

Joint Drainage Authority for Le Sueur and Scott County

August 24, 2022 at 1 p.m.

Belle Plaine City Hall, Belle Plaine, MN

AGENDA

1. Agenda

Documents:

[20220822095815197.PDF](#)



**AGENDA
DITCH BOARD / JOINT DITCH BOARD MEETING
SCOTT COUNTY, MINNESOTA
AUGUST 24, 2022
1:00 PM**

1:00 PM

(1) CONVENE

(2) APPROVE MINUTES

(3) NON-CONSENT

- 3.1 Open the Public Hearing to Receive Information on the Purpose of the Hearing, the Viewing Process, and Allow for Public Comment On the Redetermination of Benefits on the Scott LeSueur Joint Ditch 3
- 3.2 Receive Information on the Purpose of the Hearing and Procedural Requirements
- 3.3 Enter Into the Minutes the Record of Notice Requirements for Informing all Benefited Owners on Scott LeSueur Joint Ditch 3
- 3.4 Receive Information From H2OverViewers on the Process and Result of the Redetermination of Benefits Efforts on Scott LeSueur Joint Ditch 3 and Receive Public Comment on the Findings
- 3.5 Adopt Resolution 2022-205; Adopting the Findings and Redetermination of Benefits and Ordering the Establishment of Scott LeSueur Joint Ditch 3

(4) ADJOURN



Request for Board Action

BOARD MEETING DATE:
8/24/2022

AGENDA ITEM NUMBER:
3.1

Department Information

ORIGINATING DIVISION/DEPARTMENT:
Community Services/PCS Admin & Elections

PRESENTER(S):

PROJECT:

Agenda Item Details

AGENDA ITEM TYPE:
Non-Consent

TIME REQUESTED:

ACTION REQUESTED:

Open the Public Hearing to Receive Information on the Purpose of the Hearing, the Viewing Process, and Allow for Public Comment On the Redetermination of Benefits on the Scott LeSueur Joint Ditch 3

ORGANIZATIONAL VALUES:

Customer Service: We will deliver government services in a respectful, responsive, and solution-oriented manner

Communication: We will always be clear about what we're doing and why we're doing it

Collaboration: We will work with partners - communities, schools, faith groups, private business, and non-profit agencies - to see that services are not duplicated but rather are complimentary, aligned, and provided by the partners who can deliver the service most effectively

Stewardship: We will work proactively to make investments, guided by resident input, which will transform lives, communities, and government

Empowerment: We will work with individuals and families to affirm strengths, develop skills, restore hope, and promote self-reliance

Resiliency: We will foster public preparedness and respond when families and communities face health and safety emergencies

Innovation: We will take informed risks to deliver services more effectively and will learn from our successes and failures

BACKGROUND/JUSTIFICATION:

The purpose of this agenda item is to Open the Public Hearing to Receive Information on the Purpose of the Hearing, the Viewing Process, and Allow for Public Comment On the Redetermination of Benefits on the Scott LeSueur Joint Ditch 3.

Staff is requesting the Public Hearing be opened in order to create the Official Record of the process, methods, public input, and determinations for the Drainage Authority to consider in order to adopt the Redetermination of Benefits roll for Joint Drainage Ditch 3.

BUDGET AMENDMENT:

No
FUNDING DESCRIPTION:
ATTACHMENTS: None

Action

ACTION TAKEN:	MOTION/SECOND/VOTE:	DEPUTY CLERK:
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Request for Board Action

BOARD MEETING DATE:
8/24/2022

AGENDA ITEM NUMBER:
3.2

Department Information

ORIGINATING DIVISION/DEPARTMENT: Community Services/PCS Admin & Elections	
PRESENTER(S): John Kolb, Rinke Noonan	PROJECT:

Agenda Item Details

AGENDA ITEM TYPE: Non-Consent	TIME REQUESTED: 10 minutes
ACTION REQUESTED: Receive Information on the Purpose of the Hearing and Procedural Requirements	
ORGANIZATIONAL VALUES: <p>Customer Service: We will deliver government services in a respectful, responsive, and solution-oriented manner</p> <p>Communication: We will always be clear about what we're doing and why we're doing it</p> <p>Collaboration: We will work with partners - communities, schools, faith groups, private business, and non-profit agencies - to see that services are not duplicated but rather are complimentary, aligned, and provided by the partners who can deliver the service most effectively</p> <p>Stewardship: We will work proactively to make investments, guided by resident input, which will transform lives, communities, and government</p> <p>Empowerment: We will work with individuals and families to affirm strengths, develop skills, restore hope, and promote self-reliance</p> <p>Resiliency: We will foster public preparedness and respond when families and communities face health and safety emergencies</p> <p>Innovation: We will take informed risks to deliver services more effectively and will learn from our successes and failures</p>	
BACKGROUND/JUSTIFICATION: The purpose of this agenda item is to Receive Information on the Purpose of the Hearing and Procedural Requirements. The contracted attorney for County Drainage Ditch Proceedings, John Kolb from Rinke Noonan, will inform the Board on the purpose and requirements of the final hearing for Joint Ditch 3	
BUDGET AMENDMENT: No	
FUNDING DESCRIPTION:	

n/a

ATTACHMENTS:
None

Action

ACTION TAKEN:

MOTION/SECOND/VOTE:

DEPUTY CLERK:



Request for Board Action

BOARD MEETING DATE:
8/24/2022

AGENDA ITEM NUMBER:
3.3

Department Information

ORIGINATING DIVISION/DEPARTMENT: Community Services/PCS Admin & Elections	
PRESENTER(S): Kris Lage, Property and Customer Service Operations Analyst, Drainage Ditch Administrator	PROJECT:

Agenda Item Details

AGENDA ITEM TYPE: Non-Consent	TIME REQUESTED:
ACTION REQUESTED: Enter Into the Minutes the Record of Notice Requirements for Informing all Benefited Owners on Scott LeSueur Joint Ditch 3	
ORGANIZATIONAL VALUES: <p>Customer Service: We will deliver government services in a respectful, responsive, and solution-oriented manner</p> <p>Communication: We will always be clear about what we're doing and why we're doing it</p> <p>Collaboration: We will work with partners - communities, schools, faith groups, private business, and non-profit agencies - to see that services are not duplicated but rather are complimentary, aligned, and provided by the partners who can deliver the service most effectively</p> <p>Stewardship: We will work proactively to make investments, guided by resident input, which will transform lives, communities, and government</p> <p>Empowerment: We will work with individuals and families to affirm strengths, develop skills, restore hope, and promote self-reliance</p> <p>Resiliency: We will foster public preparedness and respond when families and communities face health and safety emergencies</p> <p>Innovation: We will take informed risks to deliver services more effectively and will learn from our successes and failures</p>	
BACKGROUND/JUSTIFICATION: The purpose of this agenda item is to Enter Into the Minutes the Record of Notice Requirements for Informing all Benefited Owners on Scott LeSueur Joint Ditch 3. Pursuant to Minn. Statute §103E.323, the property owners report was mailed on June 22, 2022 to all owners of properties identified in the Viewers' Report, governmental units affected by the project and the commissioner of the Minnesota Department of Natural Resources (MDNR). An	

informational landowner meeting was held at the Belle Plaine City Hall on July 5, 2022, in order to get input and answer questions from benefited property owners. This included newly recognized benefited owners residing in LeSueur County.

On June 21, 2021, the Scott and LeSueur Boards both approved that Scott County Drainage Ditch 3 be changed to the Scott LeSueur Joint Ditch 3.

Pursuant to Minn. Statute §103E.325, notice of the final hearing was mailed on August 4, 2022 to all owners of properties identified in the Viewers' Report, governmental units affected by the project and the commissioner of the MDNR. The notice was also published in the Jordan Independent on August 4, 2022, August 11, 2022, & August 18, 2022. In addition, the notice was posted in the atrium of the Scott County Government Center on August 4, 2022. The notice was published in LeSueur County's official newspaper on August 4, 2022, August 11, 2022, & August 18, 2022. The notice was also posted in the LeSueur County Government Center on August 3, 2022.

BUDGET AMENDMENT:

No

FUNDING DESCRIPTION:

n/a

ATTACHMENTS:

None

Action

ACTION TAKEN:	MOTION/SECOND/VOTE:	DEPUTY CLERK:



Request for Board Action

BOARD MEETING DATE:
8/24/2022

AGENDA ITEM NUMBER:
3.4

Department Information

ORIGINATING DIVISION/DEPARTMENT:

Community Services/PCS Admin & Elections

PRESENTER(S):

Kris Lage, Community Services Admin & Elections, Scott County Drainage Administrator; H2OverViewers

PROJECT:

Agenda Item Details

AGENDA ITEM TYPE:

Non-Consent

TIME REQUESTED:

30 minutes

ACTION REQUESTED:

Receive Information From H2OverViewers on the Process and Result of the Redetermination of Benefits Efforts on Scott LeSueur Joint Ditch 3 and Receive Public Comment on the Findings

ORGANIZATIONAL VALUES:

Customer Service: We will deliver government services in a respectful, responsive, and solution-oriented manner

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Collaboration: We will work with partners - communities, schools, faith groups, private business, and non-profit agencies - to see that services are not duplicated but rather are complimentary, aligned, and provided by the partners who can deliver the service most effectively

Stewardship: We will work proactively to make investments, guided by resident input, which will transform lives, communities, and government

Empowerment: We will work with individuals and families to affirm strengths, develop skills, restore hope, and promote self-reliance

Resiliency: We will foster public preparedness and respond when families and communities face health and safety emergencies

Innovation: We will take informed risks to deliver services more effectively and will learn from our successes and failures

BACKGROUND/JUSTIFICATION:

The purpose of this agenda item is to Receive Information From H2OverViewers on the Process and Result of the Redetermination of Benefits Efforts on Scott LeSueur Joint Ditch 3 and Receive Public Comment on the Findings.

The County Drainage Board appointed H2Overviews to conduct the activities required by Minn. Statute §103E.321. Those duties include that the viewers, with or without the engineer, shall

determine the benefits and damages to all property affected by the proposed drainage project and make a viewers' report.

The viewers' report must show, in tabular form, each lot, 40-acre tract, and fraction of a lot or tract under separate ownership that is benefited or damaged:

- a description of the lot or tract, under separate ownership, that is benefited or damaged;
- the names of the owners as they appear on the current tax records of the county and their addresses;
- the number of acres in each tract or lot;
- the number and value of acres added to a tract or lot by the proposed drainage of public waters;
- the damage, if any, to riparian rights;
- the damages paid for the permanent strip of perennial vegetation under §103E.021;
- the total number and value of acres added to a tract or lot by the proposed drainage of public waters, wetlands, and other areas not currently being cultivated;
- the number of acres and amount of benefits being assessed for drainage of areas which, before the drainage benefits could be realized would require a public-waters-work permit to work in public waters under §103G.245 to excavate or fill a navigable water body under United States Code, title 33, section 403, or a permit to discharge into waters of the United States under United States Code, title 33, section 1344;
- the number of acres and amount of benefits being assessed for drainage of areas that would be considered conversion of a wetland under United States Code, title 16, section 3821, if the area was placed in agricultural production;
- the amount of right-of-way acreage required; and
- the amount that each tract or lot will be benefited or damaged.

The viewers' report must include a benefits and damages statement that shows for each property owner how the benefits or damages for similar tracts or lots were determined.

The total benefits for Scott LeSueur Joint Ditch 3 have been determined at an amount of \$8,697,201.82.

Total damages to be awarded to those impacted owners are to be assessed at an amount of \$89,960.26.

BUDGET AMENDMENT:

No

FUNDING DESCRIPTION:

n/a

ATTACHMENTS:

None

Action

ACTION TAKEN:	MOTION/SECOND/VOTE:	DEPUTY CLERK:



Request for Board Action

BOARD MEETING DATE:
8/24/2022

AGENDA ITEM NUMBER:
3.5

Department Information

ORIGINATING DIVISION/DEPARTMENT:

Community Services/PCS Admin & Elections

PRESENTER(S):

Kris Lage, Community Services Admin & Elections, Scott County Drainage Administrator

PROJECT:

Agenda Item Details

AGENDA ITEM TYPE:

Non-Consent

TIME REQUESTED:

20 minutes

ACTION REQUESTED:

Adopt Resolution 2022-205; Adopting the Findings and Redetermination of Benefits and Ordering the Establishment of Scott LeSueur Joint Ditch 3

ORGANIZATIONAL VALUES:

Customer Service: We will deliver government services in a respectful, responsive, and solution-oriented manner

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Innovation: We will take informed risks to deliver services more effectively and will learn from our successes and failures

BACKGROUND/JUSTIFICATION:

The purpose of this agenda item is to Adopt Resolution 2022-205; Adopting the Findings and Redetermination of Benefits and Ordering the Establishment of Scott LeSueur Joint Ditch 3.

The Scott LeSueur Joint County Drainage Authority (Authority) for Joint Ditch 3 (JD 3) is required to deliberate about what is heard at the public hearing and determine whether they have sufficient information to order and approve the findings as presented, or if further review is necessary, determine the issues to be researched and recess the meeting until a future meeting is held in

order to address issues discussed and ensure the proper findings are approved.

The information that is known at this time includes the following:

1. Scott County Ditch 3 (CD 3) was established in the early 1900s. Benefits for Scott County Ditch 3 were determined concurrent with its establishment, prior to the initiation of modern, intensive farming and drainage practices within Scott County.
2. The system provides an outlet for lands in Sections 3, 4, 5, 8, 9, and 10 of Derrynane Township, Le Sueur County; and Sections 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34 of Belle Plaine Township, Scott County. Section 35 of Belle Plaine Township in Scott County is included for roadway purposes.
3. Benefits for CD 3 were last determined in the early 1900s, prior to the enactment of various laws, regulations, and programs protecting wetlands.
4. The current benefits roll reflects the benefitted properties, benefitted areas and benefit values as determined by viewers based on assumptions regarding the ability of landowners to convert wetlands for agricultural purposes.
5. Additionally, since the most recent determination of benefits and damages, land uses and drainage practices have changed to accelerate and increase the flow of water to the drainage system, changing the nature and value of benefits accruing to lands from construction of CD 3.
6. Since the most recent determination of benefits and damages, additional lands not previously determined to be benefitted have improved drainage to take advantage of CD 3 as an outlet for drainage.
7. Since the most recent determination of benefits and damages, land values have changed within the benefitted area of CD 3.
8. Based on its finding that the conditions required for the initiation of a redetermination of benefits exist, that the original benefits and damages did not reflect reasonable present-day land values, and the benefitted areas had changed for CD 3, the Drainage Authority ordered a redetermination of benefits and appointed Bryan Murphy, Larry Murphy, and Shantel Hecht as viewers, and Robert Conely and Kenneth DeGier as alternate viewers, for the redetermination of benefits. During the viewing process, Shantel Hecht resigned her appointment. Thereafter, appointed and sworn alternative, Ken DeGier, has participated in the proceedings.
9. Upon taking their oath, the viewers initiated a redetermination of benefits according to Minnesota Statutes chapter 103E.
10. Under Minnesota Statutes §103E.351, subdivision 2, in a redetermination, the viewers' obligation is to proceed as provided for viewers and the viewers' report in §103E.311 to §103E.321. Under §103E.311, they are obligated to determine the benefits and damages to all property affected by the drainage project and make a viewers' report.
11. During their initial viewing, the viewers determined that lands within Le Sueur County potentially benefitted from CD 3. For that reason, the viewers notified the Scott County Drainage Authority, which suspended proceedings and convened a joint meeting with the Le Sueur County Board of Commissioners.

12. In a joint/concurrent session, the combined boards: established a Joint Drainage Authority pursuant to Minnesota Statutes §103E.235 for Joint Ditch 3 ("JD 3"); designated Scott County as the "majority" county for the Joint Drainage System resulting from the redetermination of benefits; ratified and readopted the findings, determinations, and order of the Scott County Drainage Authority Board initiating the redetermination of benefits and appointing viewers; ratified and accepted the viewers' oaths; and directed continued work on the redetermination.

13. The viewers completed their report, which included a benefits and damages statement in April 2022 for all property affected by JD 3 and filed their report with the Joint Drainage Authority.

14. Upon the direction, and under supervision, of the Joint Drainage Authority, the viewers prepared Property Owners' Reports and mailed them to the owners of property identified in the viewers' Report.

15. The Joint Drainage Authority noticed and held an informational meeting on a proposed redetermination of benefits for JD 3 on July 5th, 2022. The informational hearing was attended by landowners who raised questions and confirmed conditions, land uses and drainage modifications within the JD 3 watershed. Based on the information received, the viewers reconfirmed conditions, conducted additional viewing and made revisions to their reports as appropriate.

16. The final hearing is being held on August 24, 2022.

17. The Joint Drainage Authority prepared a notice for the final hearing and (1) mailed it to owners of properties identified in the Viewers' Report, governmental units affected by the project and the commissioner of the MDNR; (2) posted it at the Scott County Courthouse and Le Sueur County Courthouse; and (3) published it in a newspaper in general circulation in the area of JD 3 in Scott and Le Sueur Counties. The timing and duration of the notices were consistent with the requirements of Minn. Stat. §103E.325.

18. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas and presentation materials are present in the record herein.

19. At the August 24, 2022, hearing, are viewers appearing and will present the Viewers' Report, Benefits and Damages Statement and redetermined benefits. The viewers will provide detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the Ditch; (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 JD 3.

20. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one rod grass buffer strip along all reaches of open ditch on JD 3.

21. The viewers prepared a Benefits and Damages Statement outlining the basis of their benefits and damages determinations. The Benefits and Damages Statement is attached as Exhibit B.

22. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.

23. The viewers determined the amount of damages to be paid for the acquisition of property for

the establishment of best management practices, including grass 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.

24. 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.

25. 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.

26. 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 value of the properties receiving a direct drainage benefit.

27. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.

28. 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.

29. 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.

30. The viewers applied an economic analysis using sales and income approaches to determine the increased value of each classification acre based on the drainage benefit provided by the drainage system.

31. The viewers determined the amount of economic benefit to property benefitted immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.

32. The viewers determined that the drainage system draws off water from lower, previously assessed lands, thereby allowing drainage from unassessed lands to flow more readily and escape faster, thus preventing damage to the previously assessed lands, and such drainage constitutes a drainage benefit.

33. 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 a potential different land use.

34. Within the watershed of the drainage system, the viewers determined benefits on property that is 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.

35. 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.

36. The viewers' account of work has been filed with the Joint Drainage Authority.

Staff requests that the Joint Drainage Authority review the information presented today and adopt the findings and redetermination for Joint Ditch 3.

BUDGET AMENDMENT:

No

FUNDING DESCRIPTION:

If there are costs, list them out, the lien amount and terms.

ATTACHMENTS:

1.	JD3_Exhibit_A 29JUL22
2.	Exhibit B
3.	Exhibit C

Action

ACTION TAKEN:	MOTION/SECOND/VOTE:	DEPUTY CLERK:
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**BOARD OF COUNTY COMMISSIONERS
SCOTT COUNTY, MINNESOTA**

Date: August 24, 2022

Resolution No.: 2022-205

Motion by Commissioner: None

Seconded by Commissioner: None

RESOLUTION NO. 2022-205; ADOPTING THE FINDINGS AND REDETERMINATION OF BENEFITS AND ORDERING THE ESTABLISHMENT OF SCOTT LESUEUR JOINT DITCH 3

WHEREAS, Scott County Drainage Ditch No. 3 (CD 3) was established in the early 1900's, and the Scott County Board, acting as the Scott County Drainage Authority, (the Authority), is the proper authority by which this ditch is governed; and

WHEREAS, the Authority ordered the Redetermination of Benefits on CD 3 due to the need to determine the total benefits of the ditch based upon current land valuation and ensure costs are appropriately allocated to each benefited property based upon their apportionment of the benefits roll; and

WHEREAS, the Authority appointed H2OverViewers (the Viewers) to conduct the work and provide to the Authority a Benefits and Damages Report and Allocation Report (the Report) by property to ensure costs and damages are properly assessed and paid; and

WHEREAS, the Viewers report identified benefits for CD 3 in LeSueur County, and the Boards of Scott and LeSueur Counties met concurrently and approved that Scott County CD 3 shall be from there on out, a Joint Drainage system between Scott and LeSueur Counties, and is now recognized as Scott LeSueur Joint Ditch 3 (JD 3); and

WHEREAS, the Authority has received the Viewers' report and has determined that the data included is accurate and complete.

NOW THEREFORE BE IT RESOLVED by the Scott LeSueur Joint Drainage Authority, in and for the Counties of Scott and LeSueur, Minnesota, that it makes the following findings:

1. Scott County Ditch 3 (CD 3) was established in the early 1900s. Benefits for Scott County Ditch 3 were determined concurrent with its establishment, prior to the initiation of modern, intensive farming and drainage practices within Scott County.
2. The system provides an outlet for lands in Sections 3, 4, 5, 8, 9, and 10 of Derrynane Township, Le Sueur County; and Sections 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34 of Belle Plaine Township, Scott County. Section 35 of Belle Plaine Township in Scott County is included for roadway purposes.
3. Benefits for CD 3 were last determined in the early 1900s, prior to the enactment of various laws, regulations, and programs protecting wetlands.
4. The current benefits roll reflects the benefitted properties, benefitted areas and benefit values as determined by viewers based on assumptions regarding the ability of landowners to convert wetlands for agricultural purposes.
5. Additionally, since the most recent determination of benefits and damages, land uses and drainage practices have changed to accelerate and increase the flow of water to the drainage system, changing the nature and value of benefits accruing to lands from construction of CD 3.
6. Since the most recent determination of benefits and damages, additional lands not previously determined to be benefitted have improved drainage to take advantage of CD 3 as an outlet for drainage.

7. Since the most recent determination of benefits and damages, land values have changed within the benefitted area of CD 3.

8. Based on its finding that the conditions required for the initiation of a redetermination of benefits exist, that the original benefits and damages did not reflect reasonable present-day land values, and the benefitted areas had changed for CD 3, the Drainage Authority ordered a redetermination of benefits and appointed Bryan Murphy, Larry Murphy, and Shantel Hecht as viewers, and Robert Conely and Kenneth DeGier as alternate viewers, for the redetermination of benefits. During the viewing process, Shantel Hecht resigned her appointment. Thereafter, appointed and sworn alternative, Ken DeGier, has participated in the proceedings.

9. Upon taking their oath, the viewers initiated a redetermination of benefits according to Minnesota Statutes chapter 103E.

10. Under Minnesota Statutes §103E.351, subdivision 2, in a redetermination, the viewers' obligation is to proceed as provided for viewers and the viewers' report in §103E.311 to §103E.321. Under §103E.311, they are obligated to determine the benefits and damages to all property affected by the drainage project and make a viewers' report.

11. During their initial viewing, the viewers determined that lands within Le Sueur County potentially benefitted from CD 3. For that reason, the viewers notified the Scott County Drainage Authority, which suspended proceedings and convened a joint meeting with the Le Sueur County Board of Commissioners.

12. In a joint/concurrent session, the combined boards: established a Joint Drainage Authority pursuant to Minnesota Statutes §103E.235 for Joint Ditch 3 ("JD 3"); designated Scott County as the "majority" county for the Joint Drainage System resulting from the redetermination of benefits; ratified and readopted the findings, determinations, and order of the Scott County Drainage Authority Board initiating the redetermination of benefits and appointing viewers; ratified and accepted the viewers' oaths; and directed continued work on the redetermination.

13. The viewers completed their report, which included a benefits and damages statement in April 2022 for all property affected by JD 3 and filed their report with the Joint Drainage Authority.

14. Upon the direction, and under supervision, of the Joint Drainage Authority, the viewers prepared Property Owners' Reports and mailed them to the owners of property identified in the viewers' Report.

15. The Joint Drainage Authority noticed and held an informational meeting on a proposed redetermination of benefits for JD 3 on July 5th, 2022. The informational hearing was attended by landowners who raised questions and confirmed conditions, land uses and drainage modifications within the JD 3 watershed. Based on the information received, the viewers reconfirmed conditions, conducted additional viewing and made revisions to their reports as appropriate.

16. The final hearing was held on August 24, 2022.

17. The Joint Drainage Authority prepared a notice for the final hearing and (1) mailed it to owners of properties identified in the Viewers' Report, governmental units affected by the project and the commissioner of the MDNR; (2) posted it at the Scott County Courthouse and Le Sueur County Courthouse; and (3) published it in a newspaper in general circulation in the area of JD 3 in Scott and Le Sueur Counties. The timing and duration of the notices were consistent with the requirements of Minn. Stat. §103E.325.

18. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas and presentation materials are present in the record of proceedings and are incorporated herein by reference.

19. At the August 24, 2022, hearing, the viewers appeared and presented the Viewers' Report, Benefits and

Damages Statement and redetermined benefits. The viewers further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the Ditch; (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 JD 3.

20. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one rod grass buffer strip along all reaches of open ditch on JD 3.

21. The Drainage Authority called for public comments and received none.

22. The viewers prepared a Benefits and Damages Statement outlining the basis of their benefits and damages determinations. The Benefits and Damages Statement is attached as Exhibit B.

23. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.

24. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including grass 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.

25. 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.

26. 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.

27. 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 value of the properties receiving a direct drainage benefit.

28. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.

29. 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.

30. 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.

31. The viewers applied an economic analysis using sales and income approaches to determine the increased value of each classification acre based on the drainage benefit provided by the drainage system.

32. The viewers determined the amount of economic benefit to property benefitted immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.

33. The viewers determined that the drainage system draws off water from lower, previously assessed lands, thereby allowing drainage from unassessed lands to flow more readily and escape faster, thus preventing damage to the previously assessed lands, and such drainage constitutes a drainage benefit.

34. 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 a potential different land use.

35. Within the watershed of the drainage system, the viewers determined benefits on property that is 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.

36. 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.

37. The viewers' account of work has been filed with the Joint Drainage Authority.

BE IT FURTHER RESOLVED that upon review of information provided during the public hearing, the Joint Drainage Authority further finds and confirms 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.

BE IT FURTHER RESOLVED that based on the record before it, the Joint Drainage Authority determines that the redetermined benefits, as reflected in the Viewers' Report in Exhibit A are proper, reasonable and conform to the drainage code.

BE IT FURTHER RESOLVED that the redetermined benefits on JD 3, the Viewers' Report and the Benefits and Damages Statement, prepared by the viewers and attached hereto as Exhibits A and B are hereby adopted by the Joint Drainage Authority.

BE IT FURTHER RESOLVED that the viewers are allowed payment of their account of work.

BE IT FURTHER RESOLVED that the County Auditor-Treasurers in each County shall ensure that the redetermined benefits replace the existing benefits previously determined for the ditch.

BE IT FURTHER RESOLVED that pending resolution of any appeals, the damages for the acquisition of the grass buffer area shall be paid and the grass buffer areas established and seeded as required by statute.

BE IT FURTHER RESOLVED, that a tabular lien shall be prepared and assessed against all the benefitted owners for the cost of the damages, the cost for the service provided for by the Viewers, and the cost for all administrative and required notices.

BE IT FURTHER RESOLVED, that the staff of each county covered by the Joint Drainage Authority are directed to work with each of their County Recorder's offices to ensure that the drainage system and the grass buffer area acquisition is reflected in the property record of affected landowners.

BE IT FINALLY RESOLVED that following adoption of this order, the former designation of Scott County Ditch 3 shall be changed to Scott-Le Sueur Joint Ditch 3.

VOTE RESULTS:

Yes: None

No: None

Absent:

Abstain: None

County of Scott)

I, Lezlie A. Vermillion, duly appointed qualified County Administrator for the County of Scott, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Scott County, Minnesota, at their session held on _____ now on file in my office, and have found the same to be a true and correct copy thereof. Witness my hand and official seal at Shakopee, Minnesota, on _____.

County Administrator

Administrator's Designee



**Benefits and Damage Statement for the Redetermination of Benefits
Scott County Ditch 10**

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 Scott County Drainage Authority, did take the oath prior to commencing duties on the 28th day of July 2021. 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 Scott 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 Scott 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). The Viewers in accordance with MS 103E.323 subdivision 1. section 3 did apply benefits to acres added to a tract or lot by the proposed drainage of areas not previously cultivated.

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. Grass strip damages "A" acres are valued at \$3,689 per acre. Grass Strip damages "B" acres are valued at \$6,149 per acre.

Right of way damages, having been determined and paid in the original proceedings for establishment of the drainage system, based on the area contemplated and included in the proceeding for the establishment or subsequent improvement of the drainage system, were not considered.

We have determined the following direct drainage benefits and indirect (outlet) benefits on and related to the redetermination of benefits for Scott CD 10. 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 marketplace, 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 \$910-1364 per acre. They consisted mostly of lowlands that may have been farmed, but not without substantial risk. With the establishment of adequate drainage to these lands, the production value and/or market value has increased. These lands consist of soils that benefit greatly from good drainage. These lands are now more suitable for intense crop production.

The viewers have determined based on these values, along with allowances for private improvement costs, that Scott CD 10 provides for an increased market value/benefit to agricultural/cropland acres in Class 1 by the rate of \$2,750 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 marketplace, 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 \$3488-4263 per acre. 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 production value and/or market value has increased. These lands typically consist of soils that benefit from good drainage to increase crop production.

The viewers have determined based on these values, along with allowances for private improvement costs, that Scott CD 10 provides for an increased market value/benefit to agricultural/cropland acres in Class 2 by the rate of \$2,227 per acre.

Direct Benefits – Class 3 (Mapped as Green)

We determined the existing market values of land in an unimproved condition as well as in an improved condition by using a hybrid approach that considers both market value and runoff burden place on the system, 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 marketplace, and understanding that they have been altered from their pre-settlement condition state in such a manner that they are now tilled and farmed. These lands typically contain soils that benefit from surface and subsurface drainage. As a result, they burden the drainage system's capacity, thus increasing sediment loads and causing a need for increased maintenance. Taking into consideration the value of Class 3 acres, regular ditch maintenance, and sediment loading, we determined the benefit value per acre that Scott CD 10 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.

Class 3 lands, prior to the existence of the drainage system, had a value range of \$7155-8177 per acre. The viewers have determined based on these values, along with allowances for private improvement costs, that Scott CD 10 provides a benefit to agricultural/cropland acres in Class 3 by the rate of \$1,705 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 Scott CD 10 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 \$699 per acre.

Example of how benefits were calculated for Class 2:

Market Value Before Project:	\$1000
Market Value After Project:	\$3000
Increase in Market Value:	\$2000
Less Private Improvement Costs:	\$1000
Net Benefits:	\$1000

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 Scott CD 10 at a rate of \$2,200 per acre.

Residential Land Benefits

Outlet benefits were applied to residential lands within the watershed of Scott CD 10. 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 \$279 per acre.

Woodlot Benefits

Benefits were applied to woodlot lands within the watershed of Scott CD 10. 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 \$251 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.

State Lands or Water Area Used for Conservation

The Viewers have evaluated these lands in accordance with, MN § 103E.025 subdivision 3. "In determining benefits to the state land or water area in any proceeding to levy assessments or offset benefits against damages, proper consideration must be given to the value of the area for the purpose it is held or used by the state, with other material elements of value."

At the completion of our examination, we did sum up the total benefits for Scott CD 10. We found that the total benefits are \$4,216,616.21. Damages for CD 10 are \$95,811.43. Outlet Benefits for CD 3 are \$295,163.13 (See Exhibit A for tabular report of benefits.)

We recommend that the Scott County Drainage Authority hold a final hearing on the report and confirm the benefits and damages for Scott CD 10.

Dated this 11th day of August 2022.

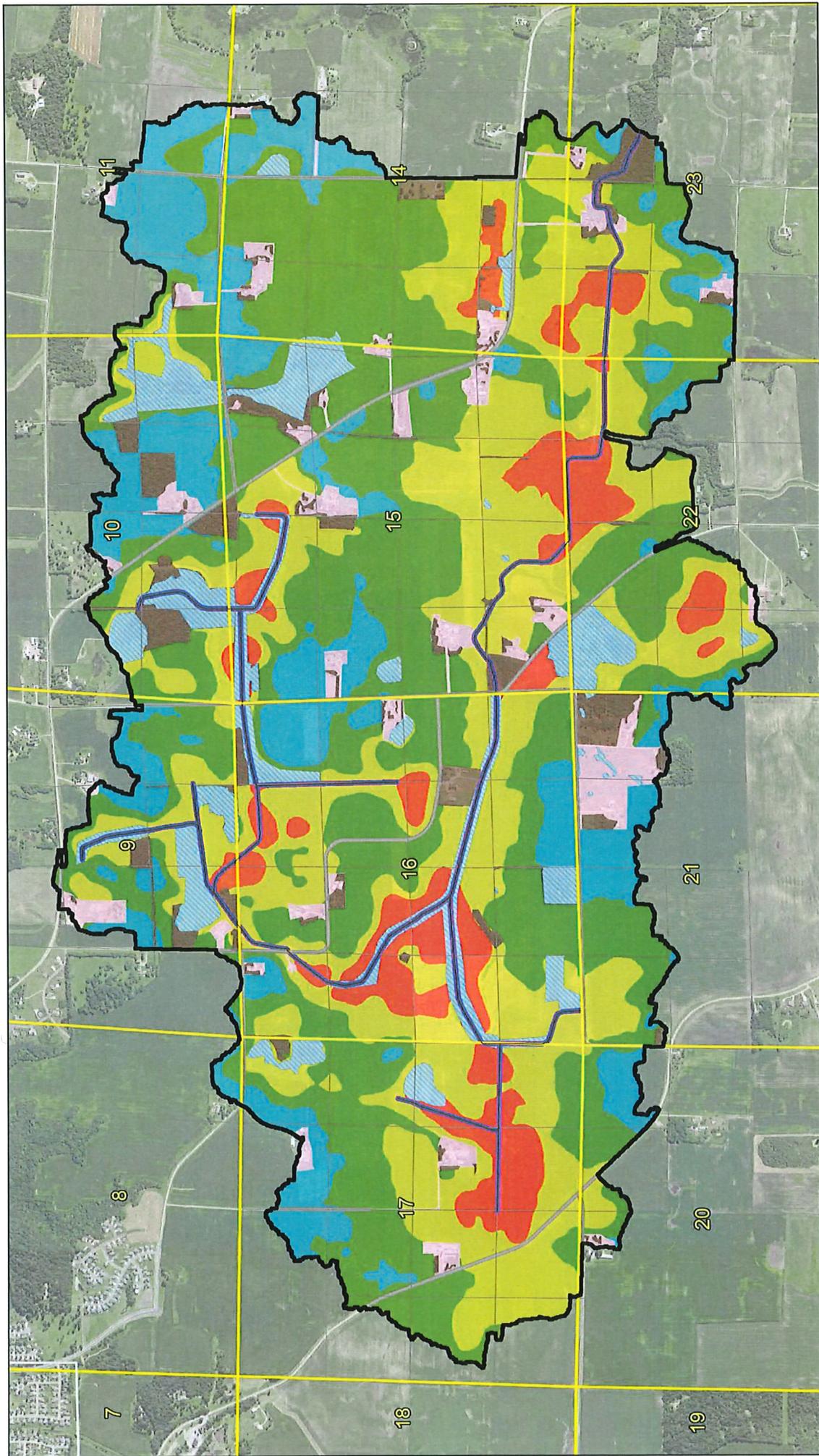
[Signature Page to Follow]

Respectfully submitted,

Bryan Murphy

Ken DeGier

Larry Murphy



Scott CD 10 - Land Classifications
 H2Over Viewers
 July 29, 2022



Land Classifications

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