

BENTON COUNTY DITCH AUTHORITY
MONDAY, APRIL 11, 2022
HENRY'S EVENT CENTER
6774 HIGHWAY 25 NE FOLEY, MN 56329

The Benton County Ditch Authority met in regular session on April 11, 2022 at Henry's Event Center, 6774 Highway 25 NE Foley, MN with Board members Scott Johnson, Steve Heinen, Jared Gapinski and Ed Popp present. Commissioner Beth Schlangen was absent. 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.

Aaron Goemann of H2Overviewers began with County Ditch (CD) 3, and stated they were made aware of some landowner discrepancies in the watershed, and other discrepancies after getting landowner input, and feedback from the cities of Sauk Rapids and St. Cloud. Goemann stated they are also reconciling the difference between the watershed repair report and the viewers report. Byrd stated that there was a public hearing on CD 3 on March 9, 2022 and Byrd was made aware that not all property owners received proper notice before the March 9th Ditch Authority Meeting, so it was continued to today, (Monday, April 11, 2022). Byrd stated the property owner reports were mailed out to all the landowners and the public hearing for April 11th was published in the Benton County News and the Sauk Rapids Herald for 3 weeks prior to the meeting today. Byrd stated that they now have some new information and recommends continuing the public hearing on CD 3 until May 3rd, 2022 to allow for Byrd's staff, the Viewers, and the city of St. Cloud to allow for enough time to look at all the data to make sure they are capturing everything correctly. Byrd added that they can still have the public hearing today, but nothing would be finalized until the May 3rd meeting.

Heinen opened the public hearing on CD 3 at 8:39 AM for public comment. First to speak was Clarence Tadych of 1480 10th Ave NE Sauk Rapids, MN 56379. Tadych stated that this has been going on since February, and on February 24, 2022, Goemann came to his property to inspect his land and discussed the elevations of his property, that the elevations were all estimates and not what the elevations actually were. Tadych also shared his concerns about delaying this process until May 3, 2022. Tadych added that he provided the County Board with maps of his property. Heinen stated he shares the same opinion that this has been going on "way too long..." Tadych added that H2Overviewers came to his property to evaluate when they had over two feet of snow on the ground. Tadych stated that they couldn't see what he has done to his property to keep the water on his property. Tadych added that he has created three holding ponds for the rainfall on his property. Heinen stated "we need to do a better job of getting out there..."

Next, Trevor McConnell of 1993 2nd St SE St. Cloud, MN 56304 questioned why the south side of the railroad tracks were eliminated on County Road (CR 1) because the land by the railroad east of CR 1 drains on the south side of the track and the road comes through his property. Goemann stated that he is aware of McConnell's concerns and will go over the detailed maps after the meeting. McConnell stated he has not received any information. Heinen stated we will try to get that clarified (for McConnell) sooner than later. The public hearing for CD 3 closed at 8:47 AM. Motion by Gapinski to continue the public hearing to Tuesday, May 3, 2022 at 9:15 AM in the Benton County Boardroom. Seconded by Popp. Motion carried unanimously.

Next, Goemann reported the findings of CD 4. Goemann stated that the total acres benefited when it was established was 200, and now H2Overviewers proposes there are 836.80 acres, and 693.81 of those acres would be benefited. The original benefit is \$2,738 and H2Overviewers now proposes \$38,892.77. The final report benefits and damages for CD 4 are:

Class 1 Acres/Benefits	23.60 Acres/\$39,187.80 Benefits
Class 2 Acres/Benefits	115.58 Acres/\$171,289.50 Benefits
Class 3 Acres/Benefits	213.86 Acres/\$157,507.93 Benefits
Class 4 Acres/Benefits	88.94 Acres/\$19,677.98 Benefits
Residential Lands Acres/Benefits	29.34 Acres/\$2,596.59 Benefits
Road Acres/Benefits	27.88 Acres/\$33,161.48 Benefits
Woodlots Acres/Benefits	194.61 Acres/\$15,471.50 Benefits
Total Benefits of CD 4	\$438,892.77
Total Damages CD 4	\$8,731.82 (\$4,250/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing and the property owner's reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders.

The public hearing for CD 4 opened at 8:53 AM. Tim Rajkowski of 3675 Plum Creek Drive, St. Cloud, MN 56301 questioned if there was an increase or a decrease to CD 4. Goemann replied saying there was a decrease. Then, Rajkowski questioned the buffer that is applied towards the assessment and how that would be handled. Goemann responded saying that the Auditor-Treasurer's Office determines how that would be handled. Heinen stated that "we will find out that information before the April 19th meeting. Assistant Attorney Michelle Meyer added that they are having a meeting with the Auditor-Treasurer's office to discuss payments and collections of payments of CD 4 on Tuesday, April 12, 2022. The public hearing closed at 8:56 AM. Jim Gans of 3101 135th St NE Rice, MN 56367 asked if there was a petition filed on CD 4. Byrd responded by saying "no". Motion by Johnson and seconded by Heinen to continue the hearing to April 19, 2022 at the Benton County Boardroom at 10:00 AM to allow the viewers and 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 as presented, direct payments of 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 April 19, 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 reported the findings of CD 5. The current benefited acres are 593, and H2Overviewers now proposes there are 1,235.37 acres, with 1,104.54 acres that would be benefited. The City of Foley would have approximately 0.16% of the acres. The current benefits of CD 5 are \$7,225, and H2Overviewers is proposing \$569,674.31 in total benefits. The Final Report Benefits and Damages of CD 5 are:

Class 1 Acres/Benefits	75.88 Acres/\$74,286.52 Benefits
Class 2 Acres/Benefits	352.41 Acres/\$268,184.01 Benefits
Class 3 Acres/Benefits	350.41 Acres/\$175,084.75 Benefits
Class 4 Acres/Benefits	104.51 Acres/\$15,676.50 Benefits

Residential Lands Acres/Benefits	30.21 Acres/\$1,812.60 Benefits
Urban Residential Acres/Benefits	9.17 Acres/\$1,100.40 Benefits
Road Acres/Benefits	42.51 Acres/\$25,888.59 Benefits
Woodlots Acres/Benefits	138.11 Acres/\$7,457.94 Benefits
Total Benefits CD 5	\$569,674.31
Total Damages CD 5	\$33,205 (\$4,244/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing and the property owner's reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders can be prepared. Byrd added that there were not petitions filed on CD 5. The public hearing for CD 5 opened at 9:01 AM. No one from the public was present to speak. The public hearing closed at 9:02 AM. Motion by Popp and seconded by Gapinski to continue the hearing to April 19, 2022 at the Benton County Boardroom at 10:00 AM to allow the viewers and 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 as presented, direct payments of 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 April 19, 2022 at 10:00 AM 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 reported the findings of CD 10. The current benefited acres are 744, and H2Overviewers are now proposing there are 21,707.13 acres, and of those acres, 12,834.96. There are 6,238.57 non-benefited acres in CD 10. The City of Sauk Rapids has approximately 1.07% of the acres. Outlet benefits from CD 6 are 1.61% and CD 7 are 5.5%. The current total benefits are \$12,665.82 and H2Overviewers now proposes \$8,100,390.84 in total benefits to CD 10. The benefits and damages of CD 10's Final Report are as follows:

Class 1 Acres/Benefits	63.98 Acres/\$123,945.27 Benefits
Class 2 Acres/Benefits	1,383.39 Acres/\$2,391,864.02 Benefits
Class 3 Acres/Benefits	4,220.29 Acres/\$3,626,275.60 Benefits
Class 4 Acres/Benefits	3,277.31 Acres/\$845,959.24 Benefits
Residential Lands Acres/Benefits	630.39 Acres/\$65,082.21 Benefits
Road Acres/Benefits	542.54 Acres/\$750,536.27 Benefits
Woodlots Acres/Benefits	2,102.06 Acres/\$194,966.06 Benefits
Total Benefits of CD 10	\$8,100,390.84
Total Damages of CD 10	\$5,270.64 (\$4,250/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing due to not all the property owners receiving proper notification of the hearing. The property owner's reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders can be prepared. Byrd added that they did receive a valid repair petition on CD 10, which is also a public water known as Mayhew Creek. Byrd added that they will be moving forward with addressing the repair report on CD 10. Heinen asked Byrd if he has maps that show the waterflow of CD 10. Byrd stated he did have maps that show the waterflow of CD 10. Byrd added that they know the elevations and culverts and how it accurately shows how the water flows on CD 10.

Heinen opened the public hearing on CD 10 at 9:09 AM. Tim Thaemart of 6605 Mayhew Lake Rd Sauk Rapids, MN 56379 stated that he does not have any water coming from his property and is wondering how (we) figured water is coming from his property. Thaemart stated that the water coming across his property has nothing to do with CD 10. Thaemart stated he drove around for over four hours checking the water situation on CD 10, and stated he is “not saying that everyone doesn’t have a water issue... and 30 years ago we had an issue with it, but nobody wanted to deal with it.” Thaemart stated that we are “pushing in cattails... and where the water used to sit and dissipate, it can’t get there anymore.” Thaemart also commented on his property value and taxes going up. Thaemart stated how “can (we) make decisions with less than 5% of the people involved is beyond me...” Thaemart also commented on the Leyk’s station property and the mountain of fill on the corner and questioned what we are going to do about that. Also, Thaemart stated that (we) are doing this to ourselves, meaning we are creating the water issues by building schools and apartments and pushing in the cattails. Thaemart added that because of the water issues on his property, he has purchased a dump truck to haul in fill for his driveway. Thaemart stated “this is getting way out of hand...” Heinen stated that Byrd has more information regarding the water flow from his property to CD 10 and Byrd will speak to him after this meeting to explain the water flow. Thaemart stated he knows how the water flows off his land and we are “misleading, and deceiving...” Thaemart stated he would like someone to come out to his property since no one has come out to his property yet. Thaemart stated he “couldn’t get his water to go to CD 10 if he tiled it.” Thaemart stated he has water problems, and he is taking care of it. Byrd stated that by being the Ditch Inspector and the County Highway Engineer, drainage is a big part of what they do, and from a road standpoint, it is one of their most important jobs to make sure they are maintaining drainage, and they put the land back to what it originally placed and to keep drainage flowing, and sometimes culverts get blocked. Byrd stated they have a good idea “if not spot on” idea on how drainage drains. Byrd added that he would be happy to meet with Thaemart after the meeting. Thaemart requested Byrd to come out to his property. Heinen stated that he, Thaemart and Byrd will have a conversation about Thaemart’s property after the meeting.

Next, Wayne Johnson of 2078 45th St NE Sauk Rapids, MN 56379 stated that he spoke with Bryan Murphy (from H2Overviewers) at the last meeting about his land situation and “got nowhere...” Wayne Johnson stated he spoke with Murphy about the road ditch draining into his property. Wayne Johnson stated that when they redid the road, they buffered it all and it all actually runs in his ditch, in through his property. Wayne Johnson asked Brian if they took that into consideration on the impact of his property, to which Murphy told Wayne Johnson: “no, that’s a county deal...” Wayne Johnson stated his issue is he has the water running from 15th out into his property, and he believes it did make a big impact on his property, and thinks it should be considered. Wayne Johnson stated he has a five-acre property that is completely surrounded by private property and wetlands, and it is listed as a good row crop, and there is no way he can get to that. Wayne Johnson requested discussion on this after the meeting. Wayne Johnson added that he felt very threatened when talking to Murphy. Goemann stated that “if that was the bosses’ determination, he “will review it... but is not going to contest it now.”

Next, Leonard Popp of 5002 Pine Rd NE Rice, MN 56379 stated that Mayhew Lake is a manmade public lake and was created by channeling upstream water. There is a dam constructed on the bottom end of the lake holding the water in place. and if the channel had not been dug and the dam had not been put in, there would not be a lake. Mayhew Lake is a public lake, and it is also a public park, and there is a sign at Mayhew Lake stating a “Partnership between Benton County and the DNR.” Leonard Popp is requesting that the Board take into consideration that Mayhew Lake is now a public lake, and the creation and maintenance needs to be factored in, therefore it should be maintained by public funds, and it should not be put upon the private landowners whose water drains that direction. Leonard Popp proposes that “the acres that Mayhew Lake has get classified as benefited acres, and that those acres are assessed. This is a public lake that needs to be maintained and preserved by public funds and should not be put upon private landowners. The percentage of the benefited acres that are assessed; that

percentage be divided by all property owners in the county since it is a public lake.” Leonard Popp stated that this should not be assessed solely on the property owners. Leonard Popp’s second question is: “when all of the ditches are done in the future, and if the ditches need to be redone, how will that impact those upstream who have nothing to do with this? Goemann stated that the way the lake is currently handled as a buffer, where all the burden entering the lake is coming from the properties that are within the watershed and the lake is slowing the water down before it hits the ditch. Goemann stated that whether it’s designed or it’s in its natural state, that geographic area would provide some kind of a buffer, and the lake has a certain continuation factor after the fact by slowing the water down on the way downstream, they (H2Overviewers) do not regard the land that those acres are on as benefited acres, and all the acres within the watershed are represented by the lake. Goemann added that in order to determine if there is a change in the amount of water that the lake is directing towards the ditch compared to its natural state is by determining if an additional engineering study and evaluations are necessary. Goemann stated that those who receive the benefit, they cannot assess the DNR for the lake because they are responsible for managing the lake, and we cannot assess the County because they have to be very specific on how they determine who is receiving the benefits. Goemann added that it would be a different scenario if each year they did a draw-down of the lake, or they opened the dam to flood the ditch system each year as part of the lake’s management, then that would be taken into consideration. However, in this situation, they (H2Overviewers) do not see value in assessing the lake acres because the lake is capturing water that has been assessed for by the watershed. Byrd added that Mayhew Lake has a retaining wall structure that keeps the lake elevation at a constant elevation all year round. It is not used for storage. Since the water elevation stays the same, any water coming into it, comes out and that’s how Mayhew Lake was assessed. Byrd added that CD 10 is not the entire length of Mayhew Creek, therefore it is not established as a County Ditch, therefore the maintenance would be limited. Leonard Popp stated there was a channel that was dug to Mayhew Lake and if that had not been dug, the water flow would be different, and it provides a more constant source of water making the lake what it is today, and eventhough it may not be part of CD 10, it is part of the package of CD 10. Goemann stated that the question is: “who is receiving the benefits of the lake?” If the lands and ditches were dug to channel the water into the lake, then it’s highly likely the landowners would benefit from that. Goemann stated that who is receiving the benefits is the big question when it comes to the lake, and right now, basically everybody draining into the lake is receiving some sort of benefit in terms of the storage. A question by the general public was regarding utilizing the lake for “recreational purposes, can that be a consideration?” Goemann stated as far as putting a benefit on the lake itself, they have to be very specific on who benefits from the lake acres and who derives a benefit from the lake heading out of CD 10. Goemann stated CD 10 will bear some of the burden of the work that was done on CD 10 and they would have to have another viewer’s report to determine if any changes need to be made to the ditch, and that would be only done in the case where you are doing something new to the ditch.

Next, Michelle Johnson of 2078 45th St NE, Sauk Rapids, MN 56379 asked how many properties were affected by this? Goemann stated that he will speak with Michelle Johnson after the meeting regarding this question to allow him time to find the correct number of houses. Michelle Johnson then stated she is trying to get a paper trail to understand what has taken place and stated that on November 18, 2020, she received a letter of intent to potentially receive benefits from the ditch repair. Then, the petition from CD 10 was signed on 12/22/2020, and after that date there is supposed to be a 30-day notification that needs to be given about the petition, which they did not receive. Michelle Johnson asked for the date of the County Board Meeting when that petition was approved? Michelle Johnson then asked if they had determined everything in one meeting. Assistant County Attorney Michelle Meyer stated the petition went before the Board on January 18th and was received on December 22nd and the initial hearing and order of repair report was done and they are still waiting on that repair report. Meyer stated once the repair report is received, then we will have a hearing on the actual repair. The repair has been separate from this process, and the repair procedure will continue once this has been completed.

Michelle Johnson asked if Meyer was the one who signed off on the petition and Meyer responded saying "I am not". Michelle Johnson then quoted 5.1. on the petition where it states: "the repair of CD 10 is necessary for the best interest of affected property owners; or the repair petition is signed by the owners of at least 26% of the property area affected." Michelle Johnson stated that if you look at the statutes, Subdivision 1 does talk under 103E.715 and discussed this with Byrd at the informal meeting which talks about the repair, but if you look at Subdivision 2, it talks about the petition and there being a requirement of 26% signatures. Michelle Johnson is wondering where the rest of the signatures are because there are only two people and one property. Meyer stated that for repair petitions, there can only be one property owner, and all the other owners of that particular property would need to sign off on the petition. For redeterminations, the statute does allow the County Board to motion on its own a redetermination of benefits and that is statutory. Michelle Johnson asked Meyer for that statute. Tim Thaemart added that "that is wrong". Michelle Johnson then queried about information on how beaver dams could affect the ditches. Goemann stated that the beaver dams are not designed in the ditch, so they will be removed for the repair effort and the benefits are based on if the beaver dams are not present. Michelle Johnson then queried that if they find a beaver dam and remove it and it takes care, would that not take care of the situation where the back-up is taking place? Byrd responded by saying that we have not determined the actual repair and that could be a spot location situation. Byrd stated they would have to get the repair report first to determine what the repairs are and where the repairs are. Byrd added that a valid petition of repair was received by the Benton County Attorney's office and the Auditor-Treasurer's office on CD 10, and we were stuck with the last redetermination of benefits based on the land values from 100 years ago which prevented the repair, therefore they need to continue with the process of the redetermination of benefits. The repair questions do not affect the repair determination or the viewer's work. Michelle Johnson then had questions regarding removal of an eagle's nest and how they are going to deal with that, and the other issue is how this is going to work with the Mississippi watershed because that is going to be a part of that. Byrd replied that those are all repair questions. They do have to notify the Commissioner of Department of Natural Resources of our intentions once we receive the repair. Michelle Johnson asked when the last repair report was made. Byrd did not know the date. Michelle Johnson asked Byrd to provide her with that information. Michelle Johnson then talked about the informal landowners meeting and when she spoke with Bryan Murphy from H2Overviewers, he used intimidation tactics, and proceeded to tell her what would happen to her if she were to appeal. Michelle Johnson stated she stopped the situation when she asked if Murphy was giving her legal advice, because all she said was this could potentially be appealed, and Michelle Johnson wanted the Board to be made aware of this and she doesn't appreciate those type of tactics used and that puts her on the defensive mode instead of an understanding mode.

Commissioner Johnson left the Ditch Authority meeting at 10:02 AM.

Next, Vern Reinert of 2759 65th St NE Sauk Rapids, MN 56379 stated there are culverts in the ditch on CD 10 that are blocked and need to be cleaned, and the land value has increased by doing ditch maintenance, and the land value should be lowered so the tax burden is not increased and parts of the costs of the ditch maintenance should be warranted by the County. Goemann stated that the Road benefit is by the County. Goemann stated that if we adjusted actual benefit rates, any changes we make to the rates has to be applied evenly through the entire ditch system, which would lower the total dollar benefit of the ditch system.

Next, Robert Stolteman of 1783 35th St NE Sauk Rapids, MN 56379 stated that about a mile of CD 10 runs across his property and his concern is the process, and if we have a system to estimate the process, and when he looks at receiving downstream water, he is being dumped on and is not receiving any benefits from all the upstream ditches. Stolteman stated Byrd was out to inspect his land when it was dry, and Stolteman stated he has been cleaning some of his ditches himself. Stolteman stated that when the ditch gets in the flooding position, it blocks the exits of the tributaries and builds up, and that is how

Stolteman has estimated what has happened. During this process, Stolteman found about 2.5 feet of fill that got jammed up and the County or the City removed a beaver dam and got that "under control". Stolteman stated the beaver dam only affected his property about a half of a mile, and it did not affect the ditch. Stolteman's issue is when they are receiving water 5 – 6 miles north, and they are going to get some benefit from clean-out, why is he being assessed for that? Stolteman stated he has no benefits whatsoever and is wondering if there can be an assessment that can be designed so that the County has a bigger share of the bigger watersheds rather than assessing it to all the landowners. Otherwise, through the assessment process localize the elevation of how much water has been backed up. Goemann stated this covers the issues surrounding the size of the watershed, and there are a lot of branches and tributaries that result in a lot of waterflow on CD 10, and the reason the state law is the way it is so that we capture all those properties that are receiving benefits from being able to drain into those tributaries. That is how we capture the impact of how those properties have an impact on you and the benefit that you are receiving. Goemann stated he is in one of the elevation brackets where H2Overviewers uses their classification system to set a criteria base for what is on the ground for your property by itself. Goemann stated that instead of saying your property does not receive a benefit, they need to know exactly where the boundary of the property is and know exactly where all the other properties place a burden on you and make sure they are contributing to the costs of the system. Stoltemann clarified by saying the elevation of his farm is 40 – 50 feet higher than the bottom of the creek, and just because the land drains there, that doesn't mean it doesn't affect the total acres, the land value isn't being increased because of the ditches being cleaned out, and that is the natural flow of the property. Stoltemann added that those of us who have cleaned out their ditches, do they get compensated or any credit for that? Byrd stated that H2Overviewers has been following the ditch law and their duties to determine the watershed boundaries and the benefits in there. Byrd stated there was an isolated incident where a lot of sand had built up in the corner of the ditch and it was immediately affecting the property. Byrd stated the process is designed where we treat everyone similarly. Byrd stated he was unsure if he could give Stoltemann credit for the work for cleaning out his ditch. Stoltemann stated he has concerns about controlling the costs of the project on either ends and asked if that is a separate hearing every time? Byrd stated that when we do the assessing, we will be having a hearing where we can answer questions about the repair specifically. Stoltemann is concerned about the price. Byrd stated they will be having more public hearings in the future.

Next, Colleen Reinert of 2759 65th St NE Sauk Rapids, MN 56379 stated that they are restricted on maintaining their property's drainage due to wetlands, DNR, flood-planes and other various regulations, and stated they can't do anything (to their land) without going through a long process to eventually see some benefit for it. Colleen Reinert stated they have gone through that process at a significant expense. This is another significant expense and are being detrimentally affected by the ditch not being cleaned. Colleen Reinert stated that this process will bring a significant change in the value of their property, and they will not see that value, unless they sell their land. Colleen Reinert stated that they would like to continue their family's legacy of raising crops and feeding people without being bankrupt to do so.

Next, Tim Thaemart stated we all pay taxes and asked where the tax money is going when we knew of the drainage issues and did nothing about it and the taxes are not going to clean up a ditch.

The public hearing for CD 10 closed at 10:04 AM. Heinen asked Byrd that with the information that was provided today, do we need to reassess CD 10? Byrd stated the next step would be for the County Board to accept the redetermination of benefits or we can extend the process for reassessment. Goemann addressed the issue of the lake and stated the Drainage Authority could relook at the lake, which would incur extra costs, and they would have to come up with new plans and procedures. Meyer added that it is the decision of the County Board whether to continue or not. Meyer added that if the County Board felt they received new information today, or if something within the watershed has changed, they can continue, otherwise the County Board can continue moving forward with the process. Gapinski stated

that he “hears the concerns and we have a legal obligation...” Meyer stated that everything is statutory, and the Commissioners are charged with following the statutory requirements. Meyer added that our ditches do not reflect the current benefits, and there has not been a redetermination in about 100 years, and because of the burdens, we have to go through this process. Meyer added that the Viewers and staff have gone above and beyond with the requirements by holding landowner meetings and the hearings. Meyer stated that if the County Board would like to seek out more information, they could choose to do so. Popp added that he could not find information on how Mayhew Lake was created, and he appreciates the Reinert’s comments about cleaning the ditches because it’s part of the County. Popp stated we need to keep moving forward with this process and we could eventually start a fund for the ditches. Popp stated that we can’t assess the entire County. Popp also stated that property values can go up, without taxes going up, and the taxes are the responsibility of the elected officials. Heinen asked Goemann if it would be in the benefit on CD 10 to re-evaluate? Goemann stated he does not anticipate the impact to be significant and there would be little change to what was already found, and with the extra hours, they would be looking at an engineering study, and there would be additional costs assessed to the landowners. Byrd stated that his department does not have the staff or resources available at this time to conduct the study. Motion by Gapinski and seconded by Popp 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 as presented, direct payments of 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 April 19, 2022 at 10:20 AM 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 with Gapinski, Popp and Heinen voting “aye”. Johnson and Schlangen were absent.

Next, Goemann discussed CD 11. The current benefited acres are 472 acres and H2Overviewers is proposing there are 4,364.04 acres, and of those acres, 3,570.59 acres would be benefited acres. The total outlet benefits would be 67.7% from CD 10. The current benefits are \$9,045.00 and H2Overviewers is proposing \$2,262,888.29 total benefits. The benefits and damages final report for CD 11 are:

Class 1 Acres/Benefits	135.40 Acres/\$224,831.71 Benefits
Class 2 Acres/Benefits	544.71 Acres/\$807,260.22 Benefits
Class 3 Acres/Benefits	1,102.69 Acres/\$812,131.20 Benefits
Class 4 Acres/Benefits	507.09 Acres/\$109,879.87 Benefits
Residential Lands Acres/Benefits	185.07 Acres/\$16,378.71 Benefits
Road Acres/Benefits	175.03 Acres/\$207,695.97 Benefits
Woodlots Acres/Benefits	839.31 Acres/\$66,725.19 Benefits
Total Benefits CD 11	\$2,262,888.29
Total Damages CD 11	\$50,685.55 (\$4,250/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing due to not all the property owners receiving proper notification of the hearing. The property owner’s reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders can be prepared. Byrd added that there was no petition for repair filed on CD 11.

Public hearing for CD 11 opened at 10:20 AM. Pat Welty of 4490 45th St NE Sauk Rapids, MN 56379

questioned “how much value do I actually get to my property through this process?” Welty also stated he received a notice from the County Core of Engineers stating that one of the parcels that would be receiving the benefits would be turned into a wetland. Welty stated he wanted the viewers and staff to be aware of this. Goemann stated that he can’t say for sure, but he thinks that if there was an action by the Core of Engineers to hydraulically isolate the property, they would determine that at a later time and the property could be excluded from the watershed. Goemann stated that with the information they have now the property is still connected to the ditch.

Next, Mike Ebnet of 1800 35th Ave NE Sauk Rapids, MN 56379 mentioned the Pittman-Robertson Act and if the County is getting money back from that and stated we could use that money to help fund this. Ebnet stated that if we are getting money back from that, where is it being spent? Heinen stated that he will get back to him on that question when he gets clarification on the specific act. Ebnet also shared his concerns about opening the ditches has concerns about what will happen if we receive a heavy rainfall which could possibly wash out the roads. Heinen stated we will discuss the construction with the engineers.

Next, Vern Reinert asked if the County Board knew of any additional resources of money (such as grants) were available for property owners to be used towards the ditches. Meyer stated that because this benefits the benefited acres, it is statutorily dictated that the benefits be paid by the beneficiaries.

Then, Pat Welty asked about changing the size of the culverts. Heinen stated that decision would be up to Byrd.

The public hearing on CD 11 closed at 10:29 AM. Motion by Heinen and seconded by Popp 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 as presented, direct payments of 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 April 19, 2022 at 10:20 AM at which meeting the Board will consider Findings and Order Approving the Redetermination of Benefits, Acquiring Grass Buffer, Confirming Damages, and Directing Payment.

Popp questioned Goemann on the issue with the Core of Engineers determining the land to be a wetland and what impact that would have, and Goemann stated he thought that would be the condition they would have to consider the benefit to upstream properties. Meyer added that if the Core of Engineers would make a determination on the land becoming a wetland, there would be a process, and would likely call for another redetermination of benefits. Byrd stated his concern waiting for an answer from the Core of Engineers would then lengthen the time of this process. Goemann stated that if it’s a matter of a wetland bank being created by a private party, we are still working out how to determine that benefit, because that is a management choice they are making to their property that they will financially benefit from.

Motion carried unanimously on CD 11 with Gapinski, Popp and Heinen voting “aye”. Johnson and Schlangen were absent.

Next, Goemann discussed CD 12. The current benefited acres are 368 acres, and H2Overviewers are proposing there are now 1,125.40 acres, and of those acres, 950.13 acres would be benefited acres. The current benefits are \$7,817.00 and H2Overviewers is now proposing \$452,920.59 in benefits. Goemann

noted some changes and they removed 54.7 acres of private ditch draining north to the St. Francis River which resulted in a -\$11,979.05 change in benefits. The Benefits and Damages Final Report for CD 12 are:

Class 1 Acres/Benefits	18.23 Acres/\$18,211.77 Benefits
Class 2 Acres/Benefits	235.48 Acres/\$198,391.00 Benefits
Class 3 Acres/Benefits	273.73 Acres/\$176,008.39 Benefits
Class 4 Acres/Benefits	78.48 Acres/\$15,146.64 Benefits
Residential Lands Acres/Benefits	39.92 Acres/\$3,073.84 Benefits
Road Acres/Benefits	34.64 Acres/\$23,347.36 Benefits
Woodlots Acres/Benefits	269.65 Acres/\$18,740.69 Benefits
Total Benefits CD 12	\$452,920.59
Total Damages CD 12	\$25,403.66 (\$4,250/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing due to not all the property owners receiving proper notification of the hearing. The property owner's reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders can be prepared. Byrd added that there was no petition for repair that was filed on CD 12. Heinen opened the public hearing on CD 12 at 10:37 AM. No one from the public spoke on CD 12. The public hearing closed at 10:38 AM on CD 12. Motion by Popp and seconded by Gapinski 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 as presented, direct payments of 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 April 19, 2022 at 10:30 AM 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 on CD 12 with Gapinski, Popp and Heinen voting "aye". Johnson and Schlangen were absent.

Next, Goemann discussed CD 14. The current benefited acres are 1491 acres, and H2Overviewers is now proposing there are 3,460.80 acres, and of those acres, 2,584.72 would be benefited acres. The current benefits are \$17,839.75 and H2Overviewers is now proposing \$1,109,878.02 in total benefits. The Benefits and Damages Final Report for CD 14 are:

Class 1 Acres/Benefits	48.68 Acres/\$48,916.04 Benefits
Class 2 Acres/Benefits	423.52 Acres/\$376,121.54 Benefits
Class 3 Acres/Benefits	625.97 Acres/\$443,531.77 Benefits
Class 4 Acres/Benefits	201.80 Acres/\$44,643.80 Benefits
Residential Lands Acres/Benefits	148.38 Acres/\$12,046.27 Benefits
Road Acres/Benefits	150.34 Acres/\$110,336.26 Benefits
Woodlots Acres/Benefits	986.03 Acres/\$74,282.36 Benefits
Total Benefits CD 14	\$1,109,878.02
Total Damages of CD 14	\$25,092.05 (\$4,250/AC)

Byrd stated that this public hearing was continued from the March 9, 2022 public hearing due to not all the property owners receiving proper notification of the hearing. The property owner's reports were mailed three weeks prior to the public hearing today, and the final notice was published in the Sauk

Rapids Herald and the Benton County News three weeks prior, and Byrd recommends continuing the hearing until Tuesday, April 19, 2022 to prepare a draft Findings and Orders can be prepared. Byrd stated that he has received a valid petition for repair on CD 14.

The public hearing for CD 14 opened at 10:44 AM. Joe Fischer of 16794 75th St NE Oak Park, MN 56357 asked if they are actually going to clean the land or if they are going to tax this onto our land. Fischer stated they were going to do this 20 years ago and cleaned a short stretch of the ditch, and they were taxed for it, but “no one benefited from it.” Fischer stated his other concern was that the map shows trees where there are actually ditches now, and where they rebuilt the roads, the ditches are deeper now. Fischer stated his land is getting worse each year and it’s time to get the ditches cleaned out. Fischer requested that Commissioner Johnson and Byrd come out to see his property. Goemann replied saying if there are general concerns that there is a structure impeding flow, they can explore that with Byrd. Goemann stated that he wanted to make a general comment that the result of this process allows the County to maintain the ditches which incurs cost that gets added to the property taxes, but this process is not actually changing your land valuation. This process is catching up to 100 years ago when they did make a physical change that did change your land value. Goemann added that this is not a “changing your property assessment.” Heinen stated that he will get the information to Johnson to set a time to look at Fischer’s land.

Next, Allan Stay of 18400 25th St NE Foley, MN 56329 asked when are we going to stop having meetings? Byrd stated that they did receive a valid petition for repair on CD 14, and they are waiting for the results of that. Byrd stated that with CD 9 draining into CD 14, there is more information to be reviewed and Byrd does not anticipate that this work will be done this year.

Byrd stated he received a letter on February 22, 2022 that he will read into the record. The letter reads as follows:

2-17-22

Hi:

I’m Edward LaFore Sr. County Ditch #14 runs through my land. It has never been cleaned since it was put in, and it is a mess. The beavers took over and all the water stays on my land. I had to quit pasturing a lot of my land, because it stays flooded, I lost 3 of my cattle because of it being too wet. County Ditch #14 took in water from a lot of land north of me. Years ago, a lot of the land was farmed. But not no more. The ditch was put in for a reason, and it should be maintained. There was money in an account to keep the ditch cleaned. It was taken out and used elsewhere. It is not fair that I should be flooded and store all the water from the North.

Thank you

Edward LaFore Sr.

Next, Wayne Johnson queried about taking care of beaver dams and Byrd stated we would have an obligation to take care of it, or the DNR could take care of it.

The public hearing for CD 14 closed at 10:51 AM. Motion by Gapinski and seconded by Heinen 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 as presented, direct payments of 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 April 19, 2022 at 10:30 AM 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 on CD 12 with Gapinski, Popp and Heinen voting "aye". Johnson and Schlangen were absent.

Motion by Popp and seconded by Gapinski to adjourn at 10:53 AM. Motion carried unanimously.

Steven J. Heinen, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator