

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

BARNESVILLE, MINNESOTA 56514

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## **MINUTES FOR MANAGERS' MEETING September 26, 2011**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, September 26, 2011, at 8:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. VanAmburg, Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, and Breanna L. Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, Wade S. Opsahl, Technician, and Julie Jerger, Resident Secretary, Houston Engineering, Inc. (H.E.); Tami L. Norgard, Attorney, Vogel Law Firm; Dave Moen, R L Larson Excavating, Inc.; Scott Sellin, Sellin Brothers, Inc.; Steven Johnson, Johnson Excavation; Jeff Nichol, William Nichol Excavating; and landowners: Kim Claypool, Carol Schmidt, Edward Ernst, Dean Paschke, and Jim Myers.

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.

**Project No. 65, County Line Outlet.** At 8:01 PM, VanAmburg announced that bidding was closed for the County Line Outlet project. The Engineer's estimated project cost for Alternate A was \$130,200 and \$144,200 for Alternate B.

Albright opened the bids and read the results.

<b>CONTRACTORS</b>	<b>Alternate A</b>	<b>Alternate B</b>
Barry Construction, Fergus Falls, MN	\$110,454.82	\$111,295.14
Sellin Brothers, Inc., Hawley, MN	\$135,181.00	\$138,781.00
William Nichol Excavating Fargo, ND	\$135,623.54	\$150,896.54
Steven Johnson Excavation Ottertail, MN	\$154,125.00	\$158,786.00
R. L. Larson Excavating, Inc. Hawley, MN	\$165,568.00	\$185,088.00
H & S Contracting, Inc. Moorhead, MN	\$186,079.60	\$189,427.50
<b>Engineer's Estimate</b>	<b>\$130,200.00</b>	<b>\$144,200.00</b>

Barry Construction, Fergus Falls, MN, appears to be the low bidder. Jones will tabulate the bids and provide a contract award recommendation for the 10/11/11 BRRWD meeting. Jones is still working on easement acquisition.

**Secretary's Report.** The Board reviewed draft minutes for the 8/22/11 regular meeting. **Motion** by Paradeis Kobiela to approve the minutes. **Seconded** by Hanson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Since the 9/12/11 meeting, our total receipts were \$745,133.94. The Minnesota Department of Natural Resources (DNR) forwarded

\$723,522.44 for the Project No. 48, Oakport Flood Mitigation, general expenses, and the Minnesota Pollution Control Agency (MPCA) sent \$21,511.50 for the Buffalo River Total Maximum Daily Load (TMDL) project. The balance of our income came from a rent payment associated Project No. 66, Ranum/Tansem Lakes Outlet.

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

**Project No. 62, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1), Branch 4 Improvement/Extension.** Dean Paschke discussed his concerns about his project assessments since water from his property can't enter Branch 4 because of the plugged temporary 24" dia. restrictor plate on the existing 42" dia. culvert in County Road (C.R.) No. 3 in the southwest corner of Section 5, Deerhorn Township, Wilkin County. He wants the BRRWD to remove the plate, or adjust his assessment.

Albright gave a brief history of the restrictor plate that was installed in the fall of 2002 in response to drainage concerns from Michael Peet about water problems along C.R. No. 3 following a Wilkin County Highway Department ditch cleanout project. Ellefson and Paschke discussed area drainage patterns. Ellefson felt that the restrictor plate doesn't have an effect on Paschke's property. He pointed out that the last time it was cleaned, the ditch was over-excavated, causing increased flows in the ditch towards Michael Peet's property, which has a shallow ditch that doesn't carry much water. Paschke noted that Peet probably should consider putting a larger culvert in his driveway and cleaning his ditch. Paschke felt that the restrictor plate was supposed to be only temporary and restricts drainage from his property in the W½, Section 4, Deerhorn Township. He wants the BRRWD to remove the plate and restore the historic area drainage patterns.

The group discussed how the restrictor plate has altered area drainage. Albright explained that the plate was installed in the fall of 2002 on a temporary basis to see how the ditch cleanout might affect spring flooding. Nine years later, the C.R. No. 32 road ditch is now vegetated and the plate could probably be removed. Albright provided Paschke with a copy of the 2011 Wilkin County Highway Department culvert elevation survey for C.R. No. 3 and the adjacent township road. The group reviewed the ditch survey. Albright noted that the survey shows that the culvert in Paschke's approach is set lower than the adjacent culverts.

Wade Opsahl, Technician, Houston Engineering, Inc., suggested that according to a survey he conducted, we could install a culvert through the township road (110<sup>th</sup> ST) directly into the east end of Branch 4 to help alleviate possible impacts to the Peet property. Paschke feels that the W½, Section 4, Deerhorn Township, has no benefits for the Branch 4 improvement project, unless the noted culvert is installed. Albright confirmed that the water from this section can't reach Branch 4, as assessed without the culvert. Albright suggested that we could remove the restrictor plate, and deal with any potential problems later, should they arise. Paschke pointed out that all he wants is for the ditch system to work as designed. The ditch along the south side of Section 6, Deerhorn Township, needs to be deepened. Paschke felt that the ditch improvement project helped eliminate water problems in Section 5. According to the Opsahl's survey, the installation of a 24" dia. culvert on the west side of intersection through the road to drain to Branch 4 would also help. **Motion** by Hanson to remove the restrictor plate. **Seconded** by Ellefson. **Approved.** Albright will contact Wilkin County to ask them to remove the plate.

**Project No. 68, Lake Jacobs Outlet.** The Board held an informational hearing on 9/08/11 and opened bids on 9/12/11. Johnson Excavation, Otter Tail, MN, was the low bidder at \$106,425, which was lower than Engineer's cost estimate (\$114,400). Jones tabulated the bid results and recommended that the Board award the construction contract to Johnson Excavation. Jones noted that there were still a couple of easements to acquire, and he plans to meet with the landowners this week. The Board discussed concerns that easement holders have with the project. John Boen has a number of items that he wanted added to his

easement, including concerns regarding possible Lake Annie drainage. The Managers reviewed Jones' revision of Boen's easement language and suggested further changes. Jones is also negotiating with Brian Raftevold and Erik Kari regarding tree replacement payments. Opsahl and the Appraisers conducted another review of the project last week. Opsahl explained that the road involved is considered a "public" road and is not under Township jurisdiction. This "public" status would change the Township road benefits. The Board discussed how to assess benefits for the road.

Kim Claypool and Carol Schmidt discussed their concerns regarding their project benefits based on the Appraisers' criteria that the project will increase their property's market value. The County tax assessor says that the project will not increase their property market value, so they feel that they should not be assessed for the project. Schmidt pointed out that the landowners who own lake lots should pay for the project, as they chose to build on a lake with no outlet. Some of the most impacted landowners received variances to build closer to the lake than the County ordinance typically allows. Claypool and Schmidt didn't feel they should have to pay for other people's poor choices. The group discussed the definition of benefits and the Appraisers' criteria for assessing benefits/rates. Opsahl noted that the Appraisers determined that the Claypool property should be in the lowest benefit rate, and the current benefit map coloring is incorrect. Ellefson pointed out that Claypool and Schmidt's property contributes runoff into the lake, even though the Appraisers didn't consider that criteria when assessing benefits. Albright provided the landowners with a copy of the Appraisers' Report. He pointed out that because the project was declared an emergency, the Board could move forward with the project without adopting the Appraisers' Report with the understanding that assessment negotiations will continue. The 30-day benefit appeal period will not begin until the Board adopts the Appraisers' Report. **Motion** by Nelson to award the construction contract to Johnson Excavation. The contractor can begin construction as soon as all the easements are acquired. **Seconded** by Hanson. **Approved.**

**Project No. 39, Georgetown Levee Improvement.** Jim Meyers discussed his concerns regarding his home buyout. Albright, Gabe Bladow, and Rick St. Germain, H.E., have revised the project construction budget. The Board reviewed proposed budget changes and discussed the buyout criteria/ranking. In light of the revised budget estimate, we should be able to move forward with all buyouts, as soon as we receive the state grant funding. The Board has not formally adopted the proposed buyout scoring. VanAmburg commented on the formulas Clay County and the City of Moorhead uses to acquire properties associated with their flood buyout programs. The Board discussed their appraisal policy and agreed that it would be unwise to change at this point in the process. To date, Jones noted that there has not been any response from the DNR regarding the status of the project funding.

**Project No. 1, Wilkin County Ditch No. 22-Lateral 2.** Ed Ernst discussed a culvert installation in the County Ditch No. 22-Lateral No. 2 berm. Albright and Ellefson field reviewed the inlet in the berm last spring and determined that the culvert wasn't a new installation. However, the culvert was not part of the original ditch design. Ernst felt that the culvert shouldn't be there. Albright suggested that if the flapgate is not closing properly, it could be repaired, or replaced with a screwgate. The office will research the inlet culvert origin and prepare recommendations.

**Minch Lawsuit.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 9:50 PM to discuss the status of this issue with their attorney, Tami L. Norgard. At 10:40 PM, the Board reopened the meeting.

**New Office.** Nelson met with the realtor regarding the purchase of the cabinet shop in the Barnesville Commercial Park. They indicated that they would only consider an offer of \$210,000. The Board had an extended discussion regarding new construction versus remodeling the cabinet shop. They have scheduled a meeting with their Advisory Committee prior to the 9/29/11 Annual Tour. One of the discussion topics will be the new BRRWD office options. Albright suggested that the Board authorize our architect to

prepare plans and specifications for the new building to distribute to local contractors/builders so we could have an actual idea of the new building costs. Managers Ellefson and Nelson felt that we should move forward with the acquisition of the cabinet shop. They agreed to wait for guidance from the Advisory Committee.

**Permit No. 11-133, Roger Winter.** Applicant proposes to install two sediment basins and tiling in the SE $\frac{1}{4}$ , Section 18, Callaway Township, Becker County, to prevent erosion. **Motion** by Hanson to approve Permit No. 11-133. **Seconded** by Nelson. **Approved.**

**Permit No. 11-135, Richard Shaw.** Applicant proposes to install a private neighborhood ringdike in Oakport Township, and to install a berm in his front yard. Shaw also has submitted a request to obtain fill from the BRRWD Oakport project for this work. **Motion** by Paradeis Kobiela to approve Permit No. 11-135 and the request for fill. **Seconded** by Ellefson. **Approved.** VanAmburg signed the fill request form. The office will forward the form to Shaw tomorrow.

**Permit No. 11-123, Shawn Norman.** Applicant proposes to replace and lower an existing 30" dia. culvert in C.R. No. 176 about 18" in the SE $\frac{1}{4}$ , Section 22, Manston Township, Wilkin County. Norman also wants to clean the ditch to match the culvert grade. Opsahl and Ellefson field reviewed the site on 8/23/11. There appeared to be no problems with the proposal. **Motion** by Ellefson to approve Permit No. 11-123, subject to approval from Wilkin County to work within their road right-of-way (r-o-w). **Seconded** by Hanson. **Approved.**

**Permit No. 11-115, Orlen Valen, Jr.** Applicant proposes to replace an existing 24" dia. culvert with a 30" dia. pipe along the west line of the NW $\frac{1}{4}$ , Section 18, Alliance Township, Clay County. **Motion** by Nelson to approve Permit No. 11-115, subject to downstream landowner approval and Township permission to work within their road r-o-w. **Seconded** by Paradeis Kobiela. **Approved.**

**Permit No. 11-132, Gerald Zimmerman.** Applicant proposes to install pattern tiling in the E $\frac{1}{2}$ NE $\frac{1}{4}$ , Section 5, Elmwood Township, Clay County, to outlet to C.R. No. 12 road ditch to improve crop productivity. The outlet design will allow for subsurface water retention during drought conditions. **Motion** by Ellefson to approve Permit No. 11-132, subject to Manager field review and our standard tiling disclaimer. **Seconded** by Nelson. **Approved.**

**Permit No. 11-114, Cristian Anderson.** Applicant proposes to install random tiling to outlet to wetland areas in the W $\frac{1}{2}$ NW $\frac{1}{4}$ , Section 6, Highland Grove Township, Clay County, and in the S $\frac{1}{2}$ NE $\frac{1}{4}$  and the E $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 32, Goose Prairie Township, Clay County. **Motion** by Hanson to approve Permit No. 11-114, subject to our standard tiling disclaimer. **Seconded** by Nelson. **Approved.**

**Clay County Ditch No. 49.** Jones submitted Pay Request No. 1 for Johnson Excavation in the amount of \$59,632.47 for the centerline structure replacements. **Motion** by Ellefson to approve the referenced pay request. **Seconded** by Paradeis Kobiela. **Approved.**

**Project No. 65, County Line Outlet.** The Board has scheduled a landowner informational meeting for Monday, October 3, 2011, at 7:00 PM. The Board briefly discussed easement acquisitions.

**Expanded Watershed District.** Wilkin and Otter Tail Counties have scheduled a meeting to discuss possible watershed district formation/expansion options on Wednesday, October 5, 2011, at 6:30 PM in the Rothsay Community Center.

**Project No. 37, Clay County Ditch No. 41, Lat. 1.** Mike Astrup submitted a repair request for an 18" x 68' corrugated metal pipe (CMP) with apron in Moland Township. The estimated cost for the work is \$4,100. **Motion** by Nelson to approve the referenced repair. **Seconded** by Hanson. **Approved.**

**Project No. 14, Clay County Ditch No. 10.** Ryan Nelson submitted a request to install a 24" x 75' CMP with a flapgate in the southwest corner of Section 9, Morken Township. The estimated repair cost is \$4,000-\$4,500. **Motion** by Hanson to approve the referenced repair. **Seconded** by Paradeis Kobiela. **Approved.**

**Project No. 71, City of Moorhead.** Jones filed the Engineer Report. The Board discussed the proposed project. **Motion** by Paradeis Kobiela to accept the Engineer's Report. **Seconded** by Nelson. **Approved.**

**Office Staff.** The Managers briefly discussed adding office staff.

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

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Anderson Electric LLC	#2437, office lights	Admin.	\$ 475.00
Barnesville Phone Company	9/25/11 billings (2)	Admin.	\$ 21.11
Haugen's Landscaping, Inc.	#132-2011 spring flood repairs	Varies	\$ 787.50
Steven Johnson Excavation	Pay Request No. 1	Clay Co. Ditch No. 49	\$ 59,632.47
Vogel Law Firm	#69548, August billing	Admin.	\$ 164.00
Vogel Law Firm	#69549, August billing	Pj. 49, Oakport	\$ 164.00
Vogel Law Firm	#69550, August billing	COE FM Diversion	\$ 943.00
Westlund Excavating	Repairs/beaver control	Clay 41, 11, 41	\$ 1,705.00
Wm. Nichol Excavating, Inc.	Repairs	Pj. 30, Clay/Wilkin J.D. 1	\$ 8,143.00
			<b>\$ 72,035.08</b>

**Motion** by Nelson to approve the bills. **Seconded** by Hanson. **Approved.**

**Next Meeting.** The Board of Managers, BRRWD, will hold their next regular meeting on Tuesday, October 11, 2011, at 8:00 PM. Please note that the traditional meeting date is changed in observation of Columbus Day (10/10/11).

**Adjournment.** Chairman VanAmburg adjourned the meeting at 11:25 PM.

Respectfully submitted,

John E. Hanson, Secretary