



Drainage System Acquisition of Buffer Strips & Alternative Practices

MPDM Outreach Workshops
Moorhead, St. Cloud, New Ulm, MN
May 22, 23, 25, 2017

Al Kean, Chief Engineer, BWSR



Pertinent Buffer Law Provisions

- **Section 103F.48 RIPARIAN PROTECTION AND WATER QUALITY PRACTICES.**
- **Subd. 3. Water resources riparian protection requirements on public waters and public drainage systems.**
 - Requires buffer strips along mapped public waters and public drainage ditches, or alternative water quality practices, where land is used for cultivation farming
 - Buffer strips along public drainage ditches are to be measured in accordance with Drainage Law (Section 103E.021, Subd. 1)



Pertinent Buffer Law Provisions

- Section 103F.48, Subd. 10. **Landowner financial assistance and public drainage system procedure.**, para. (b)
 - Speaks to drainage system acquisition and compensation of all or part of ditch buffer strips or alternative practices required by the Buffer Law, in advance or retroactively, using Sec. 103E.011, Subd. 5, Sec. 103E.021, and/or Sec. 103E.715



Pertinent Drainage Law Provisions

- Section 103E.011 **DRAINAGE AUTHORITY POWERS.**, Subd. 5. **Use of external sources of funding.**
 - Allows external funds and drainage system funds to be used within the watershed of a drainage system for purposes including water quality
- Section 103E.021 **DITCHES MUST BE PLANTED WITH PERENNIAL VEGETATION.** Subdivision 1. **Spoil banks must be spread and permanent vegetation established.**
 - Requires minimum 16.5 ft. ditch buffer strip establishment and compensation when viewers are appointed (establishment, improvement, redetermination of benefits, some petitioned repairs)



Pertinent Drainage Law Provisions

- Section 103E.021 **DITCHES MUST BE PLANTED WITH PERENNIAL VEGETATION.**, Subd. 6. **Incremental implementation of vegetated ditch buffer strips and side inlet controls.**
 - Permissive authority for 16.5 ft. buffer strips: “where necessary to control erosion and sedimentation, improve water quality, or maintain the efficiency of the drainage system”
 - Damages determined by viewers or the drainage authority
 - Allows to be done as a repair



Pertinent Drainage Law Provisions

- Section 103E.701 **REPAIRS.**, Subd. 6. **Wetland restoration and replacement; water quality protection and improvement.**
 - Authorizes “the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality” as part of a repair



Pertinent Drainage Law Provisions

- **Section 103E.715 REPAIR BY PETITION., Subd. 6. Repair by resloping ditches, incorporating multistage ditch cross-section, leveling spoil banks, installing erosion control, or removing trees.**
 - Authorizes erosion control practices as part of a petitioned repair
 - Requires appointment of viewers, if additional right-of-way needed



Pertinent Drainage Law Provisions

- Section 103E.315 **ASSESSING DRAINAGE BENEFITS AND DAMAGES.**, Subd. 8. **Extent of damages.**, para. (b)
 - Added in 2016, based on Drainage Work Group recommendation
 - Requires viewers and drainage authorities to consider the land use prior to buffer strip or alternative practice installation under the Buffer Law, when determining the fair market value of the property and associated damages



Compatibility with Chapter 103E

- All drainage system acquisition and compensation of buffer strips or alternative practices must be done in accordance with Chapter 103E – Buffer Law requirements do not trump Drainage Law
- Chapter 103E does not provide for less than 16.5 ft. buffer strips
- Drainage system repair and buffer strip costs are apportioned in accordance with the benefited properties and benefits on record
- Anticipate landowners may want the drainage system to acquire buffer strips, to be compensated



Ag BMP Loan Program

- Public ditch buffer strips and other water quality practices are eligible for low interest AgBMP Loans
- Up to 10 year loans
- Involves the landowners and the drainage authority
- Program administered by Minnesota Department of Agriculture (MDA) through local government units and lenders statewide (except Ramsey Co.)



Overview Document

- BWSR document: **Public Drainage System Acquisition and Compensation of Ditch Buffer Strips and Alternative Practices Required by the Buffer Law**
 - Draft being revised, and coordinated with the Drainage Work Group
 - Look for the document on the BWSR website, Drainage page, and the Buffer page in the near future



Questions?