

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

BARNESVILLE, MINNESOTA 56514

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## **MINUTES FOR MANAGERS' MEETING**

**January 10, 2011**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their annual meeting on Monday, January 10, 2011, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, Gerald L. VanAmburg, John E. Hanson, Breanna Paradeis Kobiela, and Curtis M. Nelson. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik Jones, Engineer, and Julie Jerger, Administrative Assistant, Houston Engineering, Inc. (H.E.); and Steve Dalen, Pinnacle Water Management, Inc.

Chairman Ellefson called the meeting to order at 7:00 PM. He announced that the proceedings were being recorded to aid in preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes for the 8/31/09 Project No. 64, LaBelle/Boyer Lakes Outlet informational meeting. **Motion** by VanAmburg to approve the minutes. **Seconded** by Hanson. **Approved.**

**Treasurer's Report.** The Board reviewed the year-end financial reports, the current 2011 monthly statements, and the year-end transactions, which include interest allocation and account transfers. Albright reported that the accounts are all in order and ready for the 2010 audit. The office is putting together the 2010 W-2/1099 tax information for Gilbertson Tax Office. The Board also reviewed the Accounts Receivable Summary. The office has submitted two pay requests to the Minnesota Department of Natural Resources (DNR) for Project No. 49, Oakport Flood Mitigation for approximately \$600,000. **Motion** by Paradeis Kobiela to approve the Treasurer's Report and account transfers. **Seconded** by Hanson. **Approved.**

**Permit No. 11-01, Moorhead Public Service.** Applicant proposes to install a conduit for an electrical cable crossing under Clay County Ditch No. 47 in the SW<sup>1</sup>/<sub>4</sub>, Section 23, Moorhead Township. **Motion** by VanAmburg to approve Permit No. 11-01, subject to the BRRWD's standard utility disclaimer. **Seconded** by Nelson. **Approved.**

**Permit No. 11-02, Moorhead Public Service.** Applicant proposes to install a conduit for an electrical cable crossing under Clay County Ditch No. 47 in the SE<sup>1</sup>/<sub>4</sub>, Section 15, Moorhead Township. **Motion** by VanAmburg to approve Permit No. 11-02, subject to the BRRWD's standard utility disclaimer. **Seconded** by Nelson. **Approved.**

**Permit No. 11-03, Tom & Sue Jacobs.** Applicant proposes to create a pad for a new house and to create a pond in the excavation area near the Red River of the North in the SW<sup>1</sup>/<sub>4</sub>, Section 17, Wolverton Township, Wilkin County. Albright noted that Jacobs has checked with the DNR regarding dam safety specifications. The Board reviewed Jacobs' drawing of the proposal. **Tabled**, pending Jones' review and Manager field review. The Managers were concerned about the landowner's plan to build next to the Red River. They briefly discussed Cass County's setback ordinance.

**Minch Lawsuit.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 7:30 PM to discuss the status of this issue. At 7:40 PM, the Board reopened the meeting.

**Section 27, Skree Township, Clay County.** The Board has been waiting for the Natural Resources Conservation Service (NRCS) decision regarding Clayton, Craig, and Brandon Runck's wetland draining activities in Skree Township. This issue is under the jurisdiction of the Cass County NRCS office. Runck has already appealed their restoration decision. Albright suggested that the Board might go ahead with a meeting, since it appears that NRCS will not be able to participate because of the appeal proceeding. Other agencies that would be involved include Minnesota Board of Water and Soil Resources (BWSR), the Clay Soil and Water Conservation District (SWCD), and the United States Fish and Wildlife Service (USFWS). The Board reviewed wetland setback maps and discussed Runck's drainage/outlet concerns. The Board agreed to schedule an agency meeting in the near future.

**Giedt/Berg Seepage/Flooding Concerns.** Albright, Jones, Clay County Commissioner Jon Evert, and Managers Paradeis Kobiela, VanAmburg, and Hanson met with James Giedt, Richard Berg, and other landowners on 12/29/10 to discuss seepage/flooding concerns in Sections 1, 2, 3, and 4, Riverton Township, Clay County. The landowners feel that seepage from the upstream gravel pit is affecting their property. They think that if the Clay County Highway Department installed a culvert in the landfill road (160<sup>th</sup> ST N) west of the area, it might help address some of their concerns. The Board reviewed a LiDAR Map, showing area elevations. Albright noted that it might help to clean the ditch along Trunk Highway (T.H.) No. 10. Allan Milbradt, Minnesota Department of Transportation (MNDOT), has indicated that they might consider cleaning the ditch. The Board had an extended discussion regarding the landowners concerns. They agreed to revisit this issue next spring when conditions permit.

**Project No. 69, Lake Alfred Outlet.** H.E. will conduct a survey next week. Jones has prepared the Local Government Resolution for the Board's approval asking for DNR funding assistance. **Motion** by Nelson to approve the referenced resolution, which also authorizes the BRRWD Chairman to execute documents for Flood Damage Reduction Grant assistance. **Seconded** by Paradeis Kobiela. **Approved.**

**Project No. 68, Lake Jacobs Outlet.** Jones has also prepared a Local Government Resolution asking for DNR funding assistance for Project No. 68. **Motion** by Paradeis Kobiela to approve the resolution, and authorize the Chairman to sign documents on behalf of the Board, as referenced above. **Seconded** by Hanson. **Approved.**

Jim Marty has contacted the office to discuss a petition to add land to the BRRWD, so that we can help address highwater problems on Lake Annie. The area is currently not located within the BRRWD boundaries. Marty has also contacted the BWSR for information about joining the BRRWD. The Board had an extended discussion about how to handle the request from Lake Annie residents and possible outlet options. **Motion** by Hanson to authorize Jones to conduct a preliminary outlet investigation for Lake Annie. **Seconded** by Nelson. **Approved.** The Board briefly discussed other lakes with high water problems.

**Project No. 67, HRBP Lakes Outlet.** The Township contacted the office regarding open water concerns for snowmobiles at the outlet by T.H. No. 34. In response, Opsahl has installed hazard signs at the culvert. Opsahl has ordered more "Open Water" hazard signs.

**Project No. 66, Tansem/Ranum Lakes Outlet.** Albright reported that we are still waiting for a response from Wynne Consulting regarding the Hersch buyout. The DNR will provide a contract for the landowners' review. The Hersches have the option to buy back the house for 5% of the purchase price, or it will be demolished. Wynne Consulting will hire an appraiser to determine the property value.

The Board discussed the Hersches' plans to rebuild on a higher location on their property. Jones will provide survey information to them to be sure that they build above the runout elevation. The Hersches will need to work with MNDOT to obtain permission to use an existing driveway to access T.H. No. 34.

**Project No. 64, LaBelle/Boyer Lakes Outlet.** The project was stopped at elevation 1322. Boyer Lake is down about 4.5' down since the outlet was installed. Jones expects the lake will bounce about 0.5' this spring during runoff. Albright and Manager Hanson need to meet with Chad and Loren Jetvig regarding their outlet/access issues, easement, and crop damages.

**Project No. 63, Grove Lake Outlet.** The Board discussed the downstream flooding concerns on Whisky Creek west of Barnesville. There is a perception that the upstream lake outlet projects are affecting water levels on Clay County Ditch No. 34/Whisky Creek. Ellefson questioned if it would be feasible to clean snow out of our ditches/waterways this early in the season. The Board also discussed assessing an outlet fee to the upstream lake areas for access to Clay County Ditch No. 34. Ellefson pointed out that the upstream lake areas have paid taxes for many years to the BRRWD, but have never been able to drain water to the Red River until now.

**Project No. 62, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1), Branch 4.** Since the corrected tax statement notices were mailed, the office has not received any more calls regarding assessments.

**Project No. 56, Manston Slough Restoration.** The office mailed letters regarding easement options to the affected landowners. One additional landowner has already signed. Albright will have to contact the landowners who have not responded. The Board discussed possible problems regarding easement acquisition. Vogel Law Firm has started the friendly condemnation process for the Kent Rod and Gun Club property.

The project engineer, Rick St. Germain, H.E., is working on the design of the project outlet structures, which had to be altered to accommodate additional natural resource enhancement (nre) features. The addition of these features increased project costs, and the BRRWD has requested that the State fund 75% of the project costs because of the nre benefits. The DNR has asked the BRRWD to provide justification for our request. St. Germain will provide a breakdown of the nre and fdr costs for the DNR's review.

The Appraisers will be meeting on 1/13/11 to start their work. The Board would like to hold the Final Hearing in March/April to keep the project on schedule.

**Project No. 50, Cromwell Township Highwater Investigation.** The Phase 1 project was stopped when it reached its target elevation. The Board discussed obtaining the required easements for Phase 2. We may have to resort to condemnation on at least one of the properties. The BRRWD's goal is to obtain these easements this winter, so the contractor can finish the project this spring. The Board discussed the final USFWS wetland elevation. Albright and Jones will need to work with the USFWS regarding this issue.

**Project No. 49, Oakport Flood Mitigation.** A Construction Committee meeting has been scheduled for 1/14/11. The Board briefly discussed easement acquisition issues that Vogel Law is working on. Property Manager Randy Rick is heating the Dickerson house, which Lee Gray bought. Albright forwarded a Bill of Sale to Gray. To date, Gray has not contacted the BRRWD since he agreed to buy the house. We still own eight houses in Oakport. Albright suggested that the Board wait until after the spring flood to advertise the houses. John Hoffman, ICS Agency, Inc., has been in contact with Albright regarding flood insurance. The Board discussed taking flood insurance on the remaining houses. **Motion** by Nelson to authorize Albright to acquire the referenced flood insurance. **Seconded** by Hanson. **Approved.**

Ulteig Engineers, Inc. (UEI) estimates that it will take approximately \$8 million to complete the entire project. The Board discussed this new estimate. The 2010 crop damage payment for Curt Borgen is on tonight's bill list.

**Project No. 46, Turtle Lake Outlet.** Opsahl has been working on the valve replacement for the Long Lake siphon. He plans to remove the valve and reconnect the pipes and let the siphon flow without the valve. The Board discussed our options if the project can't keep up with the spring runoff and property on Turtle Lake was threatened by high water.

**Project No. 39, Georgetown Levee-Improvement.** The office has received permission to appraise forms from seven homeowners. Albright suggested that the office send request for proposals (RFP) to a number of local appraisers. **Motion** by VanAmburg to authorize Albright to solicit proposals for the Georgetown appraisal work. **Seconded** by Paradeis Kobiela. **Approved.**

The City of Georgetown has contacted Albright regarding a logjam on their Texas crossing. They would like to have the work done before the spring runoff. Opsahl has asked William Nichol Excavating, Inc., to provide a bid for the work.

**Project No. 38, Ringdikes.** Albright reported that we have received payment for three of the four Environmental Quality Incentives Program (EQIP) ringdikes. Opsahl is working on the final EQIP billing. He also plans to submit the non-EQIP ringdike bills to the Red River Watershed Management Board (RRWMB). The RRWMB still has 2010 funds left over, and we hope to be reimbursed for our ringdike expenditures.

**Project No. 32, Hawley EDA Diversion.** The Appraisers are scheduled to meet on 1/13/11 to work on the redetermination of benefits.

**Project No. 30, Clay/Wilkin Judicial Ditch No. 1.** The Board needs to meet with Dean Paschke regarding his request for the BRRWD to remove the temporary 24" dia. restrictor plate on the culvert in C.R. No. 3 in the southwest corner of Section 5, Deerhorn Township.

**Project No. 29, Log Jams.** Albright noted that he expects to receive the final NRCS log jam payment soon.

**Project No. 1, Wilkin County Ditch No. 22, Branch No. 1.** Edward Ernst and Brian Kritzberger filed a ditch repair request to clean Lateral No. 1 with a laser, starting at 200<sup>th</sup> AVE and going west (downstream) as far as needed to drain standing water in the culvert at 200<sup>th</sup> AVE. Albright will check with landowners to see if they want to proceed with an improvement project on Lateral No. 3.

Albright noted that he, Jones, and Opsahl plan to meet on Wednesday this week to go through all the pending project work and put together a "to-do" list. Jones noted that work items should also be prioritized and grouped to expedite the work and conserve funding.

**Mediation Project Team (PT).** The next PT meeting is tentatively scheduled for Thursday, February 17, 2011, at 1:30 PM, MSUM Science Center. A landowner/agency informational meeting for the South Branch of the Buffalo River project will be held on Thursday, January 27, 2011, at 2:00 PM in Hildebrand Hall, Assumption Church, Barnesville. H.E. will assist the office with the mailing list. The office will prepare a pay request for the December PT expenses.

**COE Metro Flood Study.** The Fargo-Moorhead Diversion Task Force meeting is scheduled for 1/13/11 at 3:30 in the Fargo Council Chambers. The Board discussed local landowners' concerns regarding the new upstream retention proposal.

**RRWMB.** Representatives from the RRWMB would like to set up meeting with City of Moorhead to discuss the BRRWD's membership. The Managers were concerned that we be notified about any meetings that are held.

**Red River Basin Commission (RRBC) Long Term Flood Solutions (LTFS).** Albright will schedule a meeting for the Board to meet with Rick St. Germain, H.E., to review the results of retention study. H.E. investigated possible sites that could provide a 20% flow reduction for selected gauging points on the Red River of the North.

**Integrated Storage "Waffle" concept.** Steve Dalen, Pinnacle Water Management, would like the BRRWD to consider being the lead agency for the implementation of a pilot project for the waffle concept. He felt that the Wolverton Creek/Comstock Coulee area or the Sabin Coulee would be a good area to locate a potential pilot project. He encouraged the Board to appoint a committee to discuss the waffle concept with Bethany Kurz, Energy & Environmental Research Center (EERC). Ellefson explained that he met with Dalen today to discuss the timing of the project development. Dalen would like to schedule a time for some of the Board members to meet with him to review their workplan. Ellefson feels that once the BRRWD workload is reduced, we could reconsider taking a lead agency role in a year or two. Dalen feels that the BRRWD would be a good potential project sponsor, and he and Kurz would be willing to wait for the BRRWD to have time to allocate to this potential project. The Board had an extended discussion regarding the distributive storage and about meeting with Dalen to review the concept workplan to provide input regarding their potential project. **Motion** by VanAmburg for the Managers to meet with Dalen to review the concept workplan sometime in February. **Seconded** by Hanson. Nelson **opposed**. **Approved**. VanAmburg and Paradeis Kobiela along with Jones and Albright volunteered to attend the meeting. Ellefson would also like to attend if his schedule allows.

**Becker County Ditch No. 5.** A hearing regarding the USFWS structure for the wetland restoration upstream of the Amer Froyland/Todd Branden Dam has been tentatively scheduled for 4/05/11 in the Audubon Community Center.

**28<sup>th</sup> Annual RRBC Land & Water International Summit Conference.** The RRBC has scheduled their annual conference for January 18-20, 2011, Ramada Plaza & Suites, Fargo, ND. Albright will make a presentation titled, "Managing Highwater Lakes and Wetlands in Minnesota", on Thursday afternoon. Reservations have been made for Managers Hanson, VanAmburg, and Nelson.

**Social Indicators Survey.** Reminder postcards will be mailed this week to those who have not returned their surveys. The University of Minnesota will handle the survey tabulation.

**Clay County Ditch No. 49.** H.E. is working with the Clay County Highway Department on plans for the centerline structure replacements. When completed, the information will be submitted to the State for funding cost share.

**New Office.** The Board reviewed a letter that Rick Gunderson, H.E., prepared to request letters of interest from local architects to provide architectural services for our new building. **Motion** by Paradeis Kobiela to authorize Albright to send the letter, requesting proposal from local architectural companies. **Seconded** by Nelson. **Approved**. The Board discussed heating alternatives for the new building.

**Anderson Wetland Restoration.** The Army Corps of Engineers (COE) has finally made a determination regarding the available credits for the Anderson wetland restoration. Mark Aanenson, H.E., will prepare a status report for the Board's review.

**Ducks Unlimited (DU) Representative.** Albright noted that Adam Phillips, Biologist, DU, has resigned his position.

**Annual Drainage, Wetland, and Natural Resources Regulation Conference.** Rinke Noonan Law Firm is presenting the referenced conference on February 3, 2011, in the St. Cloud Civic Center.

**42<sup>nd</sup> Annual Intergovernmental Retreat.** The Board was invited to attend the Intergovernmental Retreat on January 28, 2011, at the Moorhead Area Conference Center, Courtyard by Marriott. The registration fee is \$45, and the deadline is 1/21/10.

**PERA Report.** The office has prepared the Public Employees Retirement Association (PERA) Annual Exclusion Report form and Certificate for the Board's signature.

**Annual Government Finance Report.** The office will submit the 2009 financial report this week.

**Barnesville River Watch.** The River Watch Team will be presenting their 2010 sampling results on Wednesday, January 26, 2010, in the High School Library at 1:00 PM.

### **2010 BRRWD Annual Meeting.**

**Election of 2011 Officers.** Chairman Ellefson stated that he would like to decline the Chairmanship. He felt it would be better if someone new filled this position. After an extended discussion, **Motion** by Nelson to nominate VanAmburg as BRRWD Chairman. **Seconded** by Paradeis Kobiela. **Motion** by Nelson to nominate Paradeis Kobiela as Vice Chairman. **Seconded** by Hanson. **Motion** by VanAmburg to nominate Nelson for Treasurer. **Seconded** by Paradeis Kobiela. **Motion** by Paradeis Kobiela to nominate Hanson for Secretary. **Seconded** by VanAmburg. Secretary Hanson cast a unanimous ballot for the 2011 Officer nominations. **Approved.** The BRRWD officers for 2011 will be as follows: Chairman-Gerald VanAmburg, Vice Chairman-Paradeis Kobiela, Treasurer-Curtis Nelson, and Secretary-John Hanson.

**2011 Financial Designation.** **Motion** by Nelson to designate Wells Fargo Bank and Midwest Bank, Barnesville, as the official 2011 BRRWD depositories, subject to the use of any other depositories within the District as needed throughout the year, provided they are FDIC insured, and to hire Gilbertson Tax Office to prepare the 2010 W-2s and 1099s. **Seconded** by Paradeis Kobiela. **Approved.** The 2011 Internal Revenue Service standard mileage allowance rate has been set at \$0.51.

**Appointment of 2011 Consultants.** Jones presented H.E.'s 2011 proposal for engineering services. The individual staff members will remain the same with the addition of new staff members to assume some of the workload. The fee schedule reflects about a 3% increase. The Board discussed H.E.'s proposal. Harold Rotunda, Certified Public Accountant (CPA), submitted a letter of agreement regarding his services to conduct the 2010 audit. He indicated that the fee for his services would remain at \$1,900. The Board also discussed Lobbyist Joel Carlson's contract, which is on a 2-year basis. Vogel Law Firm has indicated that they wish to continue as the BRRWD Legal Consultant, but did not submit a formal proposal prior to tonight's meeting. **Motion** by VanAmburg to appoint H.E. as the BRRWD's 2011 engineering consultant, Joel Carlson as the BRRWD Lobbyist for 2-year term at the same rate as his previous contract, Vogel Law Firm as the 2011 legal consultant on an as needed basis at the BRRWD discretion, subject to receipt of their formal proposal, and to hire Harold Rotunda to complete the 2010 audit at the same rate as last year. **Seconded** by Nelson. **Approved.**

**BRRWD Annual Reports.** Albright commented that the office plans to work on the 2010 annual report, and it is his goal to work on the annual reports for previous years that have not yet been completed.

**BRRWD Advisory Committee.** Albright suggested that we should schedule our annual Committee meeting in March, so we'll be done with it before the spring flood. The Board discussed changes in Committee membership.

**Viewers/Appraisers Payment Rate.** The Board discussed increasing the Viewers' per diem rate to \$15.00/hour or a maximum of \$75.00/day. **Motion** by Nelson to approve the referenced rate increase. **Seconded** by Paradeis Kobiela. **Approved.**

**The following bills were presented for approval:**

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
A.C. (Curt) Borgen	2010 crop damages	Pj. 49, Oakport	\$ 11,590.37
Breanna Paradeis Kobiela	#1033, 11/01/10-12/31/10	Varies	\$ 1,070.76
Clay Co. Auditor/Treasurer	2010 6305 Broadway taxes	Pj. 49, Oakport	\$ 770.47
Curtis M. Nelson	#1031, 11/01/10-12/31/10	Varies	\$ 1,239.26
Gary Myers	Sediment control basins	Hay Creek CWL	\$ 2,428.65
Gerald L. VanAmburg	#1032, 11/01/10-12/31/10	Varies	\$ 1,058.91
H.E.	December Billing Summary	Varies-see attached	\$ 38,278.58
IRS	4th Qtr. Form 941 taxes	Admin	\$ 569.16
John E. Hanson	#1030, 11/01/10-12/31/10	Varies	\$ 1,173.39
MN BWSR	WCA fee/BRRWD credits	Pj. 49, Oakport	\$ 1,396.63
Moorhead Area Public Schools	Intergovernmental Retreat (3)	Admin	\$ 135.00
Petty Cash	Postage, supplies, misc.	Admin	\$ 200.00
Premium Waters, Inc.	#366590-12-10	Admin	\$ 23.05
Randy Rick	10/01/10-12/31/10	Pj. 49, Oakport	\$ 380.00
Riley Bros. Const., Inc.	Phase 2, Pay Request No. 10	Pj. 49, Oakport	\$ 225,999.36
River Keepers	2011 contribution	M.S.A. 103D.905, Subd. 3	\$ 40,000.00
Robert & Darlene Yaggie	Easement options	Pj. 56, Manston	\$ 100.00
RRBC	2011 Annual Contribution	M.S.A. 103D.905, Subd. 3	\$ 25,000.00
Thomas B. Pacholke	Lot #2010-7A, deposit refund	Pj. 49, Oakport	\$ 2,250.00
Travelers Flood	Flood insurance (7 houses)	Pj. 49, Oakport	\$ 6,747.00
Ulteig	December Billing Summary	Pj. 49, Oakport	\$ 36,049.70
United States Treasury	3rd QTR Form 941 penalty	Admin	\$ 85.51
Vogel Law Firm	#50820, December billing	Clay Co. Buyouts	\$ 363.00
Vogel Law Firm	#50821, December billing	Admin	\$ 80.00
Vogel Law Firm	#50822, December billing	Pj. 39, Georgetown	\$ 588.30
Vogel Law Firm	#50823, December billing	Pj. 49, Oakport	\$ 7,126.00
Vogel Law Firm	#50825, December billing	COE FM WorkGroup	\$ 40.00
WREC	11/19/10-12/18/10 service (2)	Pj. 46, Turtle Lake	\$ 253.62
Xcel Energy	11/22/10-12/27/10 electrical (4)	Pj. 49, Oakport	\$ 59.06
			<b>\$ 405,055.78</b>

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

**Clay County Tax Levy Petitions.** Albright will prepare draft M.S.A. 103D.905, Subd. 3, petitions for the 2011 General Tax Levy and the 2011 COE F-M Flood Control Metropolitan Feasibility Study levy. He will present the draft petitions to the Clay County Board of Commissioners at their 2/15/11 meeting.

**Next Meeting.** The Board of Managers, BRRWD, will hold their next regular meeting on Monday, January 24, 2011, at 7:00 PM.

**Adjournment.** Chairman Ellefson thanked the Board for allowing him to serve as Chairman for the last several years. He adjourned the meeting at 11:05 PM.

Respectfully submitted,  
John E. Hanson, Secretary