

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

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

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## **MINUTES FOR MANAGERS' MEETING**

**September 24, 2007**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, September 24, 2007, at 8:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, John E. Hanson, Gerald L. VanAmburg, and Curtis M. Nelson. Others attending included BRRWD Administrator Bruce E. Albright, Erik S. Jones, and Julie Jerger, Houston Engineering, Inc. (H.E.); Ronald Erdman and Merle Miranowski, All State Construction; and landowners: Michael Nygaard, Sr., Rita Nygaard, and Michael Nygaard.

Chairman Ellefson called the meeting to order at 8:00 PM. He noted that the proceedings were being taped to aid in preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes for the 8/27/07 regular meeting. **Motion** by Nelson to approve the minutes. **Seconded** by VanAmburg. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's current financial status. Albright reported that we have approximately \$24,000 in our Wells Fargo Savings account and \$484,000 in our Midwest Bank Money Market Savings account for a total of \$508,636.91.

### **Business brought before the Board included:**

**Permit No. 07-101, Verne A. Leach.** Applicant proposes to restore the line between his property and Ken Schellack's property in the N½SW¼, Section 32, Riverton Township, Clay County, to the same condition as one year ago. Leach would like to install a 15" dia. culvert in the property line and place enough dirt over the pipe to match the natural ridge elevation. The culvert will be set according to a survey Albright and Wade Opsahl, Technician, H.E., conducted on 4/30/07 (approximately elevation 93.6). Last year, Leach filed Permit No. 06-111 to close the plow furrow on the line, which the Board denied. After the Board's action, Schellack's renter, the Kuehl Brothers, removed the plow furrow and installed a 13' wide ditch with a scraper on the property line. The Board reviewed photographs documenting Kuehls' drainage work and Leach's 2007 crop loss. Kuehls also installed additional field ditches in the SE¼, Section 32, so that more of the field drains to the new opening on the property line. As a result, Leach suffered severe crop damage from the heavy rainfall this year. The proposed work should establish a grade for the ditch and meter downstream flows. The Board felt that we should invite the affected parties to the 10/09/07 meeting to discuss this issue. **Tabled.** The office will mail notices about the meeting.

**Permit No. 07-102, Jerry Matter.** Applicant proposes to install seepage control ditches/berms around the Detroit Lakes Wetland Management District (WMD)/United States Fish and Wildlife Service (USFWS) Matter Wetland Production Area (WPA) in Sections 15 and 22, Riceville Township, Becker County, according to an agreement between Matter and the USFWS. Albright, Matter, Manager Hanson, and Scott Kahan and Larry Hanson, USFWS, met on 9/11/07 to field review Matter's concerns regarding seepage coming from the WPA. The group agreed to several solutions to address the alleged problem. The work is restricted to Matter's property and should not impact the WPA. The Board briefly discussed the proposed work. **Motion** by Hanson to approve Permit No. 07-102. **Seconded** by Nelson. **Approved.**

Albright will also send a letter to Riceville Township to see if they might be willing to provide two 15" dia. culverts to drain water away from Matter's property in Section 21. The USFWS has suggested that Matter could clean the township road ditch for approximately 1,000' with a maximum cut of 1.5' to direct the water east. The culverts would be installed in a new approach on the property line in the NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 28, south of 300<sup>th</sup> ST, and between Sections 27 and 28 in 190<sup>th</sup> AVE. Albright will send copies of the letter to the neighboring landowners for their comments.

**Permit No. 07-103, Thomas Friederichs.** Applicant proposes to install an approach/24" dia. culvert in the ditch off 150<sup>th</sup> ST S in the southeast corner of property he rents in Section 28, Elkton Township, Clay County. The approach will allow for a more convenient field access. The work should not affect neighboring landowners, as Friederichs owns the upstream property. He already has a used culvert he plans to install. **Motion** by VanAmburg to approve Permit No. 07-103, subject to Township approval to work within their road right-of-way (r-o-w) and Manager field review. **Seconded** by Hanson. **Approved.**

**Permit No. 07-104, Eldon Hermunslie.** Applicant proposes various ditch cleaning and culvert changes in the NE<sup>1</sup>/<sub>4</sub>, Section 11, Roberts Township, Wilkin County. The neighboring landowners and the Wilkin Farm Service Agency (FSA) have signed off on Hermunslie's proposal. **Motion** by Hanson to approve Permit No. 07-104, subject to Township approval to work within their road r-o-w and Manager field review. **Seconded** by Nelson. **Approved.**

**Permit No. 07-105, Clay County Highway Department.** Applicant proposes to relocate an approach with a new 18" dia. culvert for a new bin site in the southeast corner of Section 4, Glyndon Township, along County Road (C.R.) No. 68. **Motion** by VanAmburg to approve Permit No. 07-105. **Seconded** by Hanson. **Approved.**

**Permit No. 07-106, Ross Aigner.** Applicant proposes to clean three road ditches to grade in Section 1, Roberts Township, and Sections 4 and 6, Mitchell Township, Wilkin County. The work will improve field drainage and maintain the existing ditches. **Motion** by Nelson to approve Permit No. 07-106, subject to Township and County approval to work within their road r-o-w and Manager field review. **Seconded** by Hanson. **Approved.**

**Minch Lawsuit.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 8:20 PM to discuss the status of the lawsuit. At 8:27 PM, the Board reopened the meeting.

**Grove Lake Outlet.** Albright noted that Grove Lake landowners still want the BRRWD to continue developing their project. He commented that we should try to secure funding for the project this winter so we can continue with project development and possible construction next year. The Board still needs to meet with Kern Kuhlmann, who is a landowner on the outlet of Maple Lake. The Board discussed alternate outlet alignments and the project design. If the project outlets to Whisky Creek, there will be Clay County Ditch No. 34 benefit issues that will need to be addressed. The project may have to pay an outlet fee to the ditch system. In addition, we should develop an Operation Plan to manage the outlet during downstream rainfall/runoff events, as well as dealing with downstream problem beavers.

**Project No. 49, Oakport Flood Mitigation.** Michael Nygaard requested that the Board give him an extension from 10/01/07 to 11/01/07 for removal of Lot 1A and for making his final payment. USDA has approved Nygaard's request for funding, but recently notified him that they are temporarily out of funds. Disbursements won't be made again until November or December. Nygaard is trying to obtain interim financing so that he can pay the balance of his house payment and the house movers, who would be able to move the house by the end of October. Albright explained that he has been in contact with Nygaard several times since 5/03/07, when the houses were sold, regarding his financing. He suggested that Nygaard

pursue interim financing to finalize his home buyout contract and move the house as soon as possible. If Nygaard needs more than 30 days, he should contact Albright. Ellefson noted that Nygaard would be responsible for liability and maintenance issues regarding his property. **Motion** by VanAmburg to approve the deadline extension for Nygaard. **Seconded** by Nelson. **Approved.**

**Ron Wang Flapgate Request.** Wang would like to install a flapgate on the 24" dia. north/south culvert in the southeast corner of Section 4, Moland Township, Clay County. The Board briefly discussed the ongoing neighborhood drainage concerns in this area. The Board agreed to invite the affected landowners to the 10/09/07 meeting. The office will send meeting notices.

**Howard Myhre Drainage Concern.** Myhre would like the Managers to conduct a field review of his drainage concern in Section 20, Eglon Township, Clay County, west of Trunk Highway (T.H.) No. 32. Albright will include this site when scheduling permit field reviews.

**USFWS Project Update.** Larry Hanson, USFWS, sent a wetland restoration progress report for work they have completed so far this year in accordance with our General Permit guidelines. Hanson will file a final completion report this winter.

**Project No. 51, Clay County Ditch No. 68.** Albright noted that the City of Glyndon is anxious for All State Construction to complete the warranty work. He suggested that the Board should either set a deadline for work completion, or hire another contractor to finish the work. The Board also needs Erdman to provide a bid for extra work items on the project, if he is interested. Opsahl reviewed his calculations of the erosion quantities in Section 14, upstream of 12<sup>th</sup> AVE, and found an error. He recommended that we revise the extra dirt quantities from 240 cubic yards (c.y.) to approximately 395 c.y. We also need to schedule a meeting with Kevin Kassenborg, Clay Soil and Water Conservation District (SWCD), regarding David Heng's concerns about the erosion site on his property upstream of 12<sup>th</sup> AVE. The Board discussed these issues. Albright asked Erdman if he planned to finish the warranty work on County Ditch No. 68. He indicated that he did plan to finish the project. **Motion** by VanAmburg to pay Erdman \$1,580 from our Construction Account for the removal of the extra channel sediment (395 c.y. @ \$4.00/c.y) and to set 10/15/07 as the completion deadline for the warranty work. **Seconded** by Nelson. **Approved.**

Miranowski provided bids for the extra work items: 1.) To install the two 24" dia. x 30' inlet pipes with gates-\$3,900; 2.) rock drop structure upstream of 12<sup>th</sup> AVE-\$1,500; and 3.) rock drop structure upstream of Parke AVE-\$1,300. The total bid for the extra work items is \$6,700. The Board briefly discussed All State's prices. **Motion** by Nelson to accept All State Construction's prices for the extra work items for County Ditch No. 68 for a total of \$6,700, which will be paid as project expense. This work should also be completed by the 10/15/07 deadline. **Seconded** by Hanson. **Approved.** Jones asked Erdman to contact Opsahl when he plans to do the work.

David Heng's erosion site upstream of 12<sup>th</sup> AVE will be handled as a separate repair. At their 9/10/07 meeting, the Board agreed to assist Heng with this work and to contact the Clay SWCD to explore options for addressing the erosion problems/concerns.

**Project No. 58, Riverton Township Retention.** The Board made the Final Order for this project at their 9/10/07 meeting. The office will send the Final Order, revised Property Owners' Statements, and a letter to the project landowners. Brian Winter, The Nature Conservancy (TNC), has requested a few minor revisions to TNC's easement option. He indicated that as soon as those changes are made, TNC will sign the agreement. Albright suggested that there doesn't appear to be time to start project construction yet this fall.

Albright will prepare an agreement for the use of Riverton Township's road for this project. At their 6/11/07 meeting, the Board approved a motion to install a staff gauge monitoring site on Clay County Ditch No. 12 at T.H. 9. Jones noted that Opsahl has ordered a new gauge, which will be installed as soon as he receives it.

**Project No. 57, Moorhead/I-94 Flood Control.** The City of Moorhead's r-o-w easement still needs to be recorded. Albright noted that landowner Blaine Benedict asked if the BRRWD would schedule a meeting with the City of Moorhead, area landowners, and the BRRWD regarding ditch cleaning along the west line of Section 24 to provide drainage for the landowners assessed for Project No. 57. H.E. already has a survey of this area, which was completed as a design option. Benedict would like to see this work done yet this fall. The office will arrange the meeting.

**Project No. 56, Manston Slough Restoration.** Albright noted that the next development step will be to prepare easement options for the landowners and enter into those negotiations. Agencies are trying to arrange a meeting to finalize the Memorandum of Understanding (MOU) and Operation and Maintenance (O&M) plans.

**Project No. 54, Whisky Creek Tributaries.** Darvin Temanson, Temanson Excavating, has nearly completed work on the Nichol WRP project in Section 21, Humboldt Township, Clay County. Temanson will plant a dormant grass seeding.

Bill Thompson was in the office last week to discuss his concerns about erosion on his property along Whisky Creek in Section 20, Humboldt Township. Albright will schedule a meeting with the neighboring landowners and Clay County Highway Department to try to finalize this issue.

**Project No. 49, Oakport Flood Mitigation.** Albright made a presentation regarding the Oakport project to the House Bonding Committee on 9/20/07. On 9/27/07, Albright will make a similar presentation to the Senate Bonding Committee. Later in the meeting, the Board discussed the House presentation.

H.E. has completed their review of Ulteig Engineers, Inc.'s (UEI) model regarding the project's potential impacts on the Red River of the North and Oakport coulee, which appear to be 1" or less. The Board met with three homeowners in the Wall Street area on 9/12/07. Albright noted that while negotiating with landowners regarding possible alignment changes and private ringdikes, it was important to keep in mind that any changes in the floodplain could affect the project's hydraulic impacts. Kris Carlson, UEI, told Albright that the dike will be approximately 4.5' high next to Jerry Ries' yard. Ries had questioned the dike height near his property at the 9/12/07 meeting. The Board will meet with the landowners along North Broadway on 10/03/07 at 7:30 PM in the Oakport Town Hall to discuss how the dike alignment might affect their property. Meeting notices will be sent tomorrow.

As soon as UEI has completed the Environmental Assessment Worksheet (EAW), they will forward it to the Board for our review and signature. H.E. is still working on the demolition specifications.

Harvey Lane, Kenneth Aldrich, and Dan Pixley, Oakport house buyers, have requested an extension of the 10/01/07 house removal deadline to 11/01/07. **Motion** by VanAmburg to approve the referenced deadline extension. **Seconded** by Nelson. **Approved.**

**Project No. 38, Farmstead Ringdikes.** Jones has been working on the dike alignment for the Kragnes project. He met with area landowners regarding the use of their property for the dike. Jones discussed his efforts to work with Burlington Northern Sante Fe (BNSF) Railroad to tie the dike alignment into their embankment. Albright suggested that a Manager could accompany Jones when he meets with BNSF. Jones questioned if he should prepare an easement option for the landowner in the southwest corner of

proposed "Wedge" ringdike alignment, as a part of the earthen dike will be constructed on their property. Albright felt he might as well get the documents prepared, as we will have to address this issue in the near future. Opsahl is waiting for Jones to finalize the dike alignment issues before he can complete the Appraisers' Report. The Board agreed to delay the Final Hearing date until at least the second week in October.

Jones noted that Jeremy Kuipers has not contacted him yet regarding a bid to remove the trees on their property. Clay County has indicated that they will pay for the tree removal. Albright noted that some of the trees are quite large and could be difficult for Kuipers to handle.

Albright will contact Solveig Mead again regarding her ringdike payment. Mead had previously indicated that she would pay her bill by the end of July. She did contact the office recently, but Albright was not available. Adam Grothmann, Northland Excavating, Inc., has completed work on the Butze ringdike. Opsahl thought that the project costs would be close to the estimate. Albright will prepare a Minnesota Department of Natural Resources (DNR) funding request for this project as soon as Opsahl submits the final billing breakdown.

**Project No. 35, Clay County Ditch No. 47.** The 34<sup>th</sup> Street interchange hearing for County Ditch No. 47 still needs to be scheduled. Jones has completed the Engineer's review of the project.

The Board felt that Albright should contact Northwestern Power Equipment Company regarding tonight's bill from Otto's Welding for the flapgate winch that was installed on one of the culvert flapgates under the Otter Tail Valley Railroad (OTV) tracks along County State Aid Highway (CSAH) No. 52. The Board felt that the culvert flapgate didn't work correctly, and Northwestern Power Equipment should be liable for our costs to alter the design so that it functions per the project plans. The flapgates were installed to protect Americana Estates and are managed according to an O&M plan. Albright felt there could be landowner resistance to removing the flapgates.

**Project No. 31, Deerhorn Creek Levees.** Ziegler Construction has completed the repair work to restore the original Deerhorn Creek channel along Lloyd Scheffler's property in Section 24, Atherton Township, Wilkin County.

Roger Lundberg contacted the office regarding unlicensed beaver trapping west of T.H. 9 on Deerhorn Creek. Lundberg reported that someone took his snares and several beavers from the site where the BRRWD had asked him to remove a beaver dam. Lundberg had pointed out that it is illegal to trap without a special DNR permit to remove "problem" beavers.

**Mediation PT.** The BRRWD will hold their next PT meeting on Thursday, October 25, 2007, at 7:00 PM in the MSUM Science Center near Glyndon. Notices will be sent. The Board briefly discussed the annual Fall Tour, which they felt went quite well.

**Comprehensive Planning.** The Board will schedule Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC) meetings later this fall to review regional problems and identify solutions.

**Clay County Ditch No. 49.** Opsahl is working on the Viewers' Report for this ditch redetermination. The Board decided to redetermine benefits on this system before proceeding with the structure replacement project.

**Wilkin County Ditch No. 40.** Terry Lejcher and Arlen Schalekamp, DNR, sent Dave Yaggie a letter to notify him they have decided not to designate parts of County Ditch No. 40 in Sections 34 and 35, Atherton

Township, as trout waters. Their letter also included a DNR permit application for Yaggie to drill an irrigation well. To date, Yaggie has not responded.

**Becker County Ditch No. 5.** Albright noted that Sellin Brothers have finished the Green dam repairs. Manager Nelson and Albright met with the USFWS regarding the Froysland dam repairs. The USFWS submitted a letter to the Board with their project alternatives. The Board discussed the proposal. Todd Brandon, who now owns the property where the Froysland dam is located, would like to see the BRRWD go ahead with our original repair project.

Brad Grant, Becker SWCD, contacted the office regarding James Savig's request to replace a crossing upstream of CSAH No. 11 in the NW<sup>1</sup>/<sub>4</sub>, Section 22, Audubon Township, on Dennis Lang's property. Albright will prepare a memo for Opsahl to investigate and submit repair recommendations.

**RRWMB Dispute Resolution.** Joel Carlson, BRRWD Lobbyist, sent a report regarding a recent meeting he had with Ray Bohn, Minnesota Association of Watershed Districts (MAWD) and Ron Harnack, Red River Watershed Management Board (RRWMB). They discussed the ongoing negotiations between the BRRWD and the RRWMB and the extension of our M.S.A. 103D.905, Subd. 3, levy increase. The Board discussed scheduling a special meeting with our Legislators regarding this issue.

**Becker County Ditch No. 19.** Albright noted that the landowners have been advised that we will try to schedule a meeting regarding their request for ditch abandonment this winter.

**Clay County Ditch No. 40.** Ralph Krabbenhoft filed a repair petition for inlet culverts in the SE<sup>1</sup>/<sub>4</sub>, Section 24, Kurtz Township. Repairs will include 190' of 30" dia. corrugated metal pipe (CMP) with bands and gates, salvaging and resetting a 24" dia. x 54' CMP and extending it 10', graveling, seeding, and equipment/labor. Jones' Opinion of Probable Cost is \$10,000-\$12,000. Krabbenhoft wants to purchase one of the used 24" dia. x 54' CMP for \$540 to install just east of the repair site in conjunction with his BRRWD Permit No. 07-60. **Motion** by Hanson to approve the repair request. **Seconded** by VanAmburg. **Approved.**

**Clay County Ditch No. 57.** Jones has prepared revised repair recommendations for County Ditch No. 57. His Opinion of Probable Cost is \$10,000 because the material will need to be hauled off site. In his letter, Jones noted that the ditch will be cleaned according to the 1957 "as built" grade. He felt that any changes to ditch hydraulics will be small, but the work may reduce some standing water. The Board reviewed the ditch profile sheets.

**FM MetroCOG Focus Group.** The BRRWD has been invited to participate in a focus group associated with the Red River Greenway Study being conducted by the Fargo-Moorhead Metropolitan Council of Governments (FM MetroCOG). The meeting will be held on Wednesday, September 26, 2007, at 9:30 AM, in the FM MetroCOG Conference Room. Albright plans to attend.

**NAWCA Grant.** Scott Kahan, USFWS, Detroit Lakes WMD, notified the BRRWD that the North American Wetlands Conservation Act (NAWCA) grant has received funding. The BRRWD participated in the application process by providing information regarding our Whisky Creek Tributaries project. The Board discussed submitting our Manston Slough Restoration project for a future NAWCA Grant.

**Clean Water Restoration Act.** The Board discussed Representative Jim Oberstar's proposed legislation to restore the Army Corps of Engineers (COE) jurisdiction over all "navigable waters" in the United States. Several groups are opposing this legislation.

**Flood Relief.** The Board discussed the results of the flood relief bill passed during the recent special Legislative Session.

**Minnesota Water Resources Conference.** VanAmburg would like to attend the University of Minnesota's Water Resources Conference on October 23-24, 2007, at the Earle Brown Heritage Center in Brooklyn Center, MN. **Motion** by Nelson to authorize VanAmburg to attend this event. **Seconded** by Hanson. **Approved.**

The following bills were presented for approval:

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
Barnesville Record-Review	Pj. 58/Budget Hearing Ads	Pj. 58/Admin	\$ 1,144.75
Bruce E. Albright	Rent All-PA system	Mediation PT	\$ 19.92
Bruce E. Albright	Hornbachers-tour cookies	Mediation PT	\$ 60.09
Bruce E. Albright	Galaxie-tour supper	Mediation PT	\$ 814.36
Brushwacker, Inc.	2007 project spraying	Varies-RRWMB Const.	\$ 3,503.72
Ed Poppel	Security deposit, Lot 11C	Pj. 49, Oakport	\$ 562.50
J&J Braton Properties	October office rent	Admin	\$ 500.00
James Nelson	1 yr. storage lease	Pj. 8, Stony Creek	\$ 25.00
Joel Carlson	October Lobbyist fees	Admin	\$ 800.00
Mark Rustad	Security Deposit Refund, Lot 2A	Pj. 49, Oakport	\$ 11,250.00
Moorhead Public Service	8/02/07-9/05/07 service	Pj. 49, Oakport	\$ 159.86
Nancy Germundson	Security deposit, Lot 11B	Pj. 49, Oakport	\$ 675.00
Northern States Excavating	#428, Mowing	Pj. 42, Clay 67	\$ 452.50
Northern States Excavating	#428, Mowing	Pj. 34, Clay 41	\$ 637.50
Northern States Excavating	#428, Mowing	Pj. 57, Mhd/I-94	\$ 510.00
Otto's Welding	#78054, gate devise	Pj. 35, Clay 47	\$ 865.39
Premium Waters, Inc.	Inv. #366590-8, August billing	Admin	\$ 20.02
Quill	#9907191, office supplies	Admin	\$ 300.84
Randy Rick	August Property Manager fees	Pj. 49, Oakport	\$ 250.00
Red River Valley Co-op	8/10/07-9/10/07 service	Pj. 49, Oakport	\$ 121.71
Richards Transportation	#5650, tour bus	Mediation PT	\$ 470.00
RMB Laboratories	MPCA WQ Testing-#67890, #67901, #68030	M.S.A. 103D.905	\$ 495.00
Steve Olson	Security Deposit Refund, Lot 11D	Pj. 49, Oakport	\$ 162.50
TDS Metrocom	9/13/07 long distance	Admin	\$ 26.70
UEI	August services	Pj. 49, Oakport	\$ 19,547.94
Vogel Law Firm	September billing summary	Pj. 49, Oakport	\$ 262.50
			<b>\$ 43,637.80</b>

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

**Next Meeting.** The Board of Managers, BRRWD, will hold their next regular meeting on Tuesday, October 9, 2007, in the Barnesville office at 8:00 PM. The traditional meeting date was changed in observance of Columbus Day.

**Adjournment.** Chairman Ellefson adjourned the meeting at 10:15 PM.

Respectfully submitted,

John E. Hanson, Secretary