

BUFFALO-RED RIVER WATERSHED DISTRICT

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BUFFALO-RED RIVER WATERSHED DISTRICT
Becker County Ditch Nos. 10/19
Redetermination of Benefits Hearing
October 9, 2013

In accordance with Minnesota Statutes Annotated (M.S.A.) 103E.351 and any other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a redetermination of benefits hearing on Wednesday, October 9, 2013, at 7:00 PM in the Community Center, Callaway, MN, for Becker County Ditch (C.D.) Nos. 10/19. BRRWD Managers attending were Gerald L. VanAmburg, John E. Hanson, and Curtis M. Nelson. Others attending included: Bruce Albright, BRRWD Administrator, and Wade Opsahl, Technician, Houston Engineering, Inc. (HEI); Arvid Thompson, Lauren Peterson, and Eddie Bernhardson, Viewers; and landowners: Michael Walther, Phillip Bellefeuille, Wilmer R. Hultin, Matt Veronen, Brad Simon, Paul Balega, Denise Oakes, Robin Turnwall, Sanford Nelson, David B. Knopf, Justin Klemetson, August Dodd-Anderson, Andy Kemper, Matt Kemper, Alicia Kemper, Richard Hamlin, Heather Lehmann, Gary Jenson, Richard Jenson, Tony Sampair, Roger Lundberg, Ron Anderson, Dave Schiller, Carolyn Heitkamp, Gary Heitkamp, Jerod Coalwell, Scott Martinson, Alfred Honer, Brad Hanson, Kate Anderson, Steve Anderson, John Peterka, Margot Peterka, Roger Levos, John Meyer, Chris Krogsgaard, Terry Bunnis, Cecile Baer, Kathleen Brekken, Keith G. Brekken, Jeri Angelo-Rakness, James Rakness, John Brekken, Lynn Peterson, Judy Peterson, Rich Cieslak, Bruce Palm, Tom Sharbonno, David Palm, Tina Sharbonno, Judy Palm, Carolyn Kohler, Pete Randolph, Tom Holweger, Rick Norsen, Jack Hedlund, Rick Sonnenberg, Ray Sonnenberg, and Tyson Sonnenberg.

Chairman VanAmburg called the hearing to order at 7:05 PM and introduced the BRRWD Managers, Staff, and Viewers. Bruce Albright, BRRWD Administrator, announced that the proceedings were being recorded to aid in preparation of the minutes. He asked that anyone giving testimony please state their name for the record. There was also a sign-up sheet circulated to record attendance.

Bruce Albright, BRRWD Administrator, gave a brief overview of the BRRWD. He explained that after the 1975 summer flood, the citizens petitioned for an enlargement of the Watershed District, and it was at that time that Becker County was added to the BRRWD. In 1976, the BRRWD had jurisdiction over approximately 1,400 square miles (sq. mi.) in parts of Clay, Wilkin, Becker, and Ottertail Counties. Albright explained that in 2012, the BRRWD added another 400 sq. mi. to the south, including the northern half of the City of Breckenridge, and part of the Ottertail River watershed below Orwell Dam in Otter Tail County. The BRRWD currently has jurisdiction over approximately 1,800 sq. mi. He explained that the seven Managers are appointed by the County Commissioners for three-year terms. John Hanson is Becker County's representative on the BRRWD Board.

Albright explained that in 1987, Becker County transferred all their ditches within our boundaries to the BRRWD, which is permissible by Watershed Law (M.S.A. 103D.625). Both Becker C.D. Nos. 10/19 have current benefit areas that date back to the 1930s when the ditch systems were created. C.D. No. 10 connects Little Round Lake with Buffalo Lake and is about a 0.5 miles long. C.D. No. 19 was the result of a citizens' petition to remove a dam at the outlet of Buffalo Lake at Richwood, MN, which had been used to generate hydroelectric power. Because of the resulting high elevations on the area lakes, the high water was used to float logs to the sawmill in Richwood. C.D. No. 19 has three branches: Branch No. 1 connects Balsam Lake into Tamarac Lake, Branch No. 2 connects Mud Lake into Tamarac Lake, and Branch No. 3 connects Rock Lake with a low area to the east.

Albright went on to explain that the maps on display show the existing benefit areas. Albright said that there hasn't been much activity on either ditch system since they were transferred. Most of the ditch system expenses were for beaver control. According to BRRWD policy, if there is beaver activity on a legal ditch system or project up to one mile of the outlet, the BRRWD will hire someone to remove them. He further explained that C.D. No. 10's benefits range from \$3 to \$26 per acre and C.D. No. 19's benefits range from \$5 to \$15 per acre, according to which the Auditor makes the assessment calculations, based on the BRRWD's yearly assessment made at our annual budget hearing. The current total benefits for C.D. No. 10 are \$10,482 and for C.D. No. 19 \$22,990. The displayed maps show the benefit areas/rates. The BRRWD received calls from landowners asking why they were being assessed benefits while their neighbors were not. They felt the benefits were not fair. Albright explained that in 2008, the BRRWD was contacted by concerned landowners, who petitioned the BRRWD to abandon C.D. No. 19. After an abandonment hearing (M.S.A. 103E.811) where landowner testimony was heard, the Board decided to dismiss the petition. At that time, the landowners requested that the BRRWD redetermine the benefit areas for these two ditch systems so the distribution of costs to the landowners was more equitable. The hearing tonight was held to review the proposed redetermination of the benefit areas, as determined by our Viewers. Since the ditch hearings are being held in tandem, Albright asked the audience members to state which ditch system they were on when giving testimony so that the BRRWD did not miss their comments and concerns. The Board will review their concerns before finalizing the new benefit areas. He added that the Board will strive to make the redetermination as fair as possible.

Albright also said that he knew there had been some concerns about the BRRWD's costs for the two ditches. He said that the BRRWD had sent out a property owner's statement with tonight's hearing notice with a hypothetical cost of \$1,000 to illustrate what a property owner's costs would be for that hypothetical amount with the proposed benefits. Albright explained that an individual's total benefits were not the landowner's cost every year. He said that the actual tax assessment would be calculated by multiplying the costs by a multiplier derived from dividing the costs of the work by the total ditch benefits. Albright also said that if there was a year or two where no work on the ditch was required, the BRRWD would not levy an assessment. He also explained that the tax revenue for each ditch system/project is accounted for in a separate account. When the account reaches a negative balance, the BRRWD levys an assessment back to the ditch system landowners in accordance with Minnesota Drainage Law at their annual budget hearing.

Viewer Eddie Bernhardson presented the Viewers' Report.

In accordance with M.S.A. 103E.351, and any other applicable statutes, we herewith submit the following Viewers' Reports:

Benefits and Damages Statement

This report covers the benefits and damages for the redetermination of benefits for Becker C.D. Nos. 10 and 19, which is being completed by the BRRWD in accordance with Minnesota Drainage Law. We did not determine damages for either ditch system as, given their locations, they mostly drain through wetland and wooded areas, already having the required one-rod grassed buffer strips on each side. The basis for determining our benefits is based upon a comparison of the conditions expected with the existing legal ditches to conditions had no ditches ever been constructed.

Historically, both systems were installed in the early 1900s. Becker C.D. No. 10 was installed to maintain water levels on Little Round Lake and to provide a direct outlet route to Buffalo Lake rather than meandering through Rock and Rice Lakes. Becker C.D. No. 19 was petitioned for to remove a dam on the Buffalo River in Richwood that was used to provide hydroelectric power for a sawmill at that same location. The dam also raised water levels on the area lakes, so the cut timber could be floated downstream to the mill.

We (Lauren Peterson, Arvid Thompson, and I, Eddie Bernhardson) were appointed by the BRRWD to redetermine benefits for each system. The Board ordered the redetermination of benefits on April 14, 2008. We took our Oath of Office and held our first meeting on December 16, 2008. We toured the project area on January 10, 2013 and filed our report with the Board of Managers, BRRWD, (drainage authority) on July 22, 2013.

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. Becker County soil survey manuals and maps
2. FSA aerial photographs
3. USGS topographical maps
4. LiDAR data
5. Sales data from the Becker County Assessor's Office
6. Visual inspections of the project properties
7. Market values as determined by the Becker County Assessor's Office

The methodology we used for the redetermination is the same for both systems. Using LiDAR, we had Houston Engineering, Inc. (HEI) determine the outside boundary (watershed) for each system. We did not field verify each parcel for the watershed boundaries around each system, and this would be one issue we would like to hear from landowners about. Suggested changes in this regard are welcomed and could be field verified if necessary.

The second issue that is the same for each system is using the County's market value per parcel (land only, no buildings). For areas where an entire parcel is not entirely within the drainage system's watershed, the benefits were adjusted based on percentages of the area either in or out of the watershed. We then placed benefits of 0.5% of the property's market value. This is the same for everyone within each ditch system's watershed/benefit area.

Road benefits (M.S.A. 103E.315, Subd. 3) were placed on areas where the ditch system crosses either township or county roads. We used a base rate of \$5,000 per crossing.

For Becker C.D. No. 19, in our report, we found new total benefits of \$252,785.20. For Becker C.D. No. 10, the total project benefits are \$65,439.01. Benefit values are based upon the fact that all lands within the ditch system's watershed boundary use the drainage system as an outlet for its water. The County's market value for an individual parcel should have taken into account the land's value, use, etc. Both drainage systems were transferred by Becker County to the BRRWD (M.S.A. 103D.625) in 1987. Since then, the main costs have pertained to beaver control, and we expect that to be the case in the future.

No benefits have been placed on any federal lands.

Road benefits were determined with consideration of the reduced construction and maintenance costs that will be realized with the ditch systems in place. When, and if, road centerline structures are ever replaced, road authorities may be responsible for these costs in accordance with M.S.A. 103E.525.

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.

Chairman VanAmburg asked if everyone had been able to look at the benefit maps that were displayed around the hearing room. Albright confirmed that it was only the property owner's statements that had been mailed out. Chairman VanAmburg said that he would take questions for a short time, and then we would take time for the audience to come forward to look at the maps.

Roger Levos from Buffalo Lake and President of the Buffalo/Rock/Rice Lake Association, said that he had two questions. He wanted the Board to clarify the evaluation process and what each landowner was going to be assessed. He wanted to know what this redetermination of benefits would cost his Lake Association members annually. Albright answered that Becker C.D. No. 10 had old total benefits of \$10,482, and after redetermination, the new total benefits would be \$65,439.01. Becker C.D. No. 19's current benefits total \$22,990 and the new total benefits would be \$252,785.20. Albright explained that the total benefit numbers are shown on the maps displayed on the walls by the hearing room doors. Albright said that the values of the benefits per acre in the red, yellow, blue, and green shading on each of the old ditch systems, would add up to the total benefit amount for that ditch system. For example, Albright said that you multiply the number of acres by the benefit rate (shaded areas), for example \$15 an acre on a 40 acre parcel would have total ditch system benefits of \$600.00. You would continue to add all the parcels values until you reached the total ditch system benefits, as they stand today. Albright said that what the Board was proposing was a very similar idea, so that each parcel has a total benefit value, based on one half of 1% of the market value as determined by the County. Albright said that the total benefit would be based on land only; no building values would be included. He said also that if someone owned a parcel of land that was completely in the gold shaded area on the benefit maps, then the entire parcel is in the benefit area, and you just take the County's value for that property times the noted multiplier. Albright said that if someone owned a piece of land on an outside edge of the benefit area, for example, someone owned 80 acres, but only 40 acres were in the benefit area, the numbers are adjusted so that instead of taking the total value, we would take only half the value. Albright explained that the numbers that were read by Eddie Bernhardson were the new total proposed benefits for each system. Albright said that as work is needed on a ditch system, the BRRWD would have the work completed and receive a bill for the work. Each September, the BRRWD looks at the work that was completed in the previous year(s) for each ditch/project account and the Board levies assessments to each ditch system or project to cover their costs. The County Auditor would then receive notice of the assessment and would figure out everyone's percentage of the total requested, and their proportionate share is collected on the property tax statement. For example, if \$7,500 is levied, the Auditor will figure what percentage of \$7,500 each landowner pays based on their benefit rates/areas shown on the maps. That amount might be \$9.60. That \$9.60 will show up on the landowners' tax statements. When the landowner pays his taxes, the Auditor will send the collected money to the BRRWD to be deposited into the ditch system account.

Chairman VanAmburg commented that the property owner's statements that were sent out had this information on it with a hypothetical assessment of \$1,000 to show what an individual's payment would be. Albright said that at the bottom of the property owner's statement there was a line that read "cost to this property per \$1,000 assessment". An audience member commented that he had believed that he would have to pay \$1,000. Albright said the numbers used on the property owner's statements were hypothetical costs. The audience member asked if there was a typical payment or average yearly cost. Albright said that while there is no typical year in the BRRWD; there are averages. Albright estimated that average

annual costs would be about \$500-\$1,000 for C.D. No. 10 and about \$4,000-\$7,000 for C.D. No. 19. The higher cost for C.D. No. 19 is because it is a bigger system.

Tom Boyer, Becker C.D. No. 19, asked that if the BRRWD had to assess \$10,000 next year for the whole ditch, according to the amount on the bottom of his letter where it read that he would have \$9.85 per \$1,000 in benefit assessment, would he pay \$98.50 of the \$10,000. Albright said that Boyer was correct and wanted to also state for the record that there were several ways the benefits could have been determined, but that the Board decided to approach the redetermination with a "keep it simple" method to help keep the process costs lower.

Sandy Nelson, from Buffalo Lake, said that the old benefits were calculated by which land was draining into the ditch. He said that he thought the new benefit map looked like everyone who owned property in the area would pay in, whether they drained into the ditch system or not. He said that his property did not drain into the ditch. Nelson also wanted to know if work to the ditch could be done privately so that no one else had to incur a cost for a project only one person wanted? Nelson also wanted to know if he would be assessed a payment if the County ever updated a road, and if so, he wanted to abandon the ditch. Albright clarified that the BRRWD was not using C.D. Nos. 10 or 19 to increase or decrease water levels. Albright said that since 1987, to his knowledge, the BRRWD had not allowed the raising of any culverts in order to manipulate lake levels. Albright also said that Drainage Law states that the BRRWD can maintain the ditches, but cannot change them from the way they were originally built. If there was an improvement that was needed on either ditch, the BRRWD would send out new notices, schedule new hearings, and conduct a new redetermination of benefits. VanAmburg stated that the BRRWD was an advocate for the ditch system and that the Board would look carefully at any new large improvement project to make the best decision they could with input from the system landowners and County through the hearing process.

Justin Klemetson, Section 9, Holmesville Township, said he owns land on both C.D. No. 10 and 19, and commented that he'd been billed \$800.00 back in 2007 for beaver control. He said that beaver control is a small part of what was being paid for. He said that he was able to get an expense report and \$2,900 went to beaver control and \$14,000 went to HEI. He wanted to know what HEI had done for the money. Klemetson said there were 95 people in the original benefit area and about 10 people paid the most. Klemetson said he believed HEI had taken \$25,000 out of their area, and he had not seen a benefit from the money that had been spent. Klemetson said that HEI had only done a little clean out between Rice and Buffalo Lake and that the cost was split between the benefit areas of C.D. No. 10 and 19. He wanted to know what the landowners were getting for their money. Albright said that the BRRWD had looked at the costs that had been incurred on C.D. No. 19 from April 14, 2008 to April 8, 2013. The redetermination cost for C.D. No. 19 over that five year period was \$13,677.85, and the maintenance costs were \$9,722.33. Albright said that he had a copy of that report for Klemetson's review.

An audience member asked what HEI did for their fees. Albright explained that he was an HEI employee and also served as the Administrator for the BRRWD. He said that his position is paid for through an annual contract between HEI and the BRRWD. He explained that he tracks his time/activities for a project by quarter hour increments, as do the other HEI employees that are contracted by the BRRWD. That time is allocated to projects/ditch systems per an agreed upon annual rate for the various employee job descriptions. He added that there is written documentation of all the activities performed by HEI employees for the BRRWD.

Chairman VanAmburg said that HEI was the BRRWD's consulting engineering firm. Wade Opsahl clarified that HEI prepared all the mailings that were sent out, all the maps, and the Viewers' Report, which is multiple pages, HEI charged the BRRWD for that work. Michael Walther observed that the BRRWD should be able to handle its own mailings.

John Meyer, from Buffalo Lake, wanted to know if his assessment payment would be expected to be paid all at once, or would the payment be broken down over a period of years? VanAmburg said that the statement Meyer received used hypothetical numbers, and that nothing has been assessed yet. Wade Opsahl said he felt there was some confusion still about costs. He explained that the number to pay attention to on the example letter was the bolded sentence that said if the BRRWD spent exactly \$1,000 dollars on the ditch system, the assessment for each landowners property would be the number at the very end of the letter. Albright pointed out that the Board did not levy any assessments for Becker C.D. Nos. 10 and 19 for 2014.

Keith Brekken commented that he believed that the current ditch account balance for C.D. No. 19 was approximately -\$20,000. Brekken wanted to know if the old benefit area would be paying that sum or would the new benefit area be assessed? Albright answered that the current balance in C.D. No. 19 was \$-17,047.52. The BRRWD levied \$13,000 to be collected on C.D. No. 19 in 2013. Albright said that they should have seen that already on their 1st half tax statements in June. Of the \$13,000, the BRRWD has collected \$5,300. Albright said that approximately \$8,000 was still going to come in for C.D. No. 19 at the end of this year, bringing the balance to \$-10,000. Drainage Law states that the costs incurred before the date of any redetermination will be assessed to the benefit area in place at the time before the redetermination. Drainage Law says that costs incurred from the redetermination onward will be assessed to the new benefit area. Drainage Law does not give the Board a direct answer as to whether or not the cost of the redetermination process should be assessed to the old or the new benefit areas. Albright explained that C.D. No. 19 should pay off its old balance with the 2013 assessment, leaving a balance of approximately -\$10,000, which included the redetermination costs. Albright further answered that C.D. No. 10 had a current balance of -\$8,307.68 and most of those costs were associated with the redetermination and would be placed on the new redetermined area if, or when, the Board adopts the new benefit areas.

Ray Sonnenberg asked how the benefit areas were determined. Eddie Bernhardson answered that the benefit areas were determined by HEI using LiDAR, which is a way of surveying land elevations using aerial photography. Albright added that in 2010 there was a Red River Basin project that covered the Red River Basin in Minnesota, North Dakota, South Dakota, and all the way to the Canadian border, that used Light Detection and Ranging (LiDAR) images taken from an airplane. Albright explained that LiDAR was a laser that was shot to the ground in approximately three foot grids, yielding a recorded elevation plus or minus about 3"-4" accuracy. LiDAR cannot read through water or heavy vegetation, so the Board also wanted landowner input regarding the watershed boundary to allow the BRRWD to go back out and take a second look at the mapped areas.

Sonnenberg said that there was no drainage from his 80 acres in Section 33 that flowed to C.D. Nos. 10 or 19. He also wanted to know if the assessment went through, would HEI be policed to monitor how much work would be done and how much would be assessed to the landowners. Albright replied that any maintenance for the ditch systems would have to be approved by Board of Managers. He explained that the Board Managers receives/evaluates repair requests. If the Board agreed that work was necessary, they would then authorize HEI do an investigation of the request to discover what needed to be done and how much it would cost. After reviewing HEI's investigation report, if the Board agreed with the proposed work/cost, they will authorize the repair. HEI does not work on BRRWD projects unless authorized by the Board of Managers. Sonnenberg said he understood from Albright statement that any repairs have to be initiated by the ditch system landowners or the Board. Albright confirmed that HEI doesn't do any work on ditches/projects without Board approval.

Dave Schiller, Section 34, Holmesville Township, asked about whether his land even drained into the ditch or benefited at all. He did not believe that he should be in the benefitting area. Wade Opsahl said that according to the County, Dave Schiller had 195.76 acres, and of those acres, only the northwest corner, or

34.26 acres, are shown as benefitted land. According to Drainage Law, a parcel of land benefits from a ditch system, if the ditch provides an outlet for drainage, or if there have been improvements to the land that conveys water to the ditch system, etc. Albright said the reason the Watershed Board was taking testimony tonight was so that they could take down concerns and go back out and look at the land to see if the benefit maps are correct. Schiller asked if someone would please come and reassess whether his land benefits at all. Albright assured the audience that the maps provided were not set in stone and could be subject to change.

Tyson Sonnenberg said that he was opposed to the redetermination and wanted to abandon the ditches. Sonnenberg said that he didn't see any need for the ditches. Albright said that he would be happy to share information about the process to abandon the ditch with Sonnenberg. Albright said that to abandon the ditch, there would need to be a petition drafted by a lawyer, which would need to be signed by the requisite number of landowners. The Watershed Board would then be obligated to hold a hearing and decide on that petition. Klemetson commented that even if you got a signed petition, it would only take one individual to object to kill the petition. He said that he also wanted to abandon both systems. Chairman VanAmburg said that a petition to abandon the ditch would have to be a separate process and that if the petition was drafted, signed, and filed, the Watershed Board would have to follow the abandonment process according to Drainage Law.

Tony Sampair, from the R&R Hunting Lodge between Rock and Rice Lakes, said that he would like the Board to note that he would want his parcels reassessed for benefits because he believed that the east parcel didn't drain at all to C.D. No. 19. He said that before the culvert system was put in on his land on the west shore of Rice Lake, he had 8 acres, now he has three. He believed that he would gain no benefit from the redetermination of benefits for C.D. No. 19 because he actually lost acreage, approximately 14 acres over the last 40 to 50 years. Sampair also wanted to know who gave the go ahead to change the level of culverts on the Rice/Rock road? Sampair said that there were two culverts put in and right after the installation one was filled with rocks. He said a few weeks later, someone welded a metal plate over the south end. Albright answered that Holmesville Township submitted a permit application to the BRRWD to install the culverts. Albright said that the BRRWD was not aware that someone had put rocks in the culverts, or that someone had welded a plate on the end of the culvert. The road is maintained by Holmesville Township and there was no ditch system money put toward either the culverts or the subsequent metal plate installation. Albright said that the BRRWD had only been involved with looking into the elevation of the ditch systems. The BRRWD's goal is to maintain the ditch to the elevation at which it was originally constructed. Albright said that he had received Sampair's faxed letter, and would need new copies of the maps as they did not fax over well. He assured Sampair that any concerns brought forward at this hearing would be addressed when the Viewers went back out and reviewed their initial findings in questioned areas.

Gary Heitkamp, Section 23, West Sugar Bush Township, said that he didn't believe water ever leaves his area, which is all wooded and never has been developed. He felt there was very little to no benefit to have the ditch system at all, as water would have to travel about 3 miles through the woods/grassed sloughs to reach C.D. No. 10. He thought that spreading the costs around to properties that do not benefit was "crazy". Chairman VanAmburg said that we wanted to spread the cost only to properties that benefit. VanAmburg said that if there were properties, like Heitkamp's, that had no water draining from them, then that was something that the Viewers would have to look at again.

Terry Bunnis, Section 10, also felt that he would be receiving no benefits, as water coming onto his property from three directions drains to a slough and does not leave. He asked the Board if they were going to go through the audience one at a time to find out whether they should go back out and reassess the benefit area? Albright said that they would be giving the audience time to look at the maps, to talk to Wade Opsahl, to talk to the Viewers, and if there are areas where people believe they are not going to receive benefits, the Board was going to circle those areas on the maps, and those areas would warrant a second

field review. The landowners will be notified, and if they want to meet with the Viewers, they should contact the office to arrange a meeting. An audience member questioned if having the benefit area looked at again would just drive up the cost? VanAmburg said that perhaps right now it would seem like the redetermination costs are high, but that the BRRWD was trying to put a benefit area in place to address assessments for ditch system maintenance far into the future. He pointed out how old the current benefit maps were. Albright said also that it was only right and fair to redetermine the benefit area because if there was a piece of property that doesn't benefit from the ditch system, but currently paying assessments, that would not be right. If land is using the ditch, and not paying benefits, that also is unfair. Albright said that something that hadn't been discussed yet was that it was ultimately the Board's decision on whether to proceed with the redetermination of benefits, or not. He said after the Board made a final decision, there was also a 30-day appeal period in which landowners could file an appeal that would be reviewed in District Court. Albright said that the Viewers were the responsible parties when it came to the assessment of the benefit areas, they signed off on the Viewers' Reports.

Rich Cieslak from Section 8 on Rice Lake commented that the letter should have detailed what everyone was going to have to pay, and that the letters should also detail the benefits, because he didn't know what the benefits were and he wanted to know what his money would be spent on. Chairman VanAmburg answered that the thought Cieslak was misunderstanding what benefits were. Cieslak agreed and said he felt that a lot of property owners were confused. VanAmburg said that a benefited property is one whose value increases in some way due to the existence of a ditch or project. Albright said that a good example was the prime agricultural land three miles south of Moorhead. He said that a ditch system drains that land, and if the land was currently worth \$6,000/acre, the benefit to that land is most likely \$6,000. Albright explained that the Law said to go back and look at what the land would be worth today if it had no drainage. He added that land values can vary based on the type of land it is, such as wetlands, woodland, and flat land. Most agricultural land isn't worth much without drainage. Rich Cieslak asked if the \$300.00 on his letter meant that was the benefit to him. Albright answered that, yes, for example, if Cieslak's property was worth \$100,000, and then because of C.D. No. 10 or 19, the property would now be worth \$100,300. The property is benefited, or increased in value because the ditch is in place because it is controlling water levels. Chairman VanAmburg said that, though there were individuals saying that they would not be benefited, often after field investigation, you could find that there were some ditches, or improvements made that did end up benefiting the area they were in. Rich Cieslak said that the ditches were built to drain the area for agriculture, but the bottom line was that the BRRWD didn't want their water and they didn't want the ditch, so perhaps C.D. No. 10 and 19 should be abandoned. Cieslak said also that he was surprised that it only took one landowner to object at the abandonment hearing, and a project would not go ahead. Was that really how the system worked? He thought the Board had to listen to all the parties involved. Albright answered that this was why the Board took into consideration all the testimony that was presented at the hearing. After the testimony, the Board would make their decision, and any individuals who were unsatisfied with the outcome were welcome to appeal. We could meet before a Becker County Court Judge to present each side. Cieslak said that he appreciated the Board answering his questions and the work of the Watershed Board, but that he was still interested in changing the outcome of the abandonment hearing, because he was not convinced that the ditch provided any benefits. VanAmburg said it was possible to make that change, but that it was a different process than being discussed tonight.

Phillip Bellefeuille from Section 31, Sugarbush Township, said he owns two 30 acre parcels enrolled in the Wetlands Reserve Program (WRP). He explained that he had dams built to hold the water back, he had also created ponds. He asked why he would want to be assessed a benefit when he's got four dams? He wanted to know where his benefits are. Chairman VanAmburg said that he was familiar with the area, but he wasn't sure if Bellefeuille's land was all in the redetermined area for benefits or not. Chairman VanAmburg asked Opsahl if the WRP lands were in the benefitting area. Bellefeuille said that he had two 30 acre parcels and that on his letter it said that he would receive a proposed benefit to his property of \$90.00 and wanted to know what that meant. Wade Opsahl said that there was the amount of total benefits

for each parcel. Bellefeuille asked if the \$233.00 that was on his letter was what he was being assessed? Opsahl said that no, the assessment amount could be found at the very bottom line of the letter. Bellefeuille noted that the number was \$1.06 on his statement. Opsahl explained that if the BRRWD spent \$1,000.00 on the ditch system, Bellefeuille would pay \$1.06 of that cost. Bellefeuille said that he thought a letter of explanation should be sent out. Opsahl agreed that there had been a lot of confusion with the form although it is the same one we've used for many years. Bellefeuille wanted the Viewers to take a second look at his WRP land.

Keith Bakken asked what happens if his land value goes down? He said that his land value had gone down and because of that, will his benefit amount drop or is the benefit being redetermined? Bakken said that his assessment was \$4.00 per \$1,000. He asked that since the \$4.00 was assessed by what the County market value was, would his benefits also drop if his land value dropped. Albright said that the values were a snap shot in time, as of today. Bakken then asked if he would be paying for the redetermination of C.D. No. 10 only, not C.D. No. 19? Albright answered that Bakken was correct; he would only be paying for C.D. No. 10 since that is where his property lies. Bakken asked if the cost to abandon the ditch would be similar to the costs spent so far, and would the current benefitted landowners have to sign the abandonment petition or the redetermined benefitted landowners. Albright answered that any current petition today was for the existing landowners. Albright said that M.S.A. 103E.811 deals with the abandonment process. For a petition to abandon the ditch, they would need 51% of the existing benefitted landowners on either system. Albright explained that the statute also states that legally, the BRRWD cannot abandon a ditch until all costs are paid and the ditch system account is zeroed out, including redetermination costs.

Lynn Peterson, who lives on Buffalo Lake, commented that the Minnesota Department of Natural Resources (DNR) installed a new dam at the outlet of Buffalo Lake a few years back and that the dam level was lowered. Peterson asked if the BRRWD abandoned the ditch, would that include abandoning the dam as well. Albright said that the DNR operates the dam, so the BRRWD is not aware of any lowering of the dam levels, but the BRRWD could get that information from the DNR office in Detroit Lakes. He said that if the ditch were abandoned, that does not mean that the BRRWD would go out and remove all the culverts and fill in the ditch. The BRRWD would no longer have jurisdiction over the ditch. Albright explained that after the ditch was abandoned, should there be any maintenance issues, the landowners would have to deal with it themselves without involving the BRRWD. Albright said that the DNR does not maintain the dam, but it is their structure. Because the dam is a part of the C.D. No. 19 system, the BRRWD maintains it, but the DNR controls it. An audience member asked who maintains the dam if there is debris on it. Albright responded that the DNR typically calls the BRRWD office and asks the BRRWD to remove the debris. The audience member thought that was a very expensive solution to a simple problem.

Chairman VanAmburg suggested that the audience members take a look at the proposed benefit maps displayed around the room, and note any problems that they see. If an audience member believed that their land was in question, then the Board would like to see it marked on the maps or to let Wade Opsahl know and he would write down the information. Albright said that the BRRWD Board was not at a point where they could make a decision regarding the redetermination, and obviously some people were not in agreement with the proposed Viewers' Reports. He said that the Watershed Board has stated that we will have the Viewers take a second look at any areas in question. He said the Board would have to decide what they want to do, based on the information given to them by the Viewers. Albright said that the BRRWD would try to answer any questions to the best of our ability, and he suggested that Chairman VanAmburg recess the hearing, but not adjourn it, so that it can be continued. Albright also mentioned that the property owner's report the landowners received, was not a form HEI, or the BRRWD created. It is a form governed under M.S.A. 103E. 323, which says exactly what a property owner's statement must say and has been used for many years. An audience member commented that then the form should be put into language that is easy to understand.

At 8:50 PM, Chairman VanAmburg recessed the hearing. The hearing will be continued at a later date after the Viewers have finished their second review. At that time, the Board will make a decision regarding adoption of the new Viewers' Reports. He noted that anyone with questions should feel free to ask a Board member, Staff, or Viewer.

Respectfully prepared and submitted by,

John E. Hanson, BRRWD Secretary