



Le Sueur County, MN

Tuesday, November 3, 2015

Board Meeting

Item 9

**1:30 pm Scott-Le Sueur JD #1, Lat #2 Public Hearing, Commissioners
Connolly and King**

Staff Contact:

AGENDA
SCOTT – LESUEUR JOINT DITCH #1, LATERAL #2 BOARD
SCOTT COUNTY GOVERNMENT CENTER
SHAKOPEE, MINNESOTA
NOVEMBER 3, 2015

1:30 p.m.

- (1) Convene the Meeting
- (2) Approve Minutes of September 29, 2015 Meeting
- (3) Conduct a Public Hearing at 1:35 p.m. at Scott County Government Center on a Petition for Abandonment for a Portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1; and Approve Resolution No. Joint Ditch Board 2015-001; Granting the Abandonment for a Portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1
- (4) Other Business
- (5) Adjourn

MINUTES
SCOTT – LESUEUR JOINT DITCH #1 BOARD
SCOTT – LESUEUR JOINT DITCH #1, LATERAL #2 BOARD
SEPTEMBER 29, 2015

(1) The meeting convened at the Scott County Courthouse Board Room in the City of Shakopee, Minnesota, at 9:04 a.m., with the following members present:

Scott County Commissioners: Joe Wagner, Michael Beard and Barbara Marschall

LeSueur County Commissioners: Joe Connolly and John King

(2) County Staff Present:

- A. Lezlie Vermillion, Scott County Deputy County Administrator
- B. Darrell Pettis, LeSueur County Administrator
- C. Jim Hentges, Scott County Surveyor/County Ditch Inspector
- D. Cindy Geis, Scott County Property Tax and Customer Service Manager
- E. Jon Ulrich, Scott County Commissioner
- F. Tom Wolf, Scott County Commissioner
- G. Debra Brazil, Scott County Deputy Clerk to the Board

(3) Appointment of Board Chair:

Commissioner Beard moved, seconded by Commissioner Marschall to appoint Commissioner Beard as the Chair of the Scott – LeSueur Joint Ditch #1, Lateral 2 Board. The motion carried unanimously.

(4) Appointment of Board Vice Chair:

Commissioner Wagner moved, seconded by Commissioner King to appoint Commissioner Connolly as the Vice Chair of the Scott – LeSueur Joint Ditch #1, Lateral #2 Board. The motion carried unanimously.

(5) Minutes:

Commissioner Marschall moved, seconded by Commissioner Wagner to approve the minutes of the December 20, 2011 meeting. The motion carried on a vote of three ayes with Commissioners Beard and King abstaining.

(6) Accept Petition for Abandonment and Set Public Hearing:

Scott County Property Tax and Customer Service Manager Cindy Geis presented information regarding a petition received from Val and Barbara Miller for abandonment for a portion of Lateral 2 of Scott-LeSueur Joint Draining Ditch Number 1. Ms. Geis gave a brief description of the property surrounding this portion of the Ditch. Ms. Geis also explained a public hearing is required to take action on the petition.

In response to questions, Ms. Geis stated the notice of public hearing will be published in the official newspaper for each County, and notices will be sent to surrounding landowners.

Commissioner King moved, seconded by Commissioner Connolly to accept the Petition for Abandonment for a portion of Lateral 2 of Scott-LeSueur Joint Drainage Ditch Number 1 and set a public hearing for November 3, 2015 at 1:35 p.m. at the Scott County Government Center to take action on the Petition. The motion carried unanimously.



September 29, 2015

The Commissioners requested that an educational workshop regarding ditches be held prior to the public hearing.

Chair Beard adjourned the meeting at 9:17 a.m.

Michael Beard
Chair

AGENDA #
SCOTT- LESUEUR JOINT DITCH #1, LATERAL #2 BOARD ACTION
MEETING DATE: NOVEMBER 3, 2015

ORIGINATING DIVISION:	Community Services	CONSENT AGENDA:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ORIGINATING DEPARTMENT:	Scott County Auditor		
PRESENTER:	Cynthia Geis X8167	ATTACHMENTS:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
PROJECT:		TIME REQUESTED:	30 minutes
ACTION REQUESTED:	Conduct a Public Hearing at 1:35 p.m. at Scott County Government Center on a Petition for Abandonment for a Portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1; and Approve Resolution No. Joint Ditch Board 2015-001; Granting the Abandonment for a Portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1		
CONTRACT/POLICY/GRANT:	<input type="checkbox"/> County Attorney Review <input type="checkbox"/> Risk Management Review	FISCAL:	<input type="checkbox"/> Finance Review <input type="checkbox"/> Budget Change
ORGANIZATIONAL VALUES:	<input type="checkbox"/> Provide a Supportive Organizational Culture <input checked="" type="checkbox"/> Develop Strong Public Partnerships <input checked="" type="checkbox"/> Manage Challenges and Create Opportunities <input type="checkbox"/> Assure Long Term Fiscal Stability <input type="checkbox"/> Emphasize Excellence in Customer Service		
DEPARTMENT/DIVISION HEAD SIGNATURE:		COUNTY ADMINISTRATOR SIGNATURE:	
			
Approved:		DISTRIBUTION/FILING INSTRUCTIONS:	
Denied:		Cynthia Geis, County Auditor James Hentges, Scott County Ditch Inspector Darrell Pettis, LeSueur County Ditch Inspector Val Miller, Petitioner	
Tabled:			
Other:			
Deputy Clerk :			
Date:			

Background/Justification:

The purpose of this agenda item is to conduct a public hearing at 1:35 p.m. at Scott County Government Center on a petition for abandonment for a portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1; and approve Resolution No. Joint Ditch Board 2015-001; granting the abandonment for a portion of Lateral #2 of Scott-LeSueur Joint Drainage Ditch #1.

Joint Ditch #1 is a County drainage ditch that runs through both Scott and LeSueur Counties. The Drainage Ditch was petitioned in 1948, and Lateral #2 was established 1975 as an improvement to Joint Ditch #1 and had allowed, generally, property owners to farm lands that previously were too wet to farm. MN Statute Chapter 103E was adopted to guide Counties in the process to establish, improve, maintain, and abandon county drainage ditches.

To establish a drainage ditch, disinterested parties called "Viewers" are appointed by the Drainage Authority, which is the County Drainage or Joint County Drainage Ditch Boards, to review the plans for the proposed

drainage ditch and determine which parcels are benefitted and to what extent each parcel will be benefitted when the ditch is completed. One hundred percent (100%) of the costs of establishing, improving, and maintaining the ditch are the responsibility of the benefitted owners. No County general funds are used to fund the costs.

A petition (see attached) for a partial abandonment was received by Scott County, from Val Miller, the petitioner, on August 4, 2015, who is a benefitted owner along Lateral #2 of Joint Ditch #1 in Blakeley Township. The goal of the petitioner is to abandon approximately 800 linear feet of the open ditch and therefore would no longer be a portion of Lateral #2 of Joint Ditch #1. However, the property would still be considered benefitted property of the Lateral due to continued drainage into the ditch. The proposed open ditch abandonment drains approximately 130 acres of land from both Sections 33 and 34 of Blakeley Township (see maps). The portion of the ditch to be abandoned lies at the end of Lateral #2 and the properties on the north and south side of the proposed abandoned ditch are both owned by the petitioner.

The petitioner, once the portion of the lateral is abandoned, proposes to fill the ditch and install a new tile line to allow for continued drainage. The estimated cost of the project is \$87,619 and will be assumed fully by the petitioner.

Per the petition, there are five affected properties and three different land owners. All benefitted owners along the Lateral, as well as Joint Ditch #1, were notified by letter of this hearing. In Scott County, 38 letters were sent. LeSueur County sent letters to all benefitted owners in LeSueur County, as well.

The Scott County Water Resources Engineer has reviewed the report filed by the petitioners engineer from I & S Group. The engineer has called out the need for petition to state that the tile to be installed, in-lieu of the ditch, to be a dual wall 18" tile which is necessary to meet the drainage coefficient. He also stated that the sections where the affected acreage resides is located in Sections 34 and 35, not 33 and 34. Additionally, the engineer indicated that the west end of the abandonment seems to cause a depression which will/may not allow for proper drainage. This will only affect the petitioner, so will not cause any adverse effects to other land owners. The petition does not indicate that any fill will be brought onto the site, however, should the project require fill material from offsite, a grading permit from Scott County, under the County's Zoning Ordinance will be required based on the quantity of material.

Additional issues that should be addressed are: that the tile bottom should be at least one foot above the original grade of the bottom of the ditch; the tile intake should consider an improved design to ensure that the silt does not enter the tile and flow to the remaining open ditch; and finally, that the end of the tile should be located on the petitioners property leaving no impact to the adjacent owners.

Based upon evidence received at the hearing, the drainage authority must make findings and direct, by order, that the part of the drainage system proposed to be abandoned does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility, and must order that the part of the drainage system be abandoned.

Scott and LeSueur County staff recommends approval of the abandonment if the affected land owners have not brought forth valid concerns that would prevent the approval.

Fiscal Impact: none

**SCOTT- LESUEUR JOINT DITCH #1, LATERAL #2
SCOTT/LESUEUR COUNTIES, MINNESOTA**

Date:	November 3, 2015
Resolution No.:	Joint Ditch Board 2015-001
Motion by Commissioner:	
Seconded by Commissioner:	

**ADOPT RESOLUTION NO. JOINT DITCH BOARD 2015-001; GRANT THE
PARTIAL ABANDONMENT OF LATERAL #2 OF SCOTT-LESUEUR JOINT DITCH #1**

WHEREAS, a petition was received by the County Auditor on August 4, 2015 requesting that a portion of Lateral #2 of Scott-LeSueur Joint Ditch #1 be abandoned; and

WHEREAS, the goal of the petition is to abandon approximately 800 linear feet at the west end of the public open ditch, turning it into a private and open ditch, and following the abandonment, install drainage tile to accommodate proper drainage to affected properties and fill the ditch; and

WHEREAS, the abandonment of a portion of the public ditch will not affect the benefit assigned to the property and all costs affiliated with the project will be the responsibility of the petitioner; and

WHEREAS, a public hearing was conducted on November 3, 2015 that allowed all interested parties to voice their concerns with the petition; and

WHEREAS, MS §103E.806 allows for the abandonment of a portion of a drainage ditch system, if the ditch authority determines if that part of the drainage system does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.

THEREFORE BE IT RESOLVED, that the Scott-LeSueur Joint Drainage Board (the board) has determined, based upon the evidence presented, that the abandonment of that portion of Lateral #2 of Joint Ditch #1 does not serve a substantial useful purpose as part of the drainage system and will not adversely affect any property remaining in the system.

BE IT FURTHER RESOLVED, that the board has also determined that the abandoned portion of the ditch is not of a substantial public benefit and utility and orders the abandonment of that portion of Lateral #2 of Joint Ditch #1 as petitioned.

**SCOTT- LESUEUR JOINT DITCH #1, LATERAL #2
SCOTT/LESUEUR COUNTIES, MINNESOTA**

Date:	November 3, 2015
Resolution No.:	Joint Ditch Board 2015-001
Motion by Commissioner:	
Seconded by Commissioner:	

BE IT FINALLY RESOLVED, that the property will continue to be a benefitted property to the ditch and the petitioner will assume all costs affiliated with the project.

COMMISSIONERS	VOTE			
Wagner	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Connolly	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Beard	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Marschall	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
King	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

State of Minnesota

Counties of Scott and LeSueur

I, Gary L. Shelton, duly appointed qualified County Administrator for the County of Scott, State of Minnesota, and I, Darrell Pettis, duly appointed qualified County Administrator for the County of LeSueur, State of Minnesota do hereby certify that we have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Scott- LeSueur Joint Ditch #1, Lateral #2 Board, at their session held on the 3rd day of November, 2015 now on file in our offices, and have found the same to be a true and correct copy thereof.

Witness our hands and official seals at Shakopee and LeCenter, Minnesota, this 3rd day of November, 2015.

_____ Scott County Administrator
_____ LeSueur County Administrator

Before the Scott & Le Sueur County Board of
Commissioners acting as Drainage
Authority for Joint County Ditch 1 Lateral 2

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Petition for Abandonment
Pursuant to Minnesota
Statutes 103E.806

1. Joint County Ditch No. 1 (JCD 1) is a drainage system located in Scott County and Le Sueur County.
2. The undersigned petitioners hereby petition the Joint County Board of Commissioners, acting as the drainage authority, to establish an abandonment of a portion of Joint County Ditch No. 1 project that relates to an open ditch system located in the SW ¼ of the SE ¼ of section 34 in Blakely Township, T 113 North, R 25 West; Scott County, Minnesota.
3. The petitioners are requesting that the abandonment to fill in the open ditch on their property. Said project involves the topsoil strip within 800 of open ditch, placing fill within the open ditch, and the construction of a private tile near the same location that will take the place of approximately 800 feet of open ditch. Also, a ditch has been previously constructed to accommodate drainage through the property. The existing ditch will still function as it is now as an outlet for properties east of the proposed impoundment. The JCD 1 system will be modified as follows.
 - a) Approximately 800 linear feet of JCD 1 Lateral 2 open ditch will be abandoned. This portion of open ditch is in need of minor repair in the existing condition.
 - b) All tile draining into the system upstream of the impoundment will utilize the proposed constructed private tile through the impoundment as an outlet to the JCD 1 Lateral 2 open ditch on the east side of the impoundment.
4. That attached, as Figure 1, is a map of the proposed impoundment area and the JCD 1 Lateral 2 open ditch system.
5. That the petitioning landowner will be responsible for the cost of the engineering, installation and construction of the project, that they shall be responsible for any future maintenance and repairs of tile, and will acquire all public water work permit, water use permit, and other permits required under Minnesota Statutes 103G.

Dated this 29 Day of May, 2015.

Signed

Val Miller

Barbara Miller

Printed

Val Miller

I+S GROUP

Petition's Goals

The goal of the Scott & Le Sueur Joint County Ditch No. 1 (JCD 1) petition is to abandon a portion of Lateral 2 in Section 34 of Blakely Township in Scott County, Minnesota. The petition calls for approximately 800 linear feet of open ditch to be abandoned and therefore no longer part of the JCD 1 system. The open ditch abandonment will start at the northeast corner of the southwest quarter of the southeast quarter of Section 34, Blakely Township and end approximately 800 feet west of there. The proposed open ditch abandonment drains approximately 130 acres of land from portions of Sections 33 and 34; based off existing LiDAR contour lines.

History

Joint County Ditch No. 1 was first established in 1948 as a primarily open ditch drainage system. In 1975 the mainline open ditch in Le Sueur County and Lateral 2 in Scott County were improved. In between those years and after, other minor repairs and cleanings have been completed. The preliminary plan for the Lateral 2 Improvement called for approximately 4,800 feet of open ditch expansion ending in the Northwest quarter of the Southeast quarter of Section 34. However, the final Lateral 2 Improvement ended at Station 38+00, 1,000 feet short of the preliminary design.

Proposed Conditions

The capacity of agricultural tile is expressed as a drainage coefficient "D" in inches per day (in/day). This is defined as the depth of water over the entire area of the upstream watershed that a tile can drain in a 24-hour period. For a system like JCD 1, the Natural Resources Conservation Service (NRCS) recommends a drainage coefficient of 0.50 to 0.75 in/day for buried tile and 1.00 in/day for open ditch systems.

The Minnesota drainage statute, M.S.103E.806, allows for the abandonment of a portion of a drainage system if the drainage authority determines that part of the drainage system if it does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.

The proposed abandonment will abandon approximately 800 feet of public open ditch, turning it into private open ditch. The new terminus of the Lateral 2 open ditch will be the center of Southeast quarter of Section 34. The land owner, upon completion of the abandonment, proposes to fill this portion of open ditch and install a new tile to the recommended 0.50 in/day drainage coefficient. To achieve this recommendation, the land owner will need to privately install 800 feet of 18-inch tile to at least a 0.07% grade to reach a 0.50 in/day drainage coefficient.

Cost Estimate

Most of the estimated cost for the project will be filling of the existing open ditch and would cost an estimated \$31,511. The total estimated cost for the project is \$87,619. This cost will be entirely funded privately and will not be assessed to the rest of the system. Most of Lateral 2 will still be part of the JCD 1 system; any repairs or improvements will still be assessed to the system.

Recommendation

It is recommended that the Ditch Authority call an Abandonment Hearing for this project and submit this report for abandonment approval. The proposed abandonment of the portion of Lateral 2 will affect five parcels of land; with three different land owners. If all landowners are in favor and this project is received favorably at the Abandonment Hearing, then the portion of Lateral 2 requesting to be filled should be abandoned and removed from the JCD 1 system.