

BENTON COUNTY DITCH AUTHORITY
TUESDAY, APRIL 19, 2022
BENTON COUNTY BOARDROOM

The Benton County Ditch Authority met in regular session on April 19, 2022 in the County Boardroom in 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; Michelle Meyer, Assistant County Attorney (virtual); and Beth Stay, Executive Assistant.

Chair Heinen called the meeting to order at 10:27 AM.

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

Johnson/Gapinski to approve the Meeting Minutes of April 5, 2022 as written. Motion carried unanimously.

Assistant County Attorney Michelle Meyer discussed the Redeterminations of Benefits and Damages on County Ditch (CD) 4, 5, 10, 11, 12 and 14. Meyer stated that once the ditch system is established, the order creating it constitutes a judgment in rem. The Res or subject matter of the order is the watercourse and all lands determined to be damaged or benefited by it. Thereafter, every owner of land who has recovered damages or been assessed for benefits has a property right in the maintenance of the ditch in the same condition as it was when originally established. Such a property right cannot be divested or damaged without due process of law. Meyer stated that the majority of the original benefits and damages were determined in the early 1900's, therefore they do not reflect reasonable present day land values, and the benefited or damaged areas may have changed. Meyer stated that the statutory authority for a redetermination upon action of the Drainage Authority: 103E.351, subd. 1(a) states benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values OR the benefited or damaged areas have changed. Meyer noted the petition of 26% of the owners of the property: 103E.351, subd. 1(b) stated that benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values OR the benefited or damaged areas have changed. Meyer added that it is important that all property benefitting from a drainage system bear the cost of the drainage system and that everyone should pay their fair share. Meyer added that if the cost of a repair to a drainage system exceeds the original benefits, then the drainage authority may be precluded from repairing that ditch system. Meyer stated that if there is a routine inspection of a County Ditch, a repair would be ordered if the drainage inspection report indicates repairs are necessary; 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. Meyer stated that a Repair will be ordered if the repairs recommended are necessary for the best interests of the affected property owners; and the cost of the repair will not exceed the total benefits determined in the original drainage system proceeding. The current benefits prior to redetermination of benefits are:

- CD 3: \$2,738.00
- CD 4: \$2,738.00
- CD 5: \$7,255.00
- CD 6: \$8,134.50

- CD 7: \$293,911.05
- CD 9: \$12,602.26
- CD 10: \$12,665.82
- CD 11: \$9,045.00
- CD 12: \$7,817.00
- CD 14: \$17,839.75

Meyer added that if the cost to repair exceeds the original benefits, the drainage authority may not order the repair. In the instance of CD 6, the estimated repair cost is approximately \$422,400 to \$512,400. With that said, If the benefits had not been redetermined, the Drainage Authority would be precluded from ordering the repair on CD 6.

The proposed redetermined benefits from H2Overviewers is:

- CD 3: \$295,240.00
- CD 4: \$569,674.31
- CD 5: \$569,674.31
- CD 6: \$1,042,870.21
- CD 7: \$2,078,776.33
- CD 9: \$1,364,551.01
- CD 10: \$8,100,390.84
- CD 11: \$2,262,888.29
- CD 12: \$452,920.59
- CD 14: \$1,109,878.02
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Meyer concluded the next steps would be repair reports and drainage inspection reports, and the reports may indicate repairs are necessary. The repairs will only return the ditches to its as constructed and subsequently improved condition. Repair may include resloping of ditches, leveling of spoil banks, removal of abstractions, incidental straightening, and replacement of tiles one size larger if original tile size not available. Repairs will not increase hydraulic capacity. Repairs will not widen ditches. Repairs will not lower culverts.

Heinen announced the continuation of CD 4, 5, 10, 11, 12, and 14. Byrd Reported the Findings of CD 4, and they are as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 4**.
2. On December 14, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 4** pursuant to Minn. Stat. § 103E.35. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.

4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.
13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 4**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.

16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The original benefitted acreage was 200 acres with total benefits of \$2,738.00. The viewers determined that the total acreage benefited now is 693.81 acres with total benefits of \$438,892.77. Damages for perennial vegetation strips were determined to be \$8,731.82.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation strip along all reaches of open ditch on **Benton County Ditch No. 4**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.

31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
- a. Jim Gans of 3101 135th St Rice, MN 56367
He 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." Mr. Gans inquired about whether or not a petition for repair had been filed on this ditch. Chris Byrd, indicated a petition for repair had not been issued.
 - b. Tim Rajkowski, 3675 Plum Creek Drive, St. Cloud, MN 56301
He asked whether there was decrease or increase in benefits. He also inquired about buffer strip damages.
Staff responded that how the damages will be paid will be discussed.
32. At the close of the public comment hearing, Commissioner Johnson moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation buffer areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Buffer, Confirming Damages, and Directing Payment. Commissioner Heinen seconded and the motion carried.
33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
- a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
 - b. that the viewers' report is complete and correct;
 - c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
 - d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and that the acquisition of perennial vegetation buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 4 opened at 10:42 AM. No one from the public was present to speak regarding CD 4. The public hearing closed at 10:43 AM. Motion by Johnson and seconded by Popp to Order:

- A. the redetermination of benefits of Benton County Ditch No. 4, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.

- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 4.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.
- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Next, Byrd reported the findings of CD 5 and they are as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 5**.
2. On December 14, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 5** pursuant to Minn. Stat. § 103E.351. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.
4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.

11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.
13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 5**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural

production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.

24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The original benefitted acreage was 593 acres with total benefits of \$7,225.00. The viewers determined that the total acreage benefited now is 1,104.54 acres with total benefits of \$569,674.31. Damages for perennial vegetation buffer strips were determined to be \$33,205.00.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation buffer strip along all reaches of open ditch on **Benton County Ditch No. 5**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):

There were no public comments.

32. At the close of the public comment hearing, Commissioner Popp moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation buffer areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Buffer, Confirming Damages, and Directing Payment. Commissioner Gapinski seconded and the motion carried.
33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
 - a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
 - b. that the viewers' report is complete and correct;
 - c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;

- d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and that the acquisition of perennial vegetation buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 5 opened at 10:47 AM. No one from the public was present to speak at the public hearing for CD 5. The public hearing closed at 10:48 AM. Motion by Gapinski and seconded by Heinen to Order:

- A. the redetermination of benefits of Benton County Ditch No. 4, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 4.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.
- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Next, Byrd reported the findings of CD 10 and they are as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 10**.
2. On December 14, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 10** pursuant to Minn. Stat. § 103E.351 and § 103E.741. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.
4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.

7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.
13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 10**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.

19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The original benefitted acreage was 744 acres with total benefits of \$12,665.82. The viewers determined that the total acreage benefited now is 12,834.96 acres with total benefits of \$8,100,390.84. Damages for perennial vegetation strips were determined to be \$5,270.64.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation buffer strip along all reaches of open ditch on **Benton County Ditch No. 10**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
 - a. Greg Schultz, 5455 River Road NE, Sauk Rapids, MN 56379
He has some "concerns about the acres and net benefits..." because he does not have the acreage that H2Overviewers states he has. Shultz 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 is wondering if this will be addressed. Shultz added that last time they did the improvements, the farm roads do not have culverts, so it gets funneled into certain areas, and the drainage, in his opinion, changes the topographical flow. Shultz question if this is going to be addressed in this process. Aaron Goemann stated yes and collected Schultz's phone number to follow up with him.
 - b. Colleen Reinart of 2759 65th St NE, Sauk Rapids, MN 56379

She addressed the area that is in yellow, 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. Reinart 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 10, but the value is being indicated as from 10, but this always drains into their private ditch first, and 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... curious about what that is going to do when talking about the whole 10 system, and so much of that is in wetland, what happens to the sediment, and is that factored into the cost you’re already talking about?” Their property has been detrimentally impacted by not maintaining the ditches and they are not seeing the benefit of the ditch system. She had questions about the how long the \$8 million value would remain in place. She wondered about incremental repairs. Staff indicated it will remain in place until another redetermination is completed. It has not been done since the early 1900’s.

Chris Byrd mentioned the repairs may be incremental.

Commissioner Gapinski indicated that repairs will be assessed as completed.

Commissioner Johnson indicated that the value of the benefits will not change until a redetermination is completed in the future. The value of benefits is not assessed to the property owners just the repair cost. The \$8 million value is not assessed.

Commissioner Popp indicated the value of the benefits is not turned over the assessor to increase the value of the property. Value of property is determined by similar sales of property.

c. Leonard Popp, 5002 Pine Rd NE Rice, MN

He wanted to address some of his property that was designated as “wetland” and is “certified wetland” by determination under NRCS. He stated his concern of violating federal and state rules and programs by draining the wetland. Leonard Popp then talked about indirect benefits, and said that pre-settlement landscape, the upper part of the Mayhew Lake Watershed, and stated the pre-settlement that 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 it 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... 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 is a suggestion on a budget created for ditch maintenance and look at what do we need to do minimally to maintain the ditches instead of trying to divvy it up

between landowners. He also inquired about Mayhew Lake and the acres underneath being assessed benefits for Ditch 10. He thought the Lake adds to the load on Ditch 10. Commissioner Heinen stated that the Board is already taking that into consideration for the future of the ditches.

Aaron Goemann responded that Mayhew Lake acts like a bathtub in the watershed and all of the water in the lake comes from people in the watershed. It provides a type of buffer. It slows water down. Additional engineering would be required to determine how the lake impacted Ditch No. 10. He does not consider the lake and the acres underneath it as benefitted. 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 now to its natural state, Goemann stated they can determine that through additional engineering studies and evaluations. Goemann stated determining who actually receives that 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. Those are the things that Goemann considers when deciding benefitted acres. 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.

Chris 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.

Commissioner 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.

d. Tim Thaemert, 6605 Mayhew Lake Road NE, Sauk Rapids, MN

He 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..." He did indicate there is a water problem up by him. It has been there for 30 years, and no one has wanted to deal with it. He stated additional development was creating issues in the watershed. This ditch will not help him out. He is not responsible for what is going on a mile down the road.

Chris 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, sometimes culverts get blocked. They have a good idea "if not spot on" idea on how drainage drains.

- e. Leonard Skrok, 1150 65th Avenue Foley, MN

He “thinks there should be a budget made for having the ditches cleaned accordingly.” Skrok added “in my opinion... everybody benefits from it (cleaning the ditches) in one way or another...”

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...”

Aaron 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 he 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 this special assessment come from the landowners within these watersheds...”

- f. Constituent

“If the County or State or a neighbor is burdening my property, is that taken into account?”

Aaron Goemann answered by saying this process is designed by who is benefited by this process and if the ditch system is bearing the burden.

- g. Michelle Johnson, 2078 45th St. NE, Sauk Rapids, MN

She had questions about the process for Ditch 10 including when a petition had occurred, notification of a public hearing and when an inspection had occurred on the ditch. She also questioned the process of the redetermination by action of the board. She also asked about how beaver dams affect the ditches.

Staff responded with relevant dates and indicated that the Board may on its own determine to move forward on a redetermination and only one property needs to petition for repair. (All owners of that property must sign that petition.)

Aaron 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?

Chris Byrd responded by saying that we have not determined what 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.

- h. Robert Stoltemann, 1783 35th St. NE, Sauk Rapids, MN

He indicated approximately a mile of the ditch goes over his property and receives the upstream water. It takes a week for the water to flow out. He had concerns about the contribution of tributaries. He did not think he receives a benefit. Stotlemann stated he has concerns about controlling the costs of the project on either ends and, asked if that is a separate hearing every time? Stoltemann is concerned about the price.

Aaron 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.

Chris 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 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 in cleaning out his ditch. Byrd stated that when we do the assessing, we will be having a hearing where we can answer questions about the repair specifically. Byrd stated they will be having more public hearings in the future.

- i. Wayne Johnson, 2078 45th St. NE, Sauk Rapids, MN 56379

He spoke with Bryan Murphy about the road ditch draining into his property. When they redid the road, they buffered it. The water runs into his ditch in through his property.

He asked Bryan if they took that into consideration on the impact of his property, to which Bryan told Wayne Johnson: “no, that’s a County deal...” Mr. 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. Mr. 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.

Aaron Goemann responded that “if that was the bosses’ determination, he “will review it... but is not going to contest it now.”

- j. Vern Reinert of 2759 65th St NE Sauk Rapids, MN 56379

He stated there are culverts in the ditch on CD 10 that are blocked and needs 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.

Aaron 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.

- 32. At the close of the public comment hearing, Commissioner Heinen moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation buffer areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Buffer, Confirming Damages, and Directing Payment. Commissioner Popp seconded and the motion carried.

- 33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:

- a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
- b. that the viewers' report is complete and correct;
- c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
- d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and
- e. that the acquisition of perennial vegetation buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 10 opened at 10:52 AM. Tim Thaemart of 6605 Mayhew Lake Road NE, Sauk Rapids, MN 56379 stated there are two parcels of his land that is being affected and the information that they are giving out is not true. Byrd was able to explain to Thaemart the parcels in question. Thaemart acknowledged his water problem on his property and stated that no one has done anything for it, and people have been taking it upon themselves to take care of their water problems. Thaemart stated they have not received any help from the county. Thaemart stated this will raise his property value which will raise taxes and does not believe the ditch will help him out. Thaemart stated the water flows across his property, and he is not responsible for a mile down the road, and he does not believe that is right. Thaemart stated that "not one person has come out to see my land". Byrd stated that statute instructs the viewers to consider quarter quarter sections.

Next, Colleen Reinert of 2759 65th St NE Sauk Rapids, MN 56379 questioned the new valuation with redetermination of benefits, over what time period does that encompass; a single repair or a number of repairs over time; and how long does the \$8 million cover? Reinert's second question is when will the buffer strips be purchased? Byrd replied that the buffer strips will be purchased May 24, 2022. Reinert then asked when does the valuations occur and how does that balance out and at what point will they pay the assessment? Meyer stated that the last redetermination of benefits on CD 10 was done between 1905 to 1914, and at that time it was \$12,665.82, and the current process is to update the benefits. The proposed \$8 million would be the current proposed benefits and the benefit value will remain in place until a redetermination is done in the future and each landowner will be assessed their portion of the benefits. Gapinski added that each time they do a piece, they will get charged. Johnson added that the \$8 million is not the dollar amount distributed among property owners, but it will be the maximum until the next period of time there is a redetermination of benefits, and that not more than 20% of the funds can be used of the benefits for routine maintenance, and in this case, routine maintenance could not exceed \$1.6 million. If it did, then we would have to go through the redetermination of benefits process again.

The public hearing for CD 10 closed at 11:15 AM. Motion by Popp and seconded by Gapinski to Order:

- A. the redetermination of benefits of Benton County Ditch No. 10, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 10.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.

- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Next, Byrd reported the findings of CD 11 and they are as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 11**.
2. On December 14, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 11** pursuant to Minn. Stat. § 103E.351. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.
4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11,

2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.

13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 11**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity

because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.

25. The original benefitted acreage was 472 acres with total benefits of \$9,0450.00. The viewers determined that the total acreage benefitted now is 3,570.59 acres with total benefits of \$2,262,888.29. Damages for perennial vegetation strips were determined to be \$50,685.55.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation buffer strip along all reaches of open ditch on **Benton County Ditch No. 11**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefitted and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
 - c. Jim Berg, 3715 25th St NE
He inquired about the process to do a redetermination of benefits. He recently went through it in a different county. His belief was the 26% of property owners need to petition to redetermine benefits. He asked if there was petition to repair.
Staff indicated a redetermination of benefits and damages could be done upon the drainage authority's action.
Chris Byrd stated that redetermination of benefits and damages needs to be done in order to repair ditches. Currently the County is limited to only making repairs that do not exceed the original benefit determination. The repair does not allow the County to widen or deepen ditches.
 - d. Pat Welty of 4490 45th St NE Sauk Rapids, MN 56379
questions how much value does he actually get to his 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. He asked about changing the size of the culverts.
Aaron 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.
Commissioner Heinen stated the culvert size was a matter for Chris Byrd.
 - e. Mike Ebnet 1800 35th Ave NE Sauk Rapids, MN 56379:
He asked about 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? Ebnet also shared his concerns about opening the ditches and what will happen if we receive a heavy rainfall which could possibly wash out the roads.

Commissioner Heinen stated that he will get back to him on that question when he gets clarification on the specific act. Discussion with the engineers will be held regarding construction.

- f. 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. Staff stated that because this benefits the benefited acres, it is statutorily dictated that the benefits be paid by the beneficiaries.

32. At the close of the public comment hearing, Commissioner Heinen moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation buffer areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Buffer, Confirming Damages, and Directing Payment. Commissioner Popp seconded and the motion carried.

33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
- a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
 - b. that the viewers' report is complete and correct;
 - c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
 - d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and
 - e. that the acquisition of perennial vegetation buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 11 opened at 11:20 AM. No one from the public was present to speak. The public hearing for CD 11 closed at 11:21 AM. Motion by Heinen and seconded by Gapinski to Order:

- A. the redetermination of benefits of Benton County Ditch No. 11, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 11.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.

- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Next, Byrd reported the findings of CD 12 and they read as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 12**.
2. On December 14, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 12** pursuant to Minn. Stat. § 103E.351. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.
4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.

12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.
13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 12**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.

24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The original benefitted acreage was 368 acres with total benefits of \$7,817.00. The viewers determined that the total acreage benefitted now is 950.13 acres with total benefits of \$452,920.59. Damages for perennial vegetation strips were determined to be \$25,403.66.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation buffer strip along all reaches of open ditch on **Benton County Ditch No. 12**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefitted and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
 - a. Frank Danielson, 15901 65th St NE, Foley, MN
He stated he approves of what the County is doing. There are several people that are interested in getting the ditches cleaned out. He asked if there was a petition for repair on the ditch, and whether or not the landowners have a say on whether or not a repair gets ordered.
Chris Byrd indicated that there is not a petition to repair the ditch currently. If there was a petition, it would go before the Board before any repairs were ordered and a public hearing would be held.
32. At the close of the public comment hearing, Commissioner Popp moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation buffer areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Buffer, Confirming Damages, and Directing Payment. Commissioner Gapinski seconded and the motion carried.
33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
 - a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
 - b. that the viewers' report is complete and correct;

- c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
- d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and
- e. that the acquisition of perennial vegetation buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 12 opened at 11:24 AM. No one from the public was present to speak. The public hearing for CD 12 closed at 11:25 AM. Motion by Gapinski and seconded by Heinen to Order:

- A. the redetermination of benefits of Benton County Ditch No. 12, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 12.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.
- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Last, Byrd reported the findings of CD 14 and they are as follows:

Findings:

1. Benton County Board of Commissioners is the drainage authority for **Benton County Ditch No. 14**.
2. On August 18, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Benton County Ditch No. 14** pursuant to Minn. Stat. § 103E.351. Brian Murphy, Shantel Hecht, Larry Murphy were appointed as viewers and Robert Coneley as an alternate/consultant. On August 19, 2021, by order of Benton County Auditor Treasurer, Shantel Hecht was replaced by Aaron Goemann.
3. Benton County Auditor Treasurer, Nadean Inman, administered the Viewers' Oath.
4. The viewers completed their report, which included a benefits and damages statement, on January 14, 2022, for all property affected by the drainage system and filed their report with the drainage authority. Two landowner meetings were held to identify issues with the viewer's report.
5. The H2Over Viewers, LLC, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report on February 2, 2022.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on March 9, 2022. The public hearing was continued until April 11, 2022 at 8:30 a.m. due to defective notice

issues. Pursuant to Minn. Stat. 103E.035, new notice was sent to the impacted property owners that did not originally get notice of the March 9, 2022 hearing.

7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Benton County.
8. Notice of the final hearing was published in the Sauk Rapids Herald and the Benton County News for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the H2Over Viewers, LLC, on behalf of the Benton County Auditor Treasurer Nadean Inman provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
12. The drainage authority held a public hearing on the redetermination of benefits on March 9, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN, and the hearing was continued until April 11, 2022 at 8:30 a.m. at Henry's Event Center in Foley, MN. The hearing was again continued until April 19, 2022 at the regular meeting of the Benton County Board of Commissioners, acting as the drainage authority.
13. At the public hearing, Aaron Goemann one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Aaron Goemann further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of **Benton County Ditch No. 14**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including perennial vegetation buffer strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
15. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.
16. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
17. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.

18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
20. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
21. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
22. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or otherwise directly benefit the property.
23. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
24. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
25. The original benefitted acreage was 1491 acres with total benefits of \$17,839.75. The viewers determined that the total acreage benefited now is 2,584.72 acres with total benefits of \$1,109,878.02. Damages for perennial vegetation strips were determined to be \$25,092.05.
26. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
27. The viewers' account of work has been filed with the drainage authority.
28. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod perennial vegetation strip along all reaches of open ditch on **Benton County Ditch No. 14**.
29. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
30. The viewers' report and benefits and damages statement is attached as **Exhibit A**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
 - g. Constituent No. 1:
He wanted to know what would happen to the ditches if there is no repair petition. Staff Response was that each ditch regardless of whether or not there is a repair petition needs to be inspected every five years. If routine inspection indicated a large repair was needed, then the Board would likely follow the petition process to receive input from the landowners.
 - h. Constituent No. 2:

If a ditch is repaired, what would be the repayment for the repair? 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 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...repairs do allow for some resloping and tiling.

i. Joe Fisher, 16794 75th St NE Oak Park, MN 56357:

He 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 its time to get the ditches cleaned out.

Aaron 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 changing your property assessment.

j. Edward Lafore, Sr., 18283 85TH ST NE, Foley, MN

Mr. Lafore sent a letter to Chris Byrd stating that the ditch has never been cleaned, and the water stays on his property. The ditch should be maintained.

k. Allan Stay of 18400 25th St NE Foley, MN 56329

He asked when we are going to stop having meetings.

Chris Byrd stated that there is a petition, but that he did not anticipate work will be done this year for the ditch.

l. Wayne Johnson queried about taking care of beaver dams.

Chris Byrd stated we would have an obligation to take care of it, or the DNR could take care of it.

32. At the close of the public comment hearing, Commissioner Gapinski moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; 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 perennial vegetation areas, confirm the damages as presented, direct payments of the damages, and direct recording of the Order to reflect the acquisition; and 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 Perennial Vegetation Strips Buffer, Confirming Damages, and Directing Payment. Commissioner Heinen seconded and the motion carried.

33. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:

- a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
- b. that the viewers' report is complete and correct;
- c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
- d. that the redetermined benefits and damages, as reflected in the viewers' report and as described in the benefits and damages statement as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and
- e. that the acquisition of perennial vegetation strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

The public hearing for CD 14 opened at 11:28 AM. Colleen Reinert of 2759 65th St NE Sauk Rapids, MN 56379 asked who owns the buffer strips and what rights do they have. Meyer responded saying the buffer strips are part of the drainage system. Byrd added that the adjacent landowners own the buffer strips, but the buffer strips would be in the easement.

The public hearing for CD 14 closed at 11:30 AM. Motion by Schlangen and seconded by Popp to Order:

- A. the redetermination of benefits of Benton County Ditch No. 14, the viewers' report and the benefits and damages statement attached hereto as Exhibit A are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for Benton County Ditch No. 14.
- D. The damages for the acquisition of the perennial vegetation buffer area shall be paid and the perennial vegetation buffer areas established as required by statute.
- E. The effective date of the acquisition of the perennial vegetation buffer strip shall be May 24, 2022.
- F. The Board's staff is directed to work with the County Recorder to ensure that the drainage system and the perennial vegetation buffer area acquisition is reflected on the property records of affected landowners.

Motion carried unanimously per roll call vote with Commissioner Schlangen, Commissioner Johnson, Commissioner Heinen, Commissioner Gapinski and Commissioner Popp all voting "aye".

Motion by Johnson and seconded by Gapinski to adjourn at 11:33 AM. Motion carried unanimously.

Steven J. Heinen, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator