BUFFALO-RED RIVER WATERSHED DISTRICT
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Project No. 72, Wilkin County Ditch No. 22-Lateral No. 3
Final Hearing Minutes
July 10, 2012

In accordance with Minnesota Statutes Annotated (M. S. A.) 103E.325, 103E.335, and any other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held the Final Hearing for Project No. 72, Wilkin County Ditch No. 22-Lateral No. 3 Improvement, on Tuesday, July 10, 2012, at 7:30 PM in Hildebrand Hall, Assumption Catholic Church, Barnesville MN. BRRWD Managers present were: Gerald L. Van Amburg, Roger G. Ellefson, Curtis M. Nelson, and Breanna Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Wade Opsahl, Technician, Houston Engineering, Inc. (H.E.); Lauren Peterson and Eddie Bernhardson, Viewers. Also present were landowners: John Hulne, Joseph Wulfekuhle, Tim Buth, Robert Nord, Ron Baebler, Leo Thomson, Ed Askegaard, Jeff Nord, Lowell Picotte, James Briks, and Jerome Briks.

BRRWD Chairman Gerald L. Van Amburg called the hearing to order at 7:30 PM. He introduced the BRRWD Board, Staff, and Viewers. He indicated that tonight's hearing was for Project No. 72, Wilkin County Ditch (C.D) No. 22-Lateral No. 3 Improvement. Albright distributed a sign-up sheet and advised the audience that the hearing was being recorded to assist in the preparation of the minutes, which will be on file in the BRRWD office. He noted that members of the audience having questions should state their name for the record.

Albright gave a brief history of the project. An informational meeting was held on 8/30/11. At that time, landowners requested that the BRRWD move forward on a project to improve Lateral No. 3. A petition and bond were filed, and H.E. was authorized to complete the preliminary engineer's report. On February 16, 2012, the preliminary hearing was held. Albright explained the difference between a ditch repair, which could restore the lateral back to the plan of record, and an improvement, which could include changing culverts and grades, etc. Jones presented the Preliminary Engineer's Report at the 2/16/12 hearing. The Board made an Order to continue with the project development, and Jones prepared the Detailed Survey Report. After that report was filed, those benefitting from the project were determined by the Viewers. Albright explained the 30-day appeal process that begins once the Final Order is made.

Albright said that in 1981, a petition was filed to improve the main ditch of Wilkin C.D. No. 22 and add the 3 laterals. This was completed in 1982. Since then, the system has been maintained, and repairs made, though the effectiveness of the laterals has been questioned with the recent wet conditions.

Jones presented the Detailed Engineer's Report.

Jones stated there were few changes from the preliminary hearing. Using an overhead projector, he outlined the project area, identifying the drainage area for Lateral No. 3, which is approximately 3.9 square miles. He also identified the drainage area for Wilkin C.D. No. 22 as it drains into Wolverton Creek. The main channel of Wilkin C.D. No. 22 starts in Section 9, Mitchell Township, running northwesterly to County State Aid Highway (CSAH) No. 30, ending at Wolverton Creek. The problems with Lateral No. 3 are along the upper portion for about 1 mile of the ditch. The slope on Lateral No. 3 is good until the NE¾, Section 10 and into Section 11, Mitchell Township. This area was constructed in
1980-1981 with a 0.03% slope and portions of the ditch are very shallow with just over 1 foot of depth. Minimal sediment build-up soon compromises the capacity of the ditch.

The proposed project would take the steeper portion of the channel located in the NW corner of Section 10 through Section 11, Mitchell Township, and flatten it to allow for more orderly flows and uniform grade line. Rather than having 1 foot of depth in some sections, there will be 3 feet. Replacement culverts will be the same size and material. Existing culverts will be salvaged and re-laid to the new ditch grade. The exception to this is at County Road (C.R.) No. 11 where a 36” dia. corrugated metal pipe (CMP) will be used instead of the existing 24” dia. reinforced concrete pipe (RCP). Jones has visited the area and stated the existing pipes appeared to be in good condition and many can be reused, which could help reduce project costs. If the project goes to bid, estimates could be requested for both new culverts and for reusing the existing culverts.

Jones continued by explaining that on the north side of Section 9, Mitchell Township, along Lateral No. 3, the first 0.9 mile will be cleaned out. There will be an 8’ wide channel bottom with a 3:1 road slope and a 4:1 field slope. In the NW corner of Section 10, Mitchell Township, the slope flattens to a 0.05% grade. The culvert in this area will be reset about 1’ lower. At the quarter line, the culvert will be dropped 2’-2.5’ feet and at the line between Sections 10 and 11, the culvert will be approximately 2’ lower. The same geometry will be used as in Section 9 with a 3:1 road slope and 4:1 field slope. In Section 11, the existing ditch has less than a one-year rainfall event capacity, meaning approximately 2” or less of rainfall, most of the water now has to soak away. The current ditch system does not convey the water if there is any sediment deposits. The proposed ditch will provide a 2-year capacity with a daily runoff of approximately 0.5”/day.

Jones then gave an overview of the estimated cost of the project. Included in the estimate are excavation costs of $121,500. Also included are stripping, top soil, riprap, culverts, and field inlets for a construction estimate of $226,436. Jones added that the actual project cost will be known when the project goes through the bid process. With contingencies, engineering, legal, and administrative costs, plus temporary and permanent right-of-way (r-o-w), the total estimated project cost is $350,870.

Robert Nord asked why the culvert size is increasing between Sections 10 and 11. Jones explained that by lowering the culverts to the new ditch grade, the run-off capacity in the ditch should improve.

Eddie Bernhardson presented the Viewers' Report.

In accordance with Minnesota Statutes Annotated (M.S.A.) 103E.351, and any other applicable statutes, we herewith submit the following Viewers' Report:

**Benefits and Damages Statement**

This report covers the determination of benefits and damages for Project No. 72, Wilkin County Ditch No. 22, Lateral No. 3-Improvement that is being completed by the BRRWD in accordance with Minnesota Drainage Law. We did determine damages for the project, in accordance with the right-of-way acreage listed in the report filed by Houston Engineering, Inc., dated 2/27/12. The basis for determining our benefits is based upon a comparison of the conditions expected with the proposed improved ditch in relationship to those that exist today.

Historically, this area has had drainage problems, which is evidenced by the number of legal drainage systems in this portion of Wilkin County. The drainage area for Lateral No. 3 is bordered to the north by...
Lateral No. 2, to the west by Wilkin County Ditch No. 22-Main, and to the east by Project No. 21, Wilkin County Ditch No. 13-Lateral.

We (Lauren Peterson, Arvid Thompson, and I, 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 4, 2012. On that same date, we toured the project area. We filed our report with the Board of Managers, BRRWD, (drainage authority) on June 11, 2012.

Supporting documentation for our analysis and conclusions for our 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. Wilkin County soil survey manuals and maps
2. FSA aerial photographs
3. USGS and LiDAR topographical maps
4. Visual inspections of the project properties
5. Market and sale values as determined by the Wilkin County Assessor's Office

In our report, we found total benefits for Project No. 72 of $608,426. We used five different benefit rate levels of $200, $150, $75, $50, and $25 per acre. The highest benefits were placed on lands that drain directly into the project area on the south side of C.R. No. 182 or 170th ST. This area is shown as a gold color on our maps. We also proposed drainage benefits of $150/acre for lands on the south side of C.R. No. 182 that drain into the improved area, but are farther away from the improvement. These lands are shown as purple on the maps. We also have one area north of C.R. No. 182, which drains to Lateral No. 3, where we propose benefits of $75/acre, or as shown as green on our maps. The lowest level of benefits ($25 and $50/acre) were placed on lands that are protected by the ditch system, and in all cases, these lands already pay drainage benefits to other parts of Wilkin County Ditch No. 22 system. These areas are shown as red and blue on our maps.

Our tasks also included assigning values for damages (right-of-way) acquisition. For permanent right-of-way, we used a rate of $4,000/acre and the permanent right-of-way includes the required 16.5’ grassed buffer strip. For temporary r-o-w, we used a value of $450/acre, and it is expected that includes a one-year period. The damages total $77,530.

Land classification benefit values are based upon an increase in the potential for agricultural production as a result of the drainage project. Existing individual land management practices were not considered. All present land use was evaluated under estimated best land management practices. The protected areas were determined by looking at historic flowage patterns and areas with past problems.

No benefits have been determined to undrained protected waters identified by the Minnesota Department of Natural Resources (DNR), wetlands, and other areas not currently considered under cultivation or having an agricultural use. Areas identified as wetlands under the USDA-NRCS wetland inventory and restricted from additional drainage by state or federal regulations were given special consideration.
Road benefits were determined with consideration of the reduced construction and maintenance costs that could be realized with the improved ditch in place. Since all area roads are already assessed benefits for Project No. 1, Wilkin County Ditch No. 22, we only placed a lump sum benefit on C.R. No. 182, based on past overtopping and damages. Past overtopping at C.R. No. 182 was confirmed with the Wilkin County Highway Department, and FEMA claims they have made. When, and if, road centerline structures are replaced, road authorities will be responsible for these costs in accordance with M.S.A. 103E.525. Cost for the improvement modifications at Sta. 101+53 (200th AVE) and Sta. 154+87 (C.R. No. 11/210th AVE) will need to be borne by the responsible road authorities.

To determine an individual’s estimated costs, the total project costs of $350,870 are divided by the total benefits of $608,426, for a multiplier of 0.577. Using this multiplier, land with benefits at $200/ac. would pay $115.34/ac., $150/ac. pays $86.50, $75/ac. pays $43.25, $50/ac. pays $28.83, and $25/ac. pays $14.42. Financing for the project will be handled by the BRRWD, either locally, or through a bond sale, which would spread these costs over multiple years.

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.

Jeff Nord commented that Sections 33 and 34, Deerhorn Township, are not impacted since the flow is to the northwest corner of Section 35 and leaves in an orderly fashion through the laterals. Nord also asked if there were culverts proposed for the south side of Section 2, Mitchell Township. Albright said there were none proposed. Nord felt culverts could be beneficial in that area. Jones stated that one 24” dia. concrete culvert is in place about 0.25 miles to the west of C.R. No. 11 and goes through the road. For additional clarification, Albright explained the location of C.R. No. 11.

Van Amburg called for other questions. Ellefson asked about the per acre costs for land already in the Lateral No. 2 benefit area. Albright said a breakdown of benefit percentages is not available tonight, but could be prepared for the Board's review. Jeff Nord questioned the lateral improvement being a separate project. Albright stated that once the lateral project is completed and paid for, the benefit area could be eliminated, and the lateral could go back to being part of Project No. 1, Wilkin C.D. No. 22.

Robert Nord asked if the Wolverton Creek/Comstock Coulee could handle more water from the proposed project. He questioned how the BRRWD could recommend a project that would send more water downstream at a faster rate to a waterway that is not adequate now. Jones did not think that this project would affect Wolverton Creek. Albright explained that Wilkin C.D. No. 22 outlets to Wolverton Creek/Comstock Coulee (Clay County), which is DNR protected waters. He continued by giving the background of the Wolverton Creek/Comstock Coulee Clean Water Fund (CWF) channel restoration project and the problems associated with this area. Albright discussed project details and commented on the limitations of what can be done. Using data obtained through studies funded by the Minnesota Board of Water and Soil Resources (BWSR) grants, it has been determined that cleaning approximately 4.5 miles would be necessary to establish a grade line for Nord's area. Problems with the channel cleanout involve a much larger area and would require a permit from the DNR, which has already been submitted. The biggest issue will be what work the DNR will allow. Albright stated a plan exists for the Wolverton Creek/Comstock Coulee area, and it is hoped that it will eventually be completed and then maintained. Robert Nord called for cooperation from all the landowners along the waterway to support the larger project as it develops.

Joseph Wulfekuhle asked about how assessments will be allocated for the Wolverton Creek/Comstock Coulee project. Albright explained how the initial grant was used to evaluate the project scope. He continued by saying that the ditches that use the waterway as an outlet are sprayed, mowed, and
maintained by the BRRWD, but once the water reaches the DNR protected waterway, there are restrictions as to what can be done. Ellefson commented on Robert Nord's property and felt it was not right that the basin on his property has to fill with water before it starts to flow north. He also mentioned that the Wolverton Coulee is one of seven Revised Watershed Management Plan (RWMP) planning regions. The needs of the Wolverton Creek area may be different from the other planning areas, and he feels that the establishment of a water management district could help in securing the needed funding. Albright commented that just prior to the recent heavy rainfall event, Nord had seeded about 80 acres of permanent grass in some of his low areas. With the rain, Nord lost approximately 30 acres.

Jeff Nord commented that all the ditch projects using the Wolverton Coulee as an outlet enter the waterway at a 90-degree angle. He questioned if it would increase each project's efficiency if the outlets were realigned to 45-degree angles. Jones said realigning the flows would not be worth the effort.

Albright stated the Viewers would meet to discuss comments, questions, and concerns expressed at tonight's hearing. If the Viewers make changes, those changes will be filed with the Board. The project could be ordered in, ordered in with revisions, or dismissed. Once the Order is made, a 30-day appeal process begins, during which time the project is on hold. During the appeal period, the BRRWD can advertise for bids, and we could possibly get construction underway yet this fall. He noted that this spring, the BRRWD asked landowners to plant early maturing crops to allow for construction this fall.

Ed Askegaard said he planted corn on Section 10, Mitchell Township. He stated he could not handle any more water downstream. He gets water during the spring runoff into his bin site by the intersection of C.R. Nos. 3 and 30. Askegaard feels the outlet adequacy must be addressed. Albright said for smaller events, this proposed project might have the potential to benefit those lands on Lateral No. 3. In years of heavy snow and rain events, the project might not have much of a downstream effect. Jones said a 0.5" run-off per day is not a very robust ditch, but it can be helpful to drain the low flows. Albright explained that there were no benefits assigned to the S½, Section 4, Mitchell Township. Albright said that the work in Section 9 was a clean-out/repair and not an improvement, but this could be discussed with the Viewers. Van Amburg stated that the BRRWD hopes the DNR will give us permission to work on their protected waters (Wolverton Creek) so we can start the cleanout project on Wolverton Creek/Comstock Coulee. Askegaard asked whether the Engineer had considered installing gates on the upstream inlets rather than dumping more water on the downstream areas during a flood. Albright explained that the ditch is currently designed with an 8' bottom width to slow down the water as it flows downstream, and it has been kept basically the same with this project. He added that the design capacities of Wilkin County Ditch No. 22 (10-year) and Lateral No. 3 (1-year) are not capable of protecting Fargo-Moorhead from a 100-year event. Petitioner Tim Buth commented that there is zero flow now in Lateral No. 3, and that this project might correct what was not built right in the 1980s.

Chairman Van Amburg called for additional questions and comments. He stated the Board would review the recommendations of the Viewers and recessed the hearing at 8:50 PM.

Respectfully Prepared and Submitted by,

Bruce E. Albright, BRRWD Administrator