

DRAINAGE MINUTES
DISTRICT GRANT #5
FEBRUARY 7, 2023

The Story County Drainage District Trustees met in the Public Meeting Room of the Story County Administration Building in Nevada, IA to acknowledge receipt of the Engineer's Statement of Final Completion and estimated damages (on file in the Auditor's Office) for the open ditch repair in Drainage District Grant #5. Members present were Latifah Faisal, chair, Lisa Heddens, and Linda Murken. Also present were Story County Communications and Media Intern Bryce Garman and Drainage Clerk Scott Wall and, attending via Zoom, Drainage Engineer Tyler Conley of Bolton & Menk, Luke Gran of Prudenterra representing landowner John Clough, and landowner Michael Meetz.

Faisal called the meeting to order at 9:30 a.m.

Heddens moved, seconded by Murken, to approve the agenda. Motion carried unanimously (MCU).

Conley said he had submitted, in accordance with Code of Iowa Section 468.101, the Certification of Contract Completion for the open ditch repair in Drainage District Grant #5. A hearing for approval of the project's completion should be set not less than 10 days from the date of mailing notice to landowners or the date of publication of said notice, whichever is later.

Conley said repair work began in September 2022 and was substantially complete by December 15, 2022. All but the 10% retainage has been paid to the contractor. The remaining costs are to be paid 30 days after the public hearing on the project's completion. The submitted documents include estimated damages to be paid to the landowners on whose property the work took place. The amount of damages are based on the cost to replace grass buffers or crop damages. Individual owners may have claims that involve more than that. Conley has received an estimate for damages from landowner John Cough who has a prairie planting that is much more complex than a grass buffer and his estimate is considerably larger than the baseline damages. Ultimately, it is up to the trustees to determine the final amount of damages to be paid. The contractor can be made to return to make repairs that were due to their negligence for up to a year following the completion hearing.

Conley said there is a railroad crossing the open ditch and that crossing has collected brush, debris, and beaver dams, creating an impounded area that is restricting flow in the ditch. Work in railroad right of ways requires the consent of the railroad. In Conley's experience he's had the most success with cleaning in railroad rights of way when the trustees request that work be done, in writing, by the railroad at their expense per Code Sections 468.109-114. With the exception of the Clough property most of the damages during the repair were to grass buffers, not cropland.

Murken asked who pays for the damages.

Conley replied that damages are expected as part of the project and are paid by the district. The district is under no obligation to repair damages within its easement but it is the engineer's recommendation that all damages be paid.

Murken asked if damages occurred outside the district's easement besides to Mr. Clough's property.

Conley said yes but that is not split out in the recommended damages since he recommends that all damages be paid. He can have the areas of damage outside the easement separated out prior to the public hearing. In his opinion the damages that occurred outside the easement were not unreasonable and were necessary to complete the project.

Murken asked if Conley had received other claims for damages.

Conley said he had not. All claims for damages must be received at or before the completion hearing. He was contacted by Moon Howlers Farm about cleaning the ditch under the bridge in the railroad right of way.

Gran submitted several typed questions during the discussion and Conley read and responded to them.

“Were the contractors allowed to go outside the right of way as they did on John Clough’s property?” Yes, this was addressed earlier in this meeting. “Why were survey stakes placed if work can be done outside the right of way?” The stakes are placed to show the limits of the right of way because all trees within the right of way must be removed. “Was the extensive damage to prairie CRP due to a lack of respect for prairie compared to corn? Is there a lack of knowledge of the value of prairie?” No, the damages calculated by the engineer are for grass buffers and serve merely as a starting figure. The final damages paid are at the discretion of the trustees. “What science supports the removal of trees from the right of way?” By law drainage districts can and should remove trees from the right of way to facilitate access and maintenance. “Why not kill the trees chemically and leave them in place?” Dead vegetation blocks access for maintenance and it can end up in the ditch where it impounds the water.

Faisal noted that the trustees had another scheduled meeting at 10:00 a.m. and Grans’ questions would likely come up again at the hearing where any landowners who attend will be able to hear them as well.

Faisal confirmed that the trustees are not approving anything today but are merely acknowledging receipt of the documentation and setting a date for the completion hearing. She asked if the ditch cleanout in the railroad right of way should be addressed today.

Wall said that can wait until the completion hearing but it should be addressed at that time since it is being requested by a district landowner who owns the land on either side of the railroad.

Murken moved, seconded by Heddens, to acknowledge receipt of the Certification of Completion for the Grant #5 open ditch repair. MCU.

Heddens moved, seconded by Murken, to set a public hearing to consider approving the Certificate of Completion for Wednesday, March 1, 2023 at 6:00 p.m. in the Public Meeting Room and to direct the drainage clerk to post notice in the newspaper and mail notice to district landowners not less than 10 days prior to the hearing. MCU.

Murken moved, seconded by Heddens, to adjourn. MCU. Meeting adjourned at 9:57 a.m.

Respectfully submitted,



Scott T. Wall

Due to the Public Meeting Room being unavailable on March 1 the public hearing was subsequently rescheduled for the same location at 6:00 p.m. on Monday, March 6, 2023.