

BUFFALO-RED RIVER WATERSHED DISTRICT

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BUFFALO-RED RIVER WATERSHED DISTRICT
Clay County Ditch Nos. 9, 32, and 33
Redetermination of Benefits Hearing
April 9, 2015

In accordance with Minnesota Statutes Annotated (M.S.A.) 103E.351 and any other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a redetermination of benefits hearing on Thursday, April 9, 2015, at 7:30 PM at City Hall, Moorhead, MN, for Clay County Ditch (C.D.) Nos. 9, 32, and 33. BRRWD Managers attending were Gerald L. Van Amburg, John E. Hanson, and Peter V. Fjestad, and Breanna L. Kobiela. Others attending included: Bruce Albright, BRRWD Administrator, and Wade Opsahl, Technician, Houston Engineering, Inc. (HEI); Arvid Thompson, Lauren Peterson, and Eddie Bernhardson, Viewers; Justin Knopf, Minnesota Department of Transportation (MNDOT); Bob Dablow, Mayor, City of Sabin; Norman Nyland, Water and Wastewater Supervisor, City of Sabin; and landowners: Sheryl Jones, Mark Beedy, Gordon Gruchalla, and Audrey Hawkins.

Chairman Van Amburg called the hearing to order at 7:30 PM and introduced the BRRWD Managers, Staff, and Viewers. Bruce Albright, BRRWD Administrator, announced that the proceedings were being recorded to aid in preparation of the minutes. He asked that anyone giving testimony please state their name for the record. There was also a signup sheet circulated to record attendance. He also noted that all of the information presented at tonight's hearing (maps, etc.) can be found on the BRRWD's website at www.brrwd.org.

Albright gave a brief history of Clay C.D. Nos. 9, 32, and 33. These ditches have been in place since the early 1900s. At that time, most of the Red River Valley was in serious need of drainage. If someone were to look at a map of the Watershed District, they would see County Ditch systems approximately every mile, beginning in Georgetown. These ditches were administered by the Clay County Board of Commissioner until the year 2000, when they transferred the ditch systems to the BRRWD. When repair or maintenance is needed on a County ditch system, the benefitted landowners are assessed for the costs, according to the most current Viewers' Report/benefit map. The Watershed District is the drainage authority, and we administer the ditch system according to Minnesota Drainage Law, but the benefitted landowners own the ditch. Albright noted that the current wet cycle started in 1993, so we have had a long period of abnormal precipitation. The Fargo-Moorhead (F-M) area's average precipitation is 21"-22", which is based on 100 years of historical data. During the years 1993-2014, the F-M area received 29"-31" inches of rain.

The BRRWD received a petition from the landowners on Clay C.D. No. 32 in 2011, asking for a ditch repair. It was at this time that landowners reported that the old benefit map from the 1900s did not accurately reflect current benefits. The BRRWD held a meeting regarding Clay C.D. No. 32 on 04/12/12, followed by another meeting on 05/09/12, which included all of the landowners from Clay C.D. Nos. 9, 32, and 33. At that meeting, it was unanimously decided that the BRRWD should redetermine the benefits for these three systems. They also discussed funding that could be obtained from the State to help with the repairs. On 05/14/12, the Board made an order to redetermine the benefits. They appointed Viewers: Thompson, Peterson, and Bernhardson.

In September 2012, the BRRWD applied for a Minnesota Board of Water and Soil Resource (BWSR) Grant for conservation drainage practices grant to help with the costs of repairing the ditches. In January 2013, we received the grant for \$333,590 to fund the installation of one-rod (16.5') grassed buffer strips on the top side of the ditch to keep sediment out of the ditch. The grassed buffers reduce future repair costs

and also improve water quality. The grant funding was also used to install gated pipes at certain locations along the ditch system to reduce bank erosion at the field inlets. The goal is to keep the soil on the farmer's fields and out of the ditch. The BRRWD held a hearing on 04/18/13 and made an order to acquire the right-of-way (R/W) for the grassed buffers and go ahead with the side inlet installations on all three systems. The three BRRWD Viewers established the proposed easement values/areas. Landowners who had property the BRRWD needed for the bufferstrip R/W were paid for their easement. On 07/08/13, the BRRWD opened bids for the repair projects and started the cleanout. The work was completed last summer (2014). The final step in this process is tonight's Redetermination of Benefits hearing.

Albright asked if there were any questions at this time. He added that all the information tonight is available on the BRRWD's website, as referenced earlier. No questions were noted.

Viewer Eddie Bernhardson presented the Viewers' Report summary.

In accordance with M.S.A. 103E.351, and any other applicable statutes, we herewith submit the following Viewers' Reports:

Benefits and Damages Statement

This report covers the proposed benefits for the redetermination of benefits for Clay C.D. Nos. 9, 32, and 33, which are being completed by the BRRWD in accordance with Minnesota Drainage Law. We did not determine damages for the ditch systems, as the BRRWD handled the one rod (16.5) grassed buffer strips under a separate proceeding back on 04/18/13 (M.S.A. 103E.021). The basis for determining our benefits is a comparison of the conditions expected with the existing ditches to conditions had no ditches ever been constructed.

Historically, all of the systems were installed in the early 1900s.

We (Lauren Peterson, Arvid Thompson, and Eddie Bernhardson) were appointed by the BRRWD to redetermine benefits for each system. The Board ordered the redetermination of benefits on May 14, 2012. We took our Oath of Office and held our first meeting on September 6, 2013. We toured the project area that same day and filed our report with the Board of Managers, BRRWD, (drainage authority) on March 9, 2015.

Supporting documentation for our analysis and conclusions of the Reports are contained in our files and are available for inspection.

The figures stated within our Reports 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. Clay County soil survey manuals and maps
2. FSA aerial photographs
3. USGS topographical maps
4. LiDAR data
5. Sales data from the Clay County Assessor's Office
6. Visual inspections of the project properties

7. Market values as determined by the Clay County Assessor's Office

The methodology we used for the redetermination is the same for all the systems. Using LiDAR, we had HEI determine the outside boundary (watershed) for each system. We did not field verify each parcel for the watershed boundaries, and this would be one issue we would like to hear from the landowners about. Suggested changes in this regard are welcomed and could be field verified if necessary.

The second issue that is the same for each system is using the County's market value for all buildings located in the respective benefit areas. We used the County's value times one-half of one percent times the respective benefit rate to calculate building benefits. This is the same for everyone with buildings within each ditch system's benefit area.

Road benefits (M.S.A. 103E.315, Subd. 3) and railroad benefits (M.S.A. 103E.315, Subd. 4) were based on the R/W acreage for each utility, multiplied by the respective benefit rate.

For Clay C.D. No. 9, the existing benefits as redetermined in 1960, ranged between \$1.00 per acre to \$8.00 per acre, and totaled \$29,974. For Clay C.D. No. 32, the existing benefits as determined in the early 1900s, ranged between \$1.00 per acre to \$4.00 per acre, and totaled \$27,996. For Clay C.D. No. 33, as determined in 1915, the existing benefits ranged between \$1.08 per acre to \$2.10 per acre, and totaled \$10,610.

For Clay C.D. No. 9, in our proposed report, we found total benefits of \$686,555.50. For Clay C.D. No. 32, the total project benefits are \$790,544.22. For Clay C.D. No. 33, the total project benefits are \$243,497.48. The benefits include both protection and drainage benefits. Some lands may be in more than one system. The general philosophy is that total benefits per parcel would be no higher than \$100 per acre. This is the same philosophy used for the redetermination of benefits on the ditch systems to the south, including Clay C.D. Nos. 11, 36, 40, and 60. The drainage systems were transferred by Clay County to the BRRWD (M.S.A. 103D.625) in 2000. Using a grant obtained through the Minnesota Board of Water and Soil Resources, all of the systems now have side inlets, buffer strips, and have been cleaned. This work was completed in 2013-2014. Future costs should be limited to normal maintenance, such as spraying, slide repairs, etc.

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.

Albright explained that a landowner may pay protection benefits for one ditch system and pay drainage benefits for another, but the Viewers tried to keep total benefits for one parcel at \$100 or less per acre. For roads and railroads, the principle is the same as the farmland. The Viewers take the road R/W acreage in the benefit area and multiply that acreage by the benefit rate. Albright explained how the BRRWD determines the assessment on buildings/houses. Building assessments are calculated by multiplying the County's market value by 0.5% (0.005) times the respective benefit rate.

A couple of unique issues arose when the BRRWD had a meeting with officials from the City of Sabin last month. The first issue was that their waste water treatment pond outlets into Clay C.D. No. 32. Everyone that has sewage service within the city limits of Sabin has water that goes into the treatment pond. The water is released into the ditch system twice a year. The BRRWD looked at some examples around the State of Minnesota, and the going usage rate is approximately 4 cents per 100 gallons. Sabin discharges about 12 million gallons per year. This means that everyone in the City of Sabin has a benefit in regards to using the outlet. The second issue is that some of the homes in Sabin are in town, but they are not within the city limits. Those homes were assessed individually, according to the acreage and building values. Legally, the BRRWD does not have to send a notice to everyone that lives in the City of Sabin. The City gets those benefits and the City gets a notice in that regard. The City of Sabin mentioned the possibility of

adding a storm water fee to resident's utility bill and keeping this money in a separate account to be used when there is work needed on the ditch.

Albright also noted that the BRRWD sent out property owner's statements to all landowners. He went into detail explaining how to interpret these statements. He also explained that landowners only pay when work is done on the ditch (not every year).

Van Amburg pointed out that over half of the cost of the work that was done over the last couple of years (cleaning, side inlets, etc.) was paid for through a grant from the State of Minnesota. He also noted that because all of this work was recently completed, it should dramatically reduce the amount of work that has to be done on these ditches in the coming years. He then opened the floor for questions.

Justin Knopf, MNDOT, asked for further clarification on how one piece of land can be assessed to multiple ditch systems. Albright explained that in the flat Red River Valley, the water sheet flows north and west. The legal ditch south of a particular property is actually keeping that landowner's property dryer by conveying that water west into the Red River of the North. It intercepts that water so the landowner to the north does not have to deal with it. The Statue is pretty clear that if you are going to use a ditch, i.e., send water to it, by law you have to be a part of that ditch system. Knopf said that when he initially looked at the amount of acreage and benefit area MNDOT had, it wasn't adding up when he looked at linear feet of highway. He said it now makes more sense.

Gordon Gruchalla from Section 5, Elmwood Township, commented that the report claims that 40 acres of his property drains into Clay C.D. No. 9. The 40 acres that he is referring to is in the middle of the Section. He feels that this land doesn't drain at all, and therefore, does not benefit to Clay C.D. No. 9. He questioned if anyone has ever physically gone out and verified where the water drains, or if the BRRWD solely relied on LiDAR data to determine where the water goes. He would prefer to have someone come out and take a look because he feels that land does not drain into any ditch at all. Albright verified that Gruchalla was speaking about the property on the east side of C.R. No. 11. Albright continued by adding that this question had come up earlier, and he actually stopped out and looked at that area today. He described the area as flat and noted that there are a number of approaches along part of road that don't even have culverts in them. There are two building sites in Sections 5 and 8, and neither one of those building sites have approaches with culverts in them. Albright noted that this is exactly the type of thing that needs to be brought to the BRRWD's attention. This will be investigated in further detail.

Audrey Hawkins commented that she owns a one-acre property with a shed on it. The map states her property is listed as a \$100/acre benefit area. The property right next to hers, to the north, actually has a house on it. That property is listed as a \$30/acre benefit area. She would like to know why these two properties are listed with different benefit values. Wade Opsahl replied that Hawkins property is only assessed into Clay C.D. No. 33. Whereas the people just north, are paying \$30 into Clay C.D. No. 33 for protection, and they are also paying \$70 into Clay C.D. No. 32 for drainage. They are also paying \$100/acre; it's just divided into two ditch systems. Hawkins went on to add that before the ditch work was accomplished in 2013, they were always able to mow the ditch. Now, they are unable to mow the ditch because they left it too steep. She was hoping they would come back to correct this, but it is now obvious that they are not. Albright referred her question to MNDOT, since they are the agency that completed that work along Trunk Highway (T.H.) No. 75.

Van Amburg asked if there were any other questions or comments. Albright noted that Gruchalla's property will be looked at in further detail and recommendations will be made. He also noted that the BRRWD meets on the second and fourth Monday of every month. Their next meeting is Monday, April 13, 2015, at 7:00 PM in their Barnesville office. The Board will consider approving the Order to adopt the redetermination of benefits for Clay C.D. Nos. 9, 32, and 33 at that meeting. These meetings are open to the public.

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At 8:30 PM, Chairman Van Amburg adjourned the hearing.

Respectfully prepared and submitted by,

John E. Hanson, BRRWD Secretary