



DITCH 9 – PUBLIC HEARING
TITLE: Incremental Implementation of
Vegetated Ditch Buffer Strips Polk
County Ditch Nos. 9
DATE: MARCH 30, 2022

1. ATTENDANCE:

Chairman Stuart Christian called the March 30, 2022, hearing to order at 10:00 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. Others in attendance remotely included Zach Herrmann, Houston Engineering. Landowners in attendance included: Paul Engelstad, Elliott Solheim, and Jonah Sylvester

2. WELCOME:

Chairman Christian welcomed the board and attendees and turned the hearing over to 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 along with the next steps. The presentation is attached hereunto a copy of these minutes for permanent record.

Manager Engelstad asked if other watershed districts have been using this process and it was confirmed that other watershed district use this practice.

Herrmann highlighted that the board can choose the levy if the payments place the ditch in the red. It is the boards intent to continue the current levy payments until the system is in the green, thus not changing the current levy that the landowners are used to.

Herrmann stated that they have done their best to square up the section lines. Herrmann stated the district would still go forward based on the acquisition as stated. The board can allow give/take to accommodate the producer and can be considered on a case by case buffer. At a minimum a 16.5 (from the crown of the spoil out into the field) buffer must be maintained according to 103E drainage law.

4. TESTIMONY

Paul Engelstad:

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 anytime to record easements on each individual parcel.

Elliott Solheim:

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.

Paul Engelstad:

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.

Elliott Solheim:

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.

Paul Engelstad:

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.

Craig Engelstad:

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.

Elliott Solheim:

Q: If the district has to 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 Hamre close the hearing at 11 AM, **Seconded** by Manager Engelstad. **The Motion was carried.**

Donna Bjerk, Administrative Assistant

JJ Hamre, Secretary

Polk County Ditch 9

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)

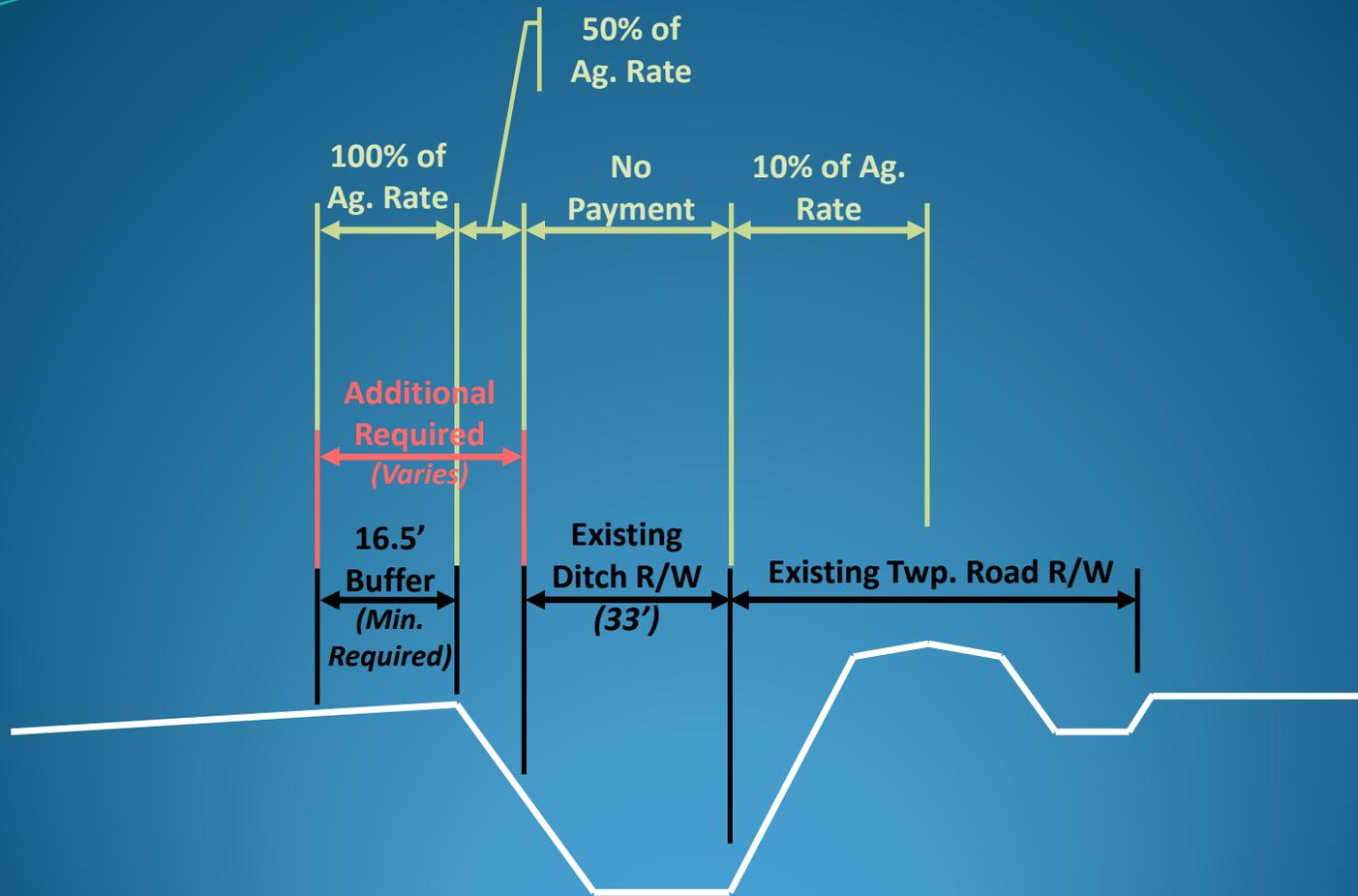
- MN Statute 103E.021 Subd. 1 requires that all Public Drainage Systems provide a 16.5-foot buffer measured from the crown of the leveled spoil. Buffer is required to be taken for any work that requires the appointment of viewers to assess benefits and damages.
- MN Statute 103F.48 requires that public 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)

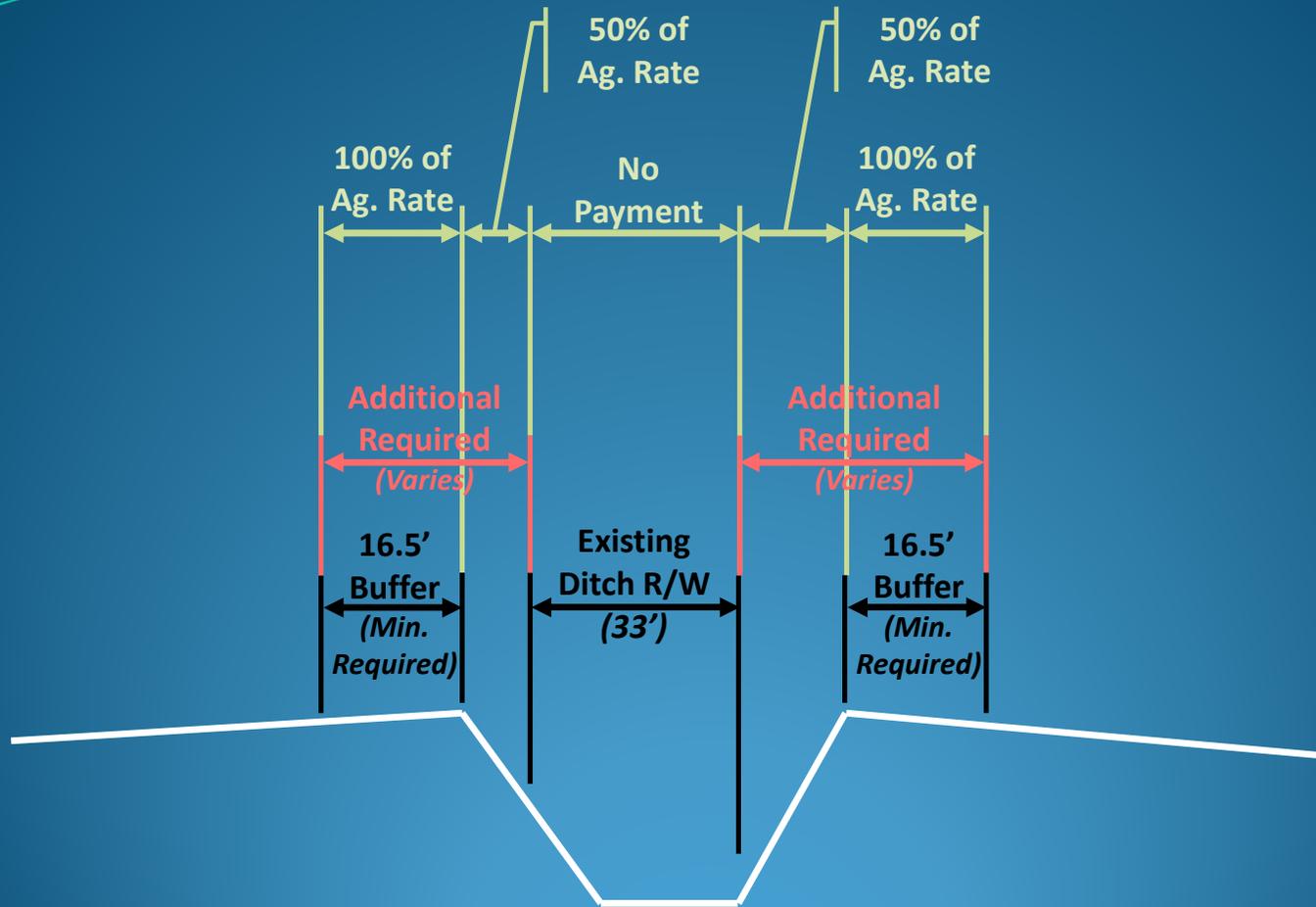
- September 7, 2021: SHRWD Board of Managers issues Findings and Order:
 - A buffer strip of perennial vegetation is necessary of Polk County Ditch 9 based on recent inspections.
 - Appoint an Engineer for the proceedings.
 - Operate as their own Viewers to determine damages for right of way.

Review of Findings



NOTE: Not to Scale. For illustrative purposes only.

Review of Findings



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 \$3,800/acre.
- 100% payment rate for land outside of Township Road R/W, existing Ditch R/W, and physical Ditch Extents (\$3,800/acre).
- 50% payment rate for land outside of Township Road R/W and existing Ditch R/W, but within physical Ditch Extents (\$1,900/acre).
- 10% payment rate for land within Township Road R/W, but outside of existing Ditch R/W. (\$380/acre).
 - Road R/W does not guarantee ditch interests in perpetuity.

Review of Findings

Estimate of Damages:

Parcel	New Permanent R/W Inside Physical Ditch Extents Outside Road R/W			New Permanent R/W Outside Physical Ditch Extents Outside Road R/W			New Permanent R/W Inside Physical Ditch Extents Inside Road R/W			New Permanent R/W Total	
	Acres	Per Acre Rate	Damages	Acres	Per Acre Rate	Damages	Acres	Per Acre Rate	Damages	Acres	Damages
35.00108.00	0.33	\$1,900.00	\$627.00	1.20	\$3,800.00	\$4,560.00	0.02	\$380.00	\$7.60	1.55	\$5,194.60
35.00108.01	0.16	\$1,900.00	\$304.00	1.39	\$3,800.00	\$5,282.00	0.00	\$380.00	\$0.00	1.55	\$5,586.00
35.00110.00	2.57	\$1,900.00	\$4,883.00	2.70	\$3,800.00	\$10,260.00	0.03	\$380.00	\$11.40	5.30	\$15,154.40
35.00112.00	0.00	\$1,900.00	\$0.00	1.07	\$3,800.00	\$4,066.00	0.00	\$380.00	\$0.00	1.07	\$4,066.00
35.00113.00	0.41	\$1,900.00	\$779.00	1.27	\$3,800.00	\$4,826.00	0.00	\$380.00	\$0.00	1.68	\$5,605.00
35.00114.00	1.49	\$1,900.00	\$2,831.00	1.29	\$3,800.00	\$4,902.00	0.00	\$380.00	\$0.00	2.78	\$7,733.00
35.00115.00	1.18	\$1,900.00	\$2,242.00	1.23	\$3,800.00	\$4,674.00	0.00	\$380.00	\$0.00	2.41	\$6,916.00
35.00116.00	0.96	\$1,900.00	\$1,824.00	1.14	\$3,800.00	\$4,332.00	0.06	\$380.00	\$22.80	2.16	\$6,178.80
35.00117.00	1.12	\$1,900.00	\$2,128.00	1.34	\$3,800.00	\$5,092.00	0.06	\$380.00	\$22.80	2.52	\$7,242.80
35.00119.00	0.00	\$1,900.00	\$0.00	0.00	\$3,800.00	\$0.00	2.01	\$380.00	\$763.80	2.01	\$763.80
35.00120.00	0.60	\$1,900.00	\$1,140.00	1.27	\$3,800.00	\$4,826.00	0.05	\$380.00	\$19.00	1.92	\$5,985.00
35.00121.00	0.39	\$1,900.00	\$741.00	1.18	\$3,800.00	\$4,484.00	0.00	\$380.00	\$0.00	1.57	\$5,225.00
35.00121.01	0.00	\$1,900.00	\$0.00	0.00	\$3,800.00	\$0.00	0.99	\$380.00	\$376.20	0.99	\$376.20
35.00121.02	0.07	\$1,900.00	\$133.00	0.12	\$3,800.00	\$456.00	1.07	\$380.00	\$406.60	1.26	\$995.60
35.00122.00	0.77	\$1,900.00	\$1,463.00	1.55	\$3,800.00	\$5,890.00	2.47	\$380.00	\$938.60	4.79	\$8,291.60
35.00125.00	0.41	\$1,900.00	\$779.00	0.78	\$3,800.00	\$2,964.00	0.00	\$380.00	\$0.00	1.19	\$3,743.00
62.00111.00	0.59	\$1,900.00	\$1,121.00	0.76	\$3,800.00	\$2,888.00	0.03	\$380.00	\$11.40	1.38	\$4,020.40
62.00112.00	0.28	\$1,900.00	\$532.00	0.86	\$3,800.00	\$3,268.00	0.02	\$380.00	\$7.60	1.16	\$3,807.60
62.00115.00	0.68	\$1,900.00	\$1,292.00	1.22	\$3,800.00	\$4,636.00	0.02	\$380.00	\$7.60	1.92	\$5,935.60
62.00116.00	0.71	\$1,900.00	\$1,349.00	1.07	\$3,800.00	\$4,066.00	0.02	\$380.00	\$7.60	1.80	\$5,422.60
62.00117.00	0.29	\$1,900.00	\$551.00	1.14	\$3,800.00	\$4,332.00	0.02	\$380.00	\$7.60	1.45	\$4,890.60
62.00118.00	0.41	\$1,900.00	\$779.00	1.12	\$3,800.00	\$4,256.00	0.02	\$380.00	\$7.60	1.55	\$5,042.60
13.42			\$25,498.00	23.70		\$90,060.00	6.89		\$2,618.20	44.01	\$118,176.20

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.

