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## Clay County Ditch No. 17 & 54 Incremental Implementation of Vegetated Ditch Buffer Strips Hearing Minutes

Monday February 13, 2023

**Managers Present:** Peter Fjestad; Catherine Affield; Gerald Van Amburg; Mark Hanson; William Davis.

**Managers Absent:** John Hanson; Troy Larson.

**Staff Present:** Kristine Altrichter, Administrator; Matthew Schlauderaff, Watershed Specialist.

**Consultants Present:** Wade Opsahl, Technician, Houston Engineering, Inc. (HEI).

**Others Attending:** John Thompson; Kelly Peppel; Pete Thompson; Steve Thompson; Bruce Nelson; Greg Grommesh; Randy Braton; Robert Braton; Chuck Anderson; Peter Lewis; Keith Carr.

President Fjestad called meeting to order at 5:00 PM.

BRRWD Board of Managers acting as the Drainage Authority for Clay County Ditch Nos. 17 and 54 are holding this Hearing on the incremental implementation of vegetated ditch buffer strips which includes acquisition of right-of-way (ROW).

Altrichter stated BRRWD Board of Managers signed an Order on January 9, 2023 to hold this Hearing. Hearing Notices were mailed to all landowners in the benefiting areas for Clay County Ditch Nos. 17 and 54 on January 10, 2023. Board of Managers will hear testimony from impacted landowners at this Hearing. Following the testimony, they will consider an Order at their next regular meeting, February 13, 2023 at 7:00 PM. If the Order is approved, there is a 30-day appeal period. Appeals must be filed with the County Auditor and heard by a District Court judge per Minnesota Statute. Once the 30-day appeal period passes, landowners who have submitted their W9 forms will receive damage payments outline in their Property Owner's Reports that were mailed with the Hearing Notice. If an Order is approved, the buffers will be seeded this spring. BRRWD and Clay SWCD have partnered on a cost-share for some of the seeding expenses for these systems.

Altrichter provided an overview of MN Drainage Law which allows drainage authorities to establish permanent buffer strips to control erosion and sedimentation, improve water quality, or maintain efficiency of the ditch. Following the passage of the Buffer Law in 2015, BRRWD Board of Managers determined that acquiring ROW where buffer strips were required by State Law, would help compensate landowners for land necessary to establish buffer strips. When BRRWD has the ROW BRRWD is able to maintain buffers consistently across the entire system. The acquisition of ROW also allows BRRWD the physical space along the system to complete future repairs.

Altrichter noted Landowners impacted by ROW acquisition received a Property Owner's Report. This report outlined how damages were determined. County assessed values were used to establish payment rate. For land outside of the ditch slope, total parcel value was divided by number of acres to determine a per acre rate. If existing ROW did not exist within the ditch slope, 10 percent of the per acre rate was used to determine the ROW payment.

Keith Carr stated he has pastureland within ROW. Carr asked if he would be required to move fence and keep cattle from grazing. Opsahl noted the area was already grassed and there would not be any requirement to move fence.

Carr asked what other responsibilities the landowners would have in the ROW. Fjestad noted landowners would be responsible for not plowing up the vegetated buffers or negatively impacting the buffer areas. BRRWD would be responsible for noxious weed management. Fjestad noted BRRWD would not be responsible for non-noxious weeds in the buffers.

Landowner asked who would be responsible for gophers. Fjestad noted that Townships have bounties for gophers.

Fjestad noted that landowners can request reduced taxes from the County Auditor once the vegetated buffers are established and BRRWD acquires ROW.

Landowner noted that they did not feel values in Damage Statements reflected current land values. Fjestad noted that ROW is paid for by the drainage system account, so landowners are paying for these with their ditch assessments. Fjestad noted that others in the benefiting area are also contributing to the cost of the ROW with their ditch assessments which will help pay for land that must be taken out of production for the establishment of vegetated buffers.

Landowner asked how land is valued. Fjestad noted that the County Assessor and County Auditor determine land value and BRRWD used those values to determine payment rates.

Landowner stated there have been land sales in the area higher than the values in damage statements. Davis noted that County Assessors use a one-year average to determine land values for assessments.

Landowner stated that BRRWD paid over estimated market value for the Manston Slough Project. Altrichter noted that establishment of ditch buffers have been viewed differently than projects such as Manston Slough. Landowners are required by law to already have vegetated buffers in place and BRRWD decided to help offset some of the losses to landowners by acquiring ROW paid for by the entire ditch system. Project such as Manston Slough are voluntary and there are no state requirements to participate in those efforts.

Landowner asked when buffers were required to be established by the Buffer Law. Altrichter noted that the Buffer Law was enacted in 2015 and buffers were required to be established by 2018. Landowner asked for BRRWD's percentage of compliance. Altrichter estimated approximately 80 percent. Opsahl noted that some of the non-compliance is a result of established buffers that have been replanted with agricultural crops.

Landowner stated that land would be County property after acquisition of ROW. Altrichter corrected that the property remains with the landowner and BRRWD only holds an easement for ditch maintenance and inspection.

Landowner asked if the buffers were required on designated ditches. Fjestad affirmed.

Landowner asked if the ditch would be made deeper. Fjestad noted there is a petition process if landowners want to improve the ditch. Altrichter noted that there is a petition process to improve the ditch, but standard maintenance could be completed by BRRWD without a petition. Altrichter noted that with this Hearing and the establishment of vegetated buffers there is no proposed work for Clay County Ditch Nos. 17 and 54.

Landowner asked if there would be any poles or markers designating the ROW. Opsahl noted that BRRWD received feedback from landowners that they did not want permanent markers in the ROW. BRRWD stakes area with wood lath in spring before planting. BRRWD may install permanent markers if compliance becomes an issue.

Landowner asked if people can hunt in the area. Fjestad noted it remains their private property. Landowners can allow people to hunt if they want to, but BRRWD does not have the authority to allow hunting.

Opsahl noted that if Order is Approved and there is no appeal, buffers will be temporarily staked before spring planting. When conditions allow, grass will be seeded.

Landowner asked what would happen if there is landlocked parcels. Opsahl stated we would work with the landowners. Landowner indicated he would not allow anyone on his land. Opsahl noted that it is the landowners responsibility to establish the buffers. BRRWD Board of Managers decided to acquire ROW to help offset costs, however, they are not obligated to establish the buffers.

President Fjestad adjourned meeting at 5:31 PM.

/s/ John Hanson  
Secretary