

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

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MINUTES FOR MANAGERS' MEETING April 13, 2009

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, April 13, 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 S. Jones, Engineer, and Julie Jerger, Houston Engineering, Inc. (H.E.); Sheila Carlson, Barnesville River Watch Advisor, Alec Albright, Katie Szveduik, Kevin Heald, Jeana Scheffler, and Connor Lewis, Barnesville River Watch Team; Carol Schoff, Clerk, Cromwell Township; George H. Peters, Chairman, Cromwell Township; Sarah Klaphake and Mike Erickson, WDAY News; and landowners: Evelyn Karppinen, Kathleen Karppinen-Pederson, Tony Karppinen, Brad Lewis, Linda Siegert, Chuck McWethy, Rodney Schmidt, Lori Pender, Archie Tanner, Jane McGough, Kevin McGough, Dean Cin, Tim Schulz, Maynard Hughes, Randy and TammiJo Barta, Bill Davis, Todd Lewis, Carol Paquin, Jayme Paquin, Marcellus Ratajczak, Sharon Ratajczak, Tim Pender, Harold Schenck, John Leseth, Brian Giere, John Posch, and Warren Dunham.

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. Ellefson noted that the Barnesville River Watch Team was invited to present their 2009 water quality monitoring report to the Board at 8:00 PM. Since WDAY news was present to report on a ringdike issue south of Sabin and other flooding issues, he asked the River Watch Team to wait until later in the meeting to present their report.

Karppinen Ringdike. Tony Karppinen asked the Board about options for their property in light of the fact that the Midwest Testing Laboratory investigation determined that their farmstead couldn't be protected by a ringdike because of geotechnical concerns. Ellefson briefly commented on the Karppinen's request for a farmstead ringdike for their property south of Sabin along the South Branch of the Buffalo River. Jones explained the ringdike investigation process. The first step was to see if the property would have an impact on flood levels along the river because the dike would be in a floodway/floodplain. The research showed that a ringdike at this location wouldn't raise the flood stage. The second step was to see if the soils along the South Branch would support an embankment to protect the house and outbuildings on the Karppinen property. Midwest Testing Laboratory conducted the geotechnical review, which included soil borings. H.E. did some surveying to help Midwest Testing with the slope stability analysis. This study provides information about the current bank stability and the effects of the added weight from a ringdike. The geotechnical review results were that the existing slope is already failing and adding a dike embankment to the site could cause the bank to fail more rapidly. Midwest's minimum safety factor is 1.5. When asked how far back the dike would have to be from the river to avoid bank failure, Midwest indicated that if they followed their safety criterion, the dike should be located on the other side of the Karppinen house. Jones said that there was just not enough room between the river and the buildings to build a safe dike. He pointed out that alternative structures, such as a floodwall, could cost several hundred thousand dollars, and economically, this was not justifiable. Karppinen questioned if a dike could be built to protect just the house. Jones said that the issue is still with the slope stability. The geotechnical engineer said the riverbank is experiencing what is known as "creep", which means that the bank slope is failing and is in the process of slowly eroding into the river. Adding weight to the area would make the condition worse.

Karppinen pointed out that when they started the process there were three options: 1.) Doing nothing; 2.) Possible ringdike; and 3.) Home buyout. He asked what option the Board was considering now. Ellefson said that the Board was sorry that the geotechnical report contained bad news for the ringdike option, but the BRRWD could research a buyout, if funding is available. He asked if the Karppinens had water damage to their buildings. Tony Karppinen said that water was half-way up his driveway slab, but he didn't have to sandbag around the house, which is at a higher elevation. All of his other out buildings did flood. Ellefson pointed out that property throughout the District was affected by the flooding. He said many roads and driveways/culverts were damaged, just like the flood in 1997.

Albright explained that the Federal Emergency Management Agency (FEMA) will be holding a meeting in the near future to meet with the counties named in the Disaster Declaration. At that time, we will get information regarding the flood recovery process. As soon as we get this information, Albright said he would send Karppinen a letter regarding his buyout options.

Evelyn Karppinen asked about the how long the "creep" process would take. Is this something that could take a year or 100 years? Jones said that the rate of creep is a slow process, but adding the weight of a dike to the other factors associated with the bank erosion could cause the process to accelerate. He said that he has seen sites where the riverbank starts to disintegrate while the dike work is being done. He used the image of a teeter-totter to illustrate how bank erosion occurs. You add more weight to the top and the bottom will pop up. She also wanted to know if the riverbank sloughing could be exacerbated by the velocity of upstream flows. She said that when we removed the ice/snow from Clay County Ditch No. 55, their river elevation rose nearly 5' in 2 hours. Jones explained that river levels all over the district are off the charts in terms of historic levels. The current river elevations are higher than both 1887 and 1997. He added that higher volumes and velocities of water could affect slope erosion.

Manager VanAmburg pointed out that the regional geology is a significant contributor to bank failures. The soils are very erosive in the Red River Valley and are subject to slumping along the riverbanks. Albright noted that bank instability is also a factor associated with our Oakport Flood Mitigation project. This winter, Northern Technologies, Inc., conducted geotechnical testing in the Oakport area to provide data for the dike alignment determination. We have to tell nearly 15 more homeowners that their property can't be protected by the proposed dike project because their soils were too erosive, and we couldn't build a dike between their house and the river/coulee. He added that the phenomenon of creep can be worse when the river is experiencing low flows because the high water volumes create equilibrium between the soil and water, which will hold the bank in place. Slumping sometimes occurs when the water goes down. VanAmburg pointed out that it is very difficult, if not impossible, to stabilize a creeping riverbank. Albright listed a number of practices the Karppinens could use to prolong the creep process, including keeping the bank in a natural state, leaving the trees in place, and not adding any more weight on the already unstable area. Albright referenced the cost of a floodwall to protect the house, which could cost approximately \$250,000.

Ellefson noted that the Board was sorry that a ringdike appears to be infeasible. He said we would keep the Karppinens in mind when we learn more about the FEMA disaster program and Minnesota Recovers legislation. Albright noted that he and some of the Managers met with the Karppinens at their farmstead last fall and talked about the process.

Kathleen Karppinen-Pederson asked if opening Clay County Ditch No. 55 upstream of their property could have had an effect on the bank erosion. She noted that the water was actually flowing backwards at one point after the ditch was opened. She questioned who made the decision to open the ditch. Jones explained that the creep phenomenon was more a function of the soils than water velocity. When the water is high, the riverbank has a chance to become saturated, so when the water recedes, the bank slumps from the added weight of the water in the clay soil. Several of the landowners had complaints about the practice of

opening the legal ditch systems in general. They were concerned about the effects of opening Clay County Ditch No. 55 along County State Aid Highway (CSAH) No. 10 on their property.

Albright explained that the BRRWD has jurisdiction over approximately 400 miles of legal ditch systems. In the spring, we always get phone calls from landowners along ditch systems, requesting that we open the ditches so water can drain. He explained that the BRRWD does not open every ditch system just to get water moving to drain cropland. We do open a ditch when high water is endangering a residence/homeowner. Brad Lewis pointed out that there was only one home in jeopardy in this particular case, and by opening County Ditch No. 55, the action caused six roads to overtop. Lori Pender felt that the BRRWD didn't seem to have any concept of the downstream consequences. Pender said the homeowner in question had water in his yard, but she had water in her outbuildings. Albright said that he understood that the individual had water in his basement. Pender asked if the homeowner sand bagged his house. Albright didn't have that information. Albright explained that water was moving west with such velocity that the roads would have been inundated no matter what was done. Pender felt that the BRRWD endangered homes in an effort to drain farmland. She didn't understand why the BRRWD opened the ditch.

Ellefson explained that agricultural land is not capable of holding all the water that we had this spring. Sometimes it better to try to handle the water in a ditch that has been opened, rather than letting it run cross-country without any control. Pender noted that the township will have to spend a lot of money to repair the damages to their roads/culverts/bridges. Albright noted that FEMA will help with flood damage repairs. She complained about the taxes for County Ditch No. 55. Albright said that if the BRRWD had not opened the ditch, the same damage probably would have occurred because of the historic volume and velocity of this spring's runoff. Pender claimed that by not opening County Ditch No. 55, the runoff would have been slower. She maintained that we had a slow melt and water was freezing at night.

Lewis asked if the Board would still make the same decision to open ditches under similar circumstances. Ellefson thought the Board probably would. Albright explained that if we could save one farmstead from overland flooding during a 100-plus year flood event, we needed to try to do it, as properties along the river are going to have high water no matter what we do. Ellefson noted that Julie Jerger lives on the South Branch of the Buffalo River in Wilkin County. She had 2' of water over her driveway, and there were no ditches opened in her area. Jerger commented that the water was moving so fast, that the river did seem to come up 5' in 4 hours. Manager Nelson noted that he lives in Humboldt Township, far away from a river, and he had water in his buildings. He also pointed out that the reason for the historic nature of this year's spring flood was the fact that we did have a rapid melt with temperatures well above average during the day. VanAmburg pointed out that later on during the week of March 23, it did freeze at night, but prior to that, it was abnormally warm, which precipitated the rapid melt. Ellefson agreed that the warm daytime temperatures, the amount of snow on the ground, the fact that we froze up totally saturated and water runs downhill, made a historic flood was inevitable.

Albright noted that the BRRWD closed all of the projects we have that contribute water to the downstream areas. Turtle Lake, Grove Lake, all four detention projects, plus other small retention areas were all closed according to their operation plans. He pointed out that a Grove Lake landowner is surrounded by high water and has to enter/exit his residence by boat. Unfortunately, we can't open his outlet until the downstream floodwaters recede. Albright noted that we are developing projects on the upstream end of the South Branch of the Buffalo River to retain water. With a flood of this magnitude, we don't have enough retention in place to stop or slow all of the water.

Ellefson said that the only remedy for the township damages will be FEMA disaster assistance. The BRRWD will be putting together a list for 2009 flood damage repairs for FEMA. Ellefson said that with the velocity/volume of water that was in the system, it would be hard to determine if opening the ditch made any difference.

Kathleen Karppinen-Pederson said she didn't understand why the BRRWD closed retention/detention sites and projects to hold back water, but then opened County Ditch No. 55. Ellefson explained that when a ditch is blocked with snow and ice, its capacity is limited, and water will end up running overland, washing out roads/culverts in its path. Once the ditch is opened, it can convey water in a more controlled manner. He briefly discussed the "waffle" concept where water would be held on farmland by sizing culverts smaller to larger from east to west. He felt that because of the fall from the east to west in our area, it would be difficult to make the process work.

Someone asked about the BRRWD's policy regarding logjams. He reported a logjam in his area on the South Branch of the Buffalo River, but nothing was done to remove it. Ellefson said that logjams are always a problem on rivers. The BRRWD does take out logjams on a regular basis. Albright explained the BRRWD has probably removed close to 150 logjams since 1993. We have Project No. 29, Buffalo River Log Jams Removal that we use to fund this work. He said dying elms and flooding contribute to this problem. Logjams don't always contribute significantly to flooding; it depends on the nature of the jam. An average logjam costs around \$3,000-\$5,000 to remove. As the floodwaters recede, the BRRWD will be working with the various agencies/contractors to repair the flood damages and inventory possible logjams.

Ellefson noted that there were others in the audience who want to speak, so at this time, the Board will have to move to the next issue.

Linda Siegert questioned why it took so long for someone to open the ditch by her property in the SW¼, Section 10, Elmwood Township, Clay County. She was one of the first ones to flood before anything started in Fargo. When she called to have her ditch opened, no one showed up for five days. There was 4' of water in her backyard, and she had to sandbag to protect her house. Her husband is in Iraq. Ellefson explained that the BRRWD doesn't open county or township road ditches. If a landowner needs to have a county ditch opened up in the spring, they have to call their county. He explained the difference between a legal ditch system and the county/township road ditches. Later in the meeting, Albright conferred with Siegert and determined that she is actually on a township road, which the BRRWD would not have been able to open. He suggested that she should contact the office to set up a time for Wade Opsahl, Technician, H.E., to conduct an interview/investigation for a possible ringdike on her property. She agreed.

At this point, Ellefson indicated that we would have to move on to other audience concerns.

Riverton Township Drainage Concerns. Archie Tanner reported that the Minnesota Department of Transportation (MNDOT) plans to clean both sides of Trunk Highway (T.H.) No. 9 along the Bouton's Addition southeast of Glyndon. He's concerned that this will have a significant impact on his downstream property. He asked if there would be a way to drain the water south to Clay County Ditch No. 12, which is only about 0.5 miles away. MNDOT has indicated that they will have to rebid the project, as the first bids came in high, but they plan to complete the project this year. The group discussed the difficulty of trying to make water flow south in this location. Nelson thought there was a natural swale in the area that might be able to convey water west, if it were cleaned. Bill Davis noted that he and Tanner had requested that the BRRWD investigate the possibility of increasing the culvert sizing upstream of Project No. 51, Clay County Ditch No. 68, in the City of Glyndon. The Board had decided to deny their request until the severe erosion problems east of Glyndon on the Heng property are addressed. Tanner commented that the former operators of the Heng property did not farm through the waterway where erosion has caused severe cutting on the project inlet. Ellefson agreed that the swale should probably be a grassed waterway, but the BRRWD doesn't have the authority to tell people how to farm. Davis asked what it would take to make that waterway a legal ditch system. Ellefson noted that the landowner would have to file a petition, but he didn't think they would be interested in creating a ditch system. The group discussed the current farming practices on this acreage. Albright noted that the waterway in question is a Minnesota Department of Natural Resources (DNR) protected watercourse, but the DNR has not been active in enforcing bufferstrip

rules, which states that all DNR waterways are required to have a 50' bufferstrip on both sides. The group discussed options for the erosion problem. A few years ago, the BRRWD worked with the landowner to haul in fill to try to repair the erosion site, but the erosion hasn't stopped, especially with the flooding we've experienced. Davis suggested that the BRRWD could extend County Ditch No. 68 along this waterway and install a bufferstrip. Albright agreed that might be an option. At this time, the Board doesn't feel that larger culverts upstream can be allowed until the downstream problem is fixed.

Albright noted that it is likely that MNDOT will clean the ditches upstream of Tanner to the 1955 original grade. He thought that MNDOT would probably not approve Tanner's suggestion about draining the water to Clay County Ditch No. 12 because to reverse the grade, it would be necessary to change the original ditch grade. Davis said that Alan Milbradt, MNDOT, told Tim Pender last fall that if he wanted to lower the grade to drain water south, he could do it at his own expense.

Tim Schulz, a Bouton's Addition homeowner, noted that they have always had a problem with water drainage. It might be beneficial for subdivision if the water could drain west or south. Ellefson suggested that the Riverton Township Supervisors meet with the BRRWD Managers at the Town Hall to continue this discussion. Because of time constraints tonight, we won't be able to spend the time required to find a solution for all these issues.

Albright asked if the Bouton's Addition had flooding problems this spring. Schultz said that by opening the ditch along 28th AVE S, we saved the subdivision this year. Albright also noted that once Project No. 58, Riverton Township Retention, is completed, it will help prevent overland flooding. The Township will contact the office to schedule a meeting.

Permit No. 09-16, Cromwell Township. Applicant proposes to replace a deteriorated/washed-out 18" dia. culvert in 220th ST N between Sections 10 and 11 with a 24" dia. pipe to address repeated overtopping and road washouts. The downstream landowners have agreed to the culvert change. The water drains through their property, and when the culvert washes out there are no restrictions on the flow. The next downstream culvert is approximately a 48" dia. pipe. **Motion** by Nelson to approve Permit No. 09-16. **Seconded** by Olson. **Approved.**

Permit No. 09-17, Cromwell Township. Applicant proposes to replace a deteriorating 12" dia. corrugated metal pipe (CMP) with an 18" dia. pipe in 225th ST N, in Section 26, and lower the inlet end approximately 1'. The area is a landlocked slough, and the pipe is an equalizer. Water historically overtops the road. The equalizer pipe is separated and causing holes in the road. Merlyn Petermann, who owns the property on both sides of the road, is in favor of the work. The Township will do the work in conjunction with FEMA. Albright recommended permit approval. **Motion** by Hanson to approve Permit No. 09-17. **Seconded** by VanAmburg. **Approved.**

Jane and Kevin McGough Flooding Concerns. Jane McGough explained that during the last eight years they have lived on their property in Downer, their pasture, shop, and garage have flooded. They are interested in a possible ringdike to protect their property. Their neighbor installed a septic system that required a large amount of fill, which changed drainage around their buildings. Ellefson noted that their property is near an old gravel pit site, and the soils are very porous. He noted that an engineer would have to determine if the site was suitable for a ringdike. Albright noted that Wade Opsahl, H.E., would contact them to review their site. He added that funding could be an issue in light of the current economic problems the State is experiencing. The ringdike program provides cost sharing for farmstead ringdike projects (50% State, 25% BRRWD, 25% landowner).

Permit No. 09-20, Maynard Hughes. Hughes explained that when County Road (C.R.) No. 19 was constructed, the County used the ditch as a borrow site to fill a slough to widen the road. The ditch is slow to open in the spring, so the County usually opens a gate 0.5 miles north, and water goes across the field. This year, water filled up the slough and overtopped/washed-out the township road. Hughes would like to have a gate on the 24" dia. culvert north of his driveway, so that water will go around their farmstead instead of into the slough. In a normal year, there is no problem, but when the high water starts over the road, there's no stopping it. **Motion** by VanAmburg to approve Permit No. 09-20, subject to Manager field review and the approval of Wilkin County Highway Department to work in their road right-of-way (r-o-w). **Seconded** by Nelson. **Approved.**

Evelyn Karppinen asked if the Board considers downstream impacts when they approve permits. Ellefson explained the permit approval process, and noted that if downstream impacts are a factor, under normal circumstances, the Board always tries to anticipate potential problems and will contact affected downstream landowners. VanAmburg pointed out that the Board makes an effort to be aware of and limit downstream impacts when reviewing permit applications or developing projects.

Barnesville High School River Watch Team. At 9:10 PM, the River Watch Team presented their 2008 Water Quality Reports. Team Advisor Sheila Carlson introduced the Team members who were present: Alec Albright, Kevin Heald, Jenna Scheffler, Conner Lewis, and Katie Szveduik. The Team made a PowerPoint presentation regarding turbidity, macroinvertebrates, and E-coli levels at their sampling sites. According to the Team's measurements, it appears that the Whisky Creek Project (constructed in 2006) has contributed to the health of the waterway by reducing turbidity through the installation of bufferstrips. E-coli sampling suggests that there could be a leak in one of the lagoon ponds west of the City of Barnesville. Another sampling season will be needed to confirm these preliminary findings. VanAmburg briefly discussed a new way to determine the species of E-coli sources through DNA "finger printing".

Ellefson thanked the Team for their presentation and noted that we are very fortunate to have Sheila Carlson working with the award winning Team. Sheila Carlson mentioned that every year for the past three years, the Team has earned gold awards in Team competitions. Ellefson commented that in the future, water quality is going to become increasingly important. The BRRWD considers the River Watch Team a great asset for the District. Albright noted that Carlson will be presenting a funding request for the 2009 sampling season to the BRRWD in the near future. The Team will also be participating in the sampling work for the BRRWD's Total Maximum Daily Load (tmdl) project.

Evelyn Karppinen asked if the Board would introduce themselves, which they did.

Clay County Ditch No. 55 Inlet Flapgates. Lori Pender asked if it would be possible to install a flapgate on the field laterals to County Ditch No. 55 to retain water in the fields until the water goes down in the ditch. Harold Schenck commented that it used to take six days for water to reach his area from Downer, but now it takes less than a day. Albright explained that closing the inlet culverts would only cause water to build up and breakout across country. Pender asked if only a few of the inlets could be gated. Ellefson suggested that it would be controversial to gate some field inlets and not others. Schenck noted that the rapid early thaw had a significant impact on the flooding this spring. Ellefson discussed the high number of washouts all over the district due to erosive soil and rapid spring melt, which contributes to the Buffalo River turbidity.

Other business brought before the Board included:

At 9:50 PM, Ellefson asked if the audience had any further issues to bring before the Board. There being none, the Board started on their meeting agenda.

Secretary's Report. The Board reviewed draft minutes for the 3/23/09 regular meeting and the 3/17/09 Clay County Ditch No. 49 Redetermination of Benefits hearing. **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 a total of \$535,903.26. We currently have \$1,022,367.11 on hand. Albright and Manager Nelson met with Lori Johnson, Clay County Auditor, and Carolyn Drude, Ehlers and Associates, regarding a bond sale for a number of BRRWD projects. Because of the spring flood, work on the bond sale transcripts is on hold. Albright talked to Drude today, who indicated that when we get the transcripts ready, we can contact her to set up a new schedule for the bond sale. Interest rates are still at historic lows. **Motion** by Hanson to approve the Treasurer's Report. **Seconded** by VanAmburg. **Approved.**

Permit No. 09-03, Parke Township. Applicant proposes to lower Dewey Lake in Sections 34/35 to the DNR determined Ordinary High Water (OHW) elevation to prevent township road damage. The Township plans to install 1,500' of pipe on grade to drain water to the northwest. The Township has also applied for a DNR permit for the work. Albright noted that Robert Softing has reported a water problem with a slough. Bruce and Harry Nelson would like to change a culvert to run the water east to a nearby lake that eventually drains to Stony Creek. **Tabled** pending Manager field review.

Permit No. 09-12, Carl Altenbernd. Applicant proposes to install a driveway to at six-acre tract north of his property in Section 29, Elmwood Township, Clay County, 2.75 miles south of Sabin on C.R. No. 11. Altenbernd plans to construct a pond and plant trees/blue stem grasses on this acreage, and he would like to have a driveway to access the area for construction/planting purposes. The Clay County Highway Department has determined that he won't need a culvert in the approach. Albright recommended that the Board approve the application, subject to County approval to work within their road r-o-w. **Motion** by Hanson to approve Permit No. 09-12, subject to the referenced condition. **Seconded** by Olson. **Approved.**

Permit No. 09-15, Highland Grove Township. Applicant proposes to add a 24" dia. culvert to a crossing on Clay County Ditch No. 16 between Sections 20/29, which already has one line of 42" dia. CMP. This road has a history of washing out and is currently damaged. Both upstream and downstream culverts in T.H. No. 32 and 28th AVE N are 48" dia. pipes. The Township also wants Clay County to consider installing a larger culvert in C.R. No. 115 (15th AVE N). **Tabled**, pending the County's decision regarding the C.R. No. 15 culvert request.

Permit No. 09-18, Highland Grove Township. Applicant proposes to install a culvert (12"-15" dia.) through the township road (250th ST N) between Sections 7/8 to drain a low area in a field to the east because water overtops the road at this location. **Motion** by VanAmburg to approve Permit No. 09-18, subject to Manager field review. **Seconded** by Nelson. **Approved.**

Permit No. 09-19, Skree Township. Applicant proposes to replace the 18" dia. CMP in the township road intersection (220th ST S) and a 12" dia. CMP, located 300' south of the intersection between Sections 34/35, with one line of 24" dia. CMP in the intersection. Both culverts are damaged and should be replaced. One culvert will be easier to maintain, and the intersection alignment will allow water to flow in the road ditch, instead of going through the field. **Tabled**, pending Manager field review and contact with the neighboring landowner, Tom Friederichs.

Permit No. 09-21, Keene Township. Applicant proposes to install a 12"-18" dia. culvert in the township road (210th ST N) to drain a wet area on the Warren Dunham property in the SE¹/₄, Section 22. **Motion** by Olson to approve Permit No. 09-20, subject to Manager field review. **Seconded** by Hanson. **Approved.**

Kenneth Schellack Drainage Complaint. On 12/19/08, Albright and Manager Nelson met with Schellack regarding his request for the BRRWD to investigate ditch work that Ron Erdman completed for Curt Stubstad in the NE¼, Section 8, Elkton Township, Clay County. Given the weather conditions at that time, the Board decided to wait until spring to conduct an area survey. Albright sent Stubstad a letter indicating that the BRRWD has conducted a field review and would contact him again in the spring. Sharon Lean, District Conservationist, Natural Resources Conservation Service (NRCS), has determined that there may be a wetland violation associated with the project. The Managers will conduct a field review when conditions permit in the next few weeks. The BRRWD will need to coordinate any potential restoration work with the NRCS. **Tabled.**

Minch/Johnson Lawsuits. Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 10:00 PM to discuss the status of these issues. At 10:20 PM, the Board reopened the meeting.

LaBelle/Duck Lakes Outlet. Albright has scheduled a meeting with Chad and Loren Jetvig on 4/16/09 in Lake Park. Manager Hanson will also attend. They will discuss the rising levels on LaBelle Lake and a possible LaBelle Lake outlet channel/pipe. **Tabled.**

Edwin Haick Flapgate Concern. Haick has hired an attorney to represent him regarding the installation of a flapgate on a culvert in C.R. No. 182 in Manston Township, Wilkin County. The Board reviewed a letter from Haick's attorney, dated 3/25/09. The complaint relates to the Board's 6/23/08 decision to approve Permit No. 06-10 that allowed Walter (Ronald) Jerger to reinstall the referenced flapgate. There was a Memorandum of Understanding (MOU), dated 2/08/02, where Ronald Jerger agreed to remove a flapgate in this location in return for various concessions from the BRRWD and Haick. Haick maintains that this 2002 MOU is still in effect and demands that Jerger remove the flapgate the BRRWD granted in 2008.

The Board discussed this ongoing neighborhood dispute. In 2004, discussions started regarding a possible project to clean the Wilkin County Ditch No. 44 outlet, which is the South Branch of the Buffalo River, east and west of T.H. No. 9 on Haick's property. In 2006, the BRRWD completed the channel cleanout at a cost of approximately \$25,000, which was paid for as a ditch system expense. At that time, the BRRWD felt this work modified the MOU, as Haick's drainage adjacent to the Jerger's property was improved significantly. When Jerger applied for Permit No. 06-10 following Haick's cleanout project, the Board tabled the application to monitor how the river cleaning would affect area drainage. In 2008, the Board reviewed Jerger's flapgate request again. With recommendations from Jones, they determined that the flapgate would not have an effect on area river levels on Haick's property, but would protect Jerger's farmland from flooding during high water events when the river backs up to the south through the C.R. No. 182 culvert. In addition, Haick's renter has also installed several gated field inlets downstream of C.R. No. 182 to keep the South Branch of the Buffalo River from backing out onto Haick's land. In light of the drainage changes made following the 2/08/02 MOU agreement and hydraulic data, the Board felt they had justification to approve Jerger's permit application. Albright will prepare a response to the letter Haick's attorney sent to the Board.

The Board briefly discussed a proposed project for the South Branch of the Buffalo River in Wilkin County to address the frequent channel breakouts that create flooding problems for landowners all along the river in this area. Currently, the Mediation Project Team is investigating a possible project for this area. In addition, funding from the Reinvest In Minnesota (RIM) program has been made available to install buffer strips along the South Branch channel.

Abe Barrera Wetland Concern. Barrera visited the office recently with concerns about an expanding wetland in his area that is encroaching on his driveway and pasture in the SE¼, Section 24, Tansem

Township, Clay County. The Board reviewed the photographs Barrera provided. They felt that this is typical of most of the area east of Barnesville, which is very wet, and thought that perhaps Barrera could raise his driveway. The wetland in question is landlocked.

Project No. 63, Grove Lake Outlet. Wade Opsahl, H.E., reports that the Grove Lake elevation is back up to an all time high. The township road is impassable where the outlet is located. The Board reviewed Opsahl's photographs of the outlet and road. According to the Operation Plan, Opsahl stopped the Grove Lake Outlet on 3/16/09, and the outlet will have to remain closed until the downstream floodwaters recede. The Board will discuss reopening the outlet again at their 4/27/09 meeting.

Project No. 61, Clay County Ditch No. 11-North. The Final Hearing was held on 3/30/09 and will be continued on 4/15/09 in the Comstock Community Center. On 4/10/09, the Viewers investigated the landowner comments they received regarding the proposed project benefits at the 3/30/09 hearing. The Viewers' Report has been changed to reflect their modified findings. Albright noted that the Viewers added 160 acres of Rodney Schmidt's property to the ditch system. He will contact Schmidt about that change.

John Leseth claims that the new ditch alignment includes "bends", making ditch maintenance more difficult. The ditch alignment was altered from the original design to parallel the County's new alignment for CSAH No. 8. The County plans to move CSAH No. 8 north from its current alignment to address ongoing slumping problems, and the BRRWD agreed to combine the two projects to streamline design and reduce costs. Leseth also claims that new alignment will require additional excavation and cause him to lose more cropland to increased ditch r-o-w (permanent and temporary) requirements and to lose crop productivity because of additional spoil placement. At the 3/30/09 hearing, Jones pointed out that the total current excavation quantities estimate hasn't changed from his 2006 design calculations, meaning that there should be no additional excavation or spoil quantities. Jones' noted that his design includes no angles greater than 6° to move the ditch around Leseth's farmstead. In light of this information, it appears that Jones has addressed Leseth's concerns.

The Board also discussed the values for John Leseth's permanent/temporary r-o-w. They could either negotiate with Leseth regarding this issue if he appeals, or they could agreed to increase his r-o-w values to \$3,000/acre for permanent r-o-w and \$150/acre for three years (\$450) for the temporary r-o-w, and buy the additional r-o-w if necessary. The new values reflect the amount that Clay County paid Leseth for the road project r-o-w. The Viewers have recommended that the BRRWD agree to those rates and buy the additional r-o-w, if necessary. Clay County would like to advertise for bids for the project on April 21, 2009, with a bid opening on May 26, 2009. If the Board made the Order to proceed with this project at their 4/27/09 meeting, the 30-day appeal period deadline would expire on 5/27/09. After that date, pending appeals, the County could award the contract. The Board discussed making the project Order at the 4/15/09 hearing continuation. **Motion** by VanAmburg to pay Leseth for the additional permanent and temporary r-o-w beyond the recorded r-o-w at the referenced rates. **Seconded** by Hanson. **Approved.** The Board discussed possible appeal scenarios. Depending on the details, an appeal of the r-o-w values would still not stop the project, as long as the costs don't exceed the total project benefits.

Project No. 60, Swede Grove Lake. Highland Grove Township told Albright that the lake is at an all-time high elevation and has even overtopped the County road. The Board still needs to meet with Chuck Carlson, the downstream landowner, regarding his willingness to participate with an outlet project.

Project No. 56, Manston Slough Restoration. Albright reported that the Environmental Assessment Worksheet (EAW) comment period will expire on 4/22/09. Albright mailed an easement option form to C&H Farms for their review.

Project No. 49, Oakport Flood Mitigation. Albright reported that about 70-80 homes were damaged from the flood and sewer backup in Oakport Township. Randy Rick, BRRWD Property Manager, is pumping out the buyout houses' basements. The Skalicky and Ries houses had water in the basements. Jessie Swanson's home took water. She has never had water in her house before, and may rebuild on the same site. Albright noted that Randy Rick has rental property in the area that had some structural damage. The Board discussed FEMA regulations regarding buyouts.

According to the high water elevations, the 2009 Spring Flood exceeded the 1997 Spring Flood by 1.5', and was rated as a 100-year to 150-year flood. Ellefson questioned how the damage on 70-80 homes might affect the project cost/benefit ratio. He was concerned that by losing that many taxable properties, the project might be jeopardized. Albright and Managers VanAmburg and Olson met with Township Chairman Greg Anderson and State Representative Morrie Lanning in an emergency meeting on 4/09/09. Anderson has indicated that the Township wants people to rebuild. Ellefson noted damaged homes that FEMA buys out will have to be removed. Representative Lanning and Senator Langseth have indicated that they plan to submit funding bills specifically for the Oakport Flood Mitigation project (approximately \$12 million).

Albright noted that the north shoulder of C.R. No. 93 was washed out, and part of Broadway (C.R. No. 1) slid further into the river. He questioned if we would be able to keep the FEMA repair money and use it when we construct our levee project. It doesn't make any sense to repair the road to tear it down in a year or so for the project.

Albright toured the Oakport area twice since the last meeting. The first time was with DNR Commissioner Mark Holstein and Assistant DNR Commissioner, Larry Kramka, and later with Michele Walker, Area Hydrologist, and Ceil Strauss, Floodplain Community Assistance Program Hydrologist, DNR.

A Technical Committee meeting is scheduled for 4/28/09. The DNR forwarded a Grant Amendment for \$300,000, which we will use to help complete the Ries buyout. **Motion** by Nelson to authorize Ellefson to sign Grant Amendment No. 5. **Seconded** by VanAmburg. **Approved.**

The geotechnical review found more homes that the dike won't be able to protect. Albright estimates there are at least 20 more houses that will need to be considered for a buyout because of the revised dike alignment. The Board discussed the possibility of raising the dike height in light of the recent historic flood that was 1.5' higher than any recent flood of record. The current design allows for 3' of freeboard above the 1997 flood levels. Albright noted that if we're going to raise the dike height, we should do it now before we finalize the design. The Army Corps of Engineers (COE) and FEMA require that to be certified a dike must be a minimum of 3' above the 100-year flood elevation. These issues will be discussed at the next Technical Committee meeting.

Albright questioned if the Oakport project will still be necessary, if the COE's regional flood protection project is built to protect Fargo-Moorhead. Representative Lanning feels that the Oakport area can't wait for a federal project and supports moving forward with the Oakport Flood Mitigation project. More discussion regarding possible projects and buyouts for this area followed.

Project No. 47, Clay County Ditch No. 53. Albright plans to contact Askegaards again regarding their r-o-w issue, so the repair work can be completed this summer, as soon as conditions permit. He felt we should try to acquire some temporary r-o-w so Askegaards don't plant crops in the construction area.

Project No. 46, Turtle Lake Outlet. Opsahl reported that both lake elevations (Turtle and Long) are up. Turtle Lake is at elevation 1362.6, or about 1.3' over the DNR amended permit. The project will not be

started until downstream flooding is over. Some complaints about the lake levels have been filed, and some homeowners are sand bagging to protect their beaches.

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. One possibility is to install a plastic liner in the culvert. Jones needs to locate the source of the seepage before he can address the issue. The Board discussed the widespread benefits for the diversion project.

A meeting has been scheduled for 4/16/09 at 6:00 PM in the Hawley City Hall to discuss the Buffalo River Stream Bank erosion issue with the Hawley City Council, Eglon Township, the Hawley Golf Course, the DNR, landowners, and the BRRWD.

Project No. 1, Wilkin County Ditch No. 22, Lateral No. 2. The structure hearing for County Ditch No. 22, Lateral No. 2 will be held on Thursday, April 23, 2009, at 7:00 PM, in the Comstock Community Center.

Wolverton Creek/Comstock Coulee CWL Project. A landowner informational regarding the Wolverton Creek/Comstock Coulee Clean Water Legacy (CWL) project has been scheduled for 8:00 PM on Thursday, April 23, 2009, in the Comstock Community Center.

Mediation Project Team (PT). The next PT meeting is scheduled for 5/28/09.

Revised Watershed Management Plan (RWMP). Mark Deutschman, H.E., and Brian Dwight, Minnesota Board of Water and Soil Resources (BWSR), will meet with the COE to discuss how the plan can address their Points of Concurrence. We filed a request with BWSR to extend our RWMP completion deadline until 12/31/09.

Clay County Ditch No. 49. The Viewers need to finish their field review, and then the Board will schedule a continuation hearing to finish the redetermination of benefits. The Board plans to hold an informational meeting regarding the structure changes following the Redetermination hearing.

Minnesota Statutes Annotated (M.S.A.) 103D.905, Subd. 3. Albright has not had time to work with Joel Carlson, BRRWD Lobbyist, regarding the extension of our increased taxing authority under this statute. Robert Zimmerman, City of Moorhead, discussed this issue with Representative Morrie Lanning and encouraged him to support the BRRWD's request for the increased funding. If the COE continues their Phase 2 feasibility study for a regional flood control project, the City of Moorhead will be asking the BRRWD to help Moorhead with their share of the study costs.

Earth Week Lecture. Concordia College is sponsoring a lecture by John Jaschke, BWSR Executive Director, on Thursday, April 16, 2009, at 7:00 PM, in the Knutson Campus Center, on the Concordia Campus, Moorhead. Jaschke will discuss how the Clean Water, Land, and Legacy amendment funding will affect the Red River Valley in the next 25 years.

Arvig Communications Systems (ACS). ACS provided a brochure highlighting their services for the Board's review.

BWSR Watershed Handbook. BWSR forwarded the new 2009 Watershed District Handbook for the Board's review. A copy will be kept on file in the office for reference.

Clay County Flood Insurance Study (FIS). Jones submitted a report on behalf of the City of Dilworth to take Dilworth out of the 100-year floodplain.

Moorhead Flood Maps. The Board reviewed flood maps the City of Moorhead generated showing the effects of the various flood stages on the City from possible 40'-43' crests.

Wilkin County Ditch No. 40. The DNR still plans to start work on the Lawndale Trout Stream Restoration project in 2009. The BRRWD needs to enter an Order for the project before construction can start, and the DNR still needs to address the Yaggie irrigation well issue.

United States Geological Survey (USGS). The USGS has forwarded a new funding agreement for the two Buffalo River gauges in Hawley and Sabin, which they operate cooperatively with the BRRWD and the COE. This agreement will run from 10/01/08 to 9/30/11. The BRRWD's share of the costs for three years is \$13,340. **Motion** by VanAmburg to enter into the agreement with the USGS for the stream gauge operation. **Seconded** by Hanson. **Approved.**

COE Wetland Delineation Training. The COE is offering a 4-day course on wetland delineation procedures in Minneapolis/St. Paul on April 27-30, 2009. The fee is \$935.00. The course will include both classroom lecture and field training.

BWSR Report. The Board can go through this report regarding Project No. 61, Clay County Ditch No. 11 North at the upcoming hearing on 4/23/09.

Clay County Flood Costs. Clay County asked the BRRWD to provide flood costs to date for FEMA. Opsahl has estimated that we have spent approximately \$165,000 through the end of March.

Edward Ernst Flooding. On 3/28/09, Ernst filed a complaint about water around his buildings from Wilkin County Ditch No. 22, Lateral No. 2. It appears that Jeff Nord farmed the ditch bank down and water was spilling out of the ditch and flowing into Ernst's farmstead. Opsahl met with Ernst, who said that the ditch will need repairs when conditions permit. Since the complaint was filed, Lateral No. 2 opened, the water has gone down, and the overtopping has stopped.

Minnesota Waters Conference. BWSR is sponsoring the 2009 Lakes and River Conference to be held May 7-8, 2009 in the Mayo Civic Center, Rochester, MN.

Becker SWCD Envirothon. The Becker Soil and Water Conservation District (SWCD) requested that the BRRWD contribute to their Area II Envirothon, which will be held 5/08/09 at the Prairie Wetlands Center near Fergus Falls. **Motion** by VanAmburg to contribute \$100 to the event. **Seconded** by Hanson. **Approved.**

Disaster Declaration. Governor Pawlenty made a Disaster Declaration for Clay and Wilkin Counties on 4/09/09. Albright expects that individual disaster assistance will be available in the near future.

Clay County Road Repairs. Clay County provided a list of locations where they are working with the DNR to repair roads. They plan to replace culverts with the same size structures and will not need BRRWD permits for this work.

BWSR Annual Reports. BWSR sent a reminder that all watershed districts are required to submit an Activity Report, Financial Report, and a Financial Audit annually. Albright noted that the office has already submitted the financial report for 2007. He added that as soon as we receive the 2008 audit from Harold Rotunda, CPA, he plans to complete the 2008 form and submit it.

The following bills were presented for approval:

| Accounts Payable | Description | Account | Amount |
|----------------------------|-----------------------------|----------------------------|----------------------|
| Barnesville Phone Co. | 3/25/09 billings | Admin | \$ 163.68 |
| Becker SWCD | Area II Envirothon | M.S.A. 103D.905, Subd. 3 | \$ 100.00 |
| Bruce E. Albright | 4/02/09 Advisory meal | Admin | \$ 393.42 |
| Bruce E. Albright | 4/10/09 Viewers' dinner | Pj. 61, Clay 11 N | \$ 40.74 |
| Comstock Community Center | 3/30/09 rental | Pj. 61, Clay 11 N | \$ 50.00 |
| Comstock Community Center | 4/23/09 rental | Pj. 1, Wilkin 22/Wolverton | \$ 50.00 |
| Comstock Community Center | 4/15/09 rental | Pj. 61, Clay 11 N | \$ 50.00 |
| Dennis Drewes, Inc. | Inv. #156, snow removal | Pj. 20, Clay 12 | \$ 5,725.00 |
| Ed Johnson, Jr. | Advisory meeting mileage | Admin | \$ 22.00 |
| Fitzgerald Const. Inc. | Flood-snow removal | Varies | \$ 16,212.41 |
| H&S Contracting, Inc. | #8397, snow removal | Pj. 14, Clay 10 | \$ 1,900.00 |
| H&S Contracting, Inc. | Inv. #8399, Mel Nygaard | Clay 36 | \$ 3,275.00 |
| H.E. | 3/02/09-4/05/09 | Varies-see attch. | \$ 95,626.66 |
| Haugen's Landscaping | #199, 2008 brush cutting | Clay 47, 55, and 58 | \$ 750.00 |
| Haugen's Landscaping | #198, 2009 Spring Flood | Pj. 38, Kragnes | \$ 1,310.64 |
| IRS | 1st Qtr. Form 941 taxes | Admin | \$ 1,282.14 |
| Jerome Flottesmesch | Advisory meeting mileage | Admin | \$ 51.70 |
| John Boen | Advisory meeting mileage | Admin | \$ 16.50 |
| Master Construction | #22768, 2009 Spring Flood | Varies | \$ 9,125.00 |
| Mattson Excavating, Inc. | #175, flood work | Varies | \$ 44,427.50 |
| Northern Technologies | #2468, 3/01/09-3/30/09 | Pj. 49, Oakport | \$ 6,176.00 |
| Petty Cash | Postage, Misc. | Admin | \$ 200.00 |
| Premium Waters, Inc. | #366590-03-09 | Admin | \$ 22.52 |
| Quill | Inv. #5811531, supplies | Admin | \$ 130.99 |
| Robert Scherzer | Advisory meeting mileage | Admin | \$ 49.50 |
| Sellin Brothers, Inc. | #8389, flood work | Pj. 03, Clay 65 | \$ 10,905.00 |
| TDS MetroCom | 4/13/09 long distance | Admin | \$ 63.25 |
| The Forum | #CL01499273, EAW | Pj. 56, Manston | \$ 20.80 |
| The Forum | #CL01498375, Notice | Pj. 61, Clay 11 N | \$ 190.80 |
| TRN Abstract & Title, R/W | Arnhalt abstracts (4) | Pj. 56, Manston | \$ 390.00 |
| Vogel Law Firm | #6439, Johnson Bankruptcy | Admin | \$ 52.50 |
| Wayne Brendemuhl | Advisory meeting mileage | Admin | \$ 38.50 |
| WREC | 2/18/09-3/19/09 service (2) | Pj. 46, Turtle Lake | \$ 320.67 |
| Xcel Energy | 4/02/09 billing (5) | Pj. 49, Oakport | \$ 344.76 |
| Ziegler Construction, Inc. | Temp dikes/pumping | Pj. 38, Kragnes | \$ 3,822.50 |
| | | | \$ 203,300.18 |

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, April 27, 2009, in the Barnesville office at 8:00 PM.

Adjournment. Chairman Ellefson adjourned the meeting at 11:30 PM.

Respectfully submitted,

John E. Hanson, Secretary