

1. 8:30 A.M. Ditch Authority Meeting Agenda And Packet March 9, 2022

Documents:

[DITCH AUTHORITY PACKET_MARCH 9, 2022.PDF](#)



Providing excellent customer service in a fiscally responsible manner.

BENTON COUNTY DITCH AUTHORITY

Wednesday, March 9, 2022

8:30 AM

Henry's Event Center

6774 Highway 25 NE, Foley, MN 56329

AGENDA

1. Call to Order by Chair Steve Heinen
2. Approve or Amend the Agenda
3. Conduct a Public Hearing on the Viewer's Report for County Ditches 3, 4, 5, 6, 7, 9, 10, 11, 12 ,14
4. Adjourn

Virtual Meeting Information:

Benton County Board of Commissioners/Benton County Economic Development Authority/

Benton County Ditch Authority

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/834170141>

You can also dial in using your phone.

United States: [+1 \(571\) 317-3122](tel:+15713173122)

Access Code: 834-170-141

Ditch Authority:
Scott Johnson, District 1
Ed Popp, District 2
Steve Heinen, District 3
Jared J. Gapinski, District 4
Beth Schlangen, District 5

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**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

Meeting Date:	3/9/22	Regular Agenda:	X
Requesting Department:	Public Works	Consent Agenda:	

Title of Requested Item As It Will Appear on Board Agenda:

Public Hearing on the Viewers' Report for County Ditches 3, 4, 5, 6, 7, 9, 10, 11, 12, 14

Background Information:

The Viewers' Reports have been filed with the Auditors on February 22, 2022. A public hearing must be held within 30 days of being Filed.

Action Requested:

Conduct Public Hearing, Accept Viewers' Report, or Continue the Proceedings

Fiscal Impact:

Estimated Cost (\$):	N/A
Source of Funds:	Assessments on benefitted landowners
New or Additional Revenue (\$):	N/A
Cost Budgeted in Current Year? (Yes/No)	N/A

Approved by:	Signature	Date
Chris Byrd		3-3-2022
County Attorney (for contracts)		

Amt of Time Requested	Specific Time on Agenda	Laptop Needed?	Overhead Needed?
2.5 hours	No	No	Yes

**REDETERMINATION OF BENEFITS AND DAMAGES
OVERVIEW OF Ditches 3, 4, 5, 6, 7, 9, 10, 11, 12, 14**

Purpose of Redetermining Benefits and Damages: Original benefits and drainage statement no longer reflects current, existing and actual benefits and benefitted areas.

1. Benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values
2. The benefitted or damaged areas have changed
3. Property that was not assessed for benefits for construction of the drainage system has been drained into the drainage system or has otherwise benefited from the drainage system

Reasons to Redetermine Benefits and Damages

1. To make sure a property owner pays his or her proportional share of the costs associated with the ditch. Nothing more and nothing less.
 - Property owners not assessed benefits but benefited by the drainage system will not be responsible for any costs incurred for the drainage system until they are added to the assessment roll. Therefore, this process should be completed prior to the incursion of any costs for repair of a system.
2. To update the total benefits of a drainage system so that statutory cost benefit requirements are met to order repairs.
 - REPAIR PETITIONS: The drainage authority shall make findings and order the repair to be made if:
 - “the drainage authority determines that the drainage system is in need of repair so that it no longer serves its original purpose and the cost of the repair will not exceed the total benefits determined in the original drainage system proceeding.” Minn. Stat. § 103E.715, subd. 4(a)(Regardless of how many property owners petition for repair, the cost of the repair cannot exceed the total benefits determined in the original drainage system proceeding. *Petitions of Dudek*, 70 N.W.2d 329, 332–33 (1955))
 - ROUTINE MAINTENANCE: “In one calendar year the drainage authority may not levy an assessment for repairs or maintenance on one drainage system for more than 20 percent of the benefits of the drainage system, \$1,000 per mile of open ditch in the ditch system, or the dollar amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, whichever is greater, except for a repair made after a disaster as provided under subdivision 7 or under the petition procedure.” Minn. Stat. § 103E.705, subd. 6.

Ditch No. 3

Petition, dated February 12, 2020

Initial Hearing on February 18, 2020, ORDERED REPAIR REPORT

Engineer's Report Filed on May 4, 2021

Hearing on Repair Petition on June 1, 20221

- Action on the Repair Petition STAYED
- Omitted Property and Redetermination of Benefits ORDERED

Remaining Issues:

- Notice Issues to all property owners
- Working with City with boundary of watershed

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES AND RESOLVE BOUNDARY OF WATERSHED

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

ONCE BENEFITS ARE REDETERMINED, hold a public hearing to for Repair Petition

- Public Hearing should be held within 30 days of ORDERED redetermination of benefits and damages

Ditch No. 4

Public Hearing held to consider redetermining benefits and damages on December 14, 2021
ORDERED

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

Routine Inspection Report

Ditch No. 5

Public Hearing held to consider redetermining benefits and damages on December 14, 2021
ORDERED

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

Routine Inspection Report

Ditch No. 6

2016 Letter indicating repairs needed.

Historical Review Memorandum dated July 16, 2019

Houston Engineering hired on August 6, 2019 to consult on Benton County Ditch No. 6.

Technical Memorandum dated January 20, 2020

Public Hearing to Initiate Reestablishment of Drainage System Records January 29, 2020

ORDERED

Hearing to Reestablish Drainage System Records on May 5, 2020 ORDERED

Routine Inspection Report dated April 21, 2020

- Filed but not approved. Wait to approve until redetermination completed.

Public Hearing held to consider redetermining benefits and damages on July 7, 2020 ORDERED

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

ONCE BENEFITS ARE REDETERMINED, hold a public hearing to consider the Routine Inspection Report and consider approval of Routing Inspection Report

- Public Hearing is not required but recommended since the potential repair is large and costs will need to be assessed.

Ditch No. 7

Public Hearing held to consider redetermining benefits and damages on December 14, 2021

ORDERED

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

Routine Inspection Report

Ditch No. 9

Petition, dated August 19, 2020

Initial Hearing on September 1, 2020, ORDERED REPAIR REPORT and ORDERED REDETERMINATION OF BENEFITS AND DAMAGES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

Wait for Engineer's Repair Report to be filed

Ditch No. 10

Public Hearing held to consider redetermining benefits and damages on December 14, 2021 ORDERED

Petition, dated December 22, 2020

Initial Hearing on January 19, 2021, ORDERED REPAIR REPORT

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER
Wait for Engineer's Repair Report to be filed

Ditch No. 11

Public Hearing held to consider redetermining benefits and damages on December 14, 2021 ORDERED

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER
Routine Inspection Report

Ditch No. 12

Public Hearing held to consider redetermining benefits and damages on December 14, 2021 ORDERED

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER
Routine Inspection Report

Ditch No. 14

2019 Letter asking for ditch to be cleaned. Letter did not meet petition requirements
Houston Engineering hired on October 1, 2019 to consult on Benton County Ditch No. 14.
Technical Memorandum dated May 19, 2020

Public Hearing to Initiate Reestablishment of Drainage System Records July 7, 2020 ORDERED

Hearing to Reestablish Drainage System Records on August 18, 2020 ORDERED

Routine Report dated June 26, 2020

- Filed but not approved. Wait to approve until redetermination completed.

Remaining Issues:

- Notice Issues to all property owners

REMEDY: CONTINUE HEARING TO A SPECIFIC DATE AND TIME TO CURE NOTICE ISSUES

NEXT ACTIONS:

Hearing on Redetermination of Benefits and Damages AND ORDER

ONCE BENEFITS ARE REDETERMINED, hold a public hearing to consider the Routine Inspection Report and consider approval of Routing Inspection Report

- Public Hearing is not required but recommended since the potential repair is large and costs will need to be assessed.