BUFFALO-RED RIVER WATERSHED DISTRICT

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Buffalo-Red River Watershed District
Project No. 20, Clay County Ditch No. 12, Proposed-Lateral No. 2
Informational Meeting Minutes
February 12, 2014

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a public informational meeting regarding the possible establishment of Clay County Ditch (C.D.) No. 12 Proposed-Lateral on Wednesday, February 12, 2014, at 9:00 AM, in the BRRWD office, Barnesville, MN.

BRRWD Managers present were Curtis M. Nelson and Peter V. Fjestad. Houston Engineering, Inc. (HEI) Staff attending included: Bruce E. Albright, BRRWD Administrator. Others attending included: Terry Skjerseth and Steve Dalen, Pifer's Auction & Reality; and landowners: Kevin Martin, Ralph Schellack, Jack Johnson, Janell Johnson, Tim Pender, Terry Leach, Wayne Field, Randy Carlson, Ron Bekkerus, and Charles Glidden.

Albright called the meeting to order at 9:00 A.M. He announced this informational meeting was being held to discuss landowner drainage concerns along Clay C.D. No. 12 and to work together to develop a mutual solution. Albright noted a signup sheet was being circulated.

Albright referred to a map displayed on the white board and gave a brief history of the drainage issues along County State Aid Highway (CSAH) No. 12, west of Trunk Highway (T.H.) No. 9. Water comes off the beach ridge area to the east and has to flow west along CSAH No. 12. There is an old railroad grade that runs diagonally through this area west of T.H. No. 9. Once the water reaches the ditch along the east side of the old railroad grade, it needs to flow northwesterly into Clay C.D. No. 12. Two miles south of C.D. No. 12 is Clay C.D. No. 21. Clay C.D. No. 69 is located west of the old railroad grade. Several years ago, the BRRWD installed the Riverton Township Retention project in the E½, Section 28, which has helped to control the amount of flows off the beach ridge area, directing the water into C.D. No. 12. Before the retention site was installed, flows used to break out of this area and flow west along CSAH No. 12 east of T.H. No. 9. Albright described the benefit areas of C.D. Nos. 21 and 69 while referring to the benefit maps displayed on the overhead screens.

Terry Skjerseth, Pifer's Auction & Reality, gave testimony using the map to show the drainage issues in and around the parcel of land he manages in the N½, Section 31, Riverton Township. Skjerseth stated he has managed this parcel for the last two years. He mentioned a large June rainfall event last year caused breakouts and flooding across this parcel. Skjerseth noted that he realized it is not possible to plan for every 12” rainfall event that could occur throughout the basin. He continued to talk in great detail regarding area drainage patterns. Albright asked about how much rain fell in that area last June, and Skjerseth said the flooding was caused by an 8” upstream rainfall event. Albright stated anytime that much rain falls, water will go most likely where it wants. Most landowners in this region understand that.

Albright asked landowner Jack Johnson about the condition of the private ditch running along the old railroad grade through his property in the SW¼, Section 30, Riverton Township. Johnson stated there are some trees in his ditch, but further downstream, there are more trees. He said the entire ditch needs to be cleaned. Johnson also described water problems which occur on his land.
Albright suggested that it would be useful to have a survey of the private ditch. The information would include the number of centerline culverts, their elevations, size, and the current ditch bottom elevation. Obtaining this information would help begin to identify the location of the problem areas along the old railroad grade ditch.

Landowner Tim Pender asked if there was enough grade from Clay County Road (C.R.) No. 12 to Clay C.D. No. 12 to drain water in a timely manner. Albright said there should be. Albright used the International Water Institute (IWI) LiDAR mapping tool to show the landowners how to get elevations and/or profiles of an area. This online tool is not as accurate as an actual survey.

Skjerseth discussed the drainage problems he has witnessed along the railroad grade and suggested a few solutions.

Kevin Martin expressed concern about the downstream effects of cleaning the ditch and hoped the group would keep downstream impacts in mind when looking for solutions for the area drainage problems. There are probably problems along the two-mile stretch east of the railroad tracks as well as throughout the project watershed area. He thought a survey could identify these issues more accurately, and then another meeting could be held to discuss the survey results. He mentioned the goal is to work with everyone upstream and downstream to resolve problems without conflict.

Albright showed the group an elevation profile of the ditch from Clay C.R. No. 12 to Clay C.D. No. 12 using the LiDAR tool. He discussed the profile as it was displayed on the overhead screens. He stated there needs to be an adequate outlet regardless of where the water is directed.

Albright explained that a petition could be drafted for a lateral on the east side of the railroad grade, starting at Clay C.D. No. 12 and extending upstream to the east-west quarter line of Section 31, Riverton Township, or further if needed. Johnson stated another issue is that Clay C.D. No. 21 breaks out at the north-south quarter line of Section 31. Albright mentioned that the BRRWD, along with the Township, have worked to raise the banks of C.D. No. 21. He then asked Johnson if he was protected by the dike along the ditch berm. Johnson replied that he is fairly well protected, but not if the water flows over the road. He also commented that the south side of the dike is not very high. He said this side never needed to be very high because water would flow over C.D. No. 12 first.

Albright stated there are two types of flooding events to consider: springtime floods and individual rainfall events. The springtime flood can cause significant damage by washing out roads or flooding buildings. However, most landowners are not as concerned with springtime flooding as long as there is no standing water when they need to plant their fields. The second type is individual rainfall events. A 2”-3” rain event should be able to drain quickly enough to minimize crop damage. He stated that Clay C.D. No. 12 was designed to carry a 5-10-year rainfall event. It will handle a 4”-5” rainfall event but it will take time for the water to completely drain out.

Albright stated that there have been some issues identified which could be easily addressed. The first step is to find an adequate outlet and then work back up the watershed to begin fixing specific problem areas.

A landowner asked how different the ditch is along the railroad grade today compared to years ago. Albright wasn't sure, but he thought there were no trees in the ditch during the construction of Clay C.D. No. 12 in the 1980s. Johnson mentioned the ditch was relatively new when the tracks were removed 35-40 years ago.

Albright restated that the goal today was to gather all landowners and try to get a consensus if they want to address the local drainage problem. Albright feels the issue is a larger overall problem with the ditch
along the old railroad grade. It has never been cleaned to a functional design. He restated a survey would be the first step to determine the location of the problem areas.

Pender stated he was allowed to clean the private ditch on the east side of the railroad grade starting at Clay C.D. No. 21 and extending northwest to C.R. No. 12. The water flows well up to C.R. No. 12, but slows down significantly past this point. He felt it was obvious that improving the ditch along the east side of the railroad tracks from C.R. No. 12 northwest to C.R. No. 72 would help water flow from this area more efficiently.

Albright stated that the private ditch on the east side of the railroad grade could be surveyed in the spring. He has asked both the Clay County Highway Department and the Clay Soil and Water Conservation District (SWCD) if they would be able to survey the ditch. The Highway Department indicated that they would not be able to survey the ditch this year, and the Clay SWCD could possibly survey it this summer. Albright said another option would be to hire a private firm to perform the survey this spring, but then funding becomes an issue. Albright was not sure if the BRRWD could cost share the work. He mentioned that the BRRWD could start a survey and data acquisition fund, but we can only levy for this fund every five years.

Johnson did not believe that the landowners have a problem with cleaning the ditch, but they are concerned with who would pay for it. He briefly mentioned who might benefit. Albright mentioned one way it could work is to make the ditch a legal lateral to C.D. No. 12 according to Drainage Law. An engineer would prepare a preliminary survey, a preliminary hearing would be held, and Viewers would be appointed to determine benefits and damages. Then, a detailed survey report would be completed and submitted to the Minnesota Board of Water and Soil Resources (BWSR) and the Minnesota Department of Natural Resources (DNR) for advisory comments. The Board would hold a final hearing, and then the project could be constructed. The cost of making this a legal lateral compared to the cost of individual landowners doing the work would be greater.

Steve Dalen, Pifer's Auction & Reality, commented that he lives in an area with some drainage issues. He said that when a landowner considers doing the work themselves to minimize costs, they need to add in future maintenance costs to the total calculations. If the landowners spent more to make this ditch a legal lateral now, then the BRRWD would be responsible for future maintenance. Albright stated that this is another benefit to making this a legal lateral now. He said that the BRRWD is working on a similar situation west of Barnesville on Clay C.D. No. 58.

Albright mentioned that he could draft a ditch petition for them. At least 26% of the landowners would need to sign the petition, and the petitioners would also need to provide a $10,000 bond when they file the petition. A bond is an insurance policy the petitioners take out in accordance with Drainage Law, guaranteeing that if at any point, this project does not continue, the money the BRRWD has already spent to develop the project will be paid back to the BRRWD by the petitioners. The Bond guarantees that the petitioners will pay back the BRRWD. Albright said a $10,000 bond will likely cost around $200/year.

A landowner asked if the Viewers would be the individuals analyzing where the water is flowing and determining who would benefit from a petitioned project. Albright said that was correct.

A landowner asked Albright to explain the Viewing process, and wanted to know if landowners could represent themselves to appeal the Viewers' determinations, if necessary. He also questioned if the project were to move forward today, is there a process that would be followed that does not require commitment from landowners right now. Albright explained the first step after the petition and bond have been submitted to the BRRWD, would be to complete an elevation survey of the ditch. Erik Jones, HEI Engineer, would complete a Preliminary Survey Report. Then the BRRWD would schedule a hearing with all affected landowners including everyone along Clay C.D. No. 12. The culverts would be
sized hydraulically to determine if the current size could handle a 2”-3” rainfall event, or if there needs to be changes made to them as well.

There was a brief discussion regarding the gravel pit located in Section 31, Riverton Township.

Albright stated it is the landowner's responsibility to obtain permits to develop drainage once the BRRWD has constructed a proper outlet.

Skjerseth asked if landowners had to obtain a permit for land tiled within two miles of the area in question today. Albright stated they did. The BRRWD approves a tiling permit with the understanding that the landowner is to shut that tile off if there is downstream flooding. Skjerseth asked if the tile is gated. Albright said the tile system has a lift station at the outlet. He also stated it would be difficult to monitor if the landowner is following this agreement, but that was the understanding when the permit was issued because we know there are downstream problems in certain areas.

Landowner Ralph Schellack asked if the Minnesota Department of Transportation (MNDOT) had to give permission for the tile to drain into their road ditch. Albright stated that MNDOT does have a process that has to be followed as well. Schellack stated that MNDOT should have to keep the water in their ditch since they are allowing water drainage into the ditch. Albright stated MNDOT's ditch has to drain somewhere also. He mentioned that if there was a legal lateral along the railroad grade, MNDOT could be assessed benefits due to their drainage along T.H. No. 9.

Manager Peter Fjestad asked if there are crossing culverts proposed. Albright stated there are culverts where T.H. No. 9 and Clay C.D. No. 12 intersect. There are no ditch centerline culverts between T.H. No. 9 and C.R. No. 72. Pender stated that area isn't a concern. Albright said he didn't know if there were centerline culverts in T.H. No. 9 from C.R. No. 12, south to C.D. No. 21. T.H. No. 9 acts as a dike as well. A landowner asked if ditch system flows tend to break out to the south. Albright stated that most of the drainage along T.H. No. 9 drains north.

Albright restated he could easily draft a petition and send it to Skjerseth to obtain the necessary signatures. He asked if the landowners would be interested in signing a petition of this nature. Johnson questioned whether or not they should spend the extra money to make it a public ditch. Albright stated there is a well-defined set of rules and processes to follow when a ditch is constructed according to Drainage Law. Albright briefly reviewed the steps to make this a legal lateral. He discussed a similar petitioned project for a two-mile ditch near Breckenridge that has incurred approximately $10,000 in costs, which include the Engineer's Reports and the surveying.

A landowner asked Albright's opinion on what he thought the cost of a survey would be for a two-mile stretch. Albright estimated the survey to cost approximately $5,000 to $6,000.

Albright stated that even if the landowners had the private ditch surveyed, and they fixed the problems themselves, there would still be the issue regarding payment for the services.

Albright mentioned the Drainage Law process includes the appointment of Viewers, who determine where the water is coming from and who would benefit from the project. Anyone draining water into the benefit area of the new ditch would share in the cost of a project.

Skjerseth commented there are two large culverts into the gravel pit in Section 31, Riverton Township. He said it is not causing a problem but acts as a storage area until it reaches capacity and flows over.

Another landowner discussed whether the landowners would be better off surveying and repairing the ditch individually, but wondered how long before they are in this same situation again. He stated it may
cost less now, but that another situation may need to be addressed in the future. He mentioned that maybe it would be more cost effective to make it a legal ditch right away. Albright stated the cost of making this a legal ditch may cost more initially, however the process would spread the costs across a much larger area. He mentioned again that the Viewers are responsible for determining who would use the new lateral and what their share of the project costs would be.

Albright reiterated that he could draft a petition and mail it to Skjerseth. Skjerseth can then talk with landowners to obtain signatures of those in favor of the project.

The landowners continued to discuss whether or not the project should stop at the east-west quarter line of Section 31, Riverton Township or continue southeasterly to Clay C.D. No. 21.

Albright asked if there were any culverts in the railroad grade ditch from the quarter line Section 31, Riverton Township, along the Hershey property in the N½ of Section 31. Schellack stated there is a culvert at the quarter line. Skjerseth mentioned there is also a culvert in an approach, but that it is washed out. Pender stated that he pulled that culvert out when he was allowed to clean the ditch to the original grade line. He noted that the culvert was in very poor condition at that time.

Albright continued discussing the length of the potential project. He noted that if the landowners decided to survey to the quarter line, but then later thought it was not necessary to extend that further south, they could give testimony at the preliminary hearing to revise the project scope. Skjerseth agreed the project should at least come as far south as the quarter line in Section 31, Riverton Township. He stated that may be it should go further south to Clay C.D. No. 21. Skjerseth asked Albright to explain once again who pays for the survey. Albright restated the drainage law process.

Pender asked if it would be possible for work to begin this year if everyone would agree to make this a legal ditch. Albright said if the landowners get the process moving, it could be done this year, and he once again summarized the two options available to the landowners to complete a project.

A landowner asked Albright if he could estimate the cost of making this a legal two-mile ditch. Albright stated that would be difficult to determine without having a survey to tell us how much work is required.

Johnson stated there is a lot of trouble with Clay C.D. No. 21 breaking out, into Section 31, Riverton Township.

Martin asked if it would be more cost effective to survey the entire stretch from Clay C.D. No. 12 to Clay C.D. No. 21. A survey might indicate any problems in this section now and would decrease the chance of having a problem later. Skjerseth agreed with Martin's suggestion.

Albright stated that he would prepare a draft petition, and will identify the landowners who will have the option to sign the petition. Albright said he would forward the petition to Skjerseth so he can obtain the necessary signatures. Albright briefly repeated the petition process to create a legal ditch system.

The meeting was adjourned at 10:35 AM.

Respectfully submitted and prepared by,

John E. Hanson, BRRWD Secretary