Pursuant to Minnesota Statues Annotated (M.S.A.) 103D.745, and any other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held the Final Hearing for BRRWD Project 73, Country Heritage Ditch Erosion Control on Wednesday, October 3, 2012 at 7:30 PM in the Moorhead City Hall Council Chambers. BRRWD Managers present were: Gerald L. Van Amburg, Breanna Paradeis Kobiela, and Curtis Nelson. Others attending included: Bruce E. Albright, BRRWD Administrator and Houston Engineering, Inc. (H.E.); Wade Opsahl, and Erik Jones, H.E.; Kris Carlson, Ulteig Engineers Inc. (UEI) Arvid Thompson, Lauren Peterson, and Eddie Bernhardson, Appraisers; and landowners: Tracy Hazelton, Mike Staber, Vickie Staber, Phillip Grinder, Donald Tang, Sherri Farwell, Randy Farwell, Carolyn Kastella, Jim Kastella, Katrina Skaurud, Robb Reierse, David Reierson, Darin Haugen, Gladys Howlett, and Diane Reveling.

BRRWD Chairman Gerald L. Van Amburg called the Hearing to order at 7:30 PM. He indicated that tonight's meeting was for Project 73, Country Heritage Ditch Erosion Control. Van Amburg introduced the BRRWD Board, engineering staff, and Appraisers. He said that Albright will give a history of the events leading up to tonight's hearing and that Erik Jones, H.E., will present the Engineer’s Report. Albright distributed a sign-up sheet and advised the audience that the meeting is being recorded to assist in the preparation of the minutes, which will be on file in the BRRWD office. He noted that members of the audience having questions should state their name for the record.

Albright gave a history of the Watershed District and an overview of the Oakport Flood Control Project. He noted that Phases 1, 2, and 3 have been completed and that Phase 4 will be completed when funding is secured through the State of Minnesota. Approximately $5 million is needed to finish Phase 4. Albright explained that the constructed levees would be certified which means homeowners would realize a substantial reduction in flood insurance premium costs. Certification of the dike east of the coulee should occur after the first of the year but for those to the west of the coulee, including most of those attending this hearing, certification cannot be done until Phase 4 is funded and completed.

Albright continued by saying that when Country Heritage Addition was platted, a 40' wide drainage easement was established for the existing ditch along the south side of the development. The easement extended from 2nd Street to the coulee. With the development of the Oakport Levee Project, the eastern portion of the ditch was filled and drainage in that area was changed since the ditch no longer runs to the coulee, but instead drains into the storm water pond that was constructed as part of the Oakport Levee Project. The remaining western portion of the ditch was cleaned to remove cattails and sediment. Homeowners along the ditch felt that this cleaning made the ditch slopes too steep and rough to mow and caused additional bank slumping and cracking.

Last fall, U.E.I. evaluated options to resolve these concerns with one feasible option being to place a pipe in the ditch with an overflow channel to handle high flows. This was the preferred option at
the informational meeting held in February and Oakport Township filed the petition on March 20, 2012 in support of the project. Erik Jones (H.E.) was authorized to develop the Engineer's Report, as required by law, in cooperation with Kris Carlson (UEI) who had prepared the initial design.

Erik Jones, Engineer, H.E., used an overhead projector to present the Engineer’s Report and various area maps, which are on file in the BRRWD office for public review. Based on the International Water Institute’s LIDAR contours maps and field review, the drainage area for the project is 160 acres. Jones explained that he reviewed previous designs completed by Kris Carlson and worked with Carlson to make some small revisions to the plans. Jones described the project. The preferred alternative involves the installation of a 24” inside diameter pipe with an overflow channel to convey flooding discharges. The existing ditch would be filled with the pipe being installed under the north slope of the overflow channel. Raising the bottom of the existing ditch will allow a flatter mowable slope for the residents along the north side of the ditch. The overflow channel consists of a 10-foot bottom width with 4H:1V or flatter sideslopes. A 36” CMP culvert through 2nd Street meters the flow into the channel. Jones said that the channel is expected to handle the 100-year flow in the channel in a non-erosive manner. Low flows will use the 24” pipe and high flows will utilize the overflow channel.

Jones reviewed an itemized opinion of probable costs for the project. The project is estimated to cost $80,500. Jones anticipated that the project would be bid with alternatives using either HDPE Dual-wall tile pipe or concrete pipe in order to determine the least cost alternative.

The Engineer's Report was sent to the Minnesota Department of Natural Resources and the Minnesota Board of Water and Soil Resources (BWSR) for their advisory comments.

Albright noted that dirt is available from the levee project to construct this project and that the actual cost of the project will be known once bids are received. Albright discussed the itemized cost estimate noting that some expenses may not be incurred, some expenses could be less than estimated, and some may be slightly higher. If the project does proceed, weather permitting, it may be possible to get it done yet this fall. Albright also informed the audience that, at the 9/24/12 meeting, the BRRWD Board of Managers approved a $7,500 contribution to the project.

The following report was read by Eddie Bernhardson who was one of the Appraisers on this project.

In accordance with Minnesota Statutes Annotated (M.S.A.) 103D.725, and any other applicable statutes, we herewith submit the following Appraisers' Report:

**Benefits Statement**

This report covers the determination of benefits for the Project No. 73, Country Heritage Drainage Improvements, which is being developed by the BRRWD in accordance with Minnesota Watershed Law. The basis for determining our benefits is a comparison of the conditions expected with the proposed project with those that exist today.

Over the past several years, residents along the platted drainage ditch have complained to the BRRWD and Township regarding the condition of this ditch. The BRRWD held an informational meeting at the Oakport Town Hall on 02/07/12 to discuss these problems, and possible solutions studied by Ulteig Engineers, Inc. (UEI). On March 20, 2012, the BRRWD received a petition from
the Township seeking development of the project. The appointed engineer, Houston Engineering, Inc. (H.E.), filed their initial study of the project on April 23, 2012.

We (Lauren Peterson, Arvid Thompson, and I, Eddie Bernhardson) were appointed by the BRRWD to determine the benefits for the proposed project. We took our Oath of Office and held our first meeting on April 3, 2012. On 06/07/12, we toured the project area. We continued our work on September 6 and September 21, 2012, and filed our report on 9/24/12. The proposed project has been described earlier by Erik S. Jones, Engineer, H.E., and this is the project for which we have determined benefits.

The basis for our benefits started with the County's assessed property values, which were adjusted to reflect the value for areas solely within our benefit boundaries. For those lands within the project drainage area, we then took these values times various rates (10%, 2%, and 0.25%) to establish individual benefits.

Supporting documentation for our analysis and conclusions of the Report are contained in our files and are available for inspection.

The figures stated within our Report are based on a full and fair consideration of all pertinent facts and information that we were aware of at the time of our work. The following aids were used during our review process:

1. Clay County soil survey manuals and maps
2. FSA aerial photographs
3. USGS topographical maps
4. Sales data and market values from the Clay County Assessor's Office
5. Visual inspections of the project properties
6. LiDAR data
7. Design report for Project No. 49, Oakport Flood Mitigation

We understand that costs for the project will be assessed against benefited properties, with a $7,500 contribution approved by the BRRWD on 9/24/12 through their M.S.A. 103D.905, Subd. 3, account. Historically, local assessments have been financed either by the BRRWD (2-3 year period) or through a bond sale that could run over a 7-10 year period. We were told that the total estimated project costs are $80,500. In our report, we found benefits of $114,362 for private lands, $13,500 for road benefits, and total benefits of $127,892. The estimated local share of the project costs, minus the BRRWD contribution, is $73,000. The project multiplier (locals costs divided by total benefits) is 0.57. This multiplier can be used to estimate an individual's costs. Please understand that the costs are estimated, with hopes that actual bids might be lower.

The benefit values are based upon an increase in the property's value as a result of constructing the drainage improvement project and reconciled with sales value increases. All present land use was evaluated under estimated best land management practices.

Road benefits were determined with consideration of the drainage going to the project and reduced future maintenance costs that will be realized after construction of the project. Clearly, without the project, the local homeowners will need to continue to address their erosion/slumping concerns, and proper sloping of the ditch within the designated right-of-way, would place the edge of the ditch by their homes, leaving them no back yards.
We started our review by looking at the project's watershed, or the area needing said ditch for an outlet. MN Drainage Law directs the appraisal process to look at this larger area. We realize, the ditch exists today, but is considered an "orphan", with no responsible agency/organization that handles the maintenance. We also acknowledged that the only parties complaining about the existing ditch are the four homeowners with property adjacent to said ditch. Of our total benefits, we have the following breakdowns:

- 10% benefit rate (shown red on maps) $83,520, or 65% of the total
- 2% benefit rate (shown yellow on maps) $5,777 benefits, or 4.5% of the total
- 0.25% benefit rate (shown green on maps) $25,065 benefits, or 19.5% or the total
- roads $13,530 benefits or 11% of the total

We feel there will be questions, especially from the drainage area, as to what benefit the project will provide, understanding that "my water drains there now". In response, we feel the area does benefit, for several reasons. First, having someone claim ownership of said ditch, with future maintenance responsibilities, is a benefit. We question what will happen someday when the ditch no longer properly drains the area. People will be right back where we are tonight, with a problem and no solutions. Secondly, lining the existing ditch with a buried concrete pipe will lower future maintenance costs.

For the homeowners along said ditch who have complained in the past about the ditch's condition, while our proposal has you paying for 65% of the project costs, we also feel you are the ones who will receive the greatest benefit from the project. While the 40' platted public right-of-way areas will not go away, once the project is installed, you can basically reclaim this area, properly mow and maintain the area, and the slumping problems that exist today will no long exist. This area on each of your lots is approximately 0.18 acres. Your use of this area as green space, versus an open channel ditch that comes near the back of your homes, has a greater value than your proposed costs.

We would be happy to answer any questions you may have regarding our work or findings, and we are pleased to be of service to the Board in this regard. We feel the project is conducive to the public's health, does promote the general welfare of the area, is in compliance with MN Watershed Law, and from our report, the projected benefits are greater than the estimated project costs.

Chairman Van Amburg then called for questions from the audience. Randy Farwell, who lives along the ditch, commented that owners have always lived with the ditch and the erosion and slumping problems began after the cleanout work was done. He felt the contractor used the wrong equipment to do the work and the contractor made the condition of the ditch worse. Mike Staber stated that he was not against the project or the assessment. He felt that the contractor doing the cleanout did as he was instructed by UEI and by putting weight on the outside edge of the ditch slope, fractured the ditch bank slope causing it to be unstable. He added that UEI should contribute toward the cost of the project. Kris Carlson (UEI) stated that he did not have the authority to authorize a contribution by UEI but that he would forward these concerns. Staber continued by explaining that the contractor straddled the ditch with the excavator and that method created the problem. Tracy Hazelton concurred with Staber and commented that the BRRWD did not have responsibility for the ditch cleaning but was contributing $7,500 and that UEI should contribute the same.
Albright commented that homeowners in the area are currently being assessed on a number of different projects. He said UEI could be asked to consider a contribution towards the project and that perhaps Carlson could have a response from UEI by the next BRRWD Board meeting on 10-09-12. Albright read comments received from Jeff Schaumann who objects to the project and requests that the project be terminated. Albright stated that terminating the project is an option and if the Board makes that Order, it is subject to appeal just as an Order to continue the project can be appealed. Should the Board dismiss the petition; a bill will be sent to Oakport Township for $10,171.24, as it is the responsibility of the petitioners to cover any costs incurred. He added that it is not the role of the Watershed to direct what should be done but rather to look at all available options.

Mike Staber again stated he felt the project should be built as the ditch is a problem. He added that he and others will pay their fair share and that UEI should help.

Donald Tang spoke of his other current assessments and his approval of the new blacktop road. Randy Farwell commented that something has to be done to improve his back yard along the ditch. He went on to say that, either this project is done or he will have to hire someone to make the improvements. Chairman Van Amburg stated that the final project cost would depend on a number of factors. Members of the audience also voiced concerns about their property values increasing over the past several years. Albright suggested waiting to hear from UEI for their willingness to contribute to the project. He also suggested putting the project out for bid to realize the actual cost. The Board could consider financing the project for a few years to offset the financial burden especially to the four homeowners. Albright explained the benefits of the ditch becoming a Watershed project and the possibility of the project moving forward this fall.

Chairman Van Amburg summarized by saying there would be follow-up with UEI and the project would be put out for bid. He asked if there were any additional comments or questions. There being none, the hearing was recessed at 8:50 PM.

Respectfully submitted,

Bruce E. Albright, Office Administrator