

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

BARNESVILLE, MINNESOTA 56514

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

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, February 23, 2009, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, and E. Robert Olson. Others attending included: Bruce E. Albright, BRRWD Administrator, Zachary Herrmann, Engineer, and Julie Jerger, Houston Engineering, Inc. (H.E.); David L. Overbo, Engineer, Clay County Highway Department; Brian Winter, Erik Anthonisen, and Phil Gerla, The Nature Conservancy (TNC); Jerald Butenhoff, Supervisor, Alliance Township; and landowners: Jim Thompson, Leo Schindler, Richard Peppel, Scott Akers, Steve Akers, Dean Akers, Rick Maier, Roger Wagner, Richard Thompson, Wesley Christensen, John Rasset, Frank Schindler, Cheryl Schindler, Steven Thompson, Blayne Tonsfeldt, Lee Alm, and Brandi Alm.

Manager Nelson called the meeting to order at 7:10 PM. Albright announced that the proceedings were being taped to aid in preparation of the minutes.

**Permit No. 08-77, Frank Schindler.** The Board invited a group of downstream landowners to tonight's meeting to discuss Frank Schindler's request to replace a 30" dia. culvert in 140<sup>th</sup> ST S with a 48" dia. pipe between Sections 32 and 33, Barnesville Township, Clay County. Albright gave a history of the ongoing drainage issues in this area. He displayed a map created in 1984 from data derived from an area drainage survey H.E. conducted. A few years ago, the BRRWD worked with Schindler and his neighbor, Richard Peppel, to make culvert changes in County Road (C.R.) No. 51 in accordance with a formal agreement. As a part of that agreement, the BRRWD authorized H.E. to conduct a hydraulic analysis of two crossings. The first crossing is located between Sections 32 and 33, Barnesville Township (140<sup>th</sup> ST S), and the other crossing is between Sections 31 and 32, Barnesville Township (C.R. No. 21). In 2007, the engineer made his culvert sizing recommendations based on a computer model using the hydraulic survey data. Albright explained how the road type determines the size/type of culverts. The office sent copies of the Engineer's recommendations to Schindler and Dave Overbo, Clay County. Last summer, Schindler filed a BRRWD permit application to install the recommended culvert in 140<sup>th</sup> ST S, which would increase the total waterway area from 16.4 square feet (sq. ft.) to 24 sq. ft. The crossings are in a Minnesota Department of Natural Resources (DNR) protected waterway. When the BRRWD received Schindler's application, the Board tabled it until we could hold a landowner meeting to discuss the request. Albright noted that he inadvertently failed to send meeting invitations to the landowners on the very downstream end of the waterway where it enters the South Branch of the Buffalo River. He apologized for the oversight.

Albright commented that part of the area drainage problem stems from the fact that there is a steep fall from the upstream area east of Trunk Highway (T.H.) No. 9, and when the water reaches the Schindler area, the gradients flatten out and the water just seems to stop. Since 1993, Albright noted that we have been in an extended wet cycle with above normal precipitation almost every year. Last fall's rainfall was unprecedented. If the Board decides to approve Schindler's permit application, then Clay County will have to decide if they will replace the other crossing in C.R. No. 21 in accordance with H.E. recommendations. The existing crossing has one 48" dia. and one 36" dia. culvert. The 36" dia. culvert could be replaced with a 54" dia. culvert, which would increase the waterway area from 19.6 sq. ft. to 28.5 sq. ft. To date, no one has requested any changes to this crossing. Albright displayed a colored map showing the three different drainage areas that contribute water to this area.

Ellefson arrived at 7:15 PM. He discussed the historic drainage issues related to Schindler's permit application, and asked for landowner comments. Albright noted that the waterway is a DNR protected waterway, and we would have to go through the required process to get it cleaned. The Board could refer a possible waterway cleanout project to their Mediation Project Team (PT) for further study.

Schindler noted that he made concessions when he entered into the agreement with Peppel and the BRRWD to remove two crossings (18" dia. and 24" dia. culverts) through C.R. No. 51. Part of the agreement was for H.E. to do their hydraulic study, and he felt that the BRRWD should be obligated to follow H.E.'s recommendation to increase the referenced culvert sizings. Ellefson noted that the agreement was to remove the two culverts so that the water would not flow through 140<sup>th</sup> ST S, as neither Schindler nor the adjacent landowner, Richard Peppel, wanted to take water from the neighboring property. Ellefson added that if we increase the culvert sizing in 140<sup>th</sup> ST, then the downstream culverts should also be enlarged. He felt we could just end up passing the water problems downstream. In addition, to increase the culvert sizings, we will need DNR approval.

Ellefson noted that Jim Thompson, who owns land downstream of the proposed project, has concerns about the possible increased volume and velocity of the water coming from the upstream reaches of this drainage area. He has a hard time handling the current flows from upstream. Roger Wagner noted that water frequently washes out the roads in his area during high water events. Dean Akers suggested that the Board should tour the area when the water is high to see that there is no place for the proposed increased water to go. Ellefson commented that with today's technology, farmers are much more efficient at ditching than in the past, which puts increased pressure on the downstream drainage systems/ditches. He felt that it wasn't realistic for farmers to expect that we will be able to clean the creeks/rivers within the BRRWD easily or quickly, as projects of that nature involve the input from a number of environmental agencies, who all have a stake in protecting the natural state of the waterways. Steve Thompson agreed that water is flowing downstream much faster in all areas than it did in the past. Ellefson also noted that it is very difficult to build projects that will protect us from every spring flooding event. However, our projects can help limit damage from summer flooding.

Albright agreed that water flows into the area at a higher velocity/quantity than in the past. He added that there are stretches of the natural channel that should be cleaned. Jerry Butenhoff commented that there just isn't any place for the water to go because the Buffalo River channel is also full of sediment. Albright pointed out that in Butenhoff's area, the South Branch of the Buffalo River, Whisky Creek, and the Buffalo River all converge. Butenhoff noted that the retention sites recently installed in conjunction with the Whisky Creek Tributaries project made a difference for the downstream properties. He questioned if the BRRWD is planning any more retention sites. Albright said that the BRRWD is always open to investigating possible retention opportunities.

Albright explained the BRRWD Mediation PT process to develop a more comprehensive area-wide project. The PT would help the BRRWD define the problem, and then assist with a design that could include features like set back levees, retention, channel restoration, and culvert resizing. The PT could also assist with finding possible funding sources. Albright noted that this process will take time to develop.

Rick Maier agreed that we need more water retention, but he also felt that it was important to do at least a partial cleaning. The property he operates in the E½, Section 31, is directly downstream from the proposed crossing resizing. Following heavy rainfall events, he said water from Schindler's property drains to his fields where it can stand for weeks because two of the three culverts that drain his quarter are plugged.

Jim Thompson commented that he lives 0.5 miles north of Maier's quarter, and water overtopped his road five times last summer. He had standing water on his field for six days. He said that he enrolled some of his land in the bufferstrip program and encouraged the other farmers to take advantage of the bufferstrip/set

aside programs offered by the government agencies. Thompson told the Board that they should start saying "No" to continued drainage requests. He added that that all the upstream water from Whisky Creek and the South Branch of the Buffalo River ends up on Robert Thompson's land. During high water events, Robert Thompson can't get to his house without a boat. An extensive discussion regarding area drainage patterns followed.

Ellefson pointed out that if the BRRWD works with the DNR to study a possible cleanout for the protected waterway in this area, the DNR will require that we set up provisions to keep silt out of the waterway. Maier suggested that a project needed to start on the downstream reaches near the Whisky Creek outlet.

Albright noted that any project should also incorporate flow reduction goals by including provisions for upstream retention and a combination of other options. He advised the group that currently the PT and the BRRWD are very busy with our ongoing projects, such as Manston Slough Restoration, Oakport Flood Mitigation, and our Revised Watershed Management Plan (RWMP). He thought that the PT could have some preliminary options ready for review in 12-18 months. He suggested that if the landowners would consider converting their marginal farmland to grassland, it would make a significant impact on runoff values. Rick Thompson said that he would be willing to sell his whole quarter to the BRRWD for retention, as he doesn't get much crop off it anyway because it's too wet. Jim Thompson noted that there have been several upstream cleanout projects in Wilkin County that have also contributed to their water problems.

Albright discussed the new LiDAR data we will have in the near future from the Red River Basin Modeling Initiative (RRBMI) Digital Elevation Modeling (DEM) data collection that will provide  $\pm 6$ " elevations and will be a very useful tool to use in the development of a project for this area. Zach Herrmann, H.E., said that H.E. already received some LiDAR data for this area last week. Albright said that it might be time to consider a larger project for the area that will take into account both upstream and downstream issues. While it could take several years to complete a project of this scope, we need to start somewhere. Jim Thompson advised the Board to deny any more drainage projects until something is done to alleviate the downstream impacts. **Motion** by Nelson to **table** Permit No. 08-77 and to refer this issue to the Mediation PT for further study and development. **Seconded** by Olson. **Approved.**

Albright noted that sometimes projects can develop faster than expected. He referenced the recent strides made in the development of a project to restore the channel on the South Branch of the Buffalo River in Wilkin County. Last December, we learned of special Reinvest In Minnesota (RIM) funding that was available to buy right-of-way (r-o-w) along waterways to install bufferstrips. The office submitted an application for the RIM grant, which was approved for \$1.5 million to install 8 miles of bufferstrips along the river channel. Payment rate for the perpetual easement is about \$1,800/acre for cropland and \$1,100/acre for non-cropland in Manston Township.

The group briefly discussed rerouting water on the county line straight west to the Buffalo River to get it out of the area. John Rasset noted that his house could potentially be flooded this spring. Dean Akers encouraged the Board to take a tour of the area to educate themselves about the drainage problems.

Rick Thompson questioned the status of the Manston Slough Restoration project. Ellefson said that the office is currently working on the easement options. We would like to be able to start construction this summer/fall. Thompson asked if this project will reduce flows to Wilkin County Ditch No. 13-Lateral. Albright said that while the project will have some potential to reduce downstream flows, there are other water sources that also contribute to the County Ditch No. 13-Lateral system. He said that downstream flow reduction will be less than 20%.

**Permit No. 08-105, TNC.** At the 2/09/09 meeting, Lee and Brandi Alm and TNC discussed the Alms' concerns about possible increased seepage affecting their property/buildings from TNC's proposed wetland restoration project in Sections 25/36, Riverton Township, and Section 1, Elkton Township, Clay County. Following an extended discussion, the Board tabled action on TNC's permit until the Alms had a chance to look at Ellingson Company's cost estimate for a project that would connect a gravity flow tile line to the Alms' house sump reservoir and drain the water away from their house to a nearby wetland on TNC's property. Since the meeting, the Alms requested that TNC provide elevation data of all the ditch bottoms that TNC proposes to fill and a copy of the HEC analysis of the restoration project's affects on the area water table, groundwater, and water flow. The Alms also requested that the BRRWD send them a copy of our Rules. Ellingson's cost estimate for 1,900' of 5" non-perforated tile line was \$7,125.00. Lee Alm indicated that if they stay in their house, they would like to install the tile line. Ellefson asked if TNC would be willing to allow the Alms to install the tile line. Winter said that since the last meeting, he didn't check to see if TNC and other agencies would allow a tile line to discharge onto their property. He needed to see the proposal before sending it on to others higher up in the TNC organization. TNC would have to study this issue carefully to determine the area impacts. Winter and Anthonisen would not be able to make that kind of decision.

Erik Jones, Engineer, H.E., reviewed TNC's proposed project and how it could affect the Alm property. Albright distributed Jones' report for the Board's review. According to Jones, the wetland restorations should have little or no effect on the Alm property. Ellefson said that it would be a neighborly gesture for TNC to consider the Alms' tiling request. Alm discussed his concerns about TNC's proposal to fill the ditches on their property versus plugging the ditches. An engineer they consulted felt that this was a significant drainage issue. Anthonisen asked why this made a difference to the Alms. Lee Alm explained that filling the ditches by approximately 3' would eliminate an outlet for the water leaving his property. Currently, the area groundwater is draining to these ditches. If TNC fills the ditch, Alm feels it would effectively raise the groundwater elevation by about 3'. A ditch plug versus ditch filling would not affect the ditch bottom elevation, and if necessary, water in the ditch could still drain away. Anthonisen had photographs that show the ditches are nearly silted in to the proposed fill elevation already. He offered to give the Board a tour of the site so that they could see the condition of the ditches.

Winter pointed out that the three reviews done by Phil Gerla (TNC's engineer), an independent engineer, and Jones, all indicate that TNC's wetland restorations will not have a significant impact on the Alm property. He felt that the project would not worsen the Alms' water problems. He pointed out that TNC already eliminated plans to restore wetlands near the Alm property that could have had a negative impact on them.

Brandi Alm asked Winter if TNC would consider cleaning the ditch along the west side of the Hawley/Riverton Township line, located east of their property, to help drain water away from their house. Winter pointed out that TNC has rejected this proposal because there are wetlands located all along that ditch, and it goes against TNC's goals to preserve wetlands. He thought that the Natural Resources Conservation Service (NRCS) and DNR would also be opposed to draining the nearby wetland area, and downstream landowners would also object to more water coming their way.

Lee Alm distributed a copy of a 1999 permit from the Clay Soil and Water Conservation District (SWCD)/NRCS to clean the referenced ditch that the agencies approved for John Williams, who was the former owner of the property. Anthonisen pointed out that the document Alm was referencing was an unsigned contract that couldn't be verified. Alm thought that the cleanout work was probably done, as there are old spoil deposits along the township road. Winter noted that if the ditch cleanout was done in 1999, it probably doesn't need any more work since there hasn't been any farming activity in this area since that time. He agreed there are probably beaver dams that could be removed and had no objections to cooperating with the Alms regarding beaver dam removal. Alm would be willing to remove the beaver

dams if he has a written permission to enter TNC's property to do the work. Brandi Alm understood that Clay County couldn't clean the ditch unless C.R. No. 12 was affected. Alm discussed the specifications of the 1999 project that cleaned a 2,400' stretch of the ditch.

Ellefson asked if the Alms' were still concerned about TNC's project now that they have agreed to allow them to remove the beaver dams. Winter said that Anthonisen could assist the Alms identify where the beavers dams are located. The group discussed the best method for removing the dams.

Alm was still interested in a tiling project. Winter reiterated his reservations regarding the tiling project in terms of wetland impacts. Albright pointed out that the Alms can submit a permit application for a tiling project, which the BRRWD and the DNR/NRCS will review for possible wetland impacts. Winter felt that the tiling project request and TNC's wetlands restoration permit application are two separate issues. He explained that the wetlands that TNC proposes to restore are in a separate hydrological system from the Alms property. The group had an extended discussion regarding the issue of the possible impacts on the upstream wetland areas of the proposed tiling project.

The group also discussed the possibility of TNC buying the Alm property. Alm had an appraisal done for his property in 2005. Winter explained that since the Alm property is adjacent to TNC land, TNC would be interested in acquiring it. However, the acquisition is low priority, and due to the poor economy, he couldn't promise that TNC would be able to purchase their land.

Winter reiterated that TNC does not want to worsen the water problems for the Alms. He reminded the group that there have been two independent engineering reviews, plus Gerla's recommendations, indicating that the project would not impact the Alm property. TNC does not believe that their project is going to affect the Alm property adversely. Alm asked if TNC could continue to monitor the groundwater wells around his property. Gerla thought there was no reason why they couldn't continue to monitor the groundwater gradients. Alm asked how he could prove that the restoration project caused any possible changes in the monitoring data. Gerla said that he has accurate records from the monitoring wells for one year that would be useful in detecting changes in water levels on the Alm property; however, he warned that if the current wet cycle continues, it would be difficult to determine if the rainfall or the wetland restorations are at fault.

Albright said that Jones' technical review of TNC's permit included recommendations for continued monitoring on the site to evaluate changes in ground water elevations. Gerla offered to install an additional monitoring well to track the groundwater gradient of the wetland southwest of the Alm property. **Motion** by Hanson to approve Permit No. 08-105, subject to Jones recommendations, which includes continued groundwater monitoring. **Seconded** by Olson.

During discussion of the motion, Brandi Alm asked what their recourse would be if TNC's project causes more drainage problems on their property. Nelson noted that Jones' review included potential solutions to address increased water on the Alm property from the TNC project. Jones had suggested that the Alms could consider the previously discussed tiling project, moving the house to higher ground, or a property buyout. Albright noted that Winter has already agreed to assist the Alms with the beaver dam removal. Ellefson felt that TNC should be willing to allow Alms to continue to monitor beaver activity and remove the dams as needed. Albright commented that if the data shows that TNC's project is affecting the Alm property, he felt that TNC needed to work with the Alms in correcting the problem. Winter agreed that if the monitoring well data shows that the project is affecting the Alm property, TNC would be willing to help. Nelson questioned if TNC would allow Alms to clean the old road ditch, according to the 1999 NRCS specifications.

Albright explained that there are currently eight groundwater monitoring wells installed around the Alm property. Winter noted that TNC scaled back their original restoration plan because data from the monitoring wells showed that a broader project would have negative impacts on the Alm property. Ellefson asked Winter if he thought the tile around the Alm house is draining upstream wetland areas. Gerla said it would be difficult to determine how much of an impact the sump pump was having on the upstream wetlands. Ellefson felt it would be a neighborly gesture for TNC to support the Alms' request for a tile installation to drain their sump pump water off their property. Albright read Jones' review of TNC's permit application. An extended discussion followed regarding the effects of a tiling project for the Alms, beaver dam removal, and a possible ditch cleaning along the east side of Section 25. Ellefson suggested that if the old township road ditch appeared to need cleaning, TNC should allow the work. Albright noted that the ditch would have to be surveyed to determine if a ditch cleanout is necessary. Dave Overbo, Clay County Engineer, commented that if Alms cleaned the ditch to the original shape and grade, he could see no reason to object to the work. Ellefson felt that if the ditch were cleaned to the original shape and grade, it shouldn't change the wetland elevations. Winter thought that Sharon Lean, District Conservationist, NRCS, should be consulted prior to a ditch-cleaning project to determine the potential impacts to the area wetlands. Nelson said that he would vote to approve the permit on the condition that TNC would allow a repair/cleanout of the old township road ditch, according to the 1999 specifications if NRCS approves the work. **Approved.**

Brandi Alm asked how often TNC collects data from the monitoring wells. She indicated that they would like to receive the data reports from the monitoring wells on a regular basis. Gerla explained that the data is most useful if reviewed on an annual basis to determine trends. Winter thought that data generated on a weekly or monthly basis might not be very useful to the Alms, but he will try to provide some information for the Alms periodically. The Board would also like to receive the annual reports, as it would be useful for us to have this type of seepage/groundwater data for this area.

**Secretary's Report.** The Board reviewed draft minutes for the 1/26/09 regular meeting. **Motion** by Hanson to approve the minutes. **Seconded** by Nelson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Since the last meeting, we have received \$44,868.64 from DNR Waters for Project No. 63, Grove Lake Outlet. Albright will be closing on the Hurner property tomorrow (2/24/09) for Project No. 49, Oakport Flood Mitigation for approximately \$230,000. We currently have \$1,107,686.02 on hand.

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

**Permit No. 08-30, Scott VanWechel.** Albright will send an email message to Don Bajumpaa, District Manager, Wilkin SWCD, regarding possible wetlands in Sections 10, 11, 12, Mitchell Township. He will also send H.E.'s report regarding a possible ditch improvement project for Wilkin County Ditch No. 22, Lateral No. 3, to the affected landowners with an explanation regarding costs to see if anyone is interested in filing a petition for the ditch improvement. The next step would be to assist any interested landowners to file a project petition and bond. **Tabled,** pending landowner and wetland issue review. The project cost estimate, which includes the acquisition of additional r-o-w, is \$141,940.

**Permit No. 08-73, William Austin.** The BRRWD has scheduled the hearing to add some of Austin's land to Project No. 27, Clay County Ditch No. 55, for Thursday, March 5, 2009, at 7:30 PM, in the Barnesville Senior Citizen Center. Notices have been sent. Albright noted that Ronald Johnk, who is a downstream landowner, called the office today to voice his opposition to adding Austin's property to County Ditch No. 55 and to Austin's proposed tiling project because the ditch outlet is inadequate. He feels that if we add more water to the system, the outlet should be larger, as water currently overtops the ditch along his property in the NW¼, Section 23, Elmwood Township.

**Permit No. 08-91, Alan Malingen.** Applicant proposes to enlarge his driveway culvert on the north side of C.R. 30 from a 24" dia. corrugated metal pipe (CMP) to a 42" x 29" (36" dia. equivalent) corrugated metal pipe-arch (CMP-A). Malingen reports that too much water drains from the east at a high velocity. Water backs up to the north, filling in a low area near his buildings and flooding his field. The area is assessed to Wilkin County Ditch No. 43, which is less than 0.5 miles away on the north side of C.R. 30. The natural waterway on the south side of C.R. 30 is plugged with brush, cattails, etc. Malingen was in the office last week and plans to contact the Wilkin County Highway Department regarding his project. **Tabled** pending Manager field review this spring.

**Permit Nos. 09-01 & 09-02, Robert Norby.** For Permit No. 09-01, applicant proposes to reverse the grade of a field ditch in the S½NE¼, Section 22, Kragnes Township, Clay County, to reroute flows back into the Buffalo River rather than north to Clay County Ditch No. 49. This work would only affect high water events. For Permit No. 09-02, applicant proposes to continue his diking project in the NW¼, Section 22, Kragnes Township, which he started last summer along the Buffalo River. According to the Board's direction, Albright sent a letter to Norby stating that the BRRWD has tabled the applications until spring so that the proposals can be field reviewed. After further review, and in accordance with Minnesota Statute 15.99, regarding the 60-day rule, the Board was obligated to take action on Norby's requests. Because of insufficient project details, inability to conduct a Manager field review due to winter weather conditions, and the recent receipt of the new Clay County floodplain maps, which may place Norby's project within the new floodplain/floodway in accordance with Federal Emergency Management Agency (FEMA) Rules, the Board decided to deny Norby's permit applications at this time. Norby has the right to refile the applications in the future. **Motion** by Hanson to **deny** Permit Nos. 09-01 and 09-02. **Seconded** by Nelson. **Approved.**

**Permit No. 09-04, Clay County Highway Department.** Applicant proposes to reconstruct 1.2 miles of County State Aid Highway (CSAH) No. 8 from the Red River east to T.H. 75. The road presents a safety hazard as the shoulder and part of the roadway are sliding into the south ditch. This work will be done in conjunction with the BRRWD's Project No. 61, Clay County Ditch No. 11-North Improvement. The County plans to bid both projects under one contract. **Tabled**, until after the BRRWD holds the final hearing for County Ditch No. 11-N, which has been scheduled for March 30, 2009, 7:30 PM, in the First Floor Council Chambers, Moorhead City Hall.

**Permit No. 09-06, Kyle Schiefert.** Applicant proposes to grade the ditch along the south side of C.R. No. 55 to drain west from his driveway. He also wants to resize the approach culvert west (downstream) of his driveway on his neighbor's property. Schiefert's culvert is a 24" dia. pipe. The downstream culvert is smaller, which he feels is restricting drainage from his building site. The next downstream culvert in the T.H. 9 and C.R. No. 55 intersection is larger than Schiefert's culvert and will allow water to drain north to Stony Creek. The work is necessary because the inadequate downstream culvert and the lack of proper ditch maintenance causes water to backup in the road ditch and flood Schiefert's building site, which is also the location of his dog kennel business. **Tabled** pending Manager field review this spring.

**Permit No. 09-07, Becker County Highway Department.** Applicant's proposed project consists of a bridge replacement, approach grading, aggregate base, and bituminous surfacing. The bridge replacement is located on CSAH No. 7 on the Buffalo River between Sections 9 and 10, Cuba Township. The existing structure has a 562 sq. ft. waterway area and will be replaced with three lines of 14' x 12' reinforced concrete box (RCB) culvert with 498 sq. ft. of waterway area. The next downstream structure has 410 sq. ft. of waterway, and the next upstream structure's waterway area is 793 sq. ft. The replacement structure will be more hydraulically efficient than the existing bridge. The drainage area to this structure is 223.5 square miles (sq. mi.). The County will need to acquire an additional 0.08 acres of r-o-w from the two adjacent parcels to cover the entire riprap area. The existing bridge is structurally deficient and is too small

to convey large agricultural equipment. Becker County plans to let bids for this project on 3/09/09. Jones reviewed the project plans and recommended permit approval. **Motion** by Hanson to approve Permit No. 09-07. **Seconded** by Nelson. **Approved.**

**Permit No. 09-08, Clay County Highway Department.** Applicant proposes to reconstruct 4.65 miles of CSAH No. 11 from CSAH No. 18 to CSAH No. 26. The work is necessary because the road is narrow and is a safety hazard as portions of the road are failing. **Tabled**, pending Jones review and recommendations.

**Permit No. 09-09, Aaron Wetterlin.** Applicant proposes to install 80 acres of tiling in the N $\frac{1}{2}$ SW $\frac{1}{4}$ , Section 10, Spring Prairie Township, Clay County, to improve drainage for his agricultural land. The landowner is working with Sharon Lean, District Conservationist, NRCS, regarding wetland impacts. **Tabled** pending Manager field review this spring.

**Permit No. 09-10, Jerry Wetterlin.** Applicant proposes to install patterned tiling for 148 acres in the SE $\frac{1}{4}$ , Section 8, Spring Prairie Township, Clay County. The tiling will address high water table issues and saline soil conditions. Wetterlin is working with the NRCS to provide setback areas for area wetlands. **Tabled**, pending Manager field review this spring.

**Permit 96-73, Baer Poultry Ranch, Inc.** Applicant submitted this permit in 1996. Applicant proposes to reroute water flow through Axberg Lake in the NE $\frac{1}{4}$ , Section 24, Eglon Township, Clay County. The intent of the project would be to isolate the bay, which formerly was a manure lagoon. An agency meeting was held on 1/28/97. MPCA conducted a field review on 8/13/97. They did sediment sampling and analysis, as well as depth measurements throughout the basin. At that time, the MPCA requested that the agencies issue permits to install the necessary improvements to mitigate this problem. Last week, Zenas Baer sent the BRRWD a letter regarding this postponed project. Because of lengthy negotiations between the Baers and MPCA, the BRRWD extended the permit until 5/14/08. The Baers are now prepared to go forward with the project and request a permit extension until 12/31/09 to complete their project. **Motion** by Hanson to approve the requested time extension. **Seconded** by Olson. **Approved.**

**Minch/Johnson 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 9:30 PM, the Board reopened the meeting.

**Manager Phone Call.** Manager VanAmburg called in to the meeting at 9:38 PM from La Paz, Mexico for a brief discussion regarding his trip. The Board went off record until 9:42 PM.

**LaBelle/Duck Lakes Outlet.** To date, no meeting has been scheduled with Loren and Chad Jetvig to discuss the alleged alterations to the LaBelle Lake outlet channel. Manager Hanson has contacted landowner LeRoy Bergman, who initially raised concerns about the rising lake levels, regarding the meeting. **Tabled.**

**Robert Schultz Drainage Concern.** Schultz owns the house on the north side of T. H. 34 across from the Galaxie Supper Club east of Barnesville in the southwest corner of Section 21, Humboldt Township, Clay County. Last week, he contacted the BRRWD with concerns about standing water/icing around the house that is draining from the Kelly Nichol Wetlands Reserve Program (WRP) site east of his property. Albright checked Schultz's building site last week and noted that the water is in the garage and getting close to entering the basement. The driveway culvert and ditch are plugged with snow and ice. The Minnesota Department of Transportation (MNDOT) checked the T.H. 34 culvert and confirmed that it is open. Jon Voz, WRP Specialist, Ducks Unlimited (DU), told Albright that they probably should have removed some

of the boards on the outlet structure last fall to lower the water level in light of the heavy fall rainfall. At this time, the retention site is at maximum capacity. Albright thought that if the outlet structure could be blocked, the downstream seepage might be reduced. Lynn Mickelson, Red River Telephone, notified Albright that because of the water in the ditch near their pedestals, their customers are experiencing disrupted phone service. Albright suggested that the Board could have Dennis Braton use his backhoe to open the driveway culvert/ditch and charge the work to Project No. 54, Whisky Creek Tributaries. MNDOT has already opened up the ditch from T.H. 34 south along the Galaxie Supper Club parking lot. They also opened the ditch on the north side of T.H. 34 to just west of Schultz's driveway. Albright thought that if Braton could clean the ditch on both sides of the driveway and get the culvert open, the water would drain away from the building site. **Motion** by Olson to hire Dennis Braton to do the referenced work. **Seconded** by Hanson. **Approved.** Albright cautioned that this might be something that will need to be monitored this spring until after runoff is done.

**Phillip Rogers WRP.** Rogers has proposed a possible WRP project on his property in the SW<sup>1</sup>/<sub>4</sub>, Section 5, Humboldt Township, Clay County. The BRRWD would be interested in developing the site with the NRCS so that it could incorporate both flood damage reduction (fdr) and natural resource enhancement (nre) features. H.E. has started investigating the proposal. The LiDAR data from the International Water Institute (IWI) DEM collect is now available and will be used to evaluate the potential for a project on Rogers' property. **Tabled.**

**James Olson Drainage Concern.** Olson called the office this morning regarding ditch work that Steve Mattson did on his property in the E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, Section 28, Cuba Township, Becker County, which allegedly drains water onto Olson's property. The Becker County Highway Department received Permit No. 00-65 to regrade CSAH No. 7 in 2000. In conjunction with this project, Mattson was allowed to do some ditch work along Olson's property. At that time, the County characterized the work as "just putting the ditch back to the original elevation". Since the work was going to return the ditch back to its original elevation, Mattson did not need an additional BRRWD permit. **Tabled** pending Manager field review this spring.

**Project No. 63, Grove Lake Outlet.** Kern Kuhlmann contacted the office last week to complain that a collection of old machinery located near the Maple Lake shore on Kuhlmann's property is now standing in water, and he wanted the project shut down. The Board reviewed photographs Opsahl took of the machinery and a metal livestock gate that Kuhlmann claims the contractor damaged. Landowner Dan Haugrud, who owns landlocked property on the "island" in Grove Lake, called to encourage the BRRWD to increase the discharge flow from the outlet. Wade Opsahl, Technician, H.E., opened up the outlet last week (removed the plywood on the inlet end) and reported that it is flowing at the rate of 24-25 cubic feet per second (cfs). Herrmann thought H.E. would shut down the outlet for the spring runoff later in March.

**Project No. 61, Clay County Ditch No. 11-North.** Albright noted that John Leseth has hired an attorney regarding the ditch r-o-w on his property. He is challenging Jones' r-o-w acreage amounts. Jones maintains that his numbers are accurate. Leseth's attorney says that the r-o-w does not exist because it is not recorded with the Clay County Recorder's Office. **Motion** by Hanson to authorize BRRWD Attorney Corey Elmer to review this issue. **Seconded** by Nelson. **Approved.**

The Final Hearing is scheduled for March 30, 2009, at 7:30 PM, First Floor Council Chambers, Moorhead City Hall. The office will mail notices in the next week or so. Albright and Manager Nelson met with Carolyn Drude, Ehlers & Associates, to discuss a bond sale that would include several of our smaller projects with Project No. 49, Oakport Flood Mitigation. There was some concern that Clay County wouldn't be willing to sell bonds for the Grove Lake Outlet project because it is located in Otter Tail County. Clay County has indicated that they did not have a problem with this, as the project is still within the BRRWD.

At the last meeting, there was a question if metal pipes could be substituted for the proposed reinforced concrete pipe (RCP) called for in the plans on Leseth's crossing to reduce the crossing costs. Jones was asked to review the hydraulics to see if a metal alternative would work. Albright reported that Jones found it would take two lines of 142" x 91" CMP to match the current RCP structures. To install the CMP equivalents, it would be necessary to acquire an additional 23' of r-o-w. New RCPs will cost about \$60,000. The CMP structures would be less expensive (\$50,000), but the added cost to acquire additional r-o-w makes this alternative cost prohibitive. In addition, because of the increased r-o-w needs, Leseth could lose some buildings and trees.

**Project No. 58, Riverton Township Retention.** Albright contacted the DNR to request a six-month time extension for the DNR grant, as we've already extended the construction deadline to 8/01/09, and the grant expires on 6/30/09.

**Project No. 56, Manston Slough Restoration.** Albright reported that all the agencies have now signed the Memorandum of Understanding (MOU). He sent copies of the MOU to the partners last week. The office is working on a draft easement. Attorney Elmer reviewed the document and suggested a number of changes that the office will incorporate into the final document. The office would like to mail the easements to the landowners in the next few weeks.

The Environmental Assessment Worksheet (EAW) is ready for signature. According to Environmental Quality Board (EQB) Rules, it appears that the DNR is actually the Responsible Government Unit (RGU). As a result, a DNR official may have to sign the EAW instead of Ellefson. Albright has contacted Don Schultz, DNR, regarding this issue. If the EAW can be signed and distributed after 3/09/09, the comment period could run from 3/16/09 to 4/22/09.

Lobbyist Joel Carlson drafted a bill to add Manston Slough Restoration to a list of projects that are eligible for 75% State funding. In addition, Carlson plans to talk to Representative Marquart to ask him to include Manston in his funding bill to pick up the remaining 25% of the project costs. Mark Aanenson, H.E., is ready to start the wetland permitting work. Wilkin County will also be asked to consider a Conditional Use Permit (CUP) for the project.

**Project No. 49, Oakport Flood Mitigation.** A Technical Committee meeting is scheduled for 3/10/09 at 1:30 PM at the Clay County Courthouse. Albright and Managers Olson and VanAmburg met with the Pierce family, who has forwarded a response to our valuation for their property for the Board's review.

Albright recently visited with State Senator Keith Langseth regarding project funding. Langseth plans to introduce a bill asking for \$12 million for the Oakport project. With the upcoming Hurner buyout and the Ulteig Engineers, Inc. (UEI) February billing, the current grant amendment will nearly be spent. Albright suggested that we should leave a small amount of funds in the amendment to keep it open in case more money becomes available. We also have to spend local funds up to our share of \$439,300, so we hope that design, meetings, etc., can continue until more state funding is appropriated.

UEI has completed the Oakport Hydrologic and Hydraulic Report of the interior and exterior dike drainage. **Motion** by Olson to authorize Jones to provide an independent review of the report. **Seconded** by Nelson. **Approved.**

**Project No. 32, Hawley EDA Diversion.** Midwest Testing has completed their evaluation of the integrity of the 60" dia. pipe. Jones is preparing recommendations with alternatives to address the pipe deterioration. The City of Hawley has requested a copy of Midwest's report.

**Mediation PT.** The next PT meeting is scheduled for 3/26/09 at 1:30 PM at the MSUM Science Center. A possible project for the South Branch of the Buffalo River will continue to be a topic for the PT. The Red River Watershed Management Board (RRWMB)/Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) March Conference is scheduled for 3/31/09 in the Northland Inn, Crookston. Jones and Albright will prepare a 10-minute presentation regarding the BRRWD's PT current activities.

**RWMP.** Albright has completed his review of the draft RWMP document. Jones is working on the revisions. A meeting with Brian Dwight and Pete Waller, Minnesota Board of Water and Soil Resources (BWSR), has been scheduled for 3/04/09 to go through the draft plan with Jones and Albright. After BWSR has had a chance to look over the draft plan, the Managers will do a final review, before it can be submitted for public review. The office plans 2 to 3 public informational meetings to review the plan. Final approval will only be after a BWSR Board hearing. A goal has been set to complete the RWMP by 6/30/09. The Army Corps of Engineers (COE) is also going to review the plan to see if it satisfies some of their concurrence points.

**Clay County Ditch No. 49.** The Board has scheduled the final hearing for the redetermination of benefits on 3/17/09 at 7:30 PM in the First Floor Council Chambers, Moorhead City Hall. Notice of the hearing will be published in The *Forum* of Fargo-Moorhead. Albright noted that downstream landowners have been calling the office with concerns about resizing the culverts. The Board discussed the fact that this area is in the "early zone" in relation to the ditch's contribution to the Buffalo River. The best method to handle this water is to get it to the river as soon as possible so that it can leave the area in a timely manner.

**Hay Creek/Stinking Lake Clean Water Legacy (CWL) Grant.** Kevin Kassenborg, Clay SWCD, has agreed to extend the grant sign-up area to include a portion of Clay County. There is about a 6-7 sq. mi. drainage area on the outlet of Stinking Lake in Clay County where sediment control basins and bufferstrips could be installed. Currently, about \$125,000 of the \$210,000 grant funding has been encumbered in Becker County. The grant's 6/30/10 deadline can be extended for up to one year, if necessary. The actual construction work in Becker County (sediment control basins and bufferstrips) will be done this spring/summer.

**Clay County Ditch No. 5 Repair.** Robert Gjerdingen filed a petition last fall for the BRRWD to investigate and repair erosion slides along the lower 4,000' of the ditch system. Ditch bank slumping has narrowed the ditch bottom, causing increased erosion. H.E. prepared a report and recommendations for the ditch repairs. The cost estimate is \$96,280. Albright sent the report to Gjerdingen for his review and response. H.E. will prepare draft easement drawings showing the required additional r-o-w. The work could be done in June, weather permitting, so vegetation can be established.

**Minnesota Statutes Annotated (M.S.A.) 103D.905, Subd. 3.** Albright plans to work with BRRWD Lobbyist Joel Carlson to contact our Legislators regarding the extension of our increased taxing authority under this statute when time permits.

**2009 MAWD Legislative Breakfast.** The 2009 Minnesota Association of Watershed Districts (MAWD) Legislative Breakfast and Day at the Capitol is scheduled for Thursday, March 19, 2009, at the Kelly Inn in St. Paul. There will also be a Legislative briefing at the Kelly Inn on Wednesday, March 18, 2009, from 7:00-9:00 PM. The Board discussed scheduling a regional meeting with our Legislators, Lobbyist Joel Carlson, the BRRWD, the Wild Rice, Pelican Lake, and Cormorant Lake Watershed Districts. All the Managers plan to attend the Breakfast. The office has made the hotel reservations/event registrations. The office will also send invitations to our local Legislators.

**Fargo Southside Flood Control (FSSFC) Project.** Albright met with UEI on 2/10/09 to discuss how the BRRWD can help UEI and the Southeast Cass Water Resource Board to gain access to Minnesota properties to conduct the Environmental Assessment (EA). Albright felt the first thing they should do is contact the affected landowners. For those that don't give permission, we may need to follow-up.

**IWI Donation Request.** The IWI asked the BRRWD for a donation/contribution for the Annual River Watch Forum in Crookston on 3/18/09. The Barnesville River Watch Team will be presenting their 2008 monitoring results at the Forum. **Motion** by Olson to donate \$200 to the River Watch Forum. **Seconded** by Hanson. **Approved.**

**Web Hosting/Maintenance Agreement.** H.E. presented the Board with an Agreement for our 2009 web hosting and maintenance. The Agreement includes hosting the BRRWD website, providing FTP access to update website data, and a monthly statistics report for an annual cost of \$1,200. Website maintenance and technical support will be provided as billed time at \$96/hour. **Motion** by Nelson to enter into the referenced Agreement with H.E. **Seconded** by Hanson. **Approved.**

**Agricultural Water Enhancement Program (AWEP).** Lance Yohe, Red River Basin Commission (RRBC), contacted the BRRWD regarding a program that was recently approved for Flood Damage Reduction funding, which is similar to the Environmental Quality Incentives Program (EQIP). The program will provide a total of \$73 million annually nation-wide, and could be used for the Red River Valley for pasture rotation, sediment control basins, culvert sizing, bufferstrips, etc. The program application is due on 3/02/09. The funds would have to be encumbered by 9/30/09. All of the BRRWD is eligible to participate in this program. Janeen Stenslow, RRBC, will be available to work with Albright on their application. Albright thought that the SWCDs and NRCS would be the best choice to market this program to the landowners. Albright will try to find time to work with Yohe on this funding opportunity.

**Legislative Update.** The Board briefly discussed a proposed bill that would require Watershed Districts to submit their budgets to their respective County Boards for approval. MAWD is on record opposing this legislation, and the Association of Minnesota Counties did not adopt this proposal at their recent conference last fall.

**2009 DNR Stream Health and Restoration Workshops.** The DNR is offering a series of four stream-related workshops in Fergus Falls and Red Wood Falls this summer.

**DNR Agency Restructuring.** The DNR announced that they plan to combine the Division of Waters with the Division of Ecological Resources to refocus the agencies' work to a more comprehensive, systems approach to land and water management strategies. The change will eventually result in the creation of a single division from the Waters and Ecological staff.

**EERC Waffle Project.** The Energy & Environmental Research Center (EERC) forwarded their final report for the "Waffle" project for the Board's review.

**City of Moorhead Growth Plan.** The City of Moorhead is updating its 2004 Comprehensive Plan and Growth Area Plan (GAP). John Shardlow, President, Minnesota Chapter, Urban Land Institute, has scheduled a meeting on 3/25/09 with developers, landowners, and stakeholders in the Oak Room, Hjemkomst Center, Moorhead. Manager Olson will represent the BRRWD at the meeting.

The following bills were presented for approval:

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Bruce E. Albright	Boerths Gallery, USGS poster	Admin.	\$ 46.18
Deluxe Business Checks	#36720060, 250 laser checks	Admin.	\$ 101.35
IWI	2009 River Watch Forum	103D.905, Subd. 3	\$ 200.00
J&J Braton Properties, LLC	March 2009 office rent	Admin.	\$ 540.00
Joel Carlson	March Lobbyist fees	Admin.	\$ 850.00
Moorhead Public Service	1/07/09-2/06/09 service (4)	Pj. 49, Oakport	\$ 112.04
Petty Cash	Postage, supplies, etc.	Admin.	\$ 200.00
Quill	#4867269, supplies	Admin.	\$ 669.42
Red River Valley Coop	1/10/09-2/10/09 (Skalicky)	Pj. 49, Oakport	\$ 205.98
TDS MetroCom	2/13/09 long distance	Admin.	\$ 23.41
UEI	#3510,3515, 3520, 3523, 3597	Pj. 49, Oakport	\$ 46,983.59
Vogel Law Firm	#2510, January Billing	Pj. 49, Oakport	\$ 1,908.00
West Central JPB	Inv. #2009-10 surveying	Hay Creek CWL	\$ 400.00
			<b>\$ 52,239.97</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 meeting on Monday, March 9, 2009, in the Barnesville office at 8:00 PM.

**Adjournment**. Chairman Ellefson adjourned the meeting at 10:25 PM.

Respectfully submitted,

John E. Hanson, Secretary