

1. Ditch Authority Agenda

Documents:

[DITCH AUTHORITY AGENDA_NOVEMBER 3, 2020.PDF](#)

2. Ditch Authority Packet

Documents:

[DITCH AUTHORITY PACKET_NOVEMBER 3, 2020.PDF](#)



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BENTON COUNTY DITCH AUTHORITY

Tuesday, November 3, 2020, Approximately 10:20 AM
Benton County Board Room

AGENDA

1. Call to Order by Chair Buerkle
2. Approve or Amend the Agenda
3. Approve or Amend Minutes of October 20, 2020
4. Judicial Ditch 1A
5. Adjourn

Meetings by Telephone

Effective immediately, the Benton County Board of Commissioners/Benton County Ditch Authority may conduct its regular, special or emergency meetings by telephone or other electronic means, as permitted by MN Statutes §13D.021. Some or all Board members may participate by telephone or other electronic means until further notice. At least one member of the County Board, or the County Attorney, or the County Administrator will be present during meetings at the County Board's regular meeting location, which is the County Board Room in Foley, unless otherwise noted on meeting notices. Pursuant to MN Statutes §13D.021, Subdivision 3, the County will provide the means for persons to electronically monitor such meetings remotely.

Benton County Board of Commissioners/Benton County Ditch Authority

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Ditch Authority:
Warren Peschl, District 1
Ed Popp, District 2
Steve Heinen, District 3
Spencer Buerkle, District 4
Jake Bauerly, District 5

531 Dewey Street
P.O. Box 129
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Benton County's Website:
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BENTON COUNTY DITCH AUTHORITY

Tuesday, October 20, 2020

Benton County Board Room

The Benton County Ditch Authority met in special session on October 20, 2020 in the Benton County Board Room in Foley, MN with Board members Jake Bauerly, Ed Popp, Warren Peschl, Spencer Buerkle and Steve Heinen present. Also present was Chris Byrd, County Engineer; Monty Headley, County Administrator and Vicki Feuling, Administrative Assistant

Call to order by Chair Buerkle was at 12:24 PM.

Peschl/Bauerly unanimous to approve the agenda as written.

Heinen/Popp unanimous to approve the minutes of October 6, 2020 as written.

Chris Byrd, County Engineer, explained that, at the October 6, 2020 meeting, the possibility of ordering a redetermination of benefits on the remainder of the county ditches was discussed; this may offer some cost savings to the benefitted landowners on each ditch system.

Byrd stated that while there was some interest from the Board in moving forward with this, he was asked to go back to the viewers and see if they could reduce their unit price any more to offer additional savings. Byrd stated that after discussion with Bryan Murphy, President of H2Over Viewers, they are unable to offer any additional cost reductions; Murphy states that \$4.00 per acre is as low as they can go as they have a certain amount of fixed costs that they cannot reduce. Byrd referenced a handout of services as prepared by H2Over Viewers, stating "...if you read in statute, there are a lot of functions that fall to the Auditor-Treasurer...their goal is to provide us all the information we need...prepare all the documentation...so all we need to basically do is stuff the information into Auditor-Treasurer envelopes and mail them out to all the landowners who will be affected by this...they will run the landowner meetings...they will be present for public hearings...they will be making site visits and talking to landowners on site..."

Buerkle commented "...I think we need to run that by our Auditor-Treasurer...so there is clear communication there..." Byrd stated "...what happened on Ditch 13 and Ditch 15...when we did those...it was Public Works staff and Auditor-Treasurer staff working together...drafting letters...verifying addresses...sending those out...taking the viewers' report and putting that together..."

Peschl inquired if the County "holds the tab" until the costs are assessed back to the benefitted landowners. Byrd replied "...that's right...the County would be fronting those costs until we set up all those assessments and start collecting that back...but that's not uncommon..." Bauerly stated his belief that the Board will need to set a time and place for an initial hearing for a redetermination of benefits. Byrd added "...although we don't know the absolute final cost because that will vary by the number of acres, we do know it's going to be \$4.00 per acre..." Popp commented "...that's going to be a large number of notifications..." Byrd added "...we don't know all the benefitted acres now...we'd certainly notify all the acreage that's in the last viewers' report...or the original viewers' report...we would publish it in the newspaper..." Bauerly stated "...I think we should have each ditch an hour apart or something...so we don't have all the people coming to one place during COVID...maybe a large room with an hour apart for each ditch..." Popp commented "...you can't do all ten ditches at one time...even if you are going to do them on an hourly basis, that's ten hours..."

Byrd stated "...if there's general consensus to move forward with this, I can go back to our County Attorney's Office and talk about...how do we set up a hearing on all these ditches...I can start going to work with H2Over Viewers...we'll definitely have to have an agreement in place...they have done this for other counties in Minnesota before...our County Attorney's Office was the one telling me that we should have an initial hearing before actually appointing them...at the next meeting I can come back with a strategy...they (H2Over Viewers) still believe they can do it within twelve months...their field work...the computer work...landowner meetings..."

Motion by Popp to enter into an agreement with H2Over Viewers at \$4.00 per acre for redetermination of benefits on all county ditches (except for Ditch 13 and Ditch 15). Second by Peschl. Motion carried unanimously.

Peschl/Heinen unanimous to adjourn at 12:35 PM.

Spencer C. Buerkle, Chair
Benton County Ditch Authority

ATTEST:

Montgomery Headley
Benton County Administrator



**BENTON COUNTY DITCH AUTHORITY
AGENDA ITEM REQUEST**

Meeting Date:	11/3/20	Regular Agenda:	X
Requesting Department:	Public Works	Consent Agenda:	

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

Judicial Ditch 1A

Background Information:

At the February 4, 2020 Ditch Authority meeting, I informed the Board of the possibility of the creation of a Judicial Ditch, due to a ditch in Mille Lacs County having a watershed contributing to extending into Benton County and into Sherburne County. In other words, there are landowners in Benton County that receive a benefit from the ditch in Mille Lacs County. This leads to the creation of a Judicial Ditch.

The Draft Redetermination report has been created. They used H2overViewers to complete the redetermination. Mille Lacs County has also asked John Kolb of Rinke Noonan to advise on the next steps to create a Judicial Ditch Authority.

Attached is a map of the benefitted area. Also attached is a sample landowner's report that will eventually be sent out to all landowners receiving a benefit from this ditch.

Action Requested:

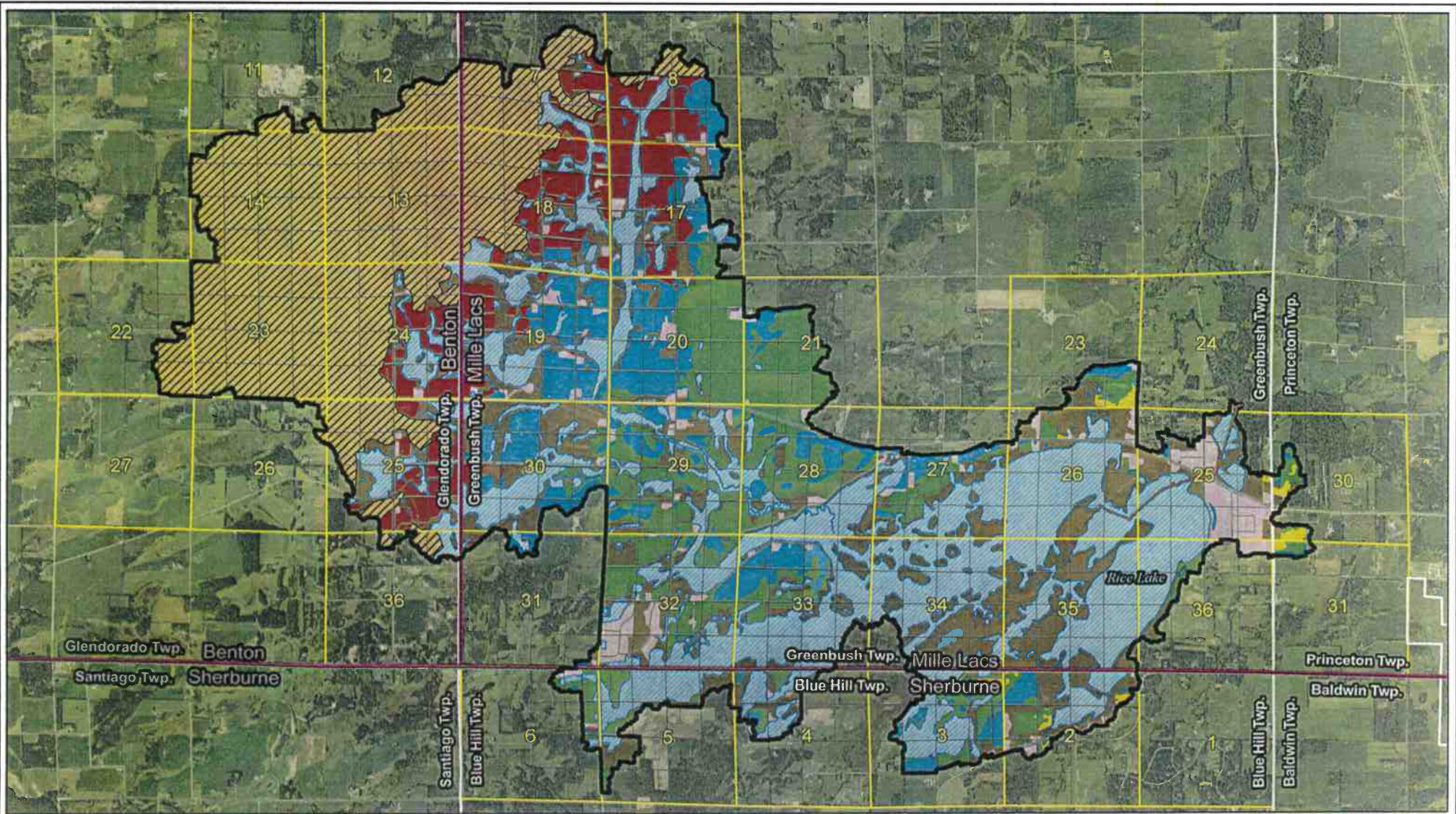
None. Informational only.

Fiscal Impact:

Estimated Cost (\$):	???
Source of Funds:	Judicial Ditch fund
New or Additional Revenue (\$):	N/A
Cost Budgeted in Current Year? (Yes/No)	N/A

Approved by:	Signature	Date
Chris Byrd		10-27-2020
County Attorney (for contracts)		

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



Land Classifications

- JD 1 Open Ditch
- JD 1 Watershed
- Counties
- Townships
- PLSS Sections
- 40-acre Tracts
- Class 2
- Class 3
- Class 4
- Class 5
- Non-Benefited
- Residential
- Woodlot
- Roads
- Grass Strips
- Ditches
- Wetlands



Mille Lacs JD 1 - Land Classifications
 H2Over Viewers
 September 18, 2020



**Benefits and Damage Statement for the Redetermination of Benefits
Mille Lacs Joint Ditch 1**

In accordance with Minnesota Statute (MS) 103E.351, we the viewers, submit the following Viewers' Report:

The fundamental principle for the determination of benefits and damages is based upon a comparison of the conditions prior to the construction of the ditch system with the conditions that exist after the implementation of the ditch system or proposed drainage project.

The undersigned viewers, pursuant to the order of the Mille Lacs County Drainage Authority, did meet prior to commencing duties on the 17th of July, 2018 at the Mille Lacs County office in Milaca, Minnesota. Having taken the oath as required by MS 103E.305, did view, all lands affected by said proposed drainage system and further, we did determine the damages to lands affected by establishment of a grass strip.

We were able to determine the boundaries of the benefited area by processing and analyzing maps using "Light Detection and Ranging" (LiDAR) along with visually viewing the project area. Meetings were held with landowners, and Mille Lacs, Benton & Sherburne County staff. We viewed the County Assessors' records to determine the number of acres of land in each parcel of each 40-acre tract of land. Other sources of information used were USDA-Natural Resources Conservation Service Web Soil Survey, 12 years of USDA satellite imagery, US Fish and Wildlife Service National Wetland Inventory (NWI) maps, and Mille Lacs County Assessors' sales data and annual report.

We have determined the extent and basis of benefits and damages as prescribed under MS 103E.315 and MS 103E.321. We have indicated in tabular form, for each lot, 40-acre tract, and fraction of a lot or tract under separate ownership that is benefited or damaged (see Exhibit A).

An easement, in the form of an additional restriction on the use of real property adjacent to the open channel of the drainage system, will be acquired and, therefore, damages will be awarded for the establishment of a permanent strip of perennial vegetation approved by the drainage authority that will not impede future maintenance of the drainage system as required in MS 103E.021. We determined these damages at two separate values. Grass Strip damages "A" acres, lands which current land use will not change, but will still have permanent restrictions of future land use. Grass Strip damages "B" acres, lands demanding a higher value based on current land use. The value determined for "A" acres is \$1992 and the value for "B" acres is \$3320. The value for "A" acres has been determined by using a statewide average.

We have determined the following direct drainage benefits and indirect (outlet) benefits on and related to the redetermination of benefits for Mille Lacs JD 1. Benefits were determined based on the drainage system operating in its as constructed condition.

Direct Benefits – Class 1 (Mapped as Red)

Using the direct market value approach, giving consideration for the lands' geographic location in the watershed, location relative to the outlet, proximity to the ditch bottom elevation, soil types, as well as analyzing direct sales data for competitive properties in the market place, we determined the existing market values of land in an unimproved condition as well as in an improved condition. Though this description may not describe your lands exactly, your lands fell broadly under this category.

Class 1 lands, prior to the existence of the drainage system, had a value range of \$862 to \$953 per acre. They consisted mostly of low wetlands unsuitable for even hay or pasture most years. With the establishment of adequate drainage to these lands, the market value has increased to \$5320 to \$5880 per acre. These lands are now used for productive row crops.

The viewers have determined based on these values, along with allowances for private improvement costs, that Mille Lacs JD 1 provides for an increased market value/benefit to agricultural/cropland acres in Class 1 by the rate of \$1873 per acre.

Direct Benefits – Class 2 (Mapped as Yellow)

Using the direct market value approach, giving consideration for the lands' geographic location in the watershed, location relative to the outlet, proximity to the ditch bottom elevation, soil types, as well as analyzing direct sales data for competitive properties in the market place, we determined the existing market values of land in an unimproved condition as well as in an improved condition. Though this description may not describe your lands exactly, your lands fell broadly under this category.

Class 2 lands, prior to the existence of the drainage system, had a value range of \$1428 to \$1579 per acre. It was mostly utilized as hay and pastureland. Although some row crops were grown in this land class, it was not without substantial risk of loss to the grower. Now that adequate drainage has been established through these lands, the market value has increased to \$2857 to \$3157 per acre. The lands are now used to grow some of the most productive row crops in the area.

The viewers have determined based on these values, along with allowances for private improvement costs, that Mille Lacs JD 1 provides for an increased market value/benefit to agricultural/cropland acres in Class 2 by the rate of \$654 per acre.

Direct Benefits – Class 3 (Mapped as Green)

Using the direct market value approach, giving consideration for the lands' geographic location in the watershed, location relative to the outlet, proximity to the ditch bottom

elevation, soil types, as well as analyzing direct sales data for competitive properties in the market place, we determined the existing market values of land in an unimproved condition as well as in an improved condition. Though this description may not describe your lands exactly, your lands fell broadly under this category.

Class 3 lands, prior to the existence of the drainage system, had a value range of \$3446 to \$3809 per acre. These lands were mostly utilized for the production of row crops, although over saturation of the soil and surrounding lands did not allow for these lands to realize their full production potential. Now that the drainage system has been established, the land is able to utilize the system as an outlet to drainage tile systems and increased the production potential. As a result, the land value range has increased to \$4595 to \$5078 per acre.

The viewers have determined based on these values, along with allowances for private improvement costs, that Mille Lacs JD 1 provides for an increased market value/benefit to agricultural/cropland acres in Class 3 by the rate of \$359 per acre.

Indirect Benefits – Class 4 (Mapped as Blue)

Class 4 lands are lands which have not had an increase in market value after the construction of the drainage system. However, they have been altered from their pre-settlement state in such a manner that they are now tilled and farmed. As a result, they burden the drainage system's capacity, thus increasing a sediment load and causing a need for increased maintenance. Taking into consideration the percentage of Class 4 acres in the watershed, regular ditch maintenance, and sediment loading, we determined the rate per acre that Mille Lacs JD 1 provides as an outlet or contribution benefit to these lands. Though this description may not describe your lands exactly, your lands fell broadly under this category. The viewers have determined the Class 4 outlet benefit rate to be \$108 per acre.

Example of how benefits were calculated for Class 2:

Market Value Before Project:	\$1504
Market Value After Project:	\$3008
Increase in Market Value:	\$1504
Less Private Improvement Costs:	\$850
Net Benefits:	\$654

Class 5 Benefits

Class 5 lands are lands which drain towards the public ditch system. Waters that shed from this classification reach the public drainage system with in the critical 24-hour window thus creating the need for system capacity and contribute to the need for system maintenance. Though this description may not describe your lands exactly, your lands fell broadly under this category. The viewers have determined the Class 5 outlet benefit rate to be \$54 per acre.

Road Benefits

The viewers have determined outlet as well as reduced maintenance cost benefits for all State, County, and Township roads located within the boundary of Mille Lacs JD 1 at a rate of \$523 per acre.

Residential Land Benefits

Outlet benefits were applied to residential lands within the watershed of Mille Lacs JD 1. The outlet benefit was calculated based on runoff burden to the drainage system and use of the drainage system as an outlet. The viewers have determined the outlet benefits for residential lands at the rate of \$43 per acre.

Woodlot Benefits

Benefits were applied to woodlot lands within the watershed of Renville CD 92. These lands receive a benefit because the ditch conveys their water burden away from adjacent landowners and adds to the need for system capacity and system maintenance. The viewers have determined the benefit for woodlot lands at the rate of \$39 per acre.

Non-benefiting Acres

Based on current land use and regulatory restrictions, permanent program restrictions (i.e. RIM or CREP) or other permanent restriction and restoration to pre-settlement landscape conditions or creation of wetland areas, we determined some areas to be non-benefited from the drainage system and restricted from taking future benefit from the drainage system. For example, we determined that lands restored to pre-settlement conditions and permanently restricted from future modification would not drain in any altered manner such that the drainage system would be burdened by the land other than such burden as nature would have provided. Further, for example, nonconverted wetlands that are so restricted from conversion by regulation that conversion is unlikely, were not determined to benefit from the system.

At the completion of our examination, we did sum up the total benefits for Mille Lacs JD 1. We found that the total benefits are \$1,091,184.42. Total damages for Mille Lacs JD 1 were \$2,475.56. (See Exhibit A for tabular report of benefits.)

We recommend that the Mille Lacs County Drainage Authority hold a final hearing on the report and confirm the benefits and damages for Mille Lacs JD 1.

Dated this 21st day of September 2020.

[Signature Page to Follow]

Respectfully submitted,

Bryan Murphy

Shantel Hecht

Larry Murphy