

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

123 FRONT STREET SOUTH – PO BOX 341

PHONE 218-354-7710

PROJECT NO. 64, LABELLE/BOYER LAKES OUTLET MINUTES FOR FINAL HEARING May 3, 2010

Pursuant to Minnesota Statutes 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 Project No. 64, LaBelle/Boyer Lakes Outlet on Monday, May 3, 2010, at 7:30 PM in the Lake Park High School Theater. BRRWD Managers present were Curtis M. Nelson, Roger G. Ellefson, John E. Hanson, Breanna Paradeis Kobiela, and Gerald L. VanAmburg. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik Jones, Engineer, and Wade Opsahl, Technician, Houston Engineering Inc. (H.E.); Arvid Thompson, Eddie Bernhardson, and Lauren Peterson, Appraisers; Brad Grant, Becker Soil and Water Conservation District (SWCD); Paul Munsterteiger and Jane Butzer, Minnesota Department of Transportation (MNDOT); Jim Walters and Dave Barsness, Fisheries, Minnesota Department of Natural Resources (DNR); Don Nygren, Burlington Northern/Sante Fe (BNSF) Railroad; Ed Rian, Lake Park Township, Supervisor; Sean Felker, Audubon Township Supervisor; Katie Lundmark, Sunnyside Care Center; and landowners: Scott Hendricks, Dana Hendricks, Charlotte Hendrickson, Ruth Hendrickson, Ron Strom, John and Dee Wayman, Tim Olsen, Tyler Olsen, Brad Lindstrom, Marvin Lake, Susan Madson, Gary Madson, Janet Cossette, LuAnne Ennen, Leo Ennen, Mandy Erickson, Moses Baer (Baer Farms, Inc.), David Myhre, Curt Ullrich, Steve Guttormson, Lori J. Erickson, Dave Mittet, Ben Torgerson, LeRoy Bergman, Lonnie Crabtree, Doug Larson, Judy Larson, Gayle Markert, Curtis Markert, Sheri R. Kaiser, Edison Jerdee, and Amon Baer (Baer Bros.).

BRRWD Chairman, Roger Ellefson, called the hearing to order at 7:30 PM and introduced the BRRWD Board, H.E. Staff, and the Appraisers. Ellefson announced that the hearing was being recorded to aid in the preparation of the hearing minutes. A sign-up sheet was passed to record attendees.

Albright gave a brief history of the LaBelle/Boyer Lake Outlet project. He explained that the area lakes have had high water problems for several years. MNDOT raised Trunk Highway (T.H.) No. 10 in 2003. There are at least 4 or 5 other lakes within the BRRWD that are having similar high water issues. Wave action is eroding shorelines, and rising water is impacting roads. In the fall of 2008, landowners/homeowners on LaBelle Lake contacted the BRRWD to request help to lower the lake to a manageable level and maintain it at that level with gates. In April 2009, the Board made an emergency declaration for LaBelle Lake. Shortly thereafter, a group of homeowners from Boyer Lake requested that the BRRWD include their lake. The BRRWD agreed to add Boyer Lake to their emergency declaration. He noted that an Operation and Maintenance (O&M) plan will be created for the project, and the outlet will be operated in accordance with that plan. Albright explained that because the project is an emergency, the Board has scheduled a bid opening for 5/10/10 in our Barnesville office. Plans have been sent to various contractors, and the bid letting has been advertised in area newspapers. The BRRWD would like to start construction as soon as possible following the contract award. Under an emergency declaration, Minnesota Statutes allow that the Board can move forward with project construction without following the regular project development timelines/procedures.

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 United States Geological Survey (USGS) quadrangle maps, the drainage area for Boyer Lake is 3.6 square miles (sq. mi.) and East

LaBelle (Duck) and West LaBelle Lakes have a drainage area of 3.1 sq. mi., comprising approximately a 7 sq. mi. total drainage area for the project. Jones explained that he investigated several optional outlet routes. His goal was to find the shortest, least expensive route. Last fall, it was established that several of the bodies of water are connected. Using the maps, Jones described the proposed outlet route. Two alternatives are being explored. One is along T.H. No. 10 and the other route could go through Sheldon Johnson's pasture. The project will eventually outlet to Becker County Ditch No. 9, then to the Buffalo River. The project will employ the use of channel cleaning, rock drop structures, and erosion control. An inline water control structure in the LaBelle and Boyer Lakes outlets will provide a means to control how much water is leaving the lakes and could stop flows during downstream flooding events.

Brad Grant questioned what the proposed drawdown elevation will be. Jones thought that we would aim for about 4' on Boyer Lake and about 2' on LaBelle Lake, although the Board has not determined official drawdown elevations. Someone asked what the average monthly drawdown would be for Boyer Lake. Jones estimated, assuming normal conditions, that the Lake could be lowered approximately 10" per month; although initially, more flow is expected.

Jones discussed the alternate routes for the Boyer Lake outlet: along T.H. No. 10 and through Sheldon Johnson's property. The Opinion of Probable Cost is approximately \$288,420.00. Wetland mitigation may not be required, but beaver control may be an ongoing project expense as part of the O&M plan.

Someone asked who would be responsible for project maintenance. Jones explained the benefited property would be assessed for the project costs and maintenance. The project would be administered by the BRRWD.

Albright encouraged the audience to sign the attendance sheet and to provide the Board with input regarding their thoughts about the project. He suggested that they review an example of the Owner's Report during the break, which shows actual project costs for individual landowners. He also asked that people state their name for the record when giving testimony or asking questions.

Albright explained that there are three benefit areas related to this proposed project: land around Boyer and Felker Lakes, land around LaBelle and Duck Lakes, and the current outlet area for LaBelle Lake. Someone asked if MNDOT was in favor of the project. Albright noted that roads are also included in the benefit area. He explained how landowners could determine their actual assessment. The BRRWD has agreed to contribute 25% of the total project costs if the project is built. The DNR recently notified the BRRWD that they have no money available for this project. They felt that the State's share of the project costs should come from MNDOT. The project multiplier (locals costs divided by total benefits) is 11%. Payments could be spread over time through the County taxes. The Board might also sell bonds to finance the project.

At 8:20 PM, Appraiser Eddie Bernhardson presented the Appraisers' Report.

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

Appraisers' Statement

Our report covers the determination of benefits for the Project No. 64, LaBelle/Boyer Lakes Outlet, 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, with abnormal rainfall, flooding has become an issue in this area. The BRRWD held an informational meeting on 8/31/09 to discuss these problems. On 4/27/09, the Board made an "emergency declaration" in accordance with M.S.A. 103D.615 for LaBelle/Duck Lakes. Later, they added Boyer Lake to that declaration. The appointed engineer, H.E., filed their initial study of the project on July 13, 2009, which has subsequently been revised (3/10/10) to reflect the final design concepts.

We (Lauren Peterson, Arvid Thompson, and 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 March 23, 2010. On that same date, we toured the project area. We continued our work on April 8, 2010, and filed our report on 4/26/10. 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.

We understand that LaBelle/Duck Lakes are around elevation 1312.2, and Boyer Lake is at elevation 1325.2. The proposed project could lower the lakes over time to elevation 1310.1 (LaBelle/Duck) and 1319.1 (Boyer). The USGS maps show LaBelle/Duck Lakes at elevation 1305.00 and Boyer Lake at elevation 1310.00.

We toured the lakes and observed numerous properties and roads affected by the flooding. The area within our benefit area for Boyer Lake is at or below elevation 1330.00, which is the natural runoff elevation if nothing is done. We used this contour elevation as a starting place for our benefits because this is an elevation that could be realized if an outlet is not constructed and Boyer Lake keeps rising. At this elevation, it appears that Boyer Lake could start flowing naturally to Little Boyer Lake. Our benefits were placed directly around Boyer, Felker, LaBelle, and Duck Lakes, and we did not look at any benefits for Warling Lake or areas downstream into Becker County Ditch No. 9 due to new culvert crossings, etc. We understand that any benefits for the project area or outlet fees to County Ditch No. 9 will be addressed in a redetermination of benefits for County Ditch No. 9, which will be conducted by the BRRWD, and will be a separate process.

The basis for our benefits started with the County's assessed property values, which were adjusted to reflect the value for areas within our benefit boundaries. For lands around a lake, we then took these adjusted values times 10% of that value to establish overall benefits. We used a benefit rate of \$1.00 per linear feet of shoreline for all lakes. We also looked at protection benefits downstream of LaBelle/Duck Lakes (current outlet), as with project establishment that outlet will no longer be used.

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. Sales data and market values from the Becker County Assessor's Office
5. Visual inspections of the project properties

We understand that costs for the project will be assessed against benefited properties (75%), and the BRRWD and their M.S.A. 103D.905, Subd. 3, account (25%). Historically, local assessments have been

financed either by the BRRWD or through a bond sale that could run over a 7-10 year period. We were told that the total estimated project costs are \$288,420. In our report, we found benefits of \$270,198.60 for private lands, \$1,653,635.19 for road benefits, and total benefits of \$1,923,833.79. The estimated local share of the project costs is \$216,315. The project multiplier (locals costs divided by total benefits) is 0.11. This multiplier can also be used for individual benefits to estimate an individual's costs.

The benefit values are based upon an increase in the property's value as a result of constructing the outlet projects 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 reduced construction and maintenance costs that will be realized after construction of the proposed outlet project. Clearly, without the proposed project, Townships, the Becker County Highway Department, and MNDOT will need to continue to work on their roads adjacent to LaBelle/Boyer Lakes, either by raising them, or armoring the slopes with riprap to protect against erosion. An overhead display showing our road benefit calculations explains how we arrived at our determinations. Albright displayed the overhead benefit breakdown of the road benefits and discussed the details.

Our report also includes a damage assessment for right-of-way (r-o-w) acquisition. For the outlet downstream of LaBelle Lake, the project requires both permanent and temporary (construction) r-o-w. The permanent r-o-w includes both cropland and non-cropland areas. For crop areas, we propose a payment rate of \$3,000/acre for permanent r-o-w, and \$300/acre for construction r-o-w. For non-cropped areas, we used \$1,000/acre for permanent r-o-w, and \$100/acre for construction r-o-w. The LaBelle Lake outlet includes both buried conduit and open channel areas. All open channel areas will include the required one-rod (16.5 ft.) grassed bufferstrips, which have been included in our permanent r-o-w calculations. Where closed conduit needs to be buried, permanent r-o-w is required, but after construction, it is anticipated that these areas will return to cropland. The outlet for Boyer Lake is all closed conduit, and we used the cropland rates for this r-o-w. An overhead of our calculations shows the total project r-o-w, affected landowners, and proposed payments. Albright discussed the referenced information.

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.

Susan Madson was disappointed to hear that the DNR has decided not to contribute to the project. She questioned where all the water is coming from. Ellefson discussed the wet cycle we are experiencing. Water tables are high all over the BRRWD, and wetlands can't hold any more water.

Sean Felker asked how the r-o-w rates were determined. Albright explained that the Appraisers investigated land sales in Becker County, which were in the \$2,500 to \$2,700 range. The Appraisers just rounded those prices up to \$3,000, even though most of the r-o-w tracts are small. Bernhardson explained that the Appraisers considered the r-o-w easements as not willing sales. Ellefson explained that the BRRWD is charged to provide just compensation for project easements.

Someone questioned MNDOT benefits. Ellefson explained that MNDOT will be paying about 75% to 80% of the total local project costs.

Marvin Lake said that he was in favor of the project, and discussed MNDOT's share of the project costs. Albright explained that the road authorities, including MNDOT, would be paying 86% of the project costs, and private landowners around the four lakes would pay about 14% of the project costs. Of the

road benefits (86% of project costs), MNDOT would pay about 92% or approximately \$167,277. Albright added that the exact costs will not be known until the project is constructed.

Felker asked if the BRRWD could provide an exact amount that the private landowners will pay for the project. Albright suggested that the meeting be recessed briefly to allow the audience to review the individual Property Owners' Statements.

Paul Munsterteiger, MNDOT, said that the Appraisers' Report is public information. He asked for a copy of the Report.

Someone asked if the project will run this winter. There was a concern that the project would freeze. Ellefson said because of the way it is designed, the outlet project will not freeze. Jones didn't anticipate that the outlet structure would freeze. Ellefson explained that if the lakes reach their operational levels, or the Ordinary High Water (OHW) elevation, the project(s) would be stopped.

Steve Guttormson asked who determines the shut off elevation. Jones explained that the while the exact elevation has not yet been finalized, initially, we plan to lower Boyer Lake about 4'.

Gary Madson thought we should lower the lake further, and said that because his road is flooded, he has to drive 11 extra miles to pick up his mail.

Albright explained that the DNR will allow a lake to be lowered to its OHW, as established by the DNR. Boyer Lake's OHW is at elevation 1319.1 and LaBelle/Duck Lakes' OHW is 1310.1. The DNR does not require a permit for work above the OHW. Boyer Lake could be lowered 6' without impacting the OHW, but LaBelle has a higher OHW and can only be lowered about 2'. The inlet to LaBelle Lake will be installed deeper than the OHW, so if the need arises in the future to lower it below the OHW, we will be able to do so by applying for a DNR permit. Their permitting process entails several requirements. Ellefson advised the audience that there has never been a project that was perfect, but we will try to do our best.

Someone asked why MNDOT didn't put in an outlet when LaBelle and Duck Lakes started having high water problems, as a lot of people were affected. Ellefson said that it hard to predict when a wet cycle will end and a dry cycle will start. Albright mentioned that MNDOT did consider an outlet for Boyer Lake back in 2002/2003, but they decided that it would be more cost efficient and easier to raise the road. This proposed outlet project will be a permanent solution to the high water problems for the area.

Someone asked if there is a plan for revegetating recovered shoreline. Brad Grant explained that we will rely somewhat on natural healing to take place. Costs will be high, and people will have to make individual decisions regarding what they want to plant along their shoreline. Ellefson noted that the BRRWD wouldn't be involved in shoreline restoration.

Someone asked about bank repair. Grant said that if the work is done above the OHW, no DNR permits are required. Albright suggested that it might be beneficial to hold a future meeting on shoreline reclamation with the DNR and Becker County Planning & Zoning.

Ellefson noted that he hasn't heard any dissenting opinions regarding the proposed project. At this point, the hearing was recessed for 15 minutes to allow the audience to review their Owners' Statements.

At 9:25 PM, Ellefson reconvened the hearing.

Ellefson said that during the break, someone had asked him that if the Board decides to develop the project at their 5/10/10 meeting, could the BRRWD finance the project with a 7-10-year bond. That way, people could pay their assessment at any time, or pay over time on their tax assessments. He asked if the audience felt they would like to have the BRRWD finance the project with a bond sale. Albright said that it is more cost effective if we can combine several projects into one bond sale to offset the finance costs. Interest rates are low, but the cost of preparing/selling bonds is prohibitive. Albright suggested that the BRRWD should approve a bond resolution for this project, so that if in the future, there is an opportunity to combine this project with others, we could legally do it. The actual costs to the landowners may not be as much as they anticipate. The BRRWD may be able to finance the project "in-house" for 3-5 years.

Amos Baer asked for clarification regarding the financing. Ellefson said that the BRRWD will decide how to finance the project and the benefits would be assessed back to the landowners through their property taxes over a 3-5 year period. An individual landowner can opt to pay off the assessment at any time. Albright said that typically, the BRRWD/County Auditor would send letters to the property owners explaining how the financing will be handled. Baer thought the bond sale costs would be too high. Ellefson briefly discussed the bond sale the BRRWD held in 2009. The interest rate was 2.75%.

Chairman Ellefson asked if there was any more testimony or questions to come before the Board. There being none, he adjourned the hearing at 9:35 PM. As discussed, the Board will make a decision regarding the project's next steps at their upcoming meeting in Barnesville on 5/10/10 at 8:00 PM.

Respectively Prepared and Submitted

Bruce E. Albright, BRRWD Administrator