

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

MINUTES FOR MANAGERS' MEETING May 9, 2011

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, May 9, 2011, at 8:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. VanAmburg, Roger G. Ellefson, John E. Hanson, Curtis M. Nelson, and Breanna Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator and Houston Engineering, Inc. (H.E.); Erik Jones, Engineer, and Julie Jerger, Administrative Assistant, H.E.; George Peters, John Posch, and Brian Giere, Cromwell Township Supervisors; and landowners: Gene Zsedeny, Jim Myers, Chris Stepp, Adrian Haugrud, David Watt, Mike Hustad, Charlie Siggerud, Koby Pennick, and Kevin Nelson.

Chairman VanAmburg called the meeting to order at 8:00 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 4/04/11 special meeting. **Motion** by Nelson to approve the minutes. **Seconded** by Paradeis Kobiela. **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. We currently have \$2,223,447.88 cash on hand. Since the 4/11/11 meeting, we have received \$12,583.61, primarily from insurance rebates for Project No. 49, Oakport Flood Mitigation (\$9,065.09) and the Red River Watershed Management Board (RRWMB) for February Project Team (PT) expenses (\$2,409.58). The balance is from various rent reimbursements and bank account interest. Harold Rotunda, Certified Public Accountant, will present the 2010 audit at the 5/23/11 meeting. **Motion** by Ellefson to approve the Treasurer's Report. **Seconded** by Hanson. **Approved.**

Other business brought before the Board included:

Project No. 39, Georgetown Levee Improvement. Jim Myers asked about the status of the buyout property appraisals. Albright explained that Chuck Anderson, ARC Appraisals, has a 5/15/11 deadline to complete his work. When we receive the appraisals, the office will forward the information to the landowners. Albright explained the appraisal process. There is no way to know how much funding the project will receive until the State Legislature passes a bonding bill. The Board and the City of Georgetown will develop criteria to allocate the buyout funding. Albright said that in two weeks, the Board should have more information regarding the buyouts.

Myers reported that this spring, he had water in his barn, but his house did not flood. He said that Anderson did an inspection of his property, and at that time, Anderson indicated that he was working on the property within the City of Georgetown. The group discussed project funding. Albright noted that Governor Dayton personally promised Traci Goble, Georgetown Mayor, \$3 million for the project, which is reflected in his version of the bonding bill.

Tiling Operation Concerns. Kevin Nelson discussed complaints he had heard regarding his tile operation during the 2011 flood along County State Aid Highway (CSAH) No. 18 in Spring Prairie Township. Albright noted that no one complained specifically about his tile project. The group discussed drain tile operation and the need to revise the BRRWD Rules regarding this issue. Albright commented that when

the Board takes up this topic, landowners will be an integral part of the process. The BRRWD would also hold informational meetings and a public hearing before they could change their Rules. Nelson asked when the Board thought the optimum time to restart tile projects would be. Jones advised that generally, once the crest is passed in Fargo-Moorhead, the drain tile could be back in operation.

Ellefson felt that the Board will be able to come to an understanding with the landowners regarding tile operation during flood conditions. Watt noted that there is a general attitude that tiling causes flooding. He felt that this is an oversimplification of the issue. Albright commented that some experts feel that tiling could help flooding problems.

Project No. 65, County Line Outlet. The Minnesota Department of Natural Resources (DNR) won't be able to complete their survey of the protected waters east of the United States Fish and Wildlife Service (USFWS) properties until June, as they are currently installing stage gauges on local lakes. Jones displayed a map showing his survey results. The Waterfowl Protection Area (WPA) and the USFWS wetland easement area are both about 11' deep. He discussed the BRRWD's preferred plan (Option 1) that would lower the wetlands approximately 4.5' (elevation 1105.3). The USFWS would like to bring the wetland down to elevation 1101.0 (Option 2), which would almost completely drain the wetland, or about 4.5' lower than the BRRWD's plan. Jones explained that this alternative would involve the installation of about 3,000' of 18" dia. drain tile. Option 1 would cost approximately \$229,500, and Option 2 would cost approximately \$296,300. Both estimates include lowering the wetlands to the east. Jones noted that there could be funding available from either USFWS or Ducks Unlimited (DU) to help pay the difference between the two alternatives (approximately \$66,800) if we went with Option 2. Albright noted that the next step is to send this information to the USFWS for their review and response. Ellefson felt that the project should be built this year to alleviate area landowners' high water problems. The group discussed possible cost share splits with USFWS/DU, who have indicated that their Shallow Lakes program funding might not be available until 2012/2013.

VanAmburg asked which option would work better. Jones explained that Option 2 would drain out faster because the outlet would be lower and there would be more hydraulic pressure. Jones noted that the two DNR protected wetlands lying east of the USFWS easement only have a few more inches to go before they will start to flow west. Ellefson discussed area drainage patterns. Adrian Haugrud said the culvert that Prairie View Township installed last fall through their road is partially plugged. Ellefson suggested that Haugrud notify the Township Supervisors about the condition of that culvert. Jones will forward his report to the USFWS/DU. Jones noted that if we decide to construct Option 2, an agreement should be drawn up regarding project operation. Jones will ask USFWS to provide a response by the 5/23/11 BRRWD meeting.

Mike Hustad Complaint. Albright reported that the Clay County Highway Department installed the 18" dia. culvert with a screw-type gate in County Road (C.R.) No. 27 to facilitate a controlled release of the water in the NW¹/₄, Section 6, Norwegian Grove Township, Otter Tail County, on Hustad's property, to protect downstream cropland. Charlie Siggerud discussed the history of the road and area water problems. There is an existing culvert at the ditch bottom, but it is buried/plugged. Water backs up into Hustad's property and cuts off part of his access. Siggerud said that when the new culvert was installed, it operated overnight, but in the morning, someone had closed the gate, which is now leaking. Hustad thought that the culvert should be allowed to drain down further to provide a cushion in case of heavy rainfall, etc. He wanted to know who is responsible for the gate operation, and who he should contact about the gate closure/leakage. Hustad felt that someone might have tampered with the gate.

The group discussed the elevation of the culvert and how it will be operated. Clay County Highway Department said that they installed the new culvert 30" below the road top, which is the wetland's Ordinary High Water (OHW), as established by either the Clay Soil and Water Conservation District (SWCD) or the

DNR. Albright noted that the water body is DNR protected waters. Downstream landowners called the office with concerns about water from the culvert draining onto their fields. They might want to install a tile line to drain the water off their property to Whisky Creek. Ellefson thought that the culvert could be reopened when the crop is off this fall. The group discussed the possibility that someone tampered with the gate. Hustad wanted contact information for the Clay County Highway Department to find out how they plan to operate the gate and to report that it is leaking. Albright said that he should contact Dave Overbo or Nathan Gannon, Clay County Highway Department.

Project No. 68, Lake Jacobs Outlet. Albright reported that Norwegian Grove Township Supervisors plan to meet with him tomorrow to discuss a meeting they recently held with of Minnesota Department of Transportation (MNDOT) regarding a petition to add land to the BRRWD for an outlet to Lake Annie.

Jones presented the preliminary project plans and specifications for the Lake Jacobs Outlet and discussed various proposed outlet alignments. Jones noted that Route A is the easiest and most cost effective plan with an estimated cost of \$158,800. Route B would cost approximately \$186,000. The USFWS prefers this route, as it avoids impacts to their wetland easements. The DNR signed a grant for 50% cost sharing for \$95,000 in November 2010. The group discussed a proposal to drain Lake Annie through Lake Jacobs. Appraisers could assess an outlet fee on the Lake Annie landowners to drain water through Lake Jacobs. There would also be a gate on Lake Annie, which would be closed if there is heavy rainfall or spring flooding on Lake Jacobs.

Gene Zsedeny, Lake Jacobs landowner, discussed problems the neighboring landowner has with property access and road overtopping. Albright noted that we will forward the plans to the USFWS and the impacted landowner. Jones suggested that to save time, the permitting paperwork for the Lake Jacobs project could be prepared now. He plans to submit an administrative grade and fill permit application to Otter Tail County in the hope that the project will be designated as a conservation project to avoid the conditional use permit (CUP) process. Since we will be working above the OHW, a DNR permit will not be necessary. Jones thought we may be able to get started on the project by July. Jones would also like to submit the local, state, federal (LSF) permit application. We will ask for a response from the USFWS by 5/23/11. **Motion** by Hanson to authorize Jones to contact USFWS and the neighboring landowner regarding the two project options, to submit the LSF permit application and begin easement acquisitions, and to authorize VanAmburg to sign to the LSF application on behalf of the Board. **Seconded** by Paradeis Kobiela. **Approved.**

Project No. 50, Cromwell Township. Cromwell Township officials and landowner Koby Pennick questioned the status of the project's Phase 2. Albright informed the Township representatives that Kenneth Wouters will not sign an easement, and he has consulted an attorney. All the other area landowners have signed their easements. The Board will meet with Attorney Tami Norgard, Vogel Law Firm, to discuss our options tomorrow. The group discussed the condemnation process. Brian Giere related a recent conversation he had with Wouters regarding the project. Giere feels that Wouters is most concerned with the BRRWD's trespassing on his driveway. The group discussed access and ownership of the road along Lorilee Petermann's property. Albright noted that funding is in place for the project, and the contractor is ready to go. The DNR extended our grant agreement deadline until 12/31/11. Albright thought that the project could be completed this fall.

The Clay County Highway Department would like to install a culvert through C.R. No. 114 to lower the wetlands lying north of their road through the Cromwell Township project, once it is completed, to lower water levels for Larry Elton's property.

John Posch asked if the Board normally has problems with easement acquisition for their projects. Albright said this is primarily the first time the BRRWD has had to use condemnation to acquire a project easement

since the BRRWD was established, except for a minor area associated with the Oakport project. After the Board meets with their attorney, we will be better equipped to make a decision regarding the Wouters' easement acquisition. Their main concern is protracted litigation and the concurrent expense to the BRRWD taxpayers. Ellefson went on record in support of condemnation, since he won't be able to attend the meeting tomorrow, subject to Attorney Norgard's recommendation.

Pennick hopes that the Board will proceed with the project, as the water is threatening his house and driveway, and his sump pumps are running constantly. H.E. plans to document any chronic water issues that impact human health and safety to provide to the USFWS so that they might reconsider the final wetland elevation and grant the necessary permits to operate the project. Pennick thought that the water problems on his property are probably worse than Muriel Grefsrud's concerns.

The group discussed Wouters' claims that the BRRWD didn't contact him regarding the project. Albright discussed numerous contacts with Wouters that the BRRWD initiated. The Board approved a resolution to proceed with condemnation on 4/11/11, after Wouters failed to respond by 4/01/11. The Board will make a decision regarding the condemnation after we meet with Attorney Norgard.

Permit No. 11-13, Robert J. Schulze. Applicant proposes to install a 15" dia. culvert in a dry approach off C.R. No. 25 to convey winter drainage from the upstream Kelly Nichol Wetlands Reserve Program (WRP) project in the southwest corner of Section 21, Humboldt Township, Clay County. The Natural Resources Conservation Service (NRCS) recently completed the ditch survey and forwarded it to the BRRWD. The Board reviewed the survey map. Albright will forward a copy to Schulze. **Tabled.**

Permit No. 11-35, Bob Faulkner. Applicant proposes to install a field approach with a 24" dia. culvert off 200th ST into the SW¹/₄SW¹/₄, Section 20, Tanberg Township, Wilkin County. This culvert matches both upstream and downstream culverts. **Motion** by Nelson to approve Permit No. 11-35, subject to Township approval to work within their road right-of-way (r-o-w). **Seconded** by Ellefson. **Approved.**

Permit No. 11-36, Mark Nyquist. Applicant proposes to tile the east 240' of the E¹/₂, Section 27, Glyndon Township, Clay County, to outlet to Clay County Ditch No. 12. **Motion** by Hanson to approve Permit No. 11-36, subject to our standard tiling disclaimer. **Seconded** by Paradeis Kobiela. **Approved.**

Permit No. 11-37, Clay County Highway Department. Applicant proposes to install an 18" dia. culvert in a field entrance on the ditch bottom off CSAH No. 10 in Section 23, Parke Township. **Motion** by Ellefson to approve Permit No. 11-37. **Seconded** by Paradeis Kobiela. **Approved.**

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). Dean Paschke has requested that the BRRWD remove the temporary 24" dia. restrictor plate on the culvert in C.R. No. 3 in the southwest corner of Section 5, Deerhorn Township. The Board will meet with downstream landowner Michael Peet, whose property would be directly impacted by the plate removal. Paschke has also requested that the County conduct a survey of the four culverts near his property and document their elevations. Albright will forward this request to the Wilkin County Highway Department.

Frank Schindler Culvert Request. Schindler has requested that the BRRWD enlarge the culvert on the west line of Section 33, Barnesville Township, Clay County. **Tabled.**

Project No. 69, Lake Alfred Outlet. The survey was completed last week. Jones noted that the most practical/feasible route goes through a USFWS WPA. Water is currently flowing through the wetland to Whisky Creek. He pointed out that the USFWS wetlands are not isolated. The DNR will not be able to complete the OHW determination until they are finished installing lake stage gauges.

Project No. 67, HRBP Lakes Outlet. Pete Lake was started last Monday, and the Helgeson Lake outlet was reopened today. The contractor requested the delay in order to complete some work on the Pete Lake Outlet.

Project No. 66, Tansem/Ranum Lakes Outlet. The Hersch appraisal has been completed. Hersch delivered their abstract to Vogel Law Firm. A closing is expected later this month.

Project No. 64, LaBelle/Boyer Lakes Outlet. Albright and Manager Hanson met with Loren Jetvig regarding his easement and field crossing. Albright will work on the easement language and forward it to Jetvig. Jetvig will contact the BRRWD when he is ready for work on his crossing. Both outlets are open, and the Becker County Ditch No. 9 cleanout is completed. Boyer Lake is at elevation 1323.38 and LaBelle Lake is at elevation 1311.15 with about 1' to go to the target drawdown elevation. Albright mentioned that lake residents are in favor of lowering the Boyer Lake about 5' from the all time high elevation.

Project No. 63, Grove Lake Outlet. The Grove Lake outlet has been restarted. The Lake is at elevation 1328.01 with about 3' to go to the OHW (1325).

Project 61, Clay County Ditch No. 11 North-Improvement. Wade Opsahl, H.E., has hired a contractor to complete the r-o-w seeding. The appeal period for the redetermination of benefits on Clay County Ditch Nos. 36, 40, and 60, has expired, and no appeals were filed. Opsahl has staked the r-o-w. He made some adjustments to the staking to square up fields. Albright noted that in some cases he staked less r-o-w than we acquired, but he never took more. The seeding will be completed when conditions permit.

Project No. 49, Oakport Flood Mitigation. Kris Carlson, Ulteig Engineers, Inc. (UEI), has scheduled the Phase 3C bid opening on 6/13/11 at 8:00 PM. The Legislature has yet to approve the \$1.5 million for this work. Clay County sent a letter to Kent Lokkesmoe, DNR, asking that he process the \$1.6 million already allocated to finish the existing contracts. Albright noted that we recently received a grant agreement for that amount. **Motion** by Hanson to authorize VanAmburg to sign the grant agreement on behalf of the Board. **Seconded** by Paradeis Kobiela. **Approved.**

Project No. 46, Turtle Lake. Both siphons have been restarted. Turtle Lake and Long Lake are about 2' apart. The Board reviewed lake elevation graphs.

Project No. 42, Clay County Ditch No. 67. Albright visited with Joy Stumbo regarding a redetermination of benefits, which will be conducted when time permits.

Project No. 39, Georgetown Levee Improvement. Rick St. Germain, Engineer, H.E., is working on easement drawings. Albright will meet with the City on 5/12/11 to discuss the project's schedule.

Project No. 39, Ringdikes. Funding is available for farmstead ringdikes from the NRCS Emergency Watershed Protection (EWP) program. The BRRWD has one ringdike project for Jason Wang already approved for this funding.

Project No. 32, Hawley EDA Diversion. Attorney Norgard has a conflict of interest for the potential legal action regarding the repair of the damaged 60" dia. reinforced concrete pipe (RCP). She has suggested an alternate counsel.

Project No. 1, Wilkin County 22, Lateral No. 1. The Ernst/Nord lawsuit trial is scheduled for 8/10/11-8/12/11 at the Wilkin County Courthouse. Ellefson might have to testify.

Mediation Project Team (PT). The next PT meeting is tentatively scheduled for Thursday, June 23, 2011, at 7:30 PM, MSUM Science Center. Notices will be sent.

Army Corps of Engineers (COE) Metro Task Force. The Task Force met last week in Comstock. The next Work Group meeting will be on 5/10/11 at the Fargo City Hall at 3:30 PM. The COE draft feasibility Report/EIS hearing is scheduled for 6/01/11 at 7:00 PM in Centennial Hall, Fargo.

Minnesota Association of Watershed Districts (MAWD) Summer Tour. MAWD has scheduled their Summer Tour for June 16-18, 2011, in Thief River Falls, MN. The office will make reservations for Managers Paradeis Kobiela, VanAmburg, Nelson, and Hanson.

New Office. The Building Committee met last Thursday with Architect Margaret Follingstad, YHR Partners. We would like to open bids in July. The Board agreed to authorize Follingstad to prepare the actual bid specifications, not just a proposal for bids, so all the contractors will have the same standards. **Motion** by Ellefson to advertise for bids, as referenced. **Seconded** by Paradeis Kobiela. **Approved.**

Albright met with John Murray, H.E., and he will provide a proposal for the technology specifications.

Clay County Ditch No. 33. Brian Leiseth filed a repair request for the BRRWD to investigate the installation of a centerline ditch crossing near the quarterline in Section 22, Kurtz Township. There is a natural swale through the NE¼ that is difficult to cross when wet. The Board requested a hydraulic analysis and cost estimate. The analysis has been prepared, and Albright will forward it to Leiseth for his review.

Northwest DNR Regional Director. Lori Dowling has been named as the new DNR Regional Director in the northwest region, effective 5/06/11.

Clay County Flood Buyout Project. A group of County officials, including Brian Berg, Kevin Campbell, Jerry Waller, and Tim Magnusson, approached Albright with a proposal for a potential project to buy out 34 properties in the Crestwood Subdivision and some individual homes along the Red and Buffalo Rivers. The group is considering petitioning the BRRWD to take over the project. The Board discussed funding for the potential project that could total approximately \$8 million. Clay County would be expected to provide a one-time match of approximately 12.5% (\$1 million). Albright and Managers VanAmburg and Paradeis Kobiela will meet with this group tomorrow, and we'll have more information at the next BRRWD meeting.

River Watch. The International Water Institute (IWI) has taken over the administration of the River Watch Program. A River Watch/Total Maximum Daily Load (TMDL) meeting was held in Barnesville, and they divided up the sampling sites between Hawley and Barnesville High Schools and the IWI. Chuck Fritz, IWI, provided a formal agreement/contract for the BRRWD's review and signature. The total contract amount for River Watch water quality sampling is \$11,350 (4/1/11-10/31/11), which is approximately the same amount as last year as billed by the RRWMB. **Motion** by Paradeis Kobiela to sign IWI contract. **Seconded** by Hanson. **Approved.**

Crystal Creek. The Board briefly reviewed the Northern Technologies, Inc. (NTI) soils preliminary investigation report. Jones explained that NTI recommends soil borings in order to determine soil stability/dike slopes. Jones is not willing to certify Oakport Township's proposal for Crystal Creek proposed diking project without further testing. **Tabled.**

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
3 D Specialties	2011 Flood-signage	Pj. 49, Oakport	\$ 2,675.10
Brad & Lanessa Hersch	Road construction	Pj. 66, Tansem/Ranum	\$ 500.00
Breanna Paradeis Kobiela	#1113, 3/01/11-4/30/11	Varies	\$ 1,145.82
Clay County Auditor/Treasurer	#459543, 1st 1/2 taxes	Clay Co. Buyout	\$ 919.00
Clay County Auditor/Treasurer	#463528, 1st 1/2 taxes	Pj. 39, Georgetown	\$ 42.00
Clay County Auditor/Treasurer	1st 1/2 taxes	Pj. 49, Oakport	\$ 19,236.12
Curtis M. Nelson	#1111, 3/01/11-4/30/11	Varies	\$ 1,580.09
Fitzgerald Construction, Inc.	Snow removal/2011 flood	Clay 21, 32, 55	\$ 7,685.00
Gerald L. VanAmburg	#1112, 3/01/11-4/30/11	Varies	\$ 2,127.22
Gladys & Junior Howlett	Trees	Pj. 49, Oakport	\$ 6,250.00
Greg Anderson	2011 flood-fuel	Crystal Creek	\$ 58.40
Greg Anderson	2011 flood-fuel	Pj. 49, Oakport	\$ 58.41
H&S Contracting, Inc.	#2011-00115, Broadway	Pj. 49, Oakport	\$ 1,168.00
H&S Contracting, Inc.	Flood cleanup (3)	Pj. 49, Oakport	\$ 35,190.00
H&S Contracting, Inc.	Flood cleanup/dike (4)	Crystal Creek	\$ 45,497.05
H.E.	April billing summary	Varies	\$ 93,209.57
Joe Rents	#18754, pump rental	Pj. 49, Oakport	\$ 1,145.47
John E. Hanson	#1110, 3/01/11-4/30/11	Varies	\$ 1,690.65
Kaste Seed, Inc.	#6542, Holubok	Pj. 56, Manston	\$ 6,930.78
Mac's	#005808, poly, 2011 flood	Pj. 49, Oakport	\$ 118.63
MAWD	Summer Tour registrations (4)	Admin	\$ 790.00
Oakport Township	#53184, Vogel-2011 flood	Pj. 49, Oakport	\$ 234.00
Petty Cash	Postage, supplies, etc.	Admin	\$ 100.00
RMB Laboratories, Inc.	#143846, water quality sampling	Buffalo River TMDL	\$ 800.00
RMB Laboratories, Inc.	#144157, water quality sampling	Buffalo River TMDL	\$ 296.00
RMB Laboratories, Inc.	#144369, 5/05/11 samples (4)	Buffalo River TMDL	\$ 1,669.00
Roger G. Ellefson	#1109, 3/01/11-4/30/11	Varies	\$ 1,551.93
UEI	#21428, Phase I	Pj. 49, Oakport	\$ 4,966.10
UEI	#21429, Phase 2	Pj. 49, Oakport	\$ 347.00
UEI	#21430, Phase 3	Pj. 49, Oakport	\$ 13,433.65
UEI	#21431, Phase 4	Pj. 49, Oakport	\$ 12,247.95
Westlund Excavating	Culvert repairs/2011 flood	Pj. 48, Clay 59	\$ 6,011.72
WREC	3/19/11-4/18/11 service (2)	Pj. 46, Turtle Lake	\$ 332.30
Xcel Energy	3/26/11-4/25/11 service (2)	Pj. 49, Oakport	\$ 134.26
			\$ 270,141.22

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

Next Meeting. The Board of Managers, BRRWD, will hold their next meeting on Monday, May 23, 2011, at 8:00 PM.

Adjournment. Chairman VanAmburg adjourned the meeting at 11:15 PM.

Respectfully submitted,

John E. Hanson, Secretary