

See Highlighted Section on Page 3 and 4

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, May 8, 2012

8:30 a.m.

County Board Room – 3rd Floor – Courthouse

MINUTES

The Clay County Board of Commissioners met in regular session with all Commissioners present: Campbell, Evert, Ingersoll, Waller and Weyland. County Administrator Brian C. Berg and Senior Administrative Assistant Vicki Reek were also present.

APPROVAL OF AGENDA

On motion by Campbell, seconded by Waller, and unanimously carried, the agenda was approved with the addition of "Approval of application/permit for a one day temporary on sale liquor license for Moorhead Community & Technical College Foundation for event at Ponderosa Golf Course, Glyndon, MN, 6/7/12".

APPROVAL OF APPLICATION FOR EXEMPT PERMIT FOR RAFFLES AT WESTERN MN STEAM THRESHERS REUNION, INC.

By consent agenda, the Board approved an application for an exempt permit for raffles to be conducted at the Western MN Steam Threshers Reunion, Inc., in September, 2012.

APPROVAL TO ACCEPT \$100 DONATION TO SHERIFF'S POSSE

By consent agenda, the Board approved acceptance of a \$100 donation to the Sheriff's Posse from W. Deussing, Ontario, Canada. This donation was forwarded to the Sheriff's Department due to the helpful assistance provided by Deputy Empting to W. Deussing when a tire blew out on T. H. 10 in April.

APPROVAL OF 3.2 MALT LIQUOR LICENSE FOR CITY OF BARNESVILLE D/B/A WILLOW CREEK MUNICIPAL GOLF COURSE

By consent agenda, the Board approved the issuance of a 3.2 malt liquor license for the City of Barnesville, d/b/a Willow Creek Municipal Golf Course.

ADOPT FUNDING RESOLUTION AND AGREEMENT FOR CSAH 19 BRIDGE REPLACEMENT PROJECT

By consent agenda, the Board adopted the following resolution and authorized execution of a Local Bridge Replacement Program Grant Agreement with MnDOT for the CSAH 19 bridge replacement project:

RESOLUTION 2012-22

WHEREAS, the County of Clay has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for the construction/reconstruction of County Bridge No. 14k25 - New Number over County Ditch 63 and:

WHEREAS, the amount of the grant has been determined to be \$41,382.60 by reason of the lowest bid.

NOW, THEREFORE, BE IT RESOLVED, that the County of Clay does hereby affirm that any cost of the bridge in excess of the grant will be appropriated from funds available to the County of Clay, and that any monies appropriated for the bridge but not required, based on final estimate, shall be returned to the Minnesota State Transportation fund.

CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

APPROVAL OF MINUTES OF APRIL 17 & 24, 2012 MEETINGS

On motion by Evert, seconded by Ingersoll, and unanimously carried, the minutes of the County Board meetings held April 17 & 24, 2012 were approved as presented.

CLAY COUNTY INVESTMENT POLICY UPDATE

County Auditor-Treasurer Lori Johnson provided proposed updates to the Clay County Investment Policy (See Attachment "A"). The updates provide additions to the list of investments/securities which can be purchased by the Auditor-Treasurer: *"Section 9. Instruments, F. Obligations of government agencies created by an act of Congress; G. As described in MN Statute 118A.04, high quality general obligation and revenue bonds."* The update also changes the length of time an investment can be secured, from two years to five years (to allow for better interest rates), and allows for the investment of *"Other funds, such as the Solid Waste Management fund, may own bonds with longer than five years average life if the fund has long-dated liabilities."*

Commissioner Evert informed the Board that the Investment Committee had reviewed the proposed changes and recommended approval by the County Board.

On motion by Waller, seconded by Campbell, and unanimously carried, the Board approved the amended Clay County Investment Policy as included in Attachment "A".

APPROVAL OF APPLICATION/PERMIT FOR ONE DAY TEMPORARY ON SALE LIQUOR LICENSE FOR MOORHEAD COMMUNITY & TECHNICAL COLLEGE FOUNDATION FOR EVENT AT PONDEROSA GOLF COURSE, GLYNDON

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the Board approved the application for a one day temporary on-sale liquor license for Moorhead Community & Technical College Foundation for an event at the Ponderosa Golf Course, Glyndon, MN, on June 7, 2012.

PROPERTY ALERT SYSTEM

County Recorder Bonnie Rehder provided the Board with information pertaining to a Property Alert System, offered by Fidlar Technologies, which has been implemented in 14 Minnesota counties. The System allows individuals to register for a service to notify them if a real estate document is recorded in their name, helping to prevent fraudulent activity. A new option is to require the applicant who is signing up to have a tangible interest with the person who is being tracked. The applicant would sign up direct with the County, complete an application proving they have a tangible interest, and Recorder's staff would verify the information and enter it on Fidlar's website.

Consensus of the Board was that the service is valuable to Clay County residents and that the proof of tangible interest piece is important. It was felt that marketing of the program would encourage participation by Clay County taxpayers.

On motion by Evert, seconded by Ingersoll, and unanimously carried, the Board approved implementing the Property Alert System in Clay County, and established a fee of \$10.00 to cover staff involvement.

COPY FEE FOR REAL ESTATE DOCUMENTS

County Recorder Bonnie Rehder reminded the Board that in 2011 she had requested an increase in the fee for copies of real estate documents, from \$1 to \$5. Since that time she has also been working on the implementation of acceptance of credit cards for this service. Once the credit card program has been finalized, the new copy fee will be put into effect.

DISCUSSION RE: MN BOARD OF WATER & SOIL RESOURCES ORDER FOR ENLARGEMENT AND INCREASE IN NUMBER OF MANAGERS OF THE BUFFALO-RED RIVER WATERSHED DISTRICT

Acting County Attorney Michelle Lawson informed the Board that Clay County has received a copy of the Minnesota Board of Water & Soil Resources (BWSR) Order with respect to the "Enlargement and Increase in the Number of Managers of the Buffalo Red River Watershed District" (BRRWD) (See Attachment "B"). The enlargement was approved by BWSR, as well as the addition of two Managers, one for Wilkin County and one for Otter Tail County. She noted that there is a 30-day appeal period (to May 25, 2012) for BWSR's action.

BRRWD Office Administrator Bruce Albright informed the Board he would be meeting with the County Boards of Wilkin and Otter Tail Counties about the prospective manager appointments. He added that a meeting will be conducted with affected land owners, the boundary line of the new District will be established, and the watershed management plan will be updated. He felt the enlargement of the District is a positive step to actively manage water in the Red River basin and will provide opportunities to work on water quality and potential flood damage reduction sites.

Considerable discussion took place regarding the rationale and methodology for BWSR's decision to assign the new Managers to Wilkin and Otter Tail County. BWSR used the watershed drainage area as the criteria to assign the new managers to Wilkin and Otter Tail, when Clay County has the larger tax capacity and population.

Ms. Lawson briefly described the process to appeal BWSR's decision if the County were to choose to do so concerning the assignment of the Managers.

Commissioner Campbell commented that any project the new District wants to do or doesn't want to do can be accomplished without a single approval vote from the largest member (Clay County), but Clay County taxpayers will be assessed.

Mr. Albright stated that if the scenario described above occurs, decisions of the BRRWD Board of Managers are subject to appeal by the participating counties. He added that not many of the projects are funded on a district-wide basis. Any larger projects would be paid for via a Water Management District with specific benefited parties.

Ms. Lawson felt further discussion of this topic should take place at the May 15 County Board meeting in closed session.

APPROVAL OF BILLS AND VOUCHERS

On motion by Waller, seconded by Evert, and unanimously carried, the bills and vouchers were approved for payment.

COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE

Commissioner Waller attended a meeting of the Highway Tracking Committee.

Commissioner Ingersoll attended the Clay County Joint Powers Committee meeting.

Commissioner Campbell attended meetings of the Highway Tracking Committee, and Clay County Joint Powers Committee.

Commissioner Evert attended a luncheon regarding Mental Health services, the Annual meeting for the Historical and Cultural Society of Clay County, an Audit by Canadian officials for the Red River Basin Commission, a Personnel Issues Committee meeting, and a meeting of Holy Cross Township and the City of Comstock regarding service provision in the case of emergencies.

Commissioner Weyland attended meetings of the State Health Advisory Committee and Personnel Issues Committee.

JUNE COUNTY BOARD MEETING SCHEDULE


On motion by Campbell, seconded by Waller, and unanimously carried, the Board established the June 12, 2012 County Board meeting time for 5:30 p.m., followed by the Board of Appeals and Equalization at 6:30 p.m. The June 26th County Board meeting time was changed from 4:00 p.m. to 8:30 a.m.

ADJOURN

The meeting adjourned at 9:45 a.m.



Grant Weyland, Chair
Clay County Board of Commissioners



Brian C. Berg, County Administrator

CLAY COUNTY INVESTMENT POLICY

1. Scope

This investment policy applies to all financial assets of Clay County. These funds are accounted for in the annual financial statement and include:

- A. General Fund
- B. Special Revenue Funds
- C. Debt Service funds: Americana Estates, Ditch, Law Enforcement and Family Service Center
- D. Enterprise Funds: Public Health, Solid Waste Management
- E. Trust and Agency Funds: Forfeited Tax Sale, Cross Country Ski, Game and Fish, Deferred Compensation, State Revenue and Taxes and Penalties

This policy also applies to any new fund created by the Clay County Board of Commissioners, unless specifically exempted by court order.

2. Objectives

Safety of principal is the first priority. Investments shall be made in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that losses on individual securities do not exceed the income within the entire portfolio. All investments shall be limited to those permitted by Minnesota Statutes 118A.04.

A market average rate of return will be sought throughout budgetary and economic cycles. The investment strategy will take into account the constraints on risk and cash flow needs of the portfolio.

A minimum of 20 percent of the total investment portfolio shall be through local financial institutions. Clay County will seek to place all of its deposits with Minnesota institutions, however, a minimum of 80 percent of the deposits will be made in Minnesota.

All officials and employees who are part of the investment process shall seek to act responsibly as custodians of the public trust.

3. Delegation of Authority

In accordance with Minnesota Statutes 385.07 and 118A.02, the responsibility for conducting investment transactions resides with the Clay County Auditor-Treasurer.

4. Prudent Person Standard

Investments shall be made with judgment and care. The standard of prudence, as defined by Minnesota Statutes 356A.04, will be applied in all investment transactions.

5. Internal Controls

The system of internal controls shall be documented in writing and reviewed by the Investment Committee and external auditor. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officials of Clay County.

Membership on the Investment Committee shall include but not be limited to the County Auditor-Treasurer, Chair and immediate Past Chair of the Clay County Board of Commissioners, County Administrator, and Social Service Director. The Investment Committee shall meet at least semi-annually and may schedule more meetings, as needed, with a one week advance notice.

6. Reporting

The County Auditor-Treasurer will prepare an annual investment report. Additional investment reports will be prepared by the County Auditor-Treasurer when requested by the Clay County Board of Commissioners.

7. Ethics and Conflict of Interest

Officials and employees involved in the investment process shall refrain from personal business activity that could conflict with the investment program, or which could reasonably cause others to question or doubt their ability to make impartial investment decisions.

8. Designation of Depositories

Depositories, brokers, trust companies and investment advisors will be designated by the County Auditor-Treasurer under authority of Minnesota Statute 118A.02. In selection of depositories, the creditworthiness of the institution shall be considered, as shall experience and past performance. With regard to amounts on deposit and certificates of deposit purchased by Clay County, the County Auditor-Treasurer shall insure that a bond, pledged collateral, or depository insurance entirely protects all public monies.

9. Instruments

The County Auditor-Treasurer must comply with the list of permissible investments found in Minnesota Statutes 118A.04. The County Auditor-Treasurer is further restricted to purchase only those securities listed below:

- A. Certificates of Deposit
- B. U.S. Treasury obligations (bills, notes and bonds)
- C. Mortgage-backed securities, which are not considered high risk through the Federal Financial Institutions Examination Council (FFIEC) test
- D. Minnesota Association of Governments Investing for Counties (MAGIC) pool
- E. Money Market funds whose investment approach qualifies under state statutes
- F. Obligations of government agencies created by an act of Congress
- G. As described in MN Statute 118A.04, high quality general obligation and revenue bonds

The County Auditor-Treasurer or designated financial institution will maintain documentation of compliance with this policy, including FFEIC tests as described above.

10. Custodial Risk

How a security is held presents risks for an investor. The Government Accounting Standards Board (GASB) has promulgated a three tier custodial risk classification system. Under GASB Statement #3, as part of the annual county audit, auditors classify each of the county's investments into one of three categories based on who is holding the security and how they are being held. The County Auditor-Treasurer shall structure all investments and deposits so the custodial risk is at all times in categories #1 and #2 under GASB Statement #3.

11. Diversification

Portfolio maturities shall be staggered to provide for stability of income and reasonable liquidity. Ninety percent of the general fund and special revenue fund assets shall be invested instruments with maturities or average lives that do not exceed five years from the date of purchase. Judgment will be used to avoid undue concentration of assets with a single issuer. Other funds, such as the Solid Waste Management fund, may own bonds with longer than five years average life if the fund has long-dated liabilities.

12. Electronic Fund Transfers

As authorized under Minnesota Statutes 385.071, the County Auditor-Treasurer can use electronic fund transfers for the following purposes:

- a. Investment purchases
- b. Contractual payments to vendors (when the County Auditor-Treasurer has determined they are in the financial best interest of Clay County)

February 11, 1986

Amended August 4, 1987

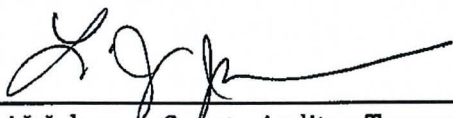
Amended July 9, 1991

Amended February 11, 1992

Amended June 8, 1993

Amended March 11, 1997

Amended May 8, 2012



Lori J. Johnson, County Auditor-Treasurer



Grant Weyland, County Board Chair



MEMORANDUM

April 26, 2012

HAND DELIVERED

TO: Mark Ritchie, Secretary Of State

FR: Travis Germundson, Water Management Specialist

PH: (651) 297-4958

**RE: Order, Enlargement and Increase in the Number of Managers
of the Buffalo Red River Watershed District**

Pursuant to Minn. Stat. § 103D.261, a certified copy of the Minnesota Board of Water and Soil Resources Findings of Fact, Conclusions and Order, eight pages, dated April 25, 2012, for enlargement and increase in the number of managers of the Buffalo Red River Watershed District, including a map, is hereby enclosed for filing.

Please contact me if you have any questions.

Attachments (Avadavat of Service, Order, Map, List of Addressees)

cc: John Jaschke, Dave Weirens, Ron Shelito, Pete Waller

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>Mankato</i>	<i>New Ulm</i>	<i>Rochester</i>
4 West Office Complex 403 Fourth St. NW, Room 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

LIST OF ADDRESSEES

Order, Enlargement and
Increase the Number of Managers of the
Buffalo Red River Watershed District
April 26, 2012

cc: Becker County Auditor
Becker County Administrator
Becker County Attorney
Clay County Auditor
Clay County Administrator
Clay County Attorney
Wilkin County Auditor
Wilkin County Administrator
Wilkin County Attorney
Otter Tail County Auditor
Otter Tail County Administrator
Otter Tail County Attorney
West Otter Tail County SWCD
Wilkin County SWCD
Becker County SWCD
Clay County SWCD
Mayor, City of Breckenridge
Mayor, City of Kent
Mayor, City of Rothsay
Mayor, City of Foxhome
Mayor, City of Dilworth
Mayor, City of Barnesville
Mayor, City of Comstock
Mayor, City of Georgetown
Mayor, City of Glyndon
Mayor, City of Hawley
Mayor, City of Moorhead
Mayor, City of Sabin
Mayor, City of Audubon
Mayor, City of Callaway
Mayor, City of Lake Park
Mayor, City of Rothsay
Mayor, City of Wolverton
Jon Roeschlein, Bois de Sioux Watershed District Administrator
Bruce Albright, Buffalo-Red River Watershed District Administrator
Naomi Erickson and Ron Harnack, Red River Watershed Management Board
Tom Landwehr, DNR Commissioner
Steve Hirsch, DNR Director Division of Ecological and Water Resources
Ray Bohn, Minnesota Association of Watershed Districts
February 23, 2012 Public Hearing Mailing List

BOARD OF WATER AND SOIL RESOURCES

Mailing List

<u>Name *Please Print*</u>	<u>Address/Affiliation</u>	<u>Telephone#</u>
1. Jonathan C. Piekarski	24479 120th Ave. Fergus Falls, MN.	218-739-2908
2. Dennis Aksamit	122 Main Ave. E., Rothsay, MN	218-867-2395
3. Cathy Affield	2010-250th St. Kent, MN	218-557-8827
4. Jon Roeschlein, Bd SWD	709 Hwy 75 South Wheaton, MN 56296	320-563-4185
5. Brad Morgan AS	WOTC WCP	
6. Scott Lankow	2547 380th St. Forks, MN.	
7.		
8.		
9.		
10.		
11.		

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of the Petition for Enlargement and Increase the Number of Managers of the Buffalo Red River Watershed District pursuant to Minnesota Statutes §§ 103D.261 and 103D.305.

**ORDER
ENLARGEMENT AND
INCREASING NUMBER
OF MANAGERS**

Whereas, a joint Petition was filed with the Board of Water and Soil Resources (Board) on January 4, 2012 by the Otter Tail and Wilkin County Board of Commissioners and Buffalo Red River Watershed District (BRRWD), to enlarge the territory and increase the number of managers of the BRRWD pursuant to Minn. Stat. §§ 103D.261 and 103D.305, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **Petition.** The Petition (Exhibit 1) to enlarge and increase the number of managers of the BRRWD dated December 27, 2011, was filed by the Otter Tail and Wilkin County Board of Commissioners and BRRWD, with the Board on January 4, 2012 pursuant to Minn. Stat. §§ 103D. 261 Subd. 1 and 103D.305 Subd. 2.
2. **Property Description.** The territory to be included in the watershed district, the Petitioned Area, is located in Wilkin and Otter Tail Counties and is approximately 430 square miles of land depicted on a map (Exhibit 1A) included in the Petition. The area is contiguous to BRRWD, and includes land in the Cities of Breckenridge, Kent, Rothsay, and Foxhome. The area includes lands contemplated to be included in the January 11, 2011 establishment petition for the Upper Red Lower Otter Tail Watershed District.
3. **Reasons for the Enlargement.** The Petition states that enlargement is needed for those purposes specified in Minn. Stat. §103D.201 Watershed District Purposes. In addition it would help prevent damage to property due to flooding, remove county boundaries, regulate private ditching, and provide opportunity for re-evaluation of drainage.

The record contains support for the enlargement from Wilkin, Clay, and Otter Tail Counties, City of Moorhead, and BRRWD. The record contains opposition from Bois de Sioux Watershed District, Red River Water Management Board, and City of Rothsay. Most of the entities in opposition of enlargement are supportive of establishing a stand-alone watershed district.

The Wilkin County Local Water Plan 2008-2017 includes an action to investigate the establishment of a water management structure or ordinance for the Lower Otter Tail and Red River Headwaters watershed areas of Wilkin County. Wilkin County established a committee of township supervisors charged to identify resource concerns and issues; and consider management structure alternatives. The township committee by consensus found the resource concerns and issues to be predominately water quantity related, but acknowledge surface water quality also. The township committee considered structures such as Traditional Management, Working Agreement, Joint Powers Agreement, and Watershed District. The enlargement of existing neighboring Watershed Districts and the establishment of an independent Watershed District were considered.

Based on the Township Committee recommendation the Wilkin County Commissioners selected as their preferred structure an independent watershed district with the proposed boundary (Exhibit 1A).

4. **Establishment Petition.** An establishment Petition dated January 11, 2011 was filed with the Board on January 18, 2011 by Wilkin County Board of Commissioners pursuant to Minn. Stat. § 103D.205, Sub. 3. The territory is the same as the proposed enlargement of the BRRWD. A public hearing on the Petition was held on September 7, 2011. Representatives from Otter Tail County spoke in opposition. At the September 14, 2011 BWSR's North Region Local Water Management Committee Meeting Wilkin County Commissioner Lyle Hovland indicated that the Wilkin County Water Plan Task Force believes that expanding the BRRWD to include the proposed area is an acceptable alternative. With the alternative option of enlargement of the BRRWD the North Region Local Water Management Committee made the recommendation to continue the committee review in accordance with statutory time lines. Otter Tail County Board of Commissioners passed a resolution dated September 13, 2011 stating that they would join in a petition with Wilkin County to enlarge the BRRWD. This action enabled Otter Tail and Wilkin County Commissioners and Buffalo Red River Watershed District Managers to discuss the enlargement of the BRRWD to include the area proposed in the Upper Red Lower Otter Tail Watershed District Establishment Petition. That discussion resulted in the submittal of the Petition for Enlargement and Increase in the Number of Managers of the BRRWD.

As per the Wilkin County Board of Commissioners' letter dated April 10, 2012, Wilkin County will rescind the Upper Red Lower Otter Tail Watershed District establishment petition contingent on the approval of the BRRWD enlargement and increase in managers petition, with a manager distribution being: 3- Clay County, 2- Wilkin County, and 1 each for Becker and Otter Tail Counties.

5. **Number of Managers.** The Petition for the BRRWD specifies the proposed number of managers shall be increased to seven (7) from the present number of five (5) managers. The additional managers would provide added representation from the District for the proposed territory. When more than one county is affected by a watershed district, Minn. Stat. § 103D.305 Subd. 5.(b) requires the distribution of managers be made among the affected counties.

Presently, Clay County appoints three managers, Wilkin County appoints one manager, Becker County appoints one manager, and Otter Tail has no appointments.

Wilkin and Otter Tail Counties request that two additional managers be allocated to serve the expanded district, one to Wilkin and one to Otter Tail (Exhibits 20, 22, 24, and 26). Clay County and the City of Moorhead request that one of the two managers be allocated to Clay County (Exhibits 13, 21, and 21A) so they can maintain the majority of the representation based on population, drainage area, and tax capacity of the current and proposed area.

The proposed enlarged BRRWD characteristics as depicted in the follow table include two manager distribution alternatives.

Characteristic	Clay County			Wilkin County			Becker County			Otter Tail County		
	Number	%	Ordinal Ranking	Number	%	Ordinal Ranking	Number	%	Ordinal Ranking	Number	%	Ordinal Ranking
Land Value tax capacity	\$40,710,504	73	1	\$8,893,158	16	2	\$ 4,860,120	9	3	\$1,496,598	3	4
Drainage Area, sq miles	797	44	1	553	31	2	290	16	3	166	9	4
population, 2010 census	57377	82	1	5220	7	3	5911	8	2	1474	2	4
Board Managers #'s Alternative A	3	43	1	2	29	2	1	14	4	1	14	4
Board Manager #'s Alternative B	4	57	1	1	14	4	1	14	4	1	14	4

Proposed BRRWD population and taxable market values are reasonable findings to allocate of one of the two additional managers to Clay County (Alternative B). However, the distribution of managers one to Wilkin County and one to Otter Tail County closely mirrors the proposed BRRWD drainage area percentages. This manager distribution (Alternative A) represents the various hydrologic areas within the expanded territory and the entire area of the BRRWD and Clay County would still maintain the greatest number of managers

6. **Hearing Order.** At its regular meeting on January 25, 2012, the Board determined that the Petition met the requirements of Minn. Stat. §§ 103D. 261 and 103D.305, consequently ordered a public hearing to be held on the Petition and appointed the Northern Water Planning Committee to preside over the hearing and bring recommendations to the Board. (Exhibit 2)

7. **Hearing Notice.** Legal Notice of the public hearing on the Petition, pursuant to Minn. Stat. §§ 103D.261 Subd. 1 C and 103D.305 Subd. 4, was published in the Form on January 30, and February 5, 2012 (Exhibit 4), in the Wahpeton Daily News on January 31 and February 7, 2012 (Exhibit 5), in the Barnesville Record on January 30, and February 6, 2012 (Exhibit 6), in the Fergus Falls Daily Journal on January 31, and February 7, 2012 (Exhibit 7), in the Detroit Lakes Tribune on February 1, and 8, 2012 (Exhibit 8), in the Pelican Rapids Press on February 1 and 8, 2010 (Exhibit 9), and in the Hawley Herald on January 30, and February 6, 2012 (Exhibit 10). Further, a copy of the hearing notice and map was mailed to several addressees notifying them of the public hearing, including the Becker, Clay, Wilkin, and Otter Tail County Auditors, Administrators, Attorneys, and Soil and Water Conservation Districts; all cities within the existing and proposed boundary; BRRWD; Bois de Sioux Watershed District; Red River Watershed Management Board; Department of Natural Resources; and Minnesota Association of Watershed Districts. (Exhibit 3)
8. **Public Hearing.** A public hearing was held on the Petition on February 23, 2012, at the Hildebrand Hall, Assumption Catholic Church, 307 Front Street North, Barnesville, Minnesota. The proceedings were recorded. The hearing panel consisted of Board Members Brian Napstad, Gene Tiedemann, Keith Mykleseth, and Quentin Fairbanks as chair. (Exhibit 16)

Travis Germundson, Board staff, entered Exhibits 1 through 13 into the record by reading a brief description of each exhibit.

Exhibit 1. Enlargement and Increase the Number of Managers Petition for the Buffalo Red River Watershed District, dated December 27, 2011 consisting of Exhibits 1A-1B.

Exhibit 1A. Map of the territory to be included in the proposed enlargement.

Exhibit 1B. Letter dated December 28, 2011 from Bruce Albright, Buffalo Red River Watershed District, to John Jaschke, Board of Water and Soil Resources transmitting the petition and map.

Exhibit 2. Board Order for a public hearing to be held on the enlargement and increase in the number of managers petition for the Buffalo Red River Watershed District, dated January 25, 2012.

Exhibit 3. Memorandum dated January 26, 2012 from Travis Germundson, Board of Water and Soil Resources to several addressees providing notice of the public hearing including legal notice, map, and list of addressees.

Exhibit 4. Affidavit of Publication dated January 30, 2012, of Legal Notice in The Form on January 30 and February 5, 2012.

Exhibit 5. Affidavit of Publication dated February 7, 2012, of Legal Notice in Wahpeton Daily News on January 31 and February 7, 2012.

Exhibit 6. Affidavit of Publication dated February 7, 2012, of Legal Notice in Barnesville Record Review on January 30 and February 6, 2012.

Exhibit 7. Affidavit of Publication dated February 7, 2012, of Legal Notice in Fergus Falls Daily Journal on January 31 and February 7, 2012.

Exhibit 8. Affidavit of Publication dated February 7, 2012, of Legal Notice in Detroit Lakes Tribune on February 1 and 8, 2012.

Exhibit 9. Affidavit of Publication dated February 7, 2012, of Legal Notice in Pelican Rapids Press on February 1 and 8, 2012.

Exhibit 10. Affidavit of Publication dated February 12, 2012, of Legal Notice in Hawley Herald on January 30, and February 6, 2012.

Exhibit 11. Email correspondence dated February 9, 2012, from Mark Reineke, Widseth Smith Nolting to Travis Germundson, Board of Water and Soil Resources regarding the geography and economy of the territory to be added and options for consideration.

Exhibit 12. Memorandum dated February 10, 2012 from Travis Germundson, Board of Water and Soil Resources to the Board's Northern Water Planning Committee providing notice of the hearing.

Exhibit 13. Letter dated February 21, 2012 from Grant Weyland, Clay County Board of Commissioners, to John Jaschke, Board of Water and Soil Resources expressing support for enlargement of the district and requesting that one of the two manager positions be allocated to Clay County.

The following exhibits were received during the February 23, 2012 public hearing.

Exhibit 14. Letter dated February 22, 2012 from Wilkin County Soil and Water Conservation District to the Board of Water and Soil Resources that supports the establishment of a watershed district on a watershed basis rather than political boundaries.

Exhibit 15. Letter dated February 23, 2012 from Travis Shirely, City of Rothsay to the Board of Water and Soil Resources in opposition to enlargement of the Buffalo Red River Watershed District within the city limits.

Exhibit 16. Compact Disk of audio recording of the February 23, 2012 public hearing

After all people present at the public hearing were given an opportunity to speak and enter written comments, the hearing record was left open for two weeks until 4:30 PM on March 9, 2012, for receipt of written comments. The following exhibits were received while the hearing record was open.

Exhibit 17. Letter dated February 28, 2012 from Jon Roeschlein, Bois de Sioux Watershed District to the Board of Water and Soil Resources not in support of expanding the Buffalo Red River Watershed District. The District would support a stand-alone watershed district or expansion of both district boundaries to address the petitioned area (Exhibit 11).

Exhibit 18. Email correspondence dated March 1, 2012 from John Roeschlein, Bois de Sioux Watershed District to Travis Germundson, Board of Water and Soil Resources clarifying the District's support for dismissal of the petition.

Exhibit 19. Letter dated March 2, 2012 from Thomas Richels, Wilkin County Engineer to Travis Germundson, Board of Water and Soil Resources in support of expanding the Buffalo Red River Watershed District.

Exhibit 20. Email correspondence dated March 6, 2012 from Lyle Hovland, Wilkin County Commissioner to Travis Germundson, Board of Water and Soil Resources in support of the petition specifying that the two additional managers should be from the enlarged area as proposed in the petition (1 from Otter Tail and 1 from Wilkin).

Exhibit 21. Email correspondence dated March 6, 2012 from Michael Redlinger, City of Moorhead to John Jaschke, Board of Water and Soil Resources transmitting Moorhead City Council Resolution.

Exhibit 21 A. Moorhead City Council Resolution, dated February 13, 2012 in support of the enlargement petition and Clay County majority representation. Requesting that one of the additional managers be allotted to Clay County.

Exhibit 22. Letter dated March 6, 2012 from Leland Rogness, Otter Tail County Board of Commissioners to John Jaschke, Board of Water and Soil Resources stating that the intention of the petition was that areas being added to the enlarged district receive representation of the additional managers (1 from Otter Tail and 1 from Wilkin).

Exhibit 23. Letter dated March 7, 2012 from Bruce Poppel, landowner in the proposed expanded area to Travis Germundson, Board of Water and Soil Resources expressing support for the petition and that one representative manager go to Wilkin County and one to Otter Tail.

Exhibit 24. Letter dated March 7, 2012 from Stephanie Miranowski, Wilkin County Board of Commissioners to John Jaschke, Board of Water and Soil Resources stating concurrence with the Otter Tail County Board of Commissioners letter dated March 6, 2012 (Exhibit 22).

Exhibit 25. Letter dated March 8, 2012 from John Finney, President Red River Watershed Management Board to Travis Germundson, Board of Water and Soil Resources in opposition to the petition for enlargement and support of an independent watershed district as proposed in the establishment petition of the Upper Red Lower Otter Tail Watershed District. Including attached documents of reference.

Exhibit 26. Email correspondence dated March 8, 2012 from Dan Johnson, West Otter Tail Soil and Water Conservation District (SWCD) to John Jaschke, Board of Water and Soil Resources transmitting a letter from the West Otter Tail SWCD Board of Managers.

Exhibit 26A. Letter from Charles Piekarski, West Otter Tail SWCD Board of Supervisors to John Jaschke in support of Otter Tail County Board of Commissioners' March 6, 2012 Letter (Exhibit 22).

Exhibit 27. Email correspondence dated March 8, 2012 from John Walkup, Orwell Township Otter Tail County to Travis Germundson, Board of Water and Soil Resources in favor of the petition for enlargement and increase in number of managers (1 to Otter Tail and 1 to Wilkin).

Exhibit 28. Email correspondence dated March 8, 2012 from Jonathan Piekarski, citizen Otter Tail County to Travis Germundson, Board of Water and Soil Resources in opposition of the proposed expansion of the Buffalo Red River Watershed District.

Exhibit 29. Email correspondence dated March 9, 2012 from Roger Ellefson, Buffalo Red River Watershed District to Travis Germundson, Board of Water and Soil Resources advocating that Wilkin and Otter Tail Counties be able to appoint their own managers.

Exhibit 30. Email correspondence dated March 9, 2012 from Sharon Josephson, Harvego Family Farms Wilkin County to Travis Germundson, Board of Water and Soil Resources in support of the petition to enlarge and increase in the number of managers of the Buffalo Red River Watershed District (1 from Wilkin and 1 from Otter Tail).

Exhibit 31. Letter dated March 9, 2012 from Ron Harnack, Red River Water Management Board to Travis Germundson, Board of Water and Soil Resources of additional findings in support of the Board's recommendation to deny the petition to enlarge the Buffalo Red River Watershed District and to approve the establishment petition for the Upper Red Lower Otter Tail River Watershed District.

9. **Board Staff Report.** In review of the Petition for Enlargement and Increase the Number of Managers of the BRRWD pursuant to Minn. Stat. §§ 103D.261 and 103D.305; the proposed enlargement and increase in the number of managers meets these requirements. Board staff determines the public welfare and public interest and the purpose of Minn. Stat. §§ 103D would be served. Based on these determinations, Board staff recommends the Petition to enlarge and increase the number of managers be approved, with one new manager position coming from Wilkin County and one from Otter Tail County with a final manager distribution being 3-Clay County, 2-Wilkin County and 1 each in Becker and Otter Tail Counties.

10. **Northern Water Planning Committee.** The committee met on Wednesday, April 11, 2012. Board members and staff in attendance were committee members Brian Napstad, Keith Mykleseth, Gene Tiedemann, Quentin Fairbanks, Robert Sip and Mike Carroll and Board staff Ron Shelito and Pete Waller. After discussion and based on the entire record, the committee voted 5 to 1 to recommend approval of the enlargement and increase in the number of managers petition of the BRRWD; increase the number of managers to 7 with the distribution being 3-Clay County, 2-Wilkin County, 1-Becker County and 1-Otter Tail County; and the BRRWD's Watershed Management Plan be amended within two years of the date of the Order.

CONCLUSIONS

1. The Petition for the enlargement and increase in the number of managers of the Buffalo Red River Watershed District are valid in accordance with Minn. Stat. §§ 103D.261 and 103D.305.
2. Proper notice of hearing was given and the public hearing was held in accordance with applicable laws.
3. All relevant, substantive and procedural requirements of law and rule have been fulfilled.
4. The Board has proper jurisdiction in the matter of approving the enlargement and increase in the number of managers Petition for the BRRWD pursuant to Minn. Stat. §§ 103D.261 and 103D.305 .
5. The enlargement and increase in number of managers of the BRRWD as proposed in the Petition would be for the public welfare and public interest and the purpose of Minnesota Statutes Chapter 103D would be served.
6. The two additional managers shall provide added representation for the proposed territory, one from Wilkin County and one from Otter Tail County.
7. The BRRWD Watershed Management Plan should be amended within two years to include the Petitioned Area.
8. Wilkin County has stated the establishment petition for the proposed Upper Red Lower Otter Tail Watershed District shall be withdrawn contingent upon the Enlargement and Increase in the Number of Managers Petition being finalized.

ORDER

The Board hereby orders that the Buffalo Red River Watershed District be enlarged per the joint Petition dated December 27, 2011 (Exhibit 1), according to map (Exhibit 1A) of said Petition attached and made part of this Order hereof, that the number of managers be increased to seven with the two additional managers one appointed from Wilkin County one appointed from Otter Tail County. The Board further orders that the Watershed Management Plan for the Buffalo Red River Watershed District be amended within two years of the date of this Order to include the Petitioned Area.

Dated at Saint Paul, Minnesota this 25th day of April, 2012.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

