelson to approve the minutes. **Seconded** by Hanson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Albright reported that we currently have \$649,124.67 on hand. We recently purchased three more houses for Project No. 49, Oakport Flood Mitigation, and currently have a pay request submitted to the Minnesota Department of Natural Resources (DNR) Waters for approximately \$500,000 for buyout reimbursement. Albright expects that the Counties should be remitting their second half tax payments in the near future. In addition, the Clay County bond sale proceeds should become available in December. Albright will check with the County in that regard.

Chairman Ellefson introduced the new Clay County BRRWD Manager, Breanna Paradeis Kobiela. Clay County recently appointed Kobiela to replace Manager E. Robert Olson, who resigned as of 11/17/09 due to health and family concerns.

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

**Project No. 49, Oakport Flood Mitigation.** The Spiesz family discussed the status of their \$2,000.00 escrow security deposit. Orville and JoAnn Spiesz signed their Purchase Agreement on 8/25/09, and the Board gave them an extra two weeks (9/15/09) to vacate the property. They also signed a work completion escrow agreement to withhold \$2,000.00 from their sale proceeds, which would be released after the BRRWD inspected the premises according to the agreement. The Spiesz cleanup took longer than anticipated, and they finally vacated the premises even though they weren't finished on 9/18/09. Albright explained that the contractor, Riley Brothers, Inc., was anxious to get onto the property to continue with the dike construction. Subsequently, wet weather slowed down construction. Riley Brothers, Inc., completed the Spiesz site cleanup and submitted a bill for approximately \$143,000 to the BRRWD. The BRRWD was able to negotiate the bill down to \$110,000 per their earlier quote. There were a couple of bills from other vendors, who also helped with the cleanup.

Orville Spiesz felt that there was no way that it cost Riley Brothers, Inc., \$110,000 to clean up his building site after he vacated the premises. VanAmburg pointed out that if the BRRWD had to spend anything to clean up the site, the escrow agreement stipulates that the \$2,000 could be used to pay for that work. He

said he could not support returning the money to Spiesz, as it was set aside to defray the cleanup expenses incurred by the BRRWD. Albright explained the reasons the BRRWD developed the practice of establishing cleanup escrow accounts. He added that the escrow amount for Spiesz probably should have been larger, in light of the amount of materials that had to be removed.

Orville Spiesz said that when he signed the purchase agreement, he understood that the contractor would only be using the west half of his property, and if there was still items that had not been disposed of by the vacate deadline, Spiesz could leave it on the east half of his property. At the time, he felt this was very generous and allowed the contractor access to the west half of his property by 9/01/09. Spiesz claims that the contractors took his machinery and entered his buildings when he wasn't onsite. He felt that no one coordinated with the contractors regarding when he had to vacate the property. During this time, Orville suffered heat stroke and was hospitalized. He claims that the contractor and Oakport Township officials kept pushing him to move out even though he had until 9/15/09. After meeting with him, Albright allowed him until 9/16/09 to finish his move. On 9/17/09, Spiesz suffered again from heat stroke, which he claims was caused by the stress associated with the constant harassment from the contractor and Township.

Spiesz explained that he had an agreement with the BRRWD to purchase his house on 8/15/09, and so he bought a new house, but he didn't get his money until 8/25/09. He claims that because of the uncertainty about the house purchase, he didn't know if he needed to start moving or not. When he closed on his new house, he found out that he couldn't get into it until 9/12/09, so he had to rent storage space for his belongings, which cost him nearly \$4,000. Spiesz said that he ended up working with the power company and the hazardous materials inspector regarding the project and his property, which he felt should have been the responsibility of the contractor or Ulteig Engineers, Inc. (UEI). Spiesz hired someone for nearly \$2,000 to remove the sheet metal and old cars stored from the property. He claims that Riley Brothers told his hired person to leave because they were being paid to do the work. He felt that the whole buyout experience was unfair and poorly coordinated.

Albright provided Spiesz with a copy of the Riley Brothers, Inc., detailed billing of the time and work done to clean up the Spiesz property after he left. Spiesz claims that the house, trailer house, and garage were empty when they left, and the contractor burned the house, garage, and trees after he left, so the contractor didn't haul that material away. VanAmburg pointed out that a lot of the work appears to have been time spent sorting through the debris to separate hazardous materials. Albright went through the list of machinery the contractor used for the cleanup. He noted that the landfill fees were \$20,000 and that site demolition was billed separately for \$30,000. Spiesz strongly disagreed with Riley's bill. He felt that at the most, he might have left about four truckloads of material on 9/16/09.

Albright discussed the BRRWD's efforts to assist the Spiesz family with their move. On 9/15/09, Albright offered the family another day to get out, including equipment and labor to help if necessary. At that time, the family felt it was time to quit and preserve Orville's health. After more discussion, Ellefson suggested that the Board should visit with UEI's engineer and site inspector to verify the contractor's expenses before making a decision regarding the \$2,000 escrow release. **Tabled.**

**Permit No. 08-88, John Kava.** Kava discussed his proposal to install approximately 300' of berm along the north edge of his field in the N½, Section 11, Atherton Township, Wilkin County, to prevent County State Aid Highway (CSAH) No. 32 water from draining south through his field. He also wants to install 3 to 4 shallow field inlets into the CSAH No. 32 ditch on the east side of his field and to clean/regrade the ditch along the west side of his field along 260<sup>th</sup> AVE to drain north. The 260<sup>th</sup> AVE township ditch is full of trees and needs cleaning. Manager Nelson and Wade Opsahl, Technician, H.E., conducted a field review on 4/24/09, and Manager Ellefson and Albright investigated on 11/20/09. Nelson felt that the installation of the berm would not be a problem, but the proposed field inlets should be gated to prevent erosion and water backup in the field. Now that the ditch grade along CSAH No. 32 is deeper since the

road improvement, he will be able to clean the ditch to the new grade, which should improve his drainage on the west end. Based on the 11/20/09 review, Albright recommended that the permit should be approved. **Motion** by Nelson to approve Permit No. 08-88, subject to Township approval to work within their road right-of-way (r-o-w). **Seconded** by VanAmburg. **Approved.**

**Permit No. 09-40, David Sogge.** Albright gave a brief update of this neighborhood dispute. Thesing filed a complaint in April 2005 about things her neighbor, David Sogge, had done to drain water from his sump pump onto their property along County Road (C.R.) No. 86 in Section 2, Riverton Township, Clay County, causing wet conditions on their driveway and yard. Following field reviews conducted by Manager Nelson and Wade Opsahl, Technician, H. E., and Manager VanAmburg and Albright, the Board agreed to send a letter to the affected parties with recommendations to install a small culvert (approximately 12" dia.) in the Thesing driveway to allow water from Sogge's sump pump hose to drain north through the driveway and then naturally to the west. The Board also thought some minor ditch cleaning to carry the water west might also be required on the north side of the driveway. The letter advised the parties that they would need a BRRWD permit for any of the proposed drainage changes. In May 2009, Thesing filed another complaint about a 3" dia. pipe that Sogge recently installed through her driveway without a BRRWD permit. At that time, Sogge filed a permit application (09-40) for the PVC pipe installation, and the Board approved it on a temporary basis, subject to removal when the C.R. No. 86 project is completed; and if the drainage becomes a problem on the Thesing property, the Board would have to take a second look at the permit.

Thesing called the office last week, and Albright was able to conduct a brief field review on 11/18/09. He visited with Sogge and took pictures for the Board's review. At that time, Sogge told Albright that he has installed a line to drain water east to the county road ditch. Currently, the road ditch is mulched, but no cover crop was established this fall. Other neighbors along C.R. No. 86 are already draining their sump pumps into the road ditch. The County has an area along Sogge's property staked to do some minor clean out work because the ditch is not draining properly. He is concerned that if he uses his east outlet route now, it could freeze up this winter and would not be open in the spring, when it is needed more. Albright noted that Sogge doesn't feel that the water draining west onto the Thesings' property really affects them. The Thesings disagreed. Pam Thesing said that there was never water on their property before Sogge started draining his sump pump towards their land, and the drainage affects one acre of her property west of the driveway. She was offended that Albright had talked to Sogge and hadn't come to her residence to visit with her when he was in their area. Thesing related the history of the neighborhood dispute regarding Sogge's sump pump drainage. The Thesings demanded that the Board force Sogge to remove his driveway pipe according to the agreement the neighbors reached at the 5/26/09 meeting. The group referred to the 5/26/09 meeting minutes. Thesing pointed out that Sogge had agreed to alternate drainage between the front (county road ditch) and the back (their driveway), but he only routed the drainage to C.R. No. 86 once this summer after she had to "beg" him to move it because of a party they were planning. She added that if the drainage were coming naturally from Sogge's property, she wouldn't object, but sump pump water is different. The Thesings feel that Sogge is taking unfair advantage of them, and that it is really a power issue.

Manager Nelson commented that according to the agreement, Sogge was supposed to remove the pipe in the Thesing driveway when the C.R. No. 86 project was completed. Ellefson suggested the Board could review Thesing's complaint. VanAmburg thought that since the road ditch work is done, Sogge should have removed the pipe in the Thesing driveway and routed his water east to C.R. No. 86. Albright cautioned that the road ditch is not finished, and he felt the sump pump water was not causing any problems. **Motion** by Nelson to send a letter to David Sogge, directing him to remove the driveway pipe and drain his sump pump water to the C.R. No. 86 ditch by 12/01/09. **Seconded** by VanAmburg. **Approved.**

**City of Hawley.** John Young, Jr. discussed the City's concerns regarding the Buffalo River restoration project near the trailer park on the eastside of Hawley, north of Trunk Highway (T.H.) No. 10. He is worried that time will run out this year to complete this project and asked the Board to explain what's holding up the work. Albright gave a brief history of the project and its development. Luther Aadland, a river specialist with the Fergus Falls DNR office, has recommended that the Buffalo River needs to be restored in a number of areas within the City of Hawley. The BRRWD agreed to help fund the development of a river restoration design and authorized Jones to work with Aadland. This fall, it became apparent that if more of the riverbank washes away north of T.H. No. 10, the trailer court and a City manhole could be lost. Albright noted that a larger project to address long-term issues with the river in Hawley is still being developed, but a "temporary" project could be implemented yet this year. A meeting to discuss a project was held that would rebuild and stabilize the bank using a new design that utilizes dead trees, root wads, etc. The cost would be approximately \$25,000. Some large dead trees became available from a contractor and Sellin Brothers, Inc., stockpiled them for use on this project.

In regards to funding, it appears that because the BRRWD is still working on their Revised Watershed Management Plan (RWMP), they are not eligible to apply for Clean Water Legacy (CWL) funding for this project. However, the Clay Soil and Water Conservation District (SWCD) could apply for a CWL grant, or possibly some other funding opportunities they have available. There is still some emergency funding available from the Minnesota Board of Water and Soil Resources (BWSR), which may be disbursed in January/February 2010. It was suggested that in order to speed up project construction so it can be completed before freeze up this fall, the Clay SWCD could use funds they are holding for other projects for this work and receive reimbursement in January or February when the new funding is available. Kevin Kassenborg, Manager, Clay SWCD, will check with his SWCD Supervisors and the Clay County Attorney regarding this proposal. Jones prepared and submitted the DNR permit application for the project, and it has been approved. The group discussed project cost sharing, which would include the BRRWD, landowners, and the City of Hawley. Sellin Brothers, Inc., estimated the project construction would cost approximately \$20,000. Albright suggested that each participant could contribute \$2,000 to the project with the balance coming from the BWSR grant. The group had an extended discussion regarding funding and expediting construction. **Motion** by VanAmburg for the BRRWD to cover the cost of the project if the Clay SWCD decides they can't use their existing funds for the work. We will submit a bill for reimbursement when/if grant funding is available from BWSR in January or February. If BWSR funding is not approved, the BRRWD will look for other funding sources. **Seconded** by Hanson. **Approved.** Jones will coordinate with Dave Friedl, CWL Specialist, DNR, who will assist with the installation of the "toe-wood" and "sod mat" restoration process. The project could be started as soon as early next week.

The group also discussed the City's concerns regarding drainage problems in Cromwell Township, specifically Muriel Grefsrud's property. A wetland near her house is expanding, threatening the house, well, and septic system. H.E. forwarded their report regarding the options and costs for a project to address these concerns to Grefsrud and the City of Hawley. To date, Grefsrud has not responded. The City would prefer that the problems with the 60" dia. culvert associated with the diversion project be addressed before adding water from the upstream area. Jones reported that when H.E. checked this fall, the culvert condition had not changed from when they inspected it last spring. Jones suggested that the BRRWD hold a meeting this winter with the City of Hawley, H.E., Hancock Concrete Products, and Sellin Brothers, Inc., to work out the details regarding this issue and to discuss some repair options. The group also discussed a redetermination of benefits for the Hawley Diversion project. There are unassessed lands that benefit from the project, and the City feels the property should be added to the benefit area before other major expenditures occur.

**Permit No. 09-129, Prairie View Township.** Applicant proposes to install an 18" dia. culvert in a wetland area through 310<sup>th</sup> AVE to maintain water levels on each side of the road in the NE¼, Section 4, Wilkin County. This work would be in conjunction with Project No. 65, County Line Outlet. Albright and

Manager Ellefson conducted a field review of the site and didn't see any problems with the proposal. Ellefson thought that an 18" dia. culvert could be installed about 1' lower than the current road top elevation. **Motion** by Nelson to approve Permit No. 09-129, subject to the referenced size and elevation. **Seconded** by VanAmburg. **Approved.** Mark Braton, Prairie View Township, asked for the Board's recommendation regarding who could install the culvert for the Township. Albright suggested that a local contractor could do the work. Jones mentioned that he received a message from Jane Butzer, Minnesota Department of Transportation (MNDOT), that the Attorney General issued an opinion regarding the use of the Interstate-94 (I-94) road ditch as an outlet for the County Line Project. They advised that only water from a natural source should enter the I-94 road ditch.

Braton also discussed his repair request for Wilkin County Ditch No. 41, Branch 5, behind his farmstead, in the NE¼, Section 7, Prairie View Township. Last spring, water from the natural waterway broke out across his pasture and entered his farmyard and house. The Board authorized Wade Opsahl, Technician, H.E. to investigate and provide repair recommendations. The natural waterway on Braton's property is an outlet for Branch 5, which legally ends in the northeast corner of Section 7. Drainage Law does allow for the cleanout/repair of outlets.

The group also discussed an issue regarding Wilkin County Ditch No. 41, Branch 3, on the south side of Section 7, Prairie View Township. Albright and Manager Ellefson conducted a field review of a north/south culvert that washes out between Sections 8/17, Prairie View Township, in 120<sup>th</sup> ST. Albright suggested that in the intersection of 290<sup>th</sup> AVE and 120<sup>th</sup> ST, the culvert sizing on Branch 3 could be increased from a 24" dia. culvert to a 36" dia. pipe. In Tom Friederichs' field approach, approximately one-half mile to the east, the culvert could be changed from an 18" dia. pipe to a 30" dia. culvert, and then on the next culvert through 120<sup>th</sup> ST, the Township could either remove the pipe, or install a gated 18" dia. culvert. Braton questioned if they could just eliminate this culvert. Albright thought a survey should be conducted. Ellefson felt it would be better to have a culvert in the road to control the flow so the road won't wash out. The group discussed cost sharing. **Motion** by Hanson to split the project costs 50/50 (materials/installation), including the two new culverts. **Seconded** by Paradeis Kobiela. **Approved.** Braton will check with the Township regarding the cost-sharing proposal. Opsahl will investigate and provide recommendations regarding culvert lengths and elevations. Weather permitting, the project could be completed yet this fall.

**Oath of Office.** Clay County Manager Breanna Paradeis Kobiela took the Oath of Office and signed the paperwork to finish E. Robert Olson's three-year appointment to the BRRWD, term expiring on 8/31/12. Becker County also reappointed Manager John Hanson for a three-year term in 2009.

**Wilkin County Ditch No. 22.** Edward Ernst filed a repair petition for County Ditch No. 22, Lateral No. 2, to evaluate the height of the spoil bank along the NE¼, Section 2, Mitchell Township, and to raise the low spots where necessary. The 2009 spring flood overtopped the north spoil bank, causing flooding in his farmstead in the northwest corner of Section 35, Deerhorn Township. The current operator of this property has been farming the ditch r-o-w, which may have lowered the berm. Ernst would also like the BRRWD to restore the grass bufferstrip to help control future erosion. The group discussed the request. Albright suggested that 0.5 miles of the north ditch berm in the NE¼, Section 2, Mitchell Township, should be surveyed. Albright also noted that landowners have encroached on the ditch r-o-w for many years, and the BRRWD should consider reclaiming it. **Motion** by Nelson to accept Ernst's petition and to authorize H.E. to conduct a survey of the ditch berm and provide recommendations, as soon as possible. **Seconded** by Hanson. **Approved.** Jones thought he would be able to come back to the Board with recommendations by the next meeting.

Ernst has also asked if Albright and Manager Ellefson had had time to check on another ditch concern. Albright thought that he and Ellefson might be able to conduct a field review this week.

**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. Last week, Opsahl and Manager Nelson conducted a field review of the proposed project, and found no problems. **Motion** by Nelson to approve Permit No. 09-107. **Seconded** by Hanson. **Approved.**

**Permit No. 09-126, Duane Brokate.** Applicant proposes to install two driveway culverts into a farmstead in the NE¼, Section 10, Cromwell Township, Clay County. **Motion** by VanAmburg to approve Permit No. 09-126. **Seconded** by Paradeis Kobiela. **Approved.**

**Permit No. 09-127, Bob Thompson.** Applicant proposes to replace a 30" dia. concrete culvert on the quarterline along C.R. No. 4 (120<sup>th</sup> AVE S) with a longer 30" dia. metal culvert in the N½NW¼, Section 3, Alliance Township, Clay County. Albright noted that typically, this work would not require a BRRWD permit as the culvert size is not changing. **Motion** by Hanson to approve Permit No. 09-127, subject to County approval to work within their road r-o-w. **Seconded** by VanAmburg. **Approved.**

**Permit No. 09-128, Schmit Brothers Construction, Inc.** Applicant proposes to install a new driveway and 24" dia. culvert along 80<sup>th</sup> AVE S for a new shop for Dan and Kelly Lenertz in the NW¼, Section 33, Glyndon Township, Clay County. Jones conducted the field review and recommended that the permit could be approved, subject to Township approval to work within their road r-o-w. **Motion** by Nelson to approve Permit No. 09-128, subject to the referenced stipulation. **Seconded** by VanAmburg. **Approved.**

**Permit No. 09-130, Cory Hanson.** Applicant proposes to clean out an existing drainage ditch to original grade on his property in Section 27, Parke Township, Clay County. The work will be along an old tile line that no longer functions. Hanson feels the work is necessary to prevent water from entering his residential lot. Jones and Manager Nelson conducted a field review. Jones told Hanson that he may need to install rock drop structures to control the grade, and the downstream ditch slope should not exceed 0.1%. Nelson saw no problems with the proposal. **Motion** by Nelson to approve Permit No. 09-130. **Seconded** by Hanson. **Approved.** Hanson was in the office and picked up an application, but has not yet submitted the paperwork. The office will advise Hanson to submit the permit application as soon as possible.

**Minch Lawsuits.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 9:10 PM to discuss the status of this issue. At 9:18 PM, the Board reopened the meeting.

**Project No. 66, Tansem/Ranum Lakes Outlet.** Mark and Valerie LeClair own the unnamed wetland along the west end of the project area. Valerie LeClair called the office with concerns about the effect of the project on their water quality. She suggested that the Hersches should consider relocation or buyout instead of the proposed outlet. Jones visited with her and explained that if an outlet project were constructed, water quality testing would be part of the Operation and Maintenance (O&M) plan. Work on project development is currently on hold until next spring.

**Project No. 65, County Line Outlet.** As noted earlier, the Attorney General issued an opinion regarding the use of the I-94 road ditch as a project outlet. He advised that only water from a natural source should enter the I-94 road ditch. The Board discussed this decision as it relates to this project. Currently, the project is on hold until spring.

**Project No. 64, LaBelle/Boyer Lakes Outlet.** Jones noted that the Boyer Lake elevation is getting closer to T.H. No. 10. This project is on hold until spring.

**Project No. 58, Riverton Township Retention.** The contractor, Nanik Construction, expects to be finished with the project by next week with some cleanup work to be completed next spring.

**Project No. 57, City of Moorhead/I-94 Flood Control.** The Board discussed the township road ditch cleaning in Section 24, Moorhead Township. Jones mentioned that he has been negotiating with the neighboring landowners in this area to get this work completed so they can access the drainage system.

**Project No. 56, Manston Slough Restoration.** The contractor, Lyle Wilkens, Inc., has completed all work on the Holubok farmstead demolition, except well sealing. H.E. submitted Pay Request No. 1 in the amount of \$10,015.71. The BRRWD retains 5% of the contract amount, or \$527.14. **Motion** by Nelson to approve the pay request. **Seconded** by VanAmburg. **Approved.** Albright mentioned that one of our goals this winter will be to get the easement negotiations completed.

**Project No. 54, Whisky Creek Tributaries.** Opsahl plans to hire a contractor to complete repairs to Joe Gilbertson's ringdike yet this fall. The ringdike was damaged during the 2009 spring flood.

Brian Durensky would like to have Albright visit with Virgil Holt regarding his proposal to clean the ditch on the east side of C.R. No. 25 north to the DNR protected waterway just south of Holt's farmyard in the W $\frac{1}{2}$ NW $\frac{1}{4}$ , Section 21, Humboldt Township. Albright plans to contact Holt's daughter regarding Durensky's proposed work.

Later in the meeting, Ellefson asked if the Natural Resources Conservation Service (NRCS) plans to lower the water levels in the Nichols Wetlands Reserve Program (WRP) east of Barnesville yet this fall. He felt the levels are quite high going into the winter season. The Board thought it would be better to lower the WRP elevation so there is storage available next spring. Albright will check with the NRCS regarding this issue. Ellefson felt that we had to try to avoid another problem with icing in the T.H. No. 34 ditch as we experienced last winter.

**Project No. 49, Oakport Flood Mitigation.** The Board briefly discussed the earlier discussion with Orville Spiesz.

H.E. submitted Pay Request No. 4 in the amount of \$178,466.25 and Change Order No. 2 for Master Construction, Inc., for their work on structure demolition. **Motion** by Hanson to approve the referenced pay request and change order. **Seconded** by VanAmburg. **Approved.**

Riley Brothers, Inc. is starting to wrap up work for the season. The office has submitted DNR pay requests for general expenses (\$497,090.87) and the Anderson buyout (\$122,363.51). On 11/20/09, there were two more closings on the Jensen and Streifel properties. Plans are to sell these houses, which are located within the dike alignment, after the project is complete; however, the Board felt the houses should be sold as soon as possible to avoid heating, maintenance, and insurance costs. Albright will contact a realtor to list the properties for sale.

Master Construction submitted a bid of \$9,500.00 for basement demolition at 5501 5<sup>th</sup> ST NW. **Motion** by VanAmburg to accept the referenced bid. **Seconded** by Paradeis Kobiela. **Approved.**

Nelson mentioned that former Manager E. Robert Olson represented the BRRWD on both the Construction Committee and Task Force for the Oakport project. He recommended that Paradeis Kobiela should take Olson's place, as the new Manager from Clay County. **Motion** by Nelson to appoint Paradeis Kobiela to the referenced committees. **Seconded** by Hanson. **Approved.**

Jones mentioned that he is working with UEI to provide more detail to the Federal Emergency Management Agency (FEMA) regarding the Conditional Letter of Map Revision (CLOMR) paperwork that UEI recently submitted. The CLOMR seeks to revise the current effective Flood Insurance Rate Map (FIRM) for Oakport Township in the project area.

The Board discussed the negotiations with the Fischer property regarding the easement acquisition. It has been suggested that the Board may have to go through the process of condemnation on this property, as negotiations have been slow and difficult. Albright noted that the Fischer family has indicated that they want to continue negotiations. The Board thought we should start the appraisal process, just in case we have to go through condemnation, but the Managers also want to work on obtaining the other easements for Phase 1A before we go ahead with condemnation on the Fischer property.

The DNR forwarded Amendment No. 1 to Contract No. B29923 for \$6,899,370.00, which will expire on 6/30/11, for the Board's signature. **Motion** by Hanson to authorize Ellefson to sign the grant agreement on behalf of the Board. **Seconded** by VanAmburg. **Approved.**

The Board briefly discussed an article that appeared in the Minneapolis Star Tribune regarding the bonding bill where the Oakport project is mentioned. Albright noted that he plans to set up a meeting with the DNR and others to discuss the final costs of the Oakport project.

**Project No. 39, Georgetown Levee.** At their last meeting, the Board signed the DNR grant agreement for \$155,000 for project design, soil borings, survey work, etc. Justin Jackson has contacted the BRRWD regarding his request for a buyout. Clay County has taken Jackson off their buyout list because their funding comes from FEMA, and if FEMA funding is used to buy his property, we can't build a dike on it. Albright estimated that the property is probably worth about \$30,000-\$40,000. Jones reported that soil borings will be started next week.

**Project No. 38, Farmstead Ringdikes.** Albright plans to submit the final pay request for Kragnes to the DNR by the end of the year.

**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 (280<sup>th</sup> AVE) 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 for him and suggested that Plath could also clean the ditch. At the last meeting, the Board authorized Opsahl to conduct a survey of this area. Opsahl conducted an investigation and recommends that the BRRWD clean the ditch from Deerhorn Creek up to the culvert in the levee. Carr will need to clean the ditch from the levee culvert to his driveway culvert. Opsahl still plans to have a contractor do some work on Lloyd Scheffler's property yet this fall, and he could have this work done at the same time. **Motion** by Nelson to authorize Opsahl to have the ditch inside the levee cleaned as a project expense. **Seconded** by Hanson. **Approved.**

**Project No. 29, Buffalo River Log Jams.** The BRRWD has qualified for NRCS funding for logjam removal. The aerial survey has been completed, and the sites have been identified. We are now waiting for NRCS to receive their federal funding so that we can move forward with the work.

**Project No. 27, Clay County Ditch No. 55.** Albright still plans to send bills to the landowners for the ditch cleanout work that was completed this summer.

**Project No. 26, Buffalo River Streambank Erosion Control.** Landowner Rodney Wyland qualified for funding from the Clay SWCD for erosion repairs on his property in the NE1/4, Section 1, Glyndon Township. There are significant erosion problems in this area, and parts of the Buffalo River bank are washed out. Albright noted that the SWCD has funding to repair the field erosion sites. Albright suggested that he and Jones along with Scott Smith, NRCS, do a review of the river erosion sites before the snow gets too deep.

**Project No. 24, Wilkin County Ditch No. 44.** H.E. is still working on the survey for the repairs that Terry Czichotzki has requested for a 0.5-mile channel cleanout along W½, Section 12, Manston Township. The property owner is The Nature Conservancy (TNC) and any work along their property needs to be reviewed with them before starting. Czichotzki and downstream landowner, Dave Yaggie, have also asked for BRRWD assistance to address field erosion problems in this area.

**Project No. 23, Becker County Ditch No. 15.** Manager Hanson noted that it appears that the new County road structures have been installed. He said that the contractor is still planning to complete the repairs this fall.

**Project No. 19, Becker County Ditch No. 19.** Albright will work with Opsahl to schedule a time for him to meet with Jerry Matter regarding his proposed culvert installations. Jones noted that Opsahl had observed a spoil bank that needed to be leveled on the USFWS land.

**Project No. 1, Wilkin County Ditch No. 22.** Jeff Nord was in the office today to thank the Board for getting the centerline culverts Lateral No. 2 installed.

Albright and Nord discussed Edward Ernst's repair petition for County Ditch No. 22, Lateral No. 2, to evaluate the height of the spoil bank along the NE¼, Section 2, Mitchell Township, and to raise the low spots where necessary. Jones discussed the survey H.E. completed of the ditch berm. He noted that the north spoil bank is higher to the east. H.E. has staked the ditch system r-o-w. Nord was concerned about the width of the ditch r-o-w on the north side of the lateral.

**Mediation Project Team (PT).** The next PT meeting is scheduled for Thursday, December 17, 2009, at 1:30 PM in the MSUM Science Center. Albright visited with Ron Jerger about the proposed project for the South Branch of the Buffalo River in Wilkin County. He would like to include the private ditch that runs along his property between Sections 8 and 9, Manston Township, in the South Branch project. Water from the south and east flows through this ditch and maintenance has been a source of neighborhood disputes for many years. The Board agreed that this ditch should be part of a bigger project in this area. Ellefson commented that it could be made a legal drainage system, so ditch maintenance would be under the jurisdiction of the BRRWD.

The Board also discussed the Barnesville Township Flood Damage Reduction Study. Because of the wet conditions in the past several years, the area southwest of Barnesville in Sections 32, 33, 34, 35, and 36, Barnesville Township, Clay County, has had significant water problems. The DNR protected watercourse, which outlets to the South Branch of the Buffalo River, has a drainage area of approximately 21 square miles (sq. mi.). Frank Schindler, who owns land in Sections 33 and 34, Barnesville Township, visits the office on a regular basis to encourage the Board to move forward with a project for this area.

**Revised Watershed Management Plan (RWMP).** Albright and Jones will meet with Pete Waller and Brian Dwight, BWSR, on 12/11/09 to review the draft comprehensive plan. Jones distributed revisions for Sections 3, 5, and 6, plus new maps and appendices. The revisions also include Brian Dwight's work with the Army Corps of Engineers (COE) regarding their Concurrence Points. Albright suggested that the Board should schedule a time to review the RWMP. Jones noted that Dwight has suggested that the Board request an extension for plan completion until 4/30/10 to allow time for the 60-day public review period and two public meetings prior to final BWSR approval in April. **Motion** by VanAmburg to apply for a deadline extension until 4/30/10. **Seconded** by Nelson. **Approved.** Jones commented that BWSR considers our RWMP to be the template for all new plans in the Red River Valley.

**Buffalo River Total Maximum Daily Load (TMDL).** Jack Frederick, Minnesota Pollution Control Agency (MPCA), would like to meet with Albright and Jones to review the status of the water quality

sampling, grant, and workplan. Molly McGregor, MPCA, is holding meetings to gather public input regarding water quality. She is also working with a person from the University of Minnesota (U of M) to disseminate public surveys regarding water quality.

**COE FM Metro Area Study.** The Metro Flood Study Work Group will meet tomorrow at 7:30 AM in the Ramada Plaza Suites in Fargo. The COE is still looking for a Fargo alternative that has a benefit/cost (b/c) ratio of at least 1.0 in order for them to help fund the project.

The Work Group Co-Chair, Kevin Campbell, has asked the BRRWD to authorize our Attorney, Tami Norgard, to work with the other legal councils from Fargo-Moorhead, Cass and Clay Counties, and the Southeast Cass Water Board, in drafting agreements for a joint powers agreement to oversee project funding and an O&M plan for the future project. Norgard's time would be a BRRWD expense. **Motion** by VanAmburg to authorize Norgard to represent the BRRWD in this regard. **Seconded** by Paradeis Kobiela. **Approved.**

The Board had an extended discussion regarding project funding and the possible project benefits for the Minnesota side of the Red River. The BRRWD may become involved with the project assessment process for the Minnesota side of the project, as we are the only entity that has authority to assess benefits/damages.

**Minnesota Statutes Annotated (M.S.A.) 103D. 905, Sub. 3.** Albright will contact the Clay County Commission to ask them to approve a petition requesting the BRRWD to use the taxation authority in accordance with this statute for projects within the BRRWD in 2010.

**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. Reservations have been confirmed, and the booth registration will be sent.

**Wolverton Creek/Comstock Coulee.** A meeting was held on 11/18/09 in the Barnesville office with the Clay and Wilkin SWCDs and Bruce Poppel, Wilkin County, to discuss the project. The group also discussed the 2010 application for CWL funding for this area, and the work that could be accomplished. The deadline for application submission is 12/01/09. The cost estimate for the proposed work is approximately \$205,000. The Managers discussed possible cost sharing for the project. **Motion** by Hanson to contribute 25% of the project as a match (about \$40,000), based on Jones' final figures. **Seconded** by Paradeis Kobiela. **Approved.**

**RRWMB Briefing Paper.** The Red River Watershed Management Board (RRWMB) in conjunction with Chuck Fritz, International Water Institute (IWI), has produced a handout regarding an agreement between the RRWMB and the COE to undertake a Watershed Feasibility Study in the Red River of the North Basin. Albright provided copies of the Board's review.

**Lawndale Creek Restoration.** The DNR has completed their Environmental Assessment Worksheet (EAW) for their restoration project and has sent it out for comments, which are due back by 12/16/09.

**319 SWAT Modeling Grant.** At the 6/22/09 BRRWD meeting, Erik Jones and Josh Kadrmas, H.E., presented the results of the Environmental Protection Agency (EPA) 319 Surface Water Assessment Tool (SWAT) Modeling Grant, which was obtained in February 2008 and was developed by Brennon Schaefer, Minneapolis H.E. The BRRWD contributed \$50,000 to the study. The grant end date was 6/30/09. Jones made a few changes and filed the final report with the MPCA. A copy is on file with the office.

**River Keepers.** The River Keepers' Board of Directors and its members have approved a "*Flood Preparedness in the Red River Basin*" statement. A copy is on file for the Board's review.

**Metropolitan Council of Governments (MetroCOG) Study.** The MetroCOG is continuing to work on their study of the T.H. No. 10 corridor in the City of Glyndon. The scoping report is out for public review. They are asking for comments by 12/08/09. Albright will forward a response noting that Project No. 51, Clay County Ditch No. 68, is under BRRWD jurisdiction and drains through T.H. No. 10.

**Gary Leach Drainage Concerns.** Leach contacted Ellefson last week regarding his concerns about drainage coming from the Asplin Gravel pit in Section 36, Spring Prairie Township. Albright conducted a site review on 11/18/09. Asplin informed him that they had removed an area beaver dam. The Board plans to schedule a meeting with Asplin and the neighboring landowners this winter to address long-term issues regarding this ongoing dispute.

**Project No. 29, Buffalo River Logjams.** At the last meeting, the Board authorized H.E. to have a local contractor remove a large tree that has fallen into the Buffalo River by the Burlington Northern/Sante Fe (BNSF) Railroad bridge and C.R. No. 31 in Section 14, Hawley Township, assuming the cost is \$500 or less. Opsahl obtained a quote from Sellin Brothers, Inc., to remove the tree for \$500. **Motion** by Hanson to accept the referenced bid and authorize the tree removal. **Seconded** by VanAmburg. **Approved.**

The following bills were presented for approval:

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Dewey Chapin	Security Deposit Refund Lot 2009-4A	Pj. 49, Oakport	\$ 1,000.00
H&S Contracting, Inc.	#8602, Pierce cleanup	Pj. 49, Oakport	\$ 4,275.00
H&S Contracting, Inc.	#8607, Driveway Repairs-Lech/Olson	Pj. 48, Clay 59/Pj. 38, RD	\$ 212.50
H&S Contracting, Inc.	#8614, ditch cleaning	Pj. 51, Clay 68	\$ 1,755.00
J&J Braton Properties, LLC	December office rent	Admin	\$ 540.00
Joel Carlson	12/09 Lobbyist fee	Admin	\$ 850.00
John W. & Marcie S. Grogan	Easement	Pj. 49, Oakport	\$ 12,386.00
Johnston Fargo Culvert, Inc.	#162898, culvert	Clay 32	\$ 6,753.65
Lyle Wilkens, Inc.	Pay Request No. 1-Holubok	Pj. 56, Manston	\$ 10,015.71
Master Construction, Inc.	Pay Request No. 4-Phase 1 Demo	Pj. 49, Oakport	\$ 178,466.25
MAWD	Booth rental	Admin	\$ 75.00
Moorhead Public Service	10/06/09-11/05/09 (2)	Pj. 49, Oakport	\$ 48.52
Northern Technologies, Inc.	#3349, Construction Testing	Pj. 49, Oakport	\$ 9,396.00
Petty Cash	postage, supplies, etc.	Admin	\$ 100.00
Phil J. & Karmell K. Hogenson	Easement	Pj. 49, Oakport	\$ 5,595.00
Quill	#1699812, #1705099, office supplies	Admin	\$ 92.34
Randall's Excavating, Inc.	#640, Repairs	Pj 51, Clay 68	\$ 1,390.00
Red River Valley Coop	#2167.01, 10/10-11/10/09 (Skalicky)	Pj. 49, Oakport	\$ 80.57
Red River Valley Coop	#62284, relocations	Pj. 49, Oakport	\$ 75,000.00
Roger Lundberg	11/12/09 billings	Pj. 14,24, Clay 3 Becker 19	\$ 3,263.90
Sellin Brothers, Inc.	#8667, Abner Kragnes bridge	Clay 32	\$ 21,098.44
TDS MetroCom	11/13/09 long distance	Admin.	\$ 33.87
Vogel Law Firm	#23252, #23291, October	Admin/Pj. 49, Oakport	\$ 21,671.77
			<b>\$ 354,099.52</b>

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

**Next Meeting.** The Board of Managers, BRRWD, will hold their next regular meeting on Monday, December 14, 2009, in the Barnesville office at 7:00 PM.

**Adjournment.** Chairman Ellefson adjourned the meeting at 10:40 PM.

Respectfully submitted,  
John E. Hanson, Secretary