

Stearns County Ditch 28

- Overview of Drainage System Redetermination of Benefits & Damages
- February 15, 2022
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- Stearns County Division of Property Services



Why this presentation is important to you



A redetermination of benefits & damages will update the ditch records for all property that contributes water to the ditch.



The number of property owners who participate in the ditch will likely increase.



A valid petition requires the Stearns County Board of Commissioners acting as the County Ditch 28 Drainage Authority to appoint viewers and complete a redetermination of benefits & damages proceeding.



All costs for the redetermination of benefits & damages, including the cost to acquire a 16-1/2 foot vegetative buffer on each side of CD 28, will be assessed to the final list of property owners who are determined to be benefited by the drainage system in the form of special tax assessments.



The goal of this presentation is to educate property owners about the drainage system redetermination of benefits & damages process.

It will explain why a redetermination of benefits & damages project is happening and how property owners may be affected by the proceeding.

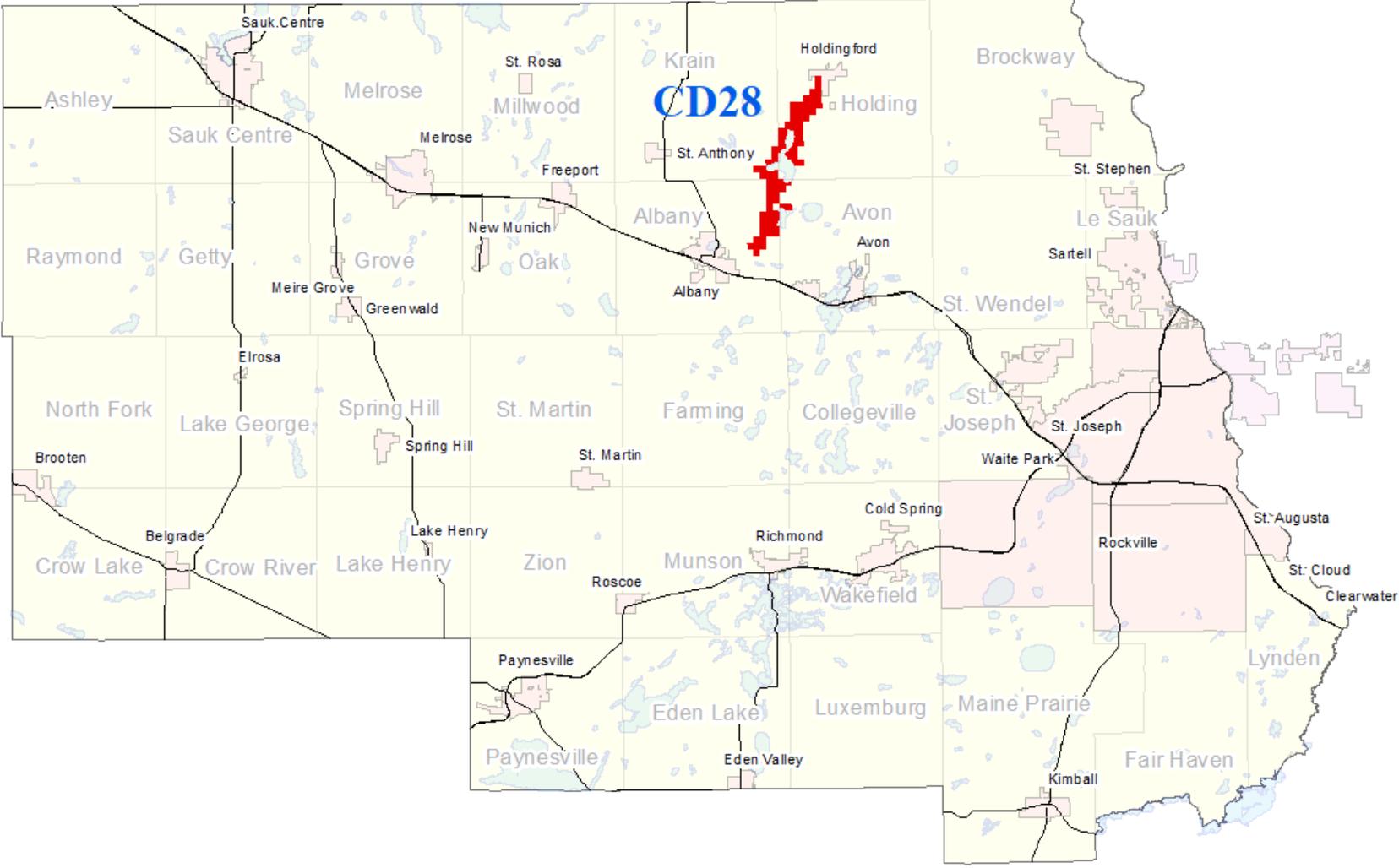
What is a legal drainage system?

- Established by property owner petition
- Most are very old (early 1900's)
- Purpose is to drain land, in most cases, primarily for agricultural-related purposes; although, a drainage system may be used today for different purposes
- Once established, “viewers” determined which properties directly and indirectly benefited from the drainage system
- Any costs for maintaining a drainage system are paid by those benefitted property owners through special tax assessments

Stearns County Ditch 28 runs 7.8 miles and begins at Quaker Rd in Albany Township flowing north to Co Rd 17 in Holdingford City. The ditch is split by Two Rivers Lake.

County Ditch 28 was legally established as a drainage system in 1906 by petition of property owners.

The Stearns County Board of Commissioners acting as the County Ditch 28 Drainage Authority have a legal responsibility to inspect and maintain the ditch when necessary for the best interest of affected property owners or, when petitioned for repair, under certain conditions.

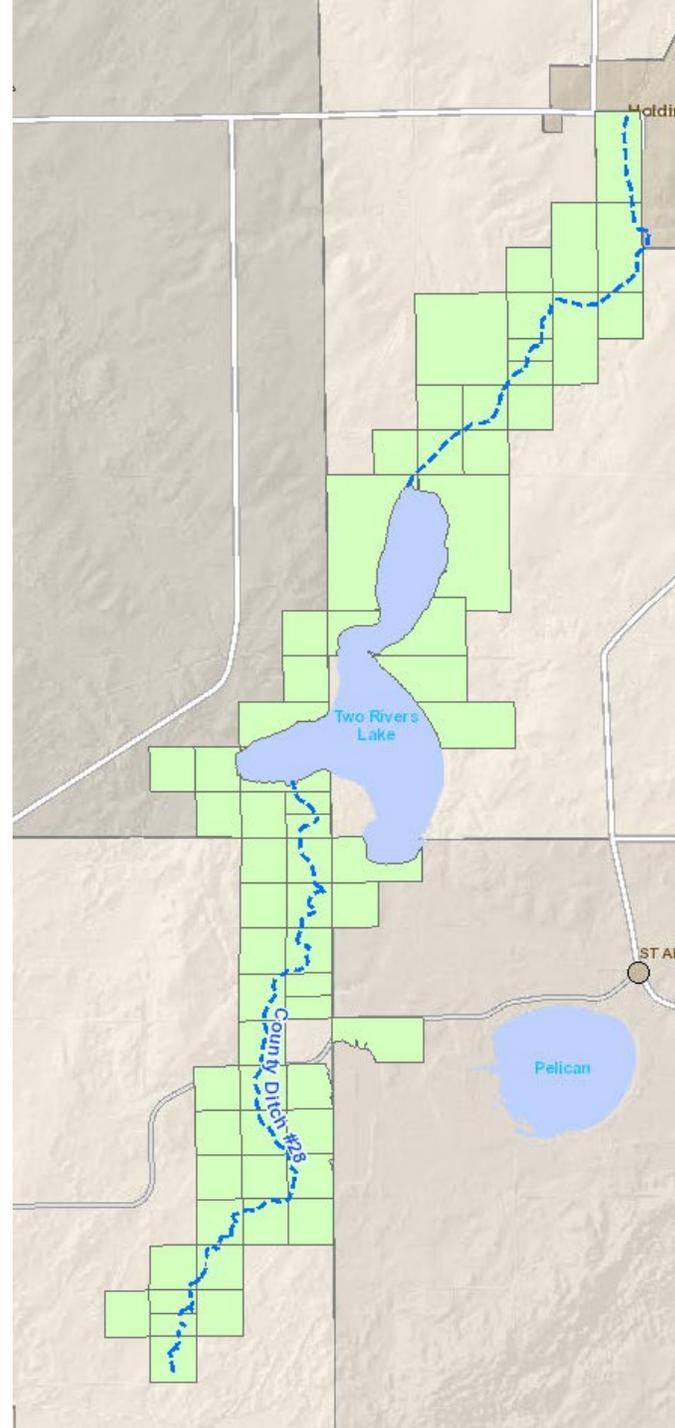


The assessment area represents the property that was determined to be benefitted by construction and maintenance of the drainage system.

It is these properties that are responsible for all costs incurred to inspect and maintain County Ditch 28.

Individual property cost share is determined by the drainage authority Board of Commissioners based upon recommendation of the viewers and evidence provided by property owners. The costs are not split equally across all properties, but apportioned pro rata based upon benefits.

Examples of costs incurred by the system include the cost to remove beaver dams, inspect, or repair the system.



The green areas on this map shows the current properties making up the benefited assessment area and those property owners who pay drainage system costs currently through special assessments on their tax bills.



Minn. Stat.
103E.351
Redetermining
Benefits and
Damages

- Two ways a redetermination of benefits and damages can be initiated:
 - Drainage Authority Order
 - Property owner petition

Explaining the term “Ditch Benefit”

Benefit refers to how a ditch takes water runoff from another property. There can be a direct or indirect benefit.

Minnesota Drainage Law requires stormwater from agricultural and non-agricultural lands to be considered in a redetermination of benefits.

The conversion of land from grassland or trees to a residential, agricultural, or industrial use is shown to accelerate runoff.

Runoff contributes to the capacity needs and to the need for routine maintenance and repairs of County Drainage systems.

The term benefit likely means your property is contributing water to the drainage system.

What is a Redetermination?

Redetermination of benefits and damages is a legal proceeding by which the drainage system is updated to reflect current benefits & damages.

In the case of CD 28, costs would be shared by property owners determined to be benefited by CD 28 based upon 2022 conditions, rather than the 1906 determination & values.

Redetermination

Redetermination is advisable because current assessments are tied to 1906, and land uses and properties that contribute water to the system have likely changed.

It is unknown at this time which properties may be included in the drainage system as a result of the redetermination of benefits & damages proceeding.

Viewers will work independently from the drainage authority to recommend those properties that are benefitted by CD 28 today.

Viewing

Viewers must be disinterested and qualified parties.

Viewing is closely related to appraising.

Modern technology plays an important role in understanding how waters flows from one place to another.

Viewing

Viewers prepare a Viewer's Report in accordance with Minn. Stat. 103E.311.

Minn. Stat. 103E.321 explains what the Viewers Report must contain.

A benefits and damages statement must show how property owners and the benefits or damages for similar land areas and lots were determined.

Minn. Stat. 103E.351 Redetermination of Benefits and Damages

- Subdivision 1. **Conditions to redetermine benefits and damages; appointing viewers.**
- (a) If the drainage authority determines that the benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values or that the benefited or damaged areas have changed, the drainage authority **may** appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.
- (b) If more than 26 percent of the owners of property or owners of 26 percent of the property that is benefited or damaged by a drainage system petition to redetermine benefits and damages, the drainage authority must make a determination on the petition **according to paragraph (a).**

How Minn. Stat. 103E.351 relates to a petition

- While the statute appears to show that there is a decision point for the Drainage Authority, this isn't necessarily the case because of how the conditions for decisions are defined.
- The language in Minn. Stat. 103E.351 subd. 1 part (b) referring to a petition, reads that the criteria for deciding on the petition is in part (a).
- Part (a) says the criteria for deciding on the petition is based on a review of the original record of benefits and damages to “reasonable present-day land values or that the benefited or damaged areas have changed”
- It would be very difficult to make the case that land values have not changed since 1906, thus taking away any practical decision making related to a property owner petition from the Drainage Authority.
- The Drainage Authority is obligated by law to honor the wishes of the petitioners.

Project Timeline

- Property owner petition for redetermination of benefits and damages is received.
- County staff validates the petition.
- Valid petition is presented to the Drainage Authority (County Commissioners).
- Drainage Authority directs staff to find a team of viewers.
- Viewers are selected and then appointed at another Board of Commissioners meeting and the redetermination of benefits and damages process begins.

Project Timeline

- Draft Viewers Report is prepared.
- Property owners are noticed of an informational meeting to review report with the appointed viewers.
- Notice of a Public Hearing when Drainage Authority will consider final report.

Current Status

- At this time, there is no information available about which properties will be affected by a CD 28 redetermination.
- No information will be available until Viewers complete their work.
- Notification of the petition has been mailed to all property owners who might possibly be impacted.
- Receipt of notification of petition meeting does NOT mean your property will be affected and part of the CD 28.

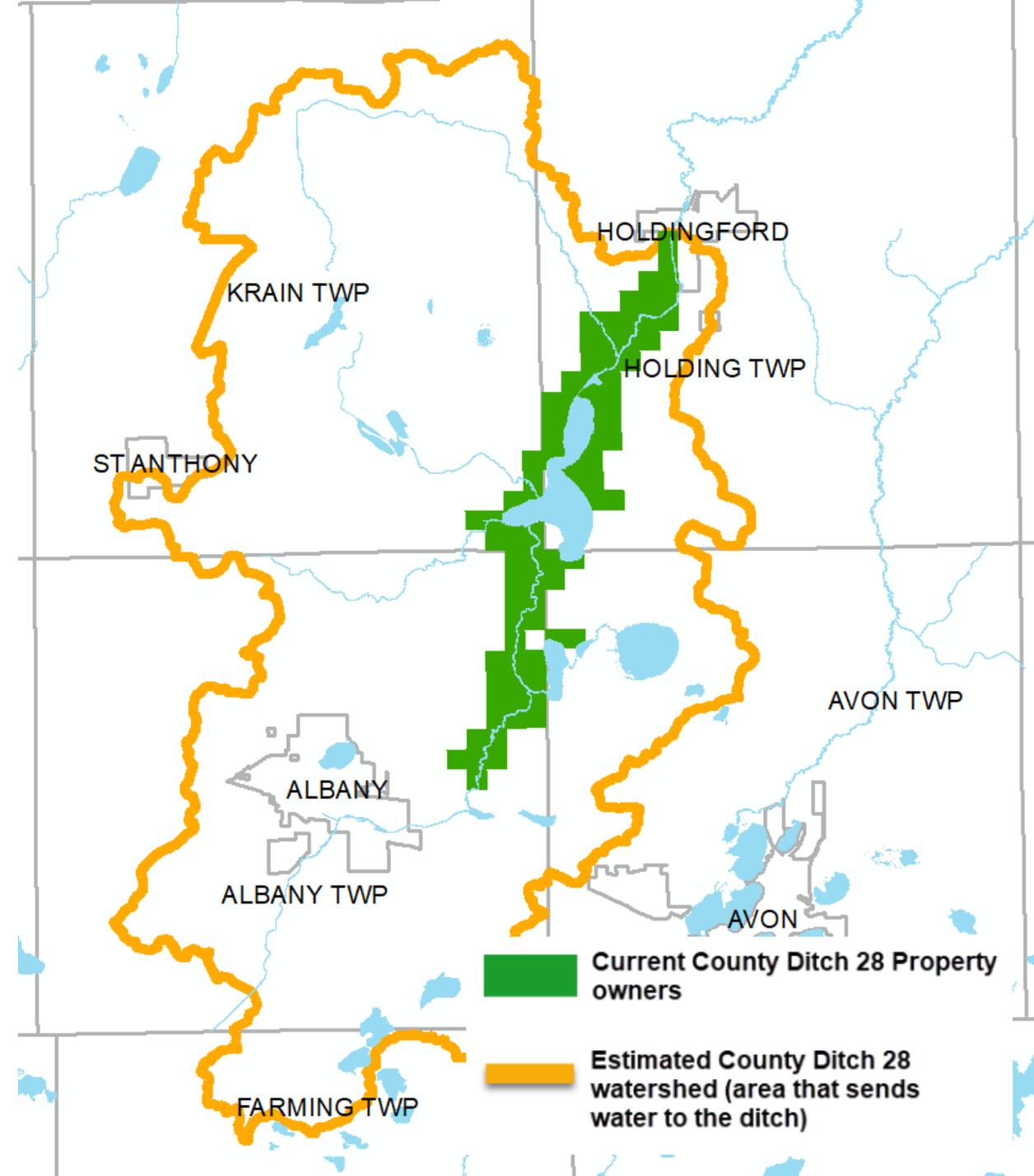
CD 28 Watershed

The CD 28 watershed is the area determined by engineers to naturally contribute water to the drainage system.

Current Benefit – 3,089 acres – 231 properties

Redetermination will update the drainage system based on what properties are determined by independent viewers to contribute water to the drainage system.

The final list of properties that the viewers determine to be part of the CD 28 drainage system would be responsible for paying the costs of the redetermination of benefits & damages proceeding, including the cost to acquire and establish a 16-1/2 foot permanent, vegetative buffer on each side of CD 28, and any future CD 28 expenses.



Project Summary

- The next step, required by law, is for County Staff to present the validated property owner petition for Ditch Redetermination to the County Board acting as the Drainage Authority for CD 28.
- Per Minnesota Statutes 103E, it is expected that the Drainage Authority must legally accept the petition and initiate the redetermination of benefits & damages proceeding for CD 28.
- Costs associated with Redetermination Proceeding:
 - Viewers, attorney, and engineering fees.
 - Final viewer costs will be known after the viewers are appointed.
 - Damages will be paid to property owners to legally acquire grass buffer strips.

Additional Information

- The CD 28 webpage is your best resource for current information
- https://gis.co.stearns.mn.us/Ditches/CD28/CD28_redetermination.html
- Due to the volume of people who received notices, please submit questions through this online link. The fastest way to get a response is through email, but staff will return calls as soon as possible.
- <https://arcg.is/1rS8yr>
- county.drainage@co.stearns.mn.us 320-654-4703