

**IN THE MATTER OF PROJECT NO. 49, OAKPORT FLOOD MITIGATION
CLAY COUNTY, STATE OF MINNESOTA**

STATE OF MINNESOTA)
) ss. **FINDINGS OF FACT AND ORDER**
COUNTY OF CLAY) **FOR ESTABLISHMENT OF PROJECT**

The above-captioned matter came before the Board of Managers of the Buffalo-Red River Watershed District (BRRWD) for hearing pursuant to Minnesota Statutes Annotated (M.S.A) 103D.735, and any other applicable statutes, in the Community Center, Dilworth, MN, on December 1, 2008. Appearing at the hearing were: the Board of Managers, BRRWD; Bruce Albright, Administrator of the BRRWD; S. Bruce Langness and Kris Carlson, Ulteig Engineers, Inc. (UEI), the duly appointed engineering firm; the Appraisers; and, other persons indicating an interest in the project. At the hearing, a tablet was passed and all persons were requested to place their name thereon. Said tablet now being in the possession and files of the Board of Managers, BRRWD.

All parties present at the hearing, requesting the opportunity to be heard, were given the opportunity to present their views and testimony to the Board.

The Board of Managers, BRRWD, having fully considered the project, the determination of benefits by the Appraisers, the reports and testimony of the duly appointed engineer, and the testimony of all persons appearing at the hearing, and having duly considered all exhibits submitted to the BRRWD, and being fully advised in the premises and having considered the matter, makes the following:

FINDINGS OF FACT

1. That the preliminary resolution hearing in accordance with M.S.A. 103D.601, was held on May 29, 2003, and that on that same date, the Board of Managers, BRRWD, adopted the final resolution, designating the project number and name; and appointing UEI as the project engineer.
2. The Board of Managers, BRRWD, has jurisdiction over Project No. 49, Oakport Flood Mitigation, pursuant to Minnesota Statute 103D and that all notices for the final hearing, as provided by Chapter 103D, Minnesota Statutes, were properly given.
3. Project No. 49, Oakport Flood Mitigation, is practical and necessary and will be of public utility and benefit and will promote the public health based upon the Engineer's Report.
4. The Engineer's Report is within the scope of the Revised Watershed Management Plan for the BRRWD. Pursuant to Minnesota Statute 103D, said Engineer's Report is confirmed.
5. The Board of Managers, BRRWD, used M.S.A. 103D.721 to determine the project's benefits and damages. After the Engineer's Report was filed, the Appraisers, with the assistance of the engineer, determined the value of the benefits to result from the establishment of this project. The Board hereby finds that the benefits will be greater than the cost of the construction. All of the required right-of-way easements necessary to construct the project will be obtained voluntarily by negotiation, and therefore no damages were found.
6. The Board of Managers, BRRWD, finds, based upon the Engineer's and Appraisers' Reports and the evidence presented at the hearing: that the project is necessary, feasible and practical and is conducive to public health and will promote the general welfare of the District; that it is in

compliance with the provisions of Chapter 103D, of Minnesota Statutes; and, that the benefits resulting therefrom will be greater than the costs of construction and damages as provided in the Engineer's Report.

THEREFORE, upon motion duly made, seconded, and unanimously carried, the Board of Managers, BRRWD, makes the following:

ORDER

1. That the Engineer's Report, pursuant to Minnesota Statute 103D is hereby in all respects adopted, ratified, and confirmed.
2. That the Appraisers' Report, dated October 27, 2008, pursuant to M. S. A. 103D is hereby in all respects adopted, ratified, and confirmed. It is understood that because the final alignment of the levees are still not exact, and are still being determined by UEI at the time of this Order, the Board of Managers, BRRWD, reserves the right to make adjustments for property listed in the Appraisers' Report at this time, but is not included in the final levee alignment.
3. That a contract(s) for the construction of Project No. 49, Oakport Flood Mitigation, be let according to law, and that the duly appointed engineer, UEI, make the necessary surveys in preparing such plans and specifications to construct the project and report the same to this Board.
4. That in accordance with M.S.A. 103D.901, Assessments and Levies, the local cost of said project be assessed against the benefited property in accordance with the Appraisers' Report through a bond sale held by Clay County in accordance with Resolution 09-01. The balance of the project funding will come through a State of Minnesota Flood Damage Reduction Grant.
5. This order shall be immediately filed with the Secretary of the District and a certified copy thereof shall be filed with the Auditor of Clay County, the Minnesota Board of Water and Soil Resources, the Commissioner of the Minnesota Department of Natural Resources (DNR), the Director of the DNR, the Minnesota Pollution Control Agency, and the Commissioner of Health.
6. Any person aggrieved by this Order shall file with the Clerk of the District Court and the Secretary of the BRRWD at its office in Barnesville, Minnesota within thirty (30) days of the date of this final order, a notice of appeal pursuant to M.S.A. 103D to the Clay County District Court which shall state the grounds upon which the appeal is taken.

Dated this 26th day of January, 2009

BOARD OF MANAGERS
BUFFALO-RED RIVER WATERSHED DISTRICT
BY: Roger Ellefson
Roger G. Ellefson, Chair

ATTEST:
John E. Hanson
John E. Hanson, Secretary