

**Before the Jackson County Commissioners
Acting as Drainage Authority for County Ditch 33 and Judicial Ditch 44
Redetermination of Benefits Hearing Minutes
February 23, 2022 @ 2:30 p.m.**

Commissioners Present:

Jackson County Ditch 13: Phil Nasby, Catherine Hohenstein, Scott McClure, Jim Eigenberg. Commissioner Wachal absent

Jackson/Nobles Joint Judicial Ditch 44: Phil Nasby, Catherine Hohenstein, Scott McClure and Justin Ahlers of Nobles County. Commissioner Wachal absent

Staff Present: Kelly Rasche-Drainage Coordinator, Dave Macek-Drainage Supervisor, Zach Reker-Nobles County Drainage System Coordinator, Kurt Deter-Attorney, Aaron Goeman-H2Over Viewers

Jackson County Ditch 13 Redetermination of Benefits Hearing

1. Approve Agenda for CD 13 and JD 44 Hearings – Motion to approve the agenda for the hearing made by Commissioner McClure with a second by Commissioner Eigenberg, all yes, motion carried.
2. Open public hearing for County Ditch 13 – Chairman Hohenstein opened the hearing for Jackson County Ditch 13 (CD 13)
3. Purpose and issues of hearing – Attorney Deter explained the purpose of the hearing is an opportunity for landowners to comment and ask questions of the submitted Redetermination of Benefits for the drainage system.
4. Record of Notice Requirements – Kelly Rasche stated notices were provided as state statute requires
5. Viewers Information and Recommendations – Aaron Goeman explained the process used to generate the Redetermination of Benefits for a drainage system. The viewers use many tools to complete the process, county records, LIDR, and physical viewing of the system. The reason for the redetermination is the current benefit roll doesn't reflect current values, agricultural practices and reviews the lands that are utilizing the systems reflecting those that no longer use the system or are using the system and are not on the roll. The redetermination also establishes the acres needed to be paid an easement (damages) that is required by Minnesota law at 16.5 feet (one rod) on either side of open ditch on drainage systems. All benefits lands are broken into 40-acre tracts with the land classifications applied and benefits allocated to each 40 as appropriate. CD 13 current benefits roll reflect 6,738 acres with \$43,790 in benefits. The Redetermination reflects 6,422.18 benefits acres (6,830.54 total acres) and \$10,456,154.68 in benefits. Damages in reports submitted \$152,271.28 (\$8,436/acre)
6. Public Comment and Questions

Neil Soehren – doesn't believe assessment is needed. The lake takes care of itself. The landowners below the lake have taken care of drainage issues privately. If new system is put into place should landowners pay those that took care of the private area. If this happens, what stops Martin County or Iowa from assessing the same landowners. Why do this now? Concern that government holds a pot of landowner money for the system. There are government programs that reestablish wetlands to address drainage. Goeman responded to the concerns. Each landowner is assessed at a watershed boundary. State law establishes the stopping point for assessment. All landowners in the boundary of the watershed pay their share. This is done now as if there is a project the redetermination process takes time. A county is limited on the amount of funds that can be held in the pot for the system. The benefit of \$43,790 limits the amount of money that can be spent on repairs, ditch cleanouts, etc. Iowa cannot tax landowners outside of their taxing district. Mr. Soehren wants it on the record that he does not support the redetermination of benefits. The outlet has not been improved.

Attorney Deter stated money is only used for repairs, an improvement project would be a process with many hearings and discussion on bonding for an improvement. Dave Macek shared the reason why do this now, 15 years ago a decision to redetermination of all drainage systems in Jackson County. CD 13 was selected because of the open ditch and need for the damages payments.

Commissioner Eigenberg shared that several counties are working to get all drainage systems redetermined to ensure all landowners are paying their fair share of the expenses of a drainage system. Nobles County is in the process of completing all systems within their boundaries.

Deter shared this process is not to make any changes to the system, it is a process to update and establish a fair distribution of repair costs of the system.

In 2017 Governor Dayton required all landowners to seed a one rod (16.5') buffer along the open ditch of a public drainage system. This was required with no financial compensation to the landowners. As redeterminations are completed this compensation can occur. Jackson County Commissioners established the base per acre amount to be \$6,500 for the damages payments for the buffers along the open ditches. The argument is that landowners should not be compensated for the buffer on fluctuation land prices but based on the amount reflected in 2017. Landowners should not be planting commodities on the acres along the open ditch since 2017. The report as presented did not have this information and was not applied to the submitted report. The commissioners can direct the viewers to amend their report to reflect the \$6,500 base rate per acre.

7. Possible action by Drainage Authority – Deter directed to board to consider the following:

- The Viewer's Report is made and other proceedings have been completed
- The Reports made or amended are complete and correct
- The damage and benefits have been properly determined

Motion to approve the Redetermination of Benefits for County Ditch 13 with the amendment of the damage value base of \$6,500 and other proceedings have been completed, the report is correct as amended and the damage and benefits have been properly determined made by Commissioner Nasby with a second by Commissioner McClure, all yes, motion carried.

Commissioner Nasby shared his agreement with landowners that the law is antiquated but until the law is changed, the Commissioners must apply the statute as it is today.

8. Commissioner Hohenstein closed the hearing for County Ditch 13 at 3:55 p.m.

Jackson/Nobles Joint Judicial Ditch 44 Redetermination of Benefits Hearing

1. Establish Chair for Joint JD 44 - Commissioner Ahlers nominated Commissioner McClure to be Chair with a second by Commissioner Nasby, all yes, motion carried.
2. Establish Vice Chair for Joint JD 44 – Commissioner Ahlers nominated Commissioner Nasby to be Vice Chair with a second by Commissioner Hohenstein, all yes, motion carried.
3. Open public hearing for Judicial Ditch 44 – Chair McClure opened the hearing at 3:58 p.m.

4. Purpose and issues of hearing – The purpose of the hearing was stated as the same as stated for County Ditch 13
5. Record of Notice Requirements – Rasche stated notices of the hearing were provided as statute requires
6. Viewers Information and Recommendations – As the process was reviewed for County Ditch 13, Goeman proceeded to the details of the Redetermination of Benefits for Joint Judicial Ditch 44. (JD 44) Current benefits of JD 44 is 1,329 benefitted acres with \$18,635 of benefit. Redetermination of Benefits are 1,538 benefitted acres (1,559.36 total) with \$1,570,268.12 of benefit. The system is 91.85% Jackson County and 8.15% Nobles County. JD 44 is an entire tile system with no open ditch. Alba section 9 has a request from Alba Grain to be in both JD 44 and JD 76. Because of this request 9.1 acres will be moved to Class 1 acres. This option doesn't limit the landowners from tiling the land into either system. Attorney Deter stated the change of land class is requested from the landowner and there is not an issue for the amendment to be made to the report.
7. Public Comment and Questions – No comments from the public heard

Motion made by Commissioner Ahlers that the Viewer's Report is made and other proceedings have been completed; the Reports made as amended for the land class change for Alba Grain are complete and correct; The damage and benefits have been properly determined with a second by Commissioner Nasby, all yes, motion carried.

8. Chair McClure closed the hearing for Judicial Ditch 44 at 4:05 p.m.