



DITCH 119 – PUBLIC HEARING
TITLE: Incremental Implementation of
Vegetated Ditch Buffer Strips Polk
County Ditch Nos. 119
DATE: MARCH 30, 2022

1. ATTENDANCE:

Chairman Stuart Christian called the March 30, 2022, hearing to order at 11:00 AM at the District Office. Other managers attending were Clayton Bartz, Don Andringa, Craig Engelstad, and JJ Hamre. Staff members present included April Swenby – Administrator and Donna Bjerk – Administrative Assistant. Other in attendance remotely included Zach Herrmann, Houston Engineering. Landowners in attendance included: Paul Engelstad, Val Tuseth, Luke Normandin, Corky Hanson, Jonah Sylvester, and Elliott Solheim.

2. WELCOME:

Chairman Christian welcomed the board and turned it over Zach Herrmann.

3. ENGINEER'S REVIEW OF FINDINGS:

The hearing was turned over to Zach Herrmann, District Engineer, who presented the background and the review of findings. The presentation is attached hereunto a copy of these minutes for permanent record.

4. TESTIMONY

Val Tuseth:

Q: How does this pertain to my buildings and the 2 ½ acres adjacent to her buildings. She is concerned that ROW is butting too close to her buildings/trees. She is opposed to lose the several hundred-year cotton wood trees.

A: An image was displayed, and it was explained that the 2 ½ acres starts at the center line of the road and the ROW is quite a ways away from the existing buildings. Herrmann stated that the trees that are currently in the ROW, the district has no intent of cleaning the trees. This is ensuring that the district has access to the ditch. There is currently no intent, and it is very unlikely that the district would need to clear the trees for the maintenance of the current system. Tuseth can still mow, maintain, and take care of her property that she is doing currently.

Q: Manager Engelstad asked if there would be implications for Tuseth regarding planning and zoning due to the ROW?

A. Herrmann will verify this and offer adjustments if needed.

Paul Engelstad:

Q: Engelstad wanted to confirm that he would prefer parallel ROW stakes to align with his headers.

A: The district will confer with Engelstad before stakes are set to accommodate.

The questions from a ditch hearing from Ditch 9 that was held earlier were reviewed for the new attendees and were as follows:

Q: The landowner owns the land?

A: Correct. It is a restricted use easement.

Q: What is actually recorded?

A: Legally a minimum that is required by ditch law is the proceedings. However, the board and choose to record an easement against the parcel, but that hasn't been the practice in the past. There would be administrative costs associated with the system to formally record an easement on the systems. Legal descriptions would be required, and an attorney would have to draft each easement. The board can consider at any time to record easements on each individual parcel.

Q: Are there implications if the buffer strip currently placed in CRP?

A: If there is current CRP easements, they supersede this because the CRP came first. If work would be needed, the ditch authority would have to restore it back to CRP. Herrmann will review those implications if there are recorded easements.

Q: Engelstad farms on both sides of the ditch and has asked if the ROW can be reasonably parallel?

A: Generally, the quarter lines are parallel to the east/west or north/south quarter lines and is hopeful it helps moving forward. Should there be need for adjustments the landowner can coordinate with the board ahead of time.

Q: Are there contingencies for reducing the buffer if there are additional landowner practices?

A: Drainage law, which is independent of the buffer law, does not allow for alternative practices to reduce the buffer.

Q: Does this change any of the landowner permissions for side inlets, cleaning, maintenance, and spoil heights?

A: This process does not change any of the requirements for permissions that were already in place. The permitting process is already in place and the ditch system was already a legal ditch system.

Q: Does this change anything for public access or for haying?

A: There is not a public access, and it is a private drainage system. This only give the rights to the drainage authority for access for maintenance and inspection. The landowner has the right to hay it or rent it out to a hay contractor.

Q: If the district must borrow money will there be a lien on the land?

A: The district has the funds to maintain the property. A loan isn't needed.

5. BOARD DIRECTION.

The board will consider the comments and consider an order to move forward with the Incremental Buffer Acquisition on April 7, 2022.

6. ADJOURNMENT:

The next regular meeting will be held Thursday, April 7, 2022, at 8 AM. As there was no further business to come before the board, a **Motion** was made by Manager Engelstad close the hearing at 11:50 AM, **Seconded** by Manager Hamre. **The Motion was carried.**

Donna Bjerk, Administrative Assistant

JJ Hamre, Secretary

Polk County Ditch 119

Incremental Buffer Acquisition

Hearing

March 30, 2022
Sand Hill River Watershed District
Fertile, MN

Agenda

- Background
- Review of Findings
- Next Steps
- Testimony
- Adjournment

Background

Incremental Buffer Acquisition: (MN Statute 103E.021, Subd. 6)

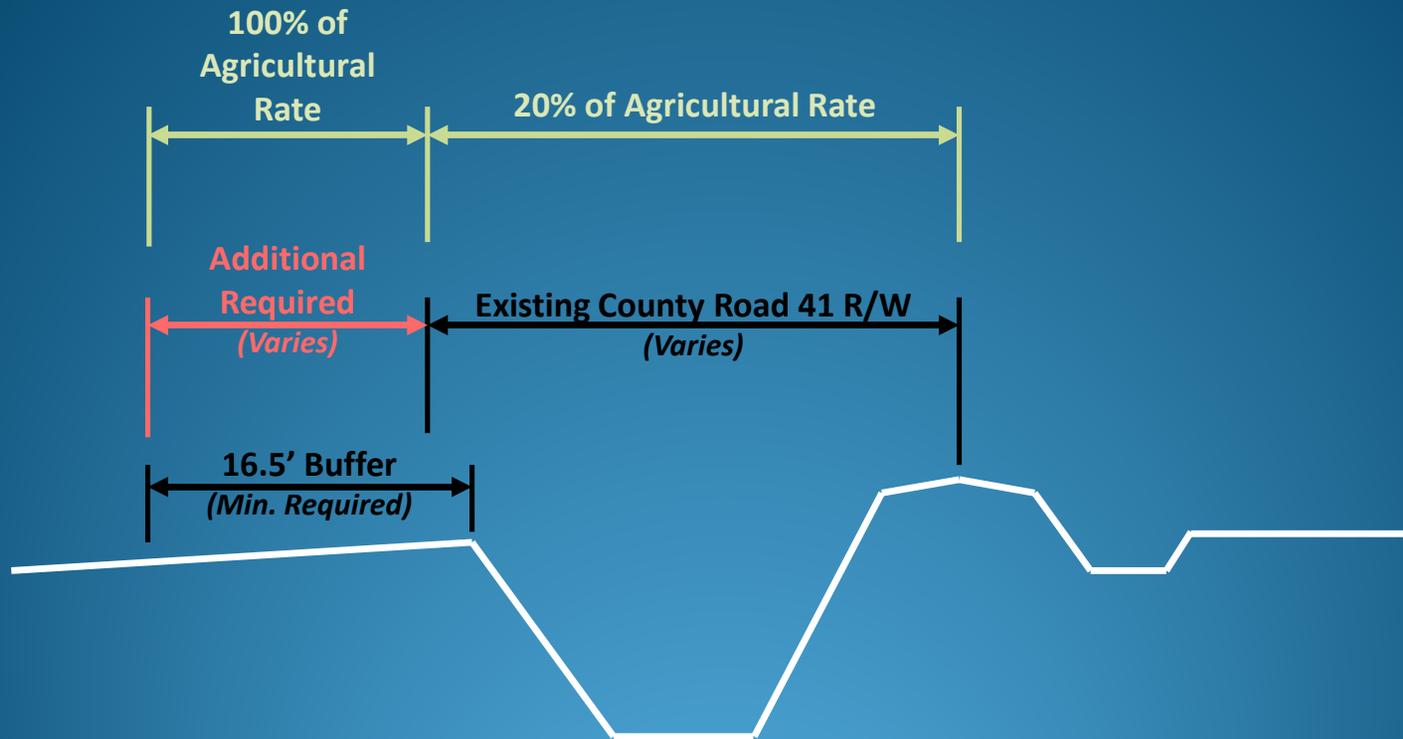
- MN Statute 103E.021 Subd. 1 requires that all Public Drainage Systems provide a 16.5-foot buffer measured from the crown of the leveled spoil. Buffer is required to be taken for any work that requires the appointment of viewers to assess benefits and damages.
- MN Statute 103F.48 requires that public drainage systems established under chapter 103E provide a continuous 16.5-foot buffer.
- MN Statute 103E.021 Subd. 6 provides a method for the drainage authority establish vegetated buffer strips and side linet controls on legal drainage systems to control erosion and sedimentation, improve water quality, or maintain efficiency of the drainage system.

Background

Incremental Buffer Acquisition: (MN Statute 103E.021, Subd. 6)

- September 7, 2021: SHRWD Board of Managers issues Findings and Order:
 - A buffer strip of perennial vegetation is necessary of Polk County Ditch 119 based on recent inspections.
 - Appoint an Engineer for the proceedings.
 - Operate as their own Viewers to determine damages for right of way.

Review of Findings



NOTE: Not to Scale. For illustrative purposes only.

Review of Findings

Determination of Damage Rates

- Average land agricultural land value used along Drainage System.
- Land values provided from Polk County assessors office.
- Average agricultural land value is \$3,330/acre.
- 100% payment rate for land outside of Polk County Road 41 R/W (\$3,330/acre).
- 20% payment rate for land inside of Polk County Road 41 R/W (\$666/acre).
 - Road R/W does not guarantee ditch interests in perpetuity.
 - Some land within current Polk County Road 41 R/W and outside of the Ditch footprint has been farmed.

Review of Findings

Estimate of Damages:

Parcel	New Permanent R/W Inside Ditch			New Permanent RW Outside Ditch			New Permanent RW Inside Road RW			New Permanent RW Total														
	Acres	Per Acre Rate	Damages	Acres	Per Acre Rate	Damages	Acres	Per Acre Rate	Damages	Acres	Damages													
62.00081.00	0.00	\$1,665.00	\$0.00	0.00	\$3,330.00	\$0.00	0.37	\$666.00	\$246.42	0.37	\$246.42													
62.00101.00	0.00	\$1,665.00	\$0.00	0.94	\$3,330.00	\$3,130.20	6.03	\$666.00	\$4,015.98	6.97	\$7,146.18													
62.00104.01	0.00	\$1,665.00	\$0.00	0.55	\$3,330.00	\$1,831.50	1.90	\$666.00	\$1,265.40	2.45	\$3,096.90													
62.00104.03	0.00	\$1,665.00	\$0.00	1.60	\$3,330.00	\$5,328.00	9.44	\$666.00	\$6,287.04	11.04	\$11,615.04													
62.00109.00	0.00	\$1,665.00	\$0.00	0.73	\$3,330.00	\$2,430.90	5.48	\$666.00	\$3,649.68	6.21	\$6,080.58													
62.00110.00	0.00	\$1,665.00	\$0.00	1.08	\$3,330.00	\$3,596.40	5.45	\$666.00	\$3,629.70	6.53	\$7,226.10													
62.00111.00	0.43	\$1,665.00	\$715.95	0.49	\$3,330.00	\$1,631.70	2.04	\$666.00	\$1,358.64	2.96	\$3,706.29													
62.00114.00	0.00	\$1,665.00	\$0.00	1.05	\$3,330.00	\$3,496.50	5.78	\$666.00	\$3,849.48	6.83	\$7,345.98													
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Next Steps

Incremental Buffer Acquisition: (MN Statute 103E.021, Subd. 6)

- Conduct Hearing (TODAY)
- SHRWD Board of Managers consider Order to move forward with Incremental Buffer Acquisition.
- 30-day appeal period after Order is passed by the SHRWD Board of Managers.
- Payment may be made for the Buffers after appeal period.

