

BENTON COUNTY DITCH AUTHORITY
TUESDAY, MARCH 9, 2022
HENRY'S EVENT CENTER
6774 HIGHWAY 25 NE FOLEY, MN 56329

The Benton County Ditch Authority met in regular session on March 9, 2022 at Henry's Event Center, 6774 Highway 25 NE Foley, MN with Board members Beth Schlangen, Scott Johnson, Steve Heinen, Jared Gapinski and Ed Popp present. Also present was Chris Byrd, County Engineer; Montgomery Headley, County Administrator; Aaron Goemann from H2Overviewers; Michelle Meyer, Assistant County Attorney; and Beth Stay, Executive Assistant.

Chair Heinen called the meeting to order at 8:30 AM.

Popp/Johnson to approve the agenda as written. Motion carried unanimously.

Heinen requested to conduct a Public Hearing on County Ditches (CD) 3, 4, 5, 6, 7, 9, 10, 11, 12 and 14. County Engineer Chris Byrd stated that not everyone received proper notification of the hearing today on CD 3, 4, 5, 10, 11, 12 and 14. Byrd recommends continuing the Public Hearing on those ditches to a future date. Heinen inquired why this happened, and Byrd responded saying that on CD 3, there was one parcel that did not receive proper notification, and they are also looking at the watershed boundaries. Based on the Landowner meetings that were had, there is some new information, and we are also looking at a watershed boundary on CD 3. Byrd introduced Aaron Goemann from H2Overviewers and informed the audience that Goemann was one of the Viewer's that assisted with the redetermination of benefits. Byrd had Goemann explain why the other ditches were not ready for a public hearing. Goemann stated that they rely on the database, and the database that was used was outdated at the time the notice was sent out, and a total of 35 individuals (39 parcels) were not notified at the time the mailing. Since then, they have obtained an updated mailing list from the Benton County Auditor-Treasurer's Office. Heinen asked Goemann about following up with the landowners that did not receive notification in time. Goemann stated that he will be following up with the landowners, and it is in State Statute to have the notices sent out before the public hearing. Byrd then had the County Board select the date for the next Public Hearing on CD 3, 4, 5, 10, 11, 12 and 14. Motion by Gapinski and seconded by Popp to set the date of Monday, April 11, 2022 at 8:30 AM at Henry's Event Center located at 6774 Highway 25 NE Foley, MN for the Public Hearing on CD 3, 4, 5, 10, 11, 12 and 14. Motion carried unanimously.

Next, Byrd invited Gohmann to give a brief overview of their process. Gohmann stated that their process was defined about 6 years ago with input from landowners, Boards and Watersheds/Counties, legal experts, engineers, data processing specialists, and company experience. Gohmann stated that H2Overviewers follow a process that requires they follow specific steps to ensure a high quality, fair, equitable, and a defensible result. They have evaluated over a million acres with no overturns. Goemann referenced Minn. Stat. §103E.705 Subdivision 1: the drainage authority shall inspect and maintain the efficiency of the drainage system. Goemann added that in an effort to maintain efficiency of the drainage system, the drainage authority must make sure those lands utilizing the drainage system pay for the maintenance and repairs of the system in a fair and equitable way. This is a requirement by MN Drainage law. Goemann then referenced Minn. Stat. §103E.315 Subd. 5 where it says, "the Viewers shall determine the amount of benefits to all property within the watershed, whether the property is benefited immediately by the construction of the proposed drainage project or the proposed drainage project can become an outlet for drainage, makes an outlet more accessible, or otherwise directly benefits the property". Then, Goemann cited Minn. Stat. §103E.315 Subdivision 6. C. 2. which states "within the watershed that drains to the area where a project is located, the viewers may assess outlet

benefits on property that is responsible for increased drainage system maintenance or increased drainage system capacity”.

Goemann discussed the process of how we got to where we are today:

- Oath of Office – Minn. Stat. §103E.305
- Public Informational Meetings

Redetermination of Benefits Process:

- Review historic drainage system records including original plans/profiles/surveys/reports used to create the original drainage system
- Identify lands/properties currently utilizing the drainage system
- Review contour maps, aerial photos, LiDAR and other data to determine drainage patterns and boundaries
- Evaluate land use within the drainage system including those lands restricted from receiving drainage benefits (wetlands)
- Determine property values based on similar groups of property/classifications
- Identify areas for the establishment of the 1 rod grass strip and determine the amount of the damage payment(s)

Next, Goemann discussed the extent and basis of benefits:

- Land values based on extracted sales data, tax valuations and land use
- Drainage value based on the drainage system operating in ITS as constructed or subsequently improved condition
- Benefit based on before and after project condition less private improvement cost
- Topography used to analyze proximity of channel and relative influence (direct vs. indirect)
- Crop productivity index used to rank soils based on their potential for intense crop production

Next, Goemann explained the reason(s) for a Re-Determination of Benefits:

- Original benefits no longer reflect current market values (benefits determined many years ago when land was selling for a fraction of what it is selling for today)
- Lands utilizing the system not originally included in the benefiting area
- Division – system has been divided into two or more separate systems
- Remove lands no longer receiving benefits

Next, Goemann explained LiDAR and the drainage system GIS Data. That data includes a combination of aerial imagery, LiDAR elevation data, ditch alignment, watershed boundary, soils, road alignments, PLSS (Sections, Quarters, Quarter Quarters), and parcels. Then Goemann explained the Ag land classifications:

Class 1:

- High post-establishment market value increase
- Soils that benefit greatly from good drainage
- May still be subject to risk of flooding, but generally require drainage
- Runoff burdens drainage system

Class 2:

- Substantial post-establishment market value increase
- May previously have been farmed at significant risk
- Soils that benefit from good drainage

Class 3:

- Some post-establishment market value increase
- Altered from their pre-settlement state
- Runoff burdens drainage system

Class 4:

- No post-establishment market value increase
- Altered from their pre-settlement state
- Runoff burdens drainage system

Goeman then provided other land classifications:

- Residential Lands- homesteads and like properties
- Urban residential- residential and like properties within municipal boundaries
- Road Lands – State, County, and Township
- Woodlots – Generally post-settlement groves, parklands, windbreaks which convey overland flow to the ditch
- Non-Benefited Acres – in the watershed but receive no economic benefit or not subject to drainage benefits. Include, but are not limited to wetlands, Federal Lands, Tribal acres

Then, Goemann went over the Contributing System Equation:

- Calculated by multiplying 2 numbers
 - First number: Watershed size
 - Total of all 3 systems is 10,000 acres
 - Light blue system is 2,000 acres = 20% of the total
 - Green system is 4,000 acres = 40% of the total
 - Second number: % of total channel used
 - Total miles of primary system = 10 miles
 - Light blue system utilizes 7 miles or 70%
 - Light Blue is 20% X 70% = 14%
 - Green system utilizes 8 miles or 80%
 - Green System is 40% X 80% = 32%

Goemann provided his review of CD 3 and stated when CD 3 was established, there are 328 acres that would benefit from the construction of this ditch, and H2Overviewers proposed that there are now 780.51 acres in this watershed and of those acres, 775.22 would benefit. The total benefits at the time of establishment were \$2,738 and H2Overviewers is proposing \$295,240.00 in total benefits. The City of St. Cloud would be assessed for approximately 19% of the benefits, and the City of Sauk Rapids would be assessed for approximately 68% of the benefits. The public hearing on CD 3 opened at 9:17 AM. Steve Ertl of 565 14th Ave NE St. Cloud stated that he “filed paperwork almost two years ago... on CD 3... and this is a slow process... you talk about damages and statutes? Am I supposed to file for legal council for damages to my property the last 25 years?” Ertl stated that he has concrete and a detached garage that is settling down and Ertl queried “what am I supposed to do now?” Ertl stated that it has been two years since he filed paperwork and “nothing has been done”. Heinen stated that the Board “plans on getting the ditches done as soon as possible, and unfortunately we have to go through the process...”. Ertl stated that he did not receive any notices, “nothing in the mail” regarding the meetings. Heinen asked Byrd to follow up with Ertl and to the individuals that did not receive notices. The Public hearing closed at 9:21 AM. Motion by Gapinski and seconded by Popp to continue the hearing to Monday, April 11, 2022 at 8:30 AM at Henry’s Event Center in Foley, MN. Motion carried unanimously.

Next was CD 4. Goemann stated that when the ditch was established, there were 200 benefited acres, and H2Overviewers are now proposing there are 836.80 acres, with a proposed benefited acre amount of 693.81. The total benefits at the time of establishment was \$2,738 and H2Overviewers is proposing the total benefits of CD 4 are now \$416,718.00. They determined there was a low impact on the subwatershed, and there would be a 12% increase to the ditch benefits to that system. The public hearing opened at 9:23 AM for public comment. Jim Gans of 3101 135th St Rice, MN 56367 stated that he is “ok with the process”, except he “contests the benefits process... and has a sand hill that is 100 feet higher than the rest of the land around it...”, and that “it’s a burden on the ditch... but when the rain

falls on the hill... it's sand... it doesn't go on the ditch right away..." Gans stated that he wanted to go on record that he is "not in favor of how the process has been determined." The Public hearing closed at 9:25 AM on CD 4. Motion by Johnson and seconded by Gapinski to continue the hearing to Monday, April 11, 2022 at 8:30 AM at Henry's Event Center in Foley, MN. Motion carried unanimously.

Next, Goemann discussed CD 5 and stated that it runs through the City of Foley, and when the ditch was established, there were 593 benefited acres. Now H2Overviewers are proposing there are 1,235.37 acres, and of those acres, 1,104.54 acres would be benefited. The City of Foley would be assessed 0.16% of the benefits. At the time the ditch was established the value of the benefited acres was \$7,225, and H2Overviewers proposed the benefited acres are now \$569,674.31. After the landowner meeting, the determined changes since the ditch was established now include the New Life Church property, and the 1.9 acres that property sits on are to be determined as Class 2 and 3 Urban-Residential with a net-benefits change of -\$645.14. "The CD 5 subwatershed is determined to have a "poor" rating... so all the properties that are within the CD 5 watersheds would receive a 50% discount on their benefits based on how useful the system can be, and how much it could be improved" according to Goemann. The public hearing on CD 5 opened at 9:28 AM. No one was present to speak on CD 5. The public hearing for CD 5 closed at 9:28 AM. Motion by Gapinski and seconded by Popp to continue the hearing to Monday, April 11, 2022 at 8:30 AM at Henry's Event Center in Foley, MN. Motion carried unanimously.

Next, Heinen requested discussion on CD 10. Goemann explained that at the time CD 10 was established, the Viewers estimated there were 744 acres benefited acres. H2Overviewers proposes there are now 21,707.17 acres within the watershed, and of those acres, 12,841.89 would be benefited acres. Goemann stated the City of Sauk Rapids will be responsible for about 1.07% of the benefits. CD 6 and CD 7 both outlet into the watershed of CD 10; CD 6 has an outlet benefit of 1.61% and CD 7 has an outlet benefit of 5.5%. At the time of establishment, the benefits were \$12,665.82, and H2Overviewers proposed \$8,102,187.92 total benefits to CD 10. After the landowner meetings, H2Overviewers determined some changes to CD 10 to include 30.75 wetland acres to Class 2 and 3, with a net-benefit change of \$50,739.13. The CD 10 subwatershed had a "standard" rating. The public hearing for CD 10 opened at 9:34 AM. Greg Schultz of 5455 River Rd Sauk Rapids, MN 56379 stated he has some "concerns about the acres and net benefits..." Schultz stated he does not have the acreage that H2Overviewers states he has. Shultz stated he has had "a lot of problems with drainage on CD 1, from a culvert underneath CR 1, and it has washed quite a bit of topsoil..." and Schultz is wondering if this will be addressed. Shultz added that the "last time they did the improvements, the farm roads did not have culverts, so it gets funneled into certain areas, and the drainage, in his opinion, changes the topographical flow". Shultz questioned if this is going to be addressed? Goemann stated "yes" and collected Schultz's phone number to follow up with him. Then Colleen Reinert of 2759 65th St NE, Sauk Rapids, MN 56379, addressed an area that is in yellow on the map, which happens to be a drainage field in her field that carries water from other properties that are not theirs, and goes into their private ditch that is maintained by them. Reinert is questioning the "extra benefits of that yellow area because they are paying for the maintenance of the ditch to manage that, and yes, it does eventually flow into CD 10, but the value is being indicated as from CD 10, but this always drains into their private ditch first, and CD 10 being blocked off doesn't do them any good. The other thing is in maintaining their own private ditches, they have been restricted by what they can do with the sediment, and in some cases, they have "had to truck that out..." and Reinert is "curious about what that is going to do when talking about the whole 10 system, and so much of that is in a wetland... what happens to the sediment... and is that factored into the cost you're already talking about?" Heinen requested Goemann to collect Reinert's phone number to address the issue. Next, Leonard Popp of 5002 Pine Rd NE Rice, MN wanted to address some of his property that was designated as "wetland" and is "certified wetland" by determination under NRCS, and stated it does not show up at all, and there were references made at a previous meeting that one can benefit because you "could" drain it... and that value that you would have if you drain it was added. You cannot do that unless we start breaking some of the US Department of

Agriculture and other programs that are administered by FSA. Those require that we do not alter the designated wetlands, if we do, there are penalties, fines and would make them ineligible for any farm program that is administered through that agency.” Leonard Popp stated that he has land that is designated wetland that he does not get credit for and the second one is an assumption that was made at an earlier meeting that it increased the land value, or perceived to increase the land value, because it is now draining. Leonard Popp added that the NRCS stated they are not going to change the wetland determination. Leonard Popp then talked about indirect benefits and said that “the pre-settlement... did not flow into Mayhew Lake. There was a time that it channeled the water from Mayhew Creek to the lake. The channel is somewhere in Section 5 in Mayhew Lake Township. So those things above the channel, we are not impacted, nor do we impact what goes downstream. It was channeled downstream, but originally the pre-settlement could flow west towards Little Rock Lake or South to Mayhew Lake. There were assumptions made about a 24 hour rainfall event that would reach CD 10, but if there was a rainfall event that happens further upstream and it takes 36 hours... that’s suddenly not included in the determination... and that happens...” Leonard Popp stated that his “property is on that edge... and across the road is not 24 hours, my side is 24 hours...” Leonard Popp stated that he has a ditch running through his land that is not a County Ditch, and it goes through 4 sections of land, and is maintained by the property owners, and “some of the County Road ditches drain into that... and we don’t get compensated for that...” and stated that he is taking some of the burden of the drainage running through his property. Leonard Popp’s last comment to the County Board was a suggestion to create a budget for ditch maintenance, and to look at what do we need to do minimally to maintain the ditches instead of trying to divvy it up between landowners. Heinen stated that the Board is already taking that into consideration for the future of the ditches. Next, Tim Thaemart of 6605 Mayhew Lake Rd stated he doesn’t get this process and “you want to go through wetlands and create a trench to drain the water... and you’re going to get a river flowing... from Mayhew Lake to Sauk Rapids... and then you want to say who this is going to benefit...” and his taxes are “doubled” of what they should be. “And now you want to re-evaluate my property... and we’re around \$600,000 of what it’s worth and I don’t believe that...” Leonard Skroch of 11950 65th Avenue NE Foley, MN stated he wanted to follow up on what Leonard Popp had suggested because they are County Ditches and public water ways, and “thinks there should be a budget made for having the ditches cleaned accordingly.” Commissioner Popp stated “I hear you and we have had this discussion over the last few years... and there will be a budget going forward on ditches to be cleaned out, but it will have to be assessed to the people who benefit from the ditch... we cannot assess people who do not have a ditch...” Skroch added “in my opinion... everybody benefits from it (cleaning the ditches) in one way or another...” Goemann stated that “the comments that we are getting are valid... it would be nice to see a more responsible system... everyone is struggling with how do we budget for a new ditch system... how do we maintain them in a way that doesn’t burden the tax payer...” Then Goemann stated “the way we’re doing it today is the only way that is currently allowed under state statute. To do this, state law requires that the Drainage Authority make this special assessment, and the special assessments come from the landowners within these watersheds...” Assistant County Attorney Michelle Meyer added that “the ditch system is actually owned by the property owners, and managed by state law, vs. a public right of way is owned by the County outright... so you privately own ditches, and we’re tasked with managing them because they are County Ditches...” Then, a speaker from the audience that did not identify themselves asked “if the County or State or a neighbor is burdening my property, is that taken into account?” Goemann answered by saying this process is designed by who is benefited by this process and if the ditch system is bearing the burden. The public hearing for Ditch 10 closed at 9:57 AM. Motion by Popp and seconded by Gapinski to continue the hearing on Monday, April 11, 2022 at Henry’s Event Center in Foley, MN. Motion carried unanimously.

Next, CD 11 was addressed. Goemann stated that the time CD 11 was established, there were 472 benefited acres. H2Overviewers is now proposing that there are 4,364.04 acres, and of those acres 3,570.59 acres would be benefited acres. Outlet benefits from CD 10 would be 69.7%. When CD 11 was

established, the total benefits were \$9,045.00, and H2Overviewers are now proposing \$2,262,888.29 in total benefits. Goemann reviewed the wetland acres and determined 0.41 acres went from Class 2 to wetland acres, with a benefit change of -\$7,271.50. The Public hearing opened at 10:04 AM. Present to speak was Jim Berg of 3715 25th St NE and stated that he has went through a redetermination of benefits process before and said that Steven's County had a budget to clean out ditches, and their budget was \$75,000 per year. Berg stated that Stevens County was getting requests that exceeded the \$75,000, and that's why they went through the process of redetermination of benefits. Berg stated there was a petition by 26% of the landowners, and once they got to that 26%, they stopped... Berg's question is "is there a petition here, or no?" Berg stated this should be an easy answer, yes or no, and when this was asked at the previous meeting, "it got swept under the rug." Byrd stated "we have received a repair petition on CD 10... and CD 9... and we have done some inspections on our own... and found that ditches need repair... based on our own inspection. We're operating under repair statute of 103E.715 that allows for benefited land owner to petition to the drainage authority to repair a ditch... which led to the process..." Berg stated "to repair, not redetermination..." Byrd stated "the problem is if you order a repair, you are limited to the currently assessed benefits... a lot of our ditches had not been assessed since they were established in the early 1900's... we are only allowed to expend what that original benefit was... and for today's dollars, we can't do much for repair... repair has a definition in statute, and we're only allowed to do a repair as it was originally constructed... we can't dig it deeper or wider or drain away more water than it did when it was originally constructed..." Berg replied by saying "statute 103E... stated you need to petition by 26% of landowners to do a redetermination..." Michelle Meyer replied by stating "by statute, the Board upon its own conclusion, can redetermine, or start the process of redetermination of benefits. We do not need a petition to start that process. In regards to the repair petition process, that does require one property owner to request repair... we are just dealing with the redetermination of benefits today..." The Public hearing closed on CD 11 at 10:09 AM. Motion by Gapinski and seconded by Johnson to continue the hearing on Monday, April 11, 2022 at 8:30 AM at Henry's Event Center in Foley, MN. Motion carried unanimously.

Next, there was discussion on CD 12. Goemann stated that the time CD 12 was established, there were 368 acres that were benefited, and H2Overviewers is now proposing there are 1,199.99 acres in that watershed, and of those acres, 1,005.10 acres would be benefited acres. When CD 12 was established, the total benefits were \$7,817.00, and H2Overviewers now proposes \$464,899.64 in total benefits. The public hearing opened at 10:10 AM. Frank Danielson of 15901 65th St NE stated that "he approves of what you're doing..." Danielson stated "there are several people that are interested in getting the ditches cleaned out..." but does not think that "at this time there has been any petition... what happens... if it is approved... and there is a petition to have a ditch cleaned out, what is the next step?" Byrd replied by saying "it will then have to be brought to a Board Meeting... and the Board could order a repair report to be completed... and then bring it back for a repair hearing where the repair work is ordered..." Danielson asked "who approves? Where we are located, we have three ditches... if all three of those ditches were to be cleaned out... we could be liable for \$130,000... who approves the contracts? Do the landowners have any kind of a say?" Byrd stated once the repair report is filed, we'll have an estimated cost of the project... there will have to be a public hearing before the Drainage Authority to actually approve to do that repair... any contract to clean out the repair would need to be approved by the Drainage Authority..." Byrd stated this process today "is not for repair". Motion by Johnson and seconded by Schlangen to continue the hearing on Monday, April 11, 2022 at 8:30 AM at Henry's Event Center in Foley, MN. Motion carried unanimously.

An unidentified person asked a question, and Goemann repeated the question which asked "what are other repairs that would be considered... what ditches and where?" Byrd replied by saying with CD 6, CD 14, CD 3, CD 9 and CD 10; there are 5 ditches total that have work coming".

Goemann then discussed CD 14 and stated that at the time CD 14 was established, there were 1491 benefited acres. H2Overviewers is proposing there are 3,460.80 acres, and of those acres, 2,584.72 acres would be benefited acres. When CD 14 was established, the total benefits were \$17,839.75, and H2Overviewers are proposing \$1,109,878.02 total benefits. The public hearing for CD 14 opened at 10:18 AM. A constituent from the audience asked a question “what ditches and where, and will that push the project forward without anyone petitioning for a repair?” Meyer stated this ditch had a routine inspection done... we do have an obligation to inspect ditches every 5 years, this one had that process done.” Meyer proposes that “we should hold a public hearing process... which is not required by statute... but wanted to give (the landowners) a head’s up...” Meyer then stated that each landowner would only get assessed once for the repair once it’s done. Another constituent asked how it would be financed? Goemann replied by saying the state of Minnesota and the Drainage Authority are only allowed to fund the maintenance... and any improvements must be paid for by the benefited landowners...” The constituent then asked about an interest rate of 8%, and shouldn’t some of these issues be addressed so the public knows what they are getting into... when work was done... the farmer is the one holding the bag... Talk about repairing ditches and putting them back to where they were... has concerns that the ditch will then turn back into the natural state...” Goemann stated the statute does allow for resloping, and the drainage allows for tile systems...” Byrd stated we are getting into the issues that would be in the repair project that we are not prepared to talk about today... Another constituent asked about changing the sloping of the ditches, and if that was in the assessment. Goemann stated that would be a part of the engineering report. Heinen stated that everybody will be notified about that before it comes to the County Board. The public hearing for CD 14 closed at 10:28 AM. Motion by Johnson and seconded by Gapinski to continue the hearing to Monday, April 11, 2022 at 8:30 AM at Henry’s Catering in Foley, MN. Motion carried unanimously.

Next, Goemann discussed CD 6. Goemann stated that at the time CD 6 was established, there were 439 acres benefited. H2Overviewers is now proposing 1,680.08 acres, and of those acres, 1,535.92 acres would benefit. The benefited total of the acres that was established was \$293,911.05, and H2Overviewers is proposing \$2,078,776.33 total benefits. There was a change that was found, and it was determined that 2.83 acres would change from Class 1 and Class 2 to woodlot. The final report from H2Overviewers states:

Class 1 Acres/Benefits	94.68 Acres/\$127,445.59 Benefits
Class 2 Acres/Benefits	431.12 Acres/\$540,772.91 Benefits
Class 3 Acres/Benefits	412.77 Acres/\$261,006.27 Benefits
Class 4 Acres/Benefits	165.17 Acres/\$30,810.54 Benefits
Residential Lands Acres/Benefits	46.93 Acres/\$3,449.91 Benefits
Road Acres/Benefits	59.71 Acres/\$56,596.64 Benefits
Woodlots Acres/Benefits	322.18 Acres/\$22,119.29 Benefits
Total Benefits of CD 6	\$1,042,870.21
Total Damages CD 6	\$35,817.11 (\$4,250/Acre)

The public hearing opened at 10:31 AM on CD 6. Duane Brenny of 13072 55th Ave NE Rice, MN 56367 had questions on culverts and repair details. Byrd stated that we have not finalized the repair plan yet and acknowledged that they have talked about this at a township meeting, but he will look into that before they finalize the repair plans. Then, Brenny stated that he has a flood plain on adjoining land, and there are culverts that direct the water on his land, and there is land outside the watershed that brings water onto his property. Goemann stated that “what is being questioned is how the burden being placed on one landowner’s property from another landowner’s property is accounted for, and that’s not what we’re doing here, we are determining what the burden is on the ditch”. Then, an anonymous constituent from the audience queried about money that was received by the Government (ARPA funds) and if we can use those funds to help pay for the redetermination of benefits instead of Broadband? County Administrator Montgomery Headley responded by saying “we can’t use public money for private

benefits". The public hearing for CD 6 closed at 10:37 AM. Byrd recommended we continue the proceedings to the next Board Meeting on Tuesday, March 15, 2022 to prepare the final findings of order on the repair reports. Motion by Popp and seconded by Gapinski to continue the hearing to allow staff (a) to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; (b) that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, confirm the damages, and direct recording of the Order to reflect the acquisition; and (c) that the Board recess the hearing to the Board's regular meeting on March 15, 2022 at which meeting the Board will consider Findings and Order Approving the Redetermination of Benefits, Acquiring Grass Buffer, Confirming Damages, and Directing Payment. Motion carried unanimously.

Next, Goemann discussed CD 7 and stated that at the time CD 7 was established, there were 3,196 acres benefited. H2Overviewers is proposing 2,910.36 acres within the watershed, and 2,430 benefited acres. The benefits that were determined by the previous viewers are \$293,911.05 and H2Overviewers are proposing \$2,078,776.33 total benefits. After receiving feedback from the landowner meeting, some corrections were made, and the change was corrected wetland class across watershed; 129.33 acres of wetland to row crop & forage land; which resulted in +\$185,607.23 in total benefits. The final report for benefits and damages on CD 7 include:

Class 1 Acres/Benefits	83.19 Acres/\$156,471.71 Benefits
Class 2 Acres/Benefits	527.08 Acres/\$859,998.86 Benefits
Class 3 Acres/Benefits	951.21 Acres/\$801,374.63 Benefits
Class 4 Acres/Benefits	428.49 Acres/\$108,593.92 Benefits
Residential Lands Acres/Benefits	100.30 Acres/\$9,999.97 Benefits
Road Acres/Benefits	89.54 Acres/\$119,464.31 Benefits
Woodlots Acres/Benefits	250.81 Acres/\$22,872.95 Benefits
Total Benefits CD 7	\$2,078,776.33
Total Damages CD 7	\$61,641.87 (\$4,250/Acre)

Byrd added that this is the last amended viewer's report for CD 7, and everybody has been notified properly, and this was published in our official newspaper and Byrd is asking that we take the same action that was taken on CD 6 for CD 7. The public hearing opened at 10:44 AM. Duane Brenny of 13072 55th Ave NE Rice, MN 56367 spoke about repairing the culvert on CD 7. Byrd stated the culvert needs to be repair before the ditch cleaning would occur. The public hearing for Ditch 7 closed at 10:45 AM. Motion by Gapinski to and seconded by Heinen continue the hearing to allow staff (a) to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; (b) that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, confirm the damages, and direct recording of the Order to reflect the acquisition; and (c) that the Board recess the hearing to the Board's regular meeting on March 15, 2022 at which meeting the Board will consider Findings and Order Approving the Redetermination of Benefits, Acquiring Grass Buffer, Confirming Damages, and Directing Payment. Motion carried unanimously.

Last, Goemann discussed CD 9 and stated at the time CD 9 was established, 572.50 acres were benefited. H2Overviewers is proposing 2,637.93 acres lie within the watershed and 2,151.80 of those acres would be the total benefited acres. The outlet benefits of CD 12 are 7.3%, and for CD 14, 38.3%. The benefited total that was established was \$12,602.26 and H2Overviewers is proposing \$1,364,551.01 total benefits. The final report form H2Overviewers states:

Class 1 Acres/Benefits	42.70 Acres/\$56,658.29 Benefits
Class 2 Acres/Benefits	367.01 Acres/\$445,450.83 Benefits
Class 3 Acres/Benefits	676.13 Acres/\$636,042.75 Benefits
Class 4 Acres/Benefits	175.94 Acres/\$49,308.61 Benefits

Residential Lands Acres/Benefits	115.41 Acres/\$12,393.92 Benefits
Road Acres/Benefits	101.09 Acres/\$95,017.15 Benefits
Woodlots Acres/Benefits	670.52 Acres/\$68,794.58 Benefits
Total Benefits of CD 9	\$1,364,551.01
Total Damages CD 9	\$22,326.79 (\$4,250/Acre)

The public hearing for CD 9 opened at 10:50 AM. Gary Held of 6765 175th Ave Oak Park questioned who keeps up the ditches, removes sediment, and removes trees? Byrd responded saying that “there is a petition on this hearing and a repair report will address the issues raised; however, those issues are not part of today’s hearing. A public hearing will be held on that repair report at a later date”. Specifically, regarding tree removal, he stated that “if a tree is a blockage, then it will need to be removed, but otherwise it will depend on what is recommended in the repair report”. There was a question by an anonymous constituent in the audience that asked if the redetermination of benefits process determines that the watershed size is substantially larger than previously determined, how do we account for that additional pressure to the system? Goemann stated that “it that would be something the engineer would determine, and now all the acres are included, but in the case that it’s not, there is a statute that does allow for additional expansion of the ditch under repair proceedings, and has to be a conversation with the engineer and the Board...” Byrd added they will review the repair report, but he is confident the ditch would be able to drain about the same as how it did when it was established 100 years ago, but now the whole watershed is taken into consideration. The next question by a constituent in the audience was regarding the assessment of the buffer strip and who is responsible for payment. Goemann stated the ditch, and the buffer strip is owned by the landowner, therefore the landowner would be responsible for the assessment. The next question by a constituent in the audience was “who is responsible for keeping the ditch repairs up, and is this a repair or are they going to redo the whole thing? Byrd stated that “they did receive a petition for repair on CD 9, and they will be repairing the entire project.” Then, a question was asked about tree removal, and Byrd stated that not all trees need to be removed and each tree will need to be looked at to determine if it needs to be removed. Byrd did clarify that the measurement of the ditch is 16.5 feet measured from the top of the bank of the ditch. A constituent then asked, “when does the decision get made? Do I have a voice? Do I get a vote on this, or do I just watch five guys vote and I’m screwed?” Byrd stated they have a voice today, they will have a voice at the repair hearing, and they will have a voice at the assessment hearing. The constituent then asked if he gets a vote and Byrd responded by saying “the Board is hearing your testimony today.” The constituent then stated, “so I don’t get a vote, the (Commissioners) get the vote...” Gapinski stated that we have to follow the state statute regarding the cleaning of ditches. The public hearing for CD 9 closed at 11:02 AM. Motion by Johnson and seconded by Gapinski to continue the hearing to allow staff (a) to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; (b) that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, confirm the damages, and direct recording of the Order to reflect the acquisition; and (c) that the Board recess the hearing to the Board’s regular meeting on March 15, 2022 at which meeting the Board will consider Findings and Order Approving the Redetermination of Benefits, Acquiring Grass Buffer, Confirming Damages, and Directing Payment. Motion carried unanimously.

Motion by Johnson and seconded by Popp to adjourn at 11:05 AM. Motion carried unanimously.

Steven J. Heinen, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator