

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

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MINUTES FOR MANAGERS' MEETING April 22, 2013

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a regular meeting on Monday, April 22, 2013, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, Breanna L. Paradeis Kobiela, Peter V. Fjestad, and Troy E. Larson. BRRWD Staff attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Julie Jerger, Resident Secretary, Houston Engineering, Inc. (H.E.); and landowners: Clayton Runck, Lannie Runck, Justin Klemetson, Mike VanValkenburg, and Jeff Nord.

Chairman Van Amburg called the meeting to order at 7:03 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 1/30/13 regular meeting and the 6/28/12 Project No. 74, Clay County Ditch No. 51-Lateral Preliminary Hearing. Nelson noted one minor correction to the 6/28/13 minutes. **Motion** by Nelson to approve the minutes, subject to correction. **Seconded** by Fjestad. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. We have received \$97,207.02 since the 4/08/13 meeting including \$93,637.75 from the City of Moorhead for Project No. 71, 50th AVE S Flood Control, and \$3,581.93 from Otter Tail County for delinquent ditch/project and property taxes. The Midwest Bank operating loan balance is -\$308,330.04. The loan matures on 5/01/13, and Albright plans to meet with the new Midwest Bank loan officer to extend the loan. Auditor Harold Rotunda has completed the draft 2012 Audit and will present it to the Board at their 5/13/13 meeting.

Albright plans to meet with Carolyn Drude from Ehlers and Associates, Inc., BRRWD Attorney Tami Norgard, and Lori Johnson, Clay County Auditor, to investigate a possible bond sale for a number of recent BRRWD projects, including Project No. 50, Cromwell Township Outlet; Project No. 56, Manston Slough Restoration; Project No. 65, County Line Outlet; Project No. 70, Crystal Creek Flood Protection; Project No. 71, City of Moorhead 50th AVE S; Project No. 73, Wilkin County Ditch No. 22, Lateral No. 3; and Project No. 73, Country Heritage Ditch. The total bond amount could be \$1,729,187.19. A bond sale would allow us to spread out the landowners' payments, and at the same time, replenish BRRWD financial reserves. Van Amburg questioned if we could have a bond sale for the ditch systems that have negative balances. Albright said he could look into it. Transcripts will have to be prepared for the projects, including hearing minutes. The Board discussed the bond sale process, including assessment prepayment and landowner notification requirements.

Business brought before the Board included:

Section 27, Skree Township, Clay County Drainage. Clayton Runck discussed his drainage concerns. He questioned who had authority to grant permission for the installation of culverts in Township roads. Albright said that since the Township is the road authority, they would have the final decision regarding culvert installations in their roads. In 2010, the BRRWD approved Permit No. 10-54 for Runck to install an 18" dia. culvert through 110th AVE S on the west end of the SW¼, Section 27, subject to township approval to work within their road right-of-way (r-o-w). Skree Township refused to allow Runck to install

the culvert. The Board had an extended discussion with Runck and his son, Lannie, regarding Section 27 drainage problems. The Board will schedule a meeting in the near future to discuss an overall plan for Section 27 with Runck and representatives from the affected local, state, and federal agencies, and neighboring landowners. Runck expressed concerns about the amount of water that could flow west this spring towards Herb Nelson's house. The referenced culvert would have redirected some of this water to the south side of the road. **Tabled** until the special meeting.

Becker County Ditch No. 19. Justin Klemetson and Mike VanValkenburg discussed their concerns about the 2013 ditch assessment the Board levied for the County Ditch No. 19 system. In June 2007, the office received an abandonment petition for County Ditch No. 19. At the 4/14/08 abandonment hearing, the Board denied the abandonment petition and agreed to conduct a redetermination of benefits for County Ditch Nos. 10 and 19. The Board also approved a \$3,437.25 contribution to the County Ditch No. 19 financial account for costs associated with a lake elevation survey to address Rock Lake concerns. The BRRWD started the redetermination of benefits process at that time, but the proceeding has been on hold for several years. Albright distributed the County Ditch No. 19 financial account sheets and an old benefit area map to the landowners. He displayed the proposed benefit map for the Board's review. He explained that he had contacted the Becker County Auditor to rescind the 2013 \$11,000 levy, but was told that it wasn't possible to withdraw the levy once it had been certified.

VanValkenburg discussed his concerns about the inaccuracies of the old benefit map. He thinks he should be reimbursed for the last two assessments (approximately \$1,600) he's received since the redetermination process started. Valkenburg feels that he was assessed unfairly because the benefit area is unfair. In 2007, the Board levied a \$10,000 assessment.

Justin Klemetson discussed the history of his property associated with County Ditch No. 19 and County Ditch No. 10. He asked the Board to explain what work had actually been done on ditch system to total the current -\$18,875.09. He agreed with VanValkenburg and thought that the BRRWD should give him a refund (approximately \$615). Klemetson has talked with his neighbors, and they claim nothing has been done on the ditch since 2008. He questioned the H.E. expenditures listed on the financial sheet.

Albright suggested that the BRRWD could provide a breakdown of project expenditures between ditch maintenance/repairs and the redetermination proceeding. Ellefson pointed out that the redetermination expenses shouldn't be assessed to the old benefit area. Jones will have a breakdown for the Board's review at their next meeting. Albright noted that Minnesota Drainage Law requires that expenditures incurred before the redetermination is adopted must be assessed to the correct benefit area (old map). **Tabled**, and a report will be filed at the 5/13/13 meeting.

Wolverton Creek/Comstock Coulee Clean Water Fund (CWF). Jeff Nord encouraged the Board to move forward on the Wolverton Creek/Comstock Coulee restoration project now that we have funding in place from the Minnesota Board of Water and Soil Resources (BWSR) CWF program. Albright mentioned that the agencies met today regarding the project and discussed their current work. Phase II CWF funding has to be spent by 12/31/13 (approximately \$138,000). Jones described current channel geometry calculations and his work with the Minnesota Department of Natural Resources (DNR) on our project permit application. An Environmental Assessment Worksheet (EAW) is also required. Albright mentioned that the BRRWD does plan to hold another landowner informational meeting this summer. Nord discussed various practices that could prevent channel erosion. He also mentioned his concerns about the Army Corps of Engineers (COE) Fargo-Moorhead Diversion Project. He feels that if the diversion goes through as proposed, he and most of his neighbors will need farmstead ringdikes.

Permit No. 13-40, New Horizons AG/CHS Inc. Applicant proposes to install a culvert in a new road for the grain elevator expansion in Section 34, Carlisle Township, Otter Tail County, at the intersection of State HWY 210 and 138th AVE. **Motion** by Hanson to approve Permit No. 13-40, subject to Manager field review. **Seconded** by Larson. **Approved.**

Permit No. 13-39, Russell Henderson. Applicant proposes to install 82.9 acres of pattern tiling in Section 3, Foxhome Township, Wilkin County, to improve crop production and soil salinity problems. **Tabled,** pending Manager field review.

Permit No. 13-38, Dirk Swanson. Applicant proposes to install 117 acres of pattern tiling in the NW¹/₄, west of Trunk Highway (T.H.) No. 75, in Section 21, Kragnes Township, Clay County, outletting to County Ditch No. 20. Albright explained that approximately 37 acres of the tract are not assessed to the ditch system. He will send a letter with a draft petition for Swanson to add the land to County Ditch No. 20. **Tabled,** pending a response from Swanson.

Permit No. 13-37, Minnesota Department of Transportation (MNDOT). Applicant proposes to replace an existing bridge in T.H. No. 75 over Wilkin County Ditch No. 31 in Section 23, Connelly Township. The existing open span bridge will be replaced with 3 lines of 12' x 11' concrete box culverts with end sections. Albright noted that the proposed Project No. 75, Wilkin County Ditch No. 31, Lateral No. 3, would also use this bridge to outlet to Whisky Creek. The County has already approved this project. Jones recommended permit approval. **Motion** by Nelson to approve Permit No. 13-37. **Seconded** by Paradeis Kobiela. **Approved.**

Permit No. 13-36, MNDOT. Applicant proposes to mill and resurface T.H. No. 75 and replace 12 culverts from the junction of T.H. No. 9 in Doran, MN, to Wilkin County Road (C.R.) No. 20. **Motion** by Fjestad to approve Permit No. 13-36. **Seconded** by Ellefson. **Approved.**

Permit No. 13-35, Rick Maier. Applicant proposes to install 65 acres of pattern tiling in the NW¹/₄, Section 6, Atherton Township, Wilkin County, outletting via gravity flow to a natural waterway to improve crop production, lower soil salinity, and control the water table. Maier is considering applying for Conservation Drainage funding. **Motion** by Ellefson, subject to our standard tiling disclaimer. **Seconded** by Fjestad. **Approved.**

Permit No. 13-19, Jim Blaufuss. Applicant proposes to install 320 acres of pattern tiling in the S¹/₂, Section 8, Sunnyside Township, Otter Tail County. **Motion** by Larson to approve Permit No. 13-19, subject to our standard tiling disclaimer. **Seconded** by Paradeis Kobiela. **Approved.** Larson contacted the applicant to discuss the project.

Permit No. 13-02, Matthew Hasbargen. Applicant proposes to install 160 acres of pattern tiling in the SW¹/₄, Section 21, Sunnyside Township, Otter Tail County, outletting via a permit into the Bois de Sioux Watershed District (BDSWD). Since part of the project is in the BRRWD, they also applied for a permit from us. **Motion** by Larson to approve Permit No. 13-02, subject to our standard tiling disclaimer. **Seconded** by Hanson. **Approved.**

Mike Yaggie Erosion Concern. The Board discussed Yaggie's concerns about erosion on the north side of a township road upstream of Wilkin County Ditch No. 3 in Sections 31/32, Akron Township, causing water to breakout northwest via a natural swale across Yaggie's field. Larson discussed the Township's concerns about the scope of the proposal and the use of their road as a ditch. Albright explained that this project could drain about 1,100 acres. Albright suggested to Yaggie that his proposed project could be a lateral to Wilkin County Ditch No. 3. He will prepare a draft petition for Yaggie's review. **Tabled,** pending a response from Yaggie.

Project No. 75, Wilkin County Ditch No. 31, Lateral. Jones is working on the Preliminary Engineer's Report.

Project No. 74, Clay County Ditch No. 51-Lateral. Albright reported that a May 6, 2012 court date has been scheduled for Attorney Tami Norgard, Vogel Law Firm, to present her arguments before Judge Cahill to have the Norby appeal dismissed. The Board reviewed Attorney Norgard's letter regarding our position that the appeal is premature because the Board has not approved the Final Order to construct the project.

Project No. 73, Country Heritage Ditch. Albright mentioned that the contractor, Steven Johnson Excavation, will probably need to have a completion deadline extension due to the late spring conditions.

Project No. 71, City of Moorhead/50th AVE Flood Control. The bid opening has been scheduled for May 8, 2013, at the Fargo H.E. office. The Board will review and possibly award the contract at our 5/13/13 meeting.

Project No. 70, Crystal Creek/McCann's Addition. Albright mentioned that a flood preparation meeting has been scheduled with Clay County, Oakport Township, and other agencies. Kris Carlson, Ulteig Engineers, Inc. (UEI), will also attend the meeting to report on road closings associated with the Oakport Project. The Board discussed what our flood protection responsibilities are for the various projects in north Moorhead. They agreed to wait until next Monday to decide when the BRRWD should mobilize for the flood protection effort. **Motion** by Hanson for the BRRWD to do what is necessary to protect the project areas in Oakport Township from flooding. **Seconded** by Ellefson. **Approved.**

Project No. 49, Oakport Township Flood Mitigation. The Board discussed flood preparations for the Oakport Township project and the issues that will be addressed at tomorrow's meeting with City of Moorhead, Oakport Township, and other local government officials.

Project No. 56, Manston Slough Restoration. The Board discussed the testimony given the 4/16/13 final hearing. Albright has a meeting with landowner Joe Wulfekuhle regarding his easement option tomorrow. He discussed Wulfekuhle's concerns about a proposed road on the dike alignment on Dennis VanWechel's property in Mitchell Township. He would prefer that the dike just remain grassed and not be maintained as a road. The area landowners and Township officials were in favor of this proposal. The Board reviewed the concerns of the landowners who haven't signed their options.

The Board discussed questions raised at the hearing regarding the Appraisers' Report. Albright explained that the Appraisers reviewed the concerns from two landowners who brought their assessments concerns to the 4/16/13 Final Hearing, and made adjustments to those benefit amounts.

Van Amburg related his discussion with the Regional Manager of the Minnesota Risk Management Agency regarding the eligibility of property under easement for crop insurance. Albright distributed a fact sheet regarding crop insurance coverage for land under project easements. In brief, to qualify for disaster coverage, losses caused by the project will not be covered. Losses not associated with the project would be covered.

The Board had an extended discussion regarding the merits of the project and if the project should move forward. Ellefson speculated about a possible smaller project. Albright pointed out that the \$350,000 Lessard-Sams Outdoor Heritage Council (LOHC) Conservation Partners Legacy Grants (CPLG) Program deadline is 6/30/13 with no further renewal options. There is a possibility that this funding could be used for easement acquisitions. If this expenditure is approved, we should be able to meet the grant deadline. Albright suggested that we could file a notice of Lis Pendens for eminent domain for the properties we are

not able to acquire, which means that the BRRWD retains the option to go to condemnation for the remaining property easements, if necessary.

Albright suggested that we could make a concerted effort to meet with the remaining landowners to acquire their easements in the next few days, and the Board could take a few days to consider their decision on the Final Order for the project. The Board agreed to hold a special meeting next week. **Motion** by Fjestad to hold a special meeting on April 29, 2013, at 7:00 PM in the Barnesville office. **Seconded** by Paradeis Kobiela. **Approved.** The Board also agreed to continue with tonight's meeting agenda at the upcoming special meeting.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Alfred Gale Trust	C.D. No. 32, R/W payment	C.D. No. 32	\$ 500.00
Alfred Gale Trust	C.D. No. 33, R/W payment	C.D. No. 33	\$ 4,650.00
Allan Shaner Trust	C.D. No. 32, R/W payment	C.D. No. 32	\$ 250.00
BD Yaggie Partnership	Easement Option	Pj. 56, Manston	\$ 100.00
Berdella Kragnes	C.D. No. 32, R/W payment	C.D. No. 32	\$ 350.00
Braton Excavating & Pumping	#1379, Aaron Carr repairs	Pj. 31, Deerhorn	\$ 100.00
Brett Benedict	C.D. No. 32, R/W payment	C.D. No. 32	\$ 25.00
Bruce E. Albright	Reimburse-04/11/13 Appraisers' meal	Pj. 56, Manston	\$ 29.66
Bruce E. Albright	Reimburse-04/18/13 Appraisers' meal	Clay 9, 32, 33 Redet.	\$ 42.42
Bruce E. Albright	Reimburse-Perkins, 4/09/13 dinner	Admin.	\$ 51.66
Craig Ramsey	C.D. No. 32, R/W payment	C.D. No. 32	\$ 125.00
CRO's Custom	#4202, wetland seed	Pj. 49, Oakport	\$ 34,175.00
Daniel J & Laurie A Moore	C.D. No. 32, R/W payment	C.D. No. 32	\$ 50.00
David Cleveland	C.D. No. 33, R/W payment	C.D. No. 33	\$ 4,050.00
Dennis & Carol Krabbenhoft	C.D. No. 32, R/W payment	C.D. No. 32	\$ 425.00
Emerson Fam. PTSHP	C.D. No. 9-R/W payment	C.D. No. 9	\$ 3,725.00
Fargo Rubber Stamp, Inc.	Board room name plates	Admin.	\$ 78.98
Francis M & Maxine M. Allen	C.D. No. 32, R/W payment	C.D. No. 32	\$ 50.00
Griffin Const. Co., Inc.	#3918, archeological investigation	Pj. 71, City of Moorhead	\$ 5,510.00
H & S Contracting, Inc.	#2013-080-Egge driveway repairs	Pj. 49, Oakport	\$ 2,536.70
HES, Inc.	10/29/12 hazardous material	Pj. 39, Georgetown	\$ 3,900.00
IRS	1st QTR Unemployment-EFT	Admin.	\$ 90.87
IRS	4/22/13 EFT Form 941-Barker	Admin.	\$ 227.47
James & Mary Lust Ostling	C.D. No. 32, R/W payment	C.D. No. 32	\$ 250.00
Jeffrey L & Sheryl L Jones	C.D. No. 32, R/W payment	C.D. No. 32	\$ 25.00
Jennifer & Victor Haugrud, Jr.	C.D. No. 33, R/W payment	C.D. No. 33	\$ 2,975.00
Jeremy S. Tischer	Easement Option	Pj. 56, Manston	\$ 100.00
Jerome & Deborah Briks	Easement Option	Pj. 56, Manston	\$ 100.00
Jimmie R. Nelson	C.D. No. 9-R/W payment	C.D. No. 9	\$ 3,250.00
Joel Carlson, Inc.	May 2013 Lobbyist fees	Admin.	\$ 850.00
John K & E Marie Leseth, RLT	C.D. No. 9-R/W payment	C.D. No. 9	\$ 6,250.00
Karlstrom Farms, Inc.	C.D. No. 32, R/W payment	C.D. No. 32	\$ 1,025.00
Karlstrom Trust	C.D. No. 9-R/W payment	C.D. No. 9	\$ 3,850.00
Key Contracting, Inc.	#2978, snow removal	Pj. 42, Clay 67	\$ 1,510.00
Key Contracting, Inc.	#2979, snow removal	Pj. 37, Clay 41-Lat. 1	\$ 3,720.00
Kory & Elissa Cooper	C.D. No. 32, R/W payment	C.D. No. 32	\$ 25.00
Krabbenhoft & Sons, Inc.	C.D. No. 32, R/W payment	C.D. No. 32	\$ 25.00
Kreps Family LTD PTSHP	C.D. No. 32, R/W payment	C.D. No. 32	\$ 200.00
Lawrence J. Ward	C.D. No. 32, R/W payment	C.D. No. 32	\$ 50.00
Leland & Eileen Vette, RLT	C.D. No. 9-R/W payment	C.D. No. 9	\$ 6,250.00

Leseth Family LLP	C.D. No. 9-R/W payment	C.D. No. 9	\$ 10,200.00
Liberty Business	#91326, contract fees	Admin.	\$ 367.98
Margaret Klinger	C.D. No. 9-R/W payment	C.D. No. 9	\$ 125.00
Margaret Liberati	C.D. No. 32, R/W payment	C.D. No. 32	\$ 250.00
Mark E. Volesky	C.D. No. 32, R/W payment	C.D. No. 32	\$ 75.00
Mark R. Nyquist	C.D. No. 9-R/W payment	C.D. No. 9	\$ 8,475.00
Martins Properties	C.D. No. 32, R/W payment	C.D. No. 32	\$ 500.00
Matthew & Jeana Krabbenhoft	C.D. No. 32, R/W payment	C.D. No. 32	\$ 25.00
Mid States Storage	May 2013 rent	Admin.	\$ 74.00
MN Revenue	1st QTR Unemployment-EFT	Admin.	\$ 550.00
MN Revenue	4/22/13 EFT MN Withholding	Admin.	\$ 36.00
Mona L. Barker	April Insurance Premium Reimb EFT	Admin.	\$ 118.91
NetWork Center	#0000021781, AV install/training	New Office	\$ 1,919.40
NetWork Center	#0000022170, ceiling mic/installation	New Office	\$ 607.80
Nokken Farms Inc.	C.D. No. 32, R/W payment	C.D. No. 32	\$ 175.00
Payroll Professionals	Barker Payroll Preparation EFT	Admin.	\$ 40.60
PERA	4/22/13 EFT Payment-Barker Payroll	Admin.	\$ 148.50
Ramona Barker	April 2013 billing-cleaning	Admin.	\$ 150.00
Ramona L. Barker	4/22/13 Payroll	Varies	\$ 851.93
Robert Allan	C.D. No. 9-R/W payment	C.D. No. 9	\$ 5,600.00
Robert E. & Joann E. Nyquist	C.D. No. 9-R/W payment	C.D. No. 9	\$ 7,975.00
Roger Brakke	C.D. No. 33, R/W payment	C.D. No. 33	\$ 6,450.00
Ronald & Laura Knoll	C.D. No. 33, R/W payment	C.D. No. 33	\$ 6,450.00
RRVCPA	03/10/13-04/10/13 (3)	Pj. 49, Oakport	\$ 256.27
TDS	04/13/13 long distance	Admin.	\$ 41.09
The Forum	#CL01719028, hearing notice ad	Clay 9, 32, 33 Redet.	\$ 230.00
Timothy J & Brian T Leiseth	C.D. No. 33, R/W payment	C.D. No. 33	\$ 12,150.00
TRN Abstract & Title	#6369763, Floberg abstract	Pj. 39, Georgetown	\$ 165.00
Vogel Law Firm	#105119, March summary	Pj. 56, Manston	\$ 1,700.50
Vogel Law Firm	#105161, March summary	Pj. 39, Georgetown	\$ 3,027.80
Vogel Law Firm	#105255, March summary	Admin.	\$ 215.00
Vogel Law Firm	#105256, March summary	Pj. 74, Clay 51-Lat. 3	\$ 4,540.59
Vogel Law Firm	#105257, March summary	Pj. 75, Wilkin 31-Lat.	\$ 257.00
Waypoint Insurance Advisors	#680, D&O policy renewal	Insurance	\$ 4,811.66
			\$ 170,057.79

Motion by Ellefson to approve payment of the bills, subject to fund availability. **Seconded** by Fjestad. **Approved.**

Next Meeting. A special meeting will be held on Monday, April 29, 2013, at 7:00 PM in our Barnesville office. Our next regular meeting is scheduled for Monday, May 13, 2013, same time and location.

Adjournment. Chairman Van Amburg adjourned the meeting at 11:00 PM.

Respectfully submitted,

John E. Hanson, Secretary