

BENTON COUNTY DITCH AUTHORITY  
Tuesday, July 12, 2016  
Benton County Board Room

The Benton County Ditch Authority met in special session on July 12, 2016 in the Benton County Board Room in Foley, MN with Board members Jake Bauerly, Warren Peschl, Jim McMahon, Spencer Buerkle and Ed Popp present. Also present was Chris Byrd, County Engineer; Michelle Meyer, Assistant County Attorney; Monty Headley, County Administrator; and Vicki Feuling, Administrative Assistant.

Call to order by Chair Spencer Buerkle was at 9:00 AM.

McMahon/Popp unanimous to approve the agenda as written.

Receive Viewers' Reports for County Ditch 13 and County Ditch 15

Ron Ringquist of the MN Viewers Association stated that he is one of four viewers appointed to view County Ditch 13 and County Ditch 15 for the purpose of redetermination of benefits; his intent today is to submit the viewers' reports for Ditch 13 and Ditch 15 to the Ditch Authority, explain how the reports were developed and how to read through the reports. Ringquist noted that landowners will receive a copy of each of the viewers' reports that affects their property prior to the public hearing; an informational meeting with the landowners will also be scheduled prior to the public hearing.

Ringquist explained that the viewers' reports identify areas currently draining into each of those two ditch systems; there is an area on the upper watershed of Ditch 13/15 that is in question as to which drainage watershed those areas should be allowed to drain into—this is one of the issues that will be addressed during the hearing process.

Ringquist referred to the Benefits and Damages Statement which is included in each of the viewers' reports, stating that the first tasks performed by the viewers is delineation of the watersheds and identification of the parcels within those watersheds. He stated that, on a redetermination, the basis for determining benefits and damages is based upon a comparison of what the conditions/values would have been if the ditch systems had never been constructed versus what conditions/values exist with the ditch system in a reasonable state of repair. Ringquist noted a number of aids used during the viewing process, including soil survey manuals and maps of Benton County, GIS aerial photos and data, MN LiDAR, sales data from the Benton County Assessor's Office, and a visual inspection of each 40-acre tract.

Ringquist explained that land use, property value, and economic productivity are determined considering the benefited properties within the watershed prior to drainage; generally four classifications are established when the viewers are in the field: "A" (standing water or cattails, wetland classification with a market value for agricultural purposes of \$0.00 per acre, economic productivity of \$0.00); "B" (seasonally flooded/pasture ground; pasture classification with a market value of \$500.00 to \$1,000 per acre, economic productivity of \$70.00 based on grazing days and/or hay values); "C" (wet subsoil; marginal crop land, low to medium crop land classification with a market value of \$2,000 to \$2,500 per acre, annual economic productivity of \$416.50 based upon average annual yield of 85% of optimum with \$290.98 production costs); and "D" (upland areas not needing artificial drainage but irregular in shape and intermixed with wetter soils; medium to high cropland classification with a market value of \$2,500 to \$3,500 per acre; annual economic productivity of \$475.30 based upon average annual yield of 97% of optimum with \$290.98 production costs). Ringquist stated that land use, property value,

and economic productivity are then determined considering the benefited properties within the watershed after public and private drainage have been installed; generally five classifications are established: "A" (drained slough area, medium classification land with a market value of \$2,000 to \$2,500 per acre, economic productivity of \$416.50 based upon average production of 85% of optimum \$290.98 production costs); "A-" (drained marshy area, restricted or limited drainage with highest and best use as hay, pasture, or recreational land); "B" (well drained ground, higher classification land with a market value of \$2,500 to \$3,000 per acre; economic productivity of \$667.38 based upon average annual production of 95% of optimum with \$290.98 production costs); "C" (well drained ground, high classification land with an estimated market value of \$3,000 to \$3,500 per acre; economic productivity of \$490.00 based upon average annual production of 100% of optimum with \$290.98 production costs); and "D" (well drained ground; high land classification with improved familiarity and market value of \$3,000 to \$4,000 per acre; economic productivity of \$500.00 based upon average production of 100% of optimum with \$290.98 production costs).

Ringquist indicated that an income analysis is performed as part of the redetermination; benefit adjustments also include hydrologic and access/proximity adjustments. He explained that potential benefit values were determined for the system based upon a 25-year effective life with proper maintenance, private improvement cost depreciated over the same 25-year period, and an allowance of 0.5% return on the system investment. Ringquist stated that the report also considers maintenance costs; damages have been given for the easement acquisition for the area required to establish the one-rod seeding area adjacent to the channel required by MN Statute. He pointed out that roads go through the same type of mass classification for assessing road benefits.

Ringquist referenced the Viewers' Report for County Ditch 13:

Total Land Benefits	\$448,589.08
Total Road Benefits	<u>32,185.19</u>
Total Benefits	\$480,774.26

Ringquist referenced the Viewers' Report for County Ditch 15:

Total Land Benefits	\$1,577,806.55
Total Road Benefits	<u>109,017.95</u>
Total Benefits	\$1,686,824.50

Ringquist stated that the Board also asked the viewers to look at potential outlet fees if the upper watershed goes to Ditch 15 instead of Ditch 13. He stated that it was originally constructed as a part of Ditch 13, but a private ditch that was there before 1991 diverted drainage to Ditch 15 because it provided a better outlet; however, there is no record that the landowner legally petitioned for the use of that outlet. He stated that there is a one-time fee to "buy your way in to use that outlet". Ringquist presented a handout entitled "Added Watershed Outlet Charge" noting a present ditch system value for Ditch 15 at \$96,002; the accumulated outlet fee for all benefited properties would be \$7,977.91. Ringquist pointed out that if the Board decides that the diversion should be completely eliminated, those properties would revert back to the Ditch 13 watershed instead (since it is physically draining into Ditch 15, it's been included within the Ditch 15 report). He clarified that it is the Board's decision whether or not an outlet fee should be charged.

Ringquist provided a sample of a Notice of Public Hearing and Property Owners Report. He stated the notice must include the potential for an outlet fee, abandonment, etc. or whatever the issues are that will be discussed. Ringquist noted that the Property Owners Report breaks the data down by parcel, and

includes information such as acres benefited, total benefits and damages, and estimated assessment. He stated that within 30 days of today's date (the date the Viewers' Reports were received), the Ditch Authority must set a public hearing date; the Board has 25-50 days to hold the hearing once the hearing date is set. Ringquist recommended that a one-time administrative fee be charged to help cover the cost of mailing/notice procedures. He also recommended holding an informational meeting a week to ten days prior to the public hearing.

Public Hearing to Receive Public Comment on Possible Enforcement to Outlet Private Drainage into County Ditch 15 (Per MN Statute 103E.401)

Chris Byrd stated his recommendation, as County Ditch Engineer, that this public hearing be delayed until the public hearing on the viewers' reports is held. Chair Buerkle noted that a notice of public hearing was published for today; he called for a short recess at 9:45 AM.

The meeting was called back to order at 9:52 AM.

Michelle Meyer, Assistant County Attorney, explained that there was publication of a public hearing for today to receive public comment on possible enforcement to outlet private drainage into County Ditch 15. She reported that the private ditch into Ditch 15 has been closed; there were still some questions whether or not there was still some drainage, so it was discussed that more information needed to be gathered and that would be determined at the final hearing following a re-examination by the viewers. Meyer stated that, at that time, the Ditch Authority would decide whether or not they wished to proceed with an enforcement action (if there was still remaining drainage). She recommended "pulling" the hearing at this time and, if the Board chooses to proceed with enforcement at a later date, then the notice be republished. Meyer clarified that at the time the viewers' reports were completed, that private ditch was still open; now it is closed (the issue of whether or not there is still drainage must still be determined).

McMahon/Popp unanimous to "pull" the public hearing item from today's agenda (information is incomplete at this time). Meyer recommended that the Ditch Authority set the public hearing date at their next meeting.

Ringquist clarified that the "informational meeting" would include presenting the reports to interested individuals, meeting with landowners who have questions on their specific properties and, hopefully, resolving issues. He pointed out that any recommendations for adjustments can be made at the final hearing; if there is a change in watershed for those properties in question, the viewers may make recommendations to amend their reports or submit a supplemental report.

Adjourn

Chair Buerkle adjourned the meeting at 9:58 AM.

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Spencer C. Buerkle, Chair  
Benton County Ditch Authority

ATTEST:

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Montgomery Headley  
Benton County Administrator

