

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

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MINUTES FOR MANAGERS' MEETING March 9, 2009

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, March 9, 2009, at 8:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, Gerald L. VanAmburg, and E. Robert Olson. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik Jones, Engineer, and Julie Jerger, Houston Engineering, Inc. (H.E.); and landowner: Bill Austin.

Manager Ellefson called the meeting to order at 8:05 PM. He announced that the proceedings were being taped to aid in preparation of the minutes. Because of the snow storm predictions for tonight and tomorrow, the Board decided to limit discussion and move as quickly as possible through the agenda items.

Secretary's Report. The Board reviewed draft minutes for the 2/09/09 and 2/23/09 regular meetings. **Motion** by Nelson to approve the minutes. **Seconded** by Hanson. **Approved.**

Treasurer's Report. The Board reviewed the monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Since the last meeting, we have received \$46,311.49 from the Minnesota Department of Natural Resources (DNR) for the VanRaden buyout, associated with Project No. 49, Oakport Flood Mitigation. The Clay Soil and Water Conservation District (SWCD) paid H.E. directly for surveying work they completed for the Wolverton Clean Water Legacy (CWL) project. The BRRWD had already paid H.E. for the work, so Jones submitted a check from H.E. for \$9,668.00 to the Board. We currently have \$864,137.85 on hand. **Motion** by VanAmburg to approve the Treasurer's Report. **Seconded** by Olson. **Approved.**

Permit No. 08-73, William Austin. The BRRWD held a hearing on 3/05/09 to add 120 acres of Austin's land in the SW¹/₄, Section 16, Elkton Township, to Project No. 27, Clay County Ditch No. 55. Albright gave a brief history of the issues related to Austin's petition. The Board approved Permit No. 08-73 on 9/22/08, but did not issue it, pending the resolution of the drainage concerns along the north side of County Road (C.R.) No. 10 and the addition of Austin's land to County Ditch No. 55, which is located on the south side of C.R. No. 10. The permit would need to be amended to allow for the tile project to outlet south to County Ditch No. 55, instead of north to Clay County Ditch No. 58, as proposed in the original permit.

The Board discussed the outcome of the 3/05/09 meeting and the proposal to add Austin's land to County Ditch No. 55. Albright noted that there seemed to be no opposition to adding Austin's land to the ditch system. Ellefson noted that the only opposition was from Ronald Johnk, who is a downstream landowner in the NW¹/₄, Section 23, Elmwood Township. He called the office prior to the meeting to express his concern about the adequacy of the ditch outlet. The Board felt that the affected parties have thoroughly discussed the outlet problems, and Austin's petition shouldn't be denied based on this sole issue. **Motion** by Nelson to approve Austin's request to add approximately 120 acres in the N¹/₂SW¹/₄ and the N¹/₂S¹/₂SW¹/₄, Section 16, Elkton Township, to Clay County Ditch No. 55. **Seconded** by VanAmburg. **Approved.** This action starts a 30-day appeal period.

The Board then discussed Permit No. 08-73. It was noted that Margo Brady did not attend the 3/05/09 ditch system hearing. Her property in the southeast corner of the N¹/₂, Section 20, Elkton Township, is

subject to flooding from the east. She has been very vocal about her concerns regarding Austin's plan to add water to her area. She wants the C.R. No. 10 north road ditch cleaned before Austin starts his project. Albright suggested that we could reissue the permit, noting on the application that the permit has been approved, subject to the modified plan to outlet the tile south to County Ditch No. 55. Austin questioned if the Board plans to allow him to install the drain tile before the C.R. No. 10 road ditch is cleaned. Albright commented that if conditions are right for Austin to start his tiling project, it should also be possible to clean the road ditch. Ellefson noted that the Clay County Highway Department has offered to stake the ditch cleanout, haul the spoil, and provide site supervision. The Board felt that if Brady has objections to Austin's project, she should have attended the hearing, or called the office to discuss her concerns. Albright suggested that if the Board plans to move forward with the culvert installation through C.R. No. 10, they should authorize H.E. to start the permitting process with the Minnesota Department of Transportation (MNDOT), hire a contractor, etc. The work will be done as a ditch system expense. **Motion** by Hanson to approve the culvert installation through C.R. No. 10 and authorize H.E. to make the necessary preparations. **Seconded** by VanAmburg. **Approved.**

The Board discussed the C.R. No. 10 north ditch cleanout. They decided that no permit application would be needed. **Motion** by VanAmburg to authorize the referenced ditch cleanout project to be done in conjunction with the Clay County Highway Department. The project will include resetting Scott Skauge's driveway culvert on the north side of C.R. No. 10 that is currently not on grade. The project costs will be split according to the agreed upon amounts at the 3/05/09 meeting. **Seconded** by Olson. **Approved.**

Other business brought before the Board included:

Permit No. 08-30, Scott VanWechel. Albright has not had time to contact Don Bajumpaa, District Manager, Wilkin SWCD, regarding possible wetlands in Sections 10, 11, 12, Mitchell Township. He also plans to mail H.E.'s report regarding a possible ditch improvement project for Wilkin County Ditch No. 22, Lateral No. 3, to the affected landowners. He will include an explanation regarding costs to see if anyone is interested in filing a petition for the ditch improvement. The next step will be to assist any interested landowners in filing the project petition and bond. **Tabled**, pending landowner and wetland review. The project cost estimate is \$141,940, which includes the acquisition of additional right-of-way (r-o-w).

Permit No. 08-77, Frank Schindler. At the 2/23/09 meeting, the Board tabled Schindler's request to replace a 30" dia. culvert in 140th ST S with a 48" dia. pipe between Sections 32 and 33, Barnesville Township, Clay County. They agreed to submit the issue to the Mediation Project Team (PT) for further review. The PT could possibly assist the landowners/BRRWD with a larger comprehensive project for this area.

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 Trunk Highway (T.H.) No. 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. 09-08, 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. Jones noted that he still has some questions for the County regarding the project. **Tabled**, pending Jones review and recommendations. The County is anxious to get the BRRWD permit process completed.

Permit No. 09-11, City of Moorhead. Applicant proposes to extend the asphalt street section with curb and gutter for approximately 900' to 28th AVE S for the Horizon Shores 5th Addition. The underground improvements include the installation of storm sewer pipe to drain an area within the 36th ST S r-o-w and watermain installation within the Clay County Ditch No. 47 r-o-w. The work is necessary for the development of residential, commercial, and institutional property in the new subdivision. **Tabled,** pending Jones' review and recommendations.

Minch/Johnson Lawsuits. Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 8:24 PM to discuss the status of this issue. At 8:29 PM, the Board reopened the meeting.

LaBelle/Duck Lakes Outlet. Albright talked with Loren Jetvig regarding the LaBelle Lake outlet channel. To date, no meeting date has been set. LeRoy Bergmann will also be included in these discussions, as he is the one who initially raised concerns about the rising lake levels affecting his property. Albright will also contact Chad Jetvig regarding the meeting. **Tabled.**

Robert Schultz Drainage Concern. Schultz contacted the BRRWD regarding water/icing concerns on his property 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. Water appears to be seeping from the upstream 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. MNDOT verified that the T.H. No. 34 culvert is open, and the Natural Resources Conservation Service (NRCS) checked on the WRP site. Currently, water is not spilling over the outlet structure. NRCS has indicated that they probably should have removed some of the stoplogs on the outlet structure last fall to lower the water level in light of the heavy fall rainfall. The BRRWD hired Dennis Braton to open the driveway culvert/ditch along Schultz's property. Braton reported that the ice in the bottom of the T.H. No. 34 culvert is higher than the water in the ditch, effectively blocking the drainage. MNDOT might be able to steam the culvert open if necessary. Albright noted that Dennis Braton is available to work on the ditch if Schultz's property is threatened again when the spring runoff begins.

Phillip Rogers WRP. Rogers has proposed a possible WRP project on his property in the SW¼, 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. is investigating the proposal. The LiDAR data from the International Water Institute (IWI) Digital Elevation Modeling (DEM) collect is now available and will be used to evaluate the potential for a project on Rogers' property. Seepage could become an issue because of the steep elevation drop on the property. Jones noted that the project could be expensive. **Tabled.**

Project No. 63, Grove Lake Outlet. Stuart Restad, who owns a repair business north of Grove Lake, called the office with safety concerns regarding the project worksite on the township road. He felt there should be bars so nothing can get into the outlet pipe. He also feels that the steep road ditch bank is a safety hazard. Albright checked with Wade Opsahl, Technician, H.E., regarding Restad's concerns. Opsahl has installed orange road hazard cones on both ends of the projects, and the backhoe is parked on site. He felt the markers that he installed were sufficient to indicate that the road is closed to traffic. Once the actual project inlet structure is installed, and the contractor has a chance to landscape the area, the ditch bank will be repaired. Jones noted that the lake is down about 9". The Managers would like to tour the project.

Project No. 61, Clay County Ditch No. 11-North. A meeting was held today to discuss John Leseth's concerns about the ditch system r-o-w acreage. Albright, and Tami Norgard, BRRWD Attorney, met with Michelle Winkis, Clay County Attorney; Dave Overbo and Nathan Gannon, Clay County Engineers; and

John Leseth and his attorney. Leseth is challenging Jones' ditch r-o-w acreage amounts. Jones maintains that his numbers are accurate in accordance with the ditch records. The Board discussed the r-o-w issues and reviewed Norgard's e-mail message regarding the case. The Board also discussed the possibility of stopping the project at the Final Hearing, if Leseth is not interested in cooperating with the project development. If the Board stopped the project, the project petitioners, including Leseth, would be billed for the project development costs. The Viewers are scheduled to meet on 3/12/09 and will have to decide how to determine payment for the temporary and permanent r-o-w acreages for their Report. The Board agreed that the Viewers' Report should use the original recorded r-o-w acreage and Jones' calculations. The Board will discuss this issue further at the upcoming 3/23/09 meeting. The Final Hearing is scheduled for March 30, 2009, at 7:30 PM, First Floor Council Chambers, Moorhead City Hall.

Project No. 56, Manston Slough Restoration. Albright reported that the Environmental Assessment Worksheet (EAW) is ready for public review and comment. After investigation, it was finally determined that the BRRWD can be the Responsible Government Unit (RGU) and Ellefson can sign the document. The EAW will be sent to the Environmental Quality Board (EQB) for publication in their 3/23/09 *EQB Monitor*. A notice of EAW availability was sent to the *Forum* for publication. The office will distribute copies of the EAW to selected environmental agencies for their review and comment. **Motion** by Hanson to order the publication of the EAW and to authorize Ellefson to sign the EAW on behalf of the BRRWD. **Seconded** by Olson. **Approved.**

Tom Arnhalt is ready to sign his easement option. Arnhalt plans to do a 1031 exchange, so he will delay signing his easement option until everything is in order, as he will only have 180 days to finalize that exchange process after signing the easement. Arnhalt delivered his abstracts to the office for title review. Albright worked on the other landowner easement options over the weekend and should have them ready for mailing in the next several days.

The Board discussed an e-mail message from Ron Harnack, Project Coordinator, Red River Watershed Management Board (RRWMB) to State Representative Morrie Lanning and State Senator Keith Langseth, regarding the project's eligibility for 75% state funding. Because of its nre features, the Manston project could be eligible for increased funding from the State. Harnack confirmed that the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) had at one time endorsed the Manston project at the 75%/25% FDR funding level; however, the paperwork documenting the project endorsement hasn't been located. Since Manston was not ready at the time the legislation was drafted, it was not included in the legislative bill. In light of this information, the Manston Slough project could be eligible for increased funding from the Lessard Outdoor Heritage Fund (LOHF) and the Clean Water Legacy (CWL) fund. Harnack also discussed the issue of the BRRWD's withdrawal from the RRWMB a few years ago. The Board questioned what significance the BRRWD's membership in the RRWMB had to do with project funding from the RRBFDWRWG. 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 an additional 25% of the project costs.

Mark Aanenson, H.E., is ready to start the wetland permitting work. We will also need to submit a Conditional Use Permit (CUP) application to Wilkin County.

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. Due to the impending winter storm predicted for tomorrow, we will probably have to cancel the meeting. We have approximately \$20,000 left in the current DNR grant amendment after the 3/02/09 pay request for general expenses (approximately \$300,000) is processed. Vicky Sieben recently contacted the office regarding the possible 4/01/09 closing date for her property. The Board agreed that if funding isn't forthcoming from the State, we will have to postpone the Sieben

closing. Albright noted that the purchase agreement did include language indicating that purchase of her property was contingent on the availability of State funding. Albright questioned that if the Board would authorize spending the local share (\$439,300) to keep the project design/easement acquisitions moving forward until we receive State funding. To date, the BRRWD has spent approximately \$100,000 of the local share, leaving about \$300,000 for the local share. VanAmburg noted that Representative Lanning recently told him that he would support a bill from Senator Langseth for Oakport funding. The Board felt that Lobbyist Carlson should contact Langseth and Lanning regarding this issue.

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

The City of Hawley asked the BRRWD to schedule another meeting to discuss the Buffalo River Stream Bank erosion issue with the Hawley City Council, Eglon Township, the Hawley Golf Course, the DNR, and the BRRWD. Luther Aadland, DNR, proposed a new channel configuration at the 2/03/09 meeting. Hawley and Eglon Township drafted a joint resolution asking Clay County to rebuild Rodeo Drive North (240th ST N) and replace the existing bridge over the Buffalo River. The City recently adopted the resolution, and Eglon Township expects to adopt a similar resolution at their next meeting.

Mediation PT. The next PT meeting is scheduled for 3/26/09 at 1:30 PM at the MSUM Science Center. Notices will be sent. A possible project for the South Branch of the Buffalo River will continue to be a topic for the PT. The RRWMB/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.

Revised Watershed Management Plan (RWMP). Albright and Jones met with Brian Dwight and Pete Waller, Minnesota Board of Water and Soil Resources (BWSR), and Steve Clark, Army Corps of Engineers (COE), to review the RWMP on 3/04/09. One of the items that the group discussed was how the RWMP can address the COE Points of Concurrence. Clark will focus on Sections 5 and 6 in the RWMP, which specifically deal with these issues. Albright distributed a sheet describing the review process for the Board's reference. Albright also distributed a copy of BWSR's Performance Review and Assistance Program (PRAP) worksheet for Watershed Districts to rate their performance. Brian Dwight suggested that the BRRWD ask for a 6-month extension to complete our RWMP, as it may take some time for the COE to review the document. **Motion** by VanAmburg to request the referenced time extension. **Seconded** by Nelson. **Approved.** The Board briefly discussed the Regional Assessment Locators (RAL) feature in the RWMP that may be a valuable tool to evaluate future progress in meeting the RWMP stated goals.

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 was published in *The Forum*, and landowners' notices have been sent. There was some concern that if tomorrow's Township Board elections should have to be rescheduled due to inclement weather, the new date could conflict with the County Ditch No. 49 hearing date. The Board felt that since the elections would be held on an alternate date from the traditional date, we would not be in conflict with Minnesota Election Laws.

Hay Creek/Stinking Lake CWL Grant. Kevin Kassenborg, Clay SWCD, has agreed to extend the grant signup area to include about a 6-7 square miles (sq. mi.) drainage area on the outlet of Stinking Lake in Clay County where sediment control basins and bufferstrips could be installed.

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. The Board could discuss this issue with our Legislators at the Regional Watershed meeting at the State Capital during the Minnesota Association of Watershed Districts (MAWD) Legislative Breakfast.

Advisory Committee Annual Meeting. The office has scheduled the annual Advisory Committee meeting for Thursday, April 2, 2009, 2:00 PM in the Galaxie Supper Club, east of Barnesville. Albright noted that the meeting date was changed due to a conflict with his schedule. The office sent a memo to the Committee members advising them of the date change. Notices will be sent to the Committee members closer to the meeting date.

Fargo Southside Flood Control (FSSFC) Project. The Southeast Cass Water Resource Board has sent letters to all the Minnesota landowners, asking for permission to access their property to conduct the Environmental Assessment (EA). For those that don't give permission, the BRRWD may need to follow-up. Olson pointed out that at this time, the BRRWD is only assisting in the EA portion of the project development.

2009 MAWD Legislative Breakfast. The 2009 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. There will be a regional meeting with our Legislators, Lobbyist Joel Carlson, the BRRWD, the Wild Rice, Pelican Lake, and Cormorant Lake Watershed Districts on 3/19/09 from 10:00 AM to 1:00 PM. The Board discussed travel plans. Albright noted that he will have to be back on Thursday evening to attend the Red River Basin Commission (RRBC) South Valley Initiative meeting at 6:30 PM in Hankinson, ND.

IWI Thank You. The International Water Institute (IWI) sent a letter thanking the BRRWD for our donation to 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.

Advisor Sheila Carlson and the River Watch Team met with Albright, Jones, Wayne Goeken and Evelyn Ashiaman-Finch (RRWMB), and Jack Fredrick, Minnesota Pollution Control Agency (MPCA), on 3/05/07 in our office to discuss the River Watch Team's role in the BRRWD's Total Maximum Daily Load (tmdl) effort. The Team will present their 2008 monitoring results to the BRRWD on 4/13/09.

Shallow Lakes Forum IV. Several environmental agencies, including MPCA, DNR, and BWSR, are sponsoring the 2009 Shallow Lakes Forum on March 30, 2009, in the Oak Ridge Conference and Hotel Center, Chaska, MN. The Forum will focus on the development and implementation of Shallow Lake management plans. Before 3/18/09, registration is \$50. After that date, the cost is \$75.

Project No. 1, Wilkin County Ditch No. 22-Lateral No. 2. Jones submitted a report regarding his culvert capacity analysis for Lateral No. 2. The Board briefly discussed Jones' findings. Albright will send copies of the report to the affected landowners for their review and response. Jones thought that the Board could develop a project for this area under M.S.A. 103E.721, in regards to matching structure capacities on a ditch system.

Lake Owners' Guide to Lake Stewardship. Brad Grant, Becker SWCD, forwarded a copy of the Aitkin County Shoreland Homeowners' Guide to Lake Stewardship for the Board's review. It provides information to residents regarding zoning regulations, permitting, etc., including watershed information. The Becker SWCD is planning to publish a similar booklet for Becker County, and they requested a contribution from the BRRWD for this endeavor. They will need approximately \$2,500 to complete their

project. In exchange for funding, the County will provide copies of the publication to the BRRWD. The Board discussed the request and felt that we would only need a few copies of the booklet available in the Barnesville office; however, they thought that this would be a good resource for landowners in the Lakes Region of the BRRWD. **Motion** by Hanson to contribute \$200 to Becker County's Lake Stewardship Guide project. **Seconded** by Nelson. **Approved.** Albright will request that the majority of the BRRWD's complementary copies of the Guide booklets be made available to landowners in Becker County. The Board also felt that information regarding BRRWD contact information should be included in the booklet.

MNDOT Annual Meeting. Nelson questioned if MNDOT has scheduled their annual agency meeting. Albright said that MNDOT has not contacted him regarding a meeting date.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Barnesville Phone Co.	2/25/09 billings (2)	Admin.	\$ 163.68
Barnesville Record-Review	Hearing notice	Pj. 27, Clay 55	\$ 280.50
Becker SWCD	Lake Stewardship Guide	M.S.A. 103D.905, Subd. 3	\$ 200.00
Bruce E. Albright	3/04/09 dinner-Eagle Café	RWMP	\$ 40.93
Bruce E. Albright	River Watch meeting snacks	Admin.	\$ 16.18
City of Moorhead	CUP application	Pj. 49, Oakport	\$ 221.00
Curtis M. Nelson	#0903, 1/01/09-2/28/09	Varies	\$ 675.10
Gerald L. VanAmburg	#0905, 1/01/09-2/28/09	Varies	\$ 716.31
H.E.	March billing	Varies-see atch.	\$ 57,224.35
John E. Hanson	#09-02, 1/01/09-2/28/09	Varies	\$ 1,179.42
Northern Technologies, Inc.	#2406, 2/01/09-2/28/09	Pj. 49, Oakport	\$ 16,710.65
Petro Serve USA	#54661, Hurner propane	Pj. 49, Oakport	\$ 531.00
Petty Cash	Postage, supplies, etc.	Admin.	\$ 200.00
Premium Waters, Inc.	#366590-02-09	Admin.	\$ 16.27
Roger G. Ellefson	#0901, 1/01/09-2/28/09	Varies	\$ 753.12
WREC	2/28/09 billings (2)	Pj. 46, Turtle Lake	\$ 314.70
Xcel Energy	1/27/09-2/25/09 (4)	Pj. 49, Oakport	\$ 293.04
			\$ 79,536.25

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

Next Meeting. The Board of Managers, BRRWD, will hold their next meeting on Monday, March 23, 2009, in the Barnesville office at 8:00 PM.

Adjournment. Chairman Ellefson adjourned the meeting at 9:30 PM.

Respectfully submitted,

John E. Hanson, Secretary