

STATE OF MINNESOTA
Before the
BENTON COUNTY BOARD OF COMMISSIONERS
SITTING AS THE DRAINAGE AUTHORITY FOR
Benton County Ditch No. 4

In the Matter of:

**the Petition of Michael & Susan
Rajkowski, et. al., to Abandon Benton
County Ditch No. 4**

**FINDINGS AND ORDER GRANTING
PETITION TO ABANDON Benton
County Ditch No. 4**

The Benton County Board of Commissioners, sitting as the drainage authority for **Benton County Ditch No. 4**, having received a Petition for Abandonment of **Benton County Ditch No. 4** pursuant to Minnesota Statutes, section 103E.811 by Michael and Susan Rajkowski, Tim and Gloria Rajkowski, James and Cynthia Gans, Rita Knott, Thomas and Rose Lubbesmeier, Todd and Marissa Lubbesmeier, James and Peggy Janson Living Trust, by and through its trustees James Janson and Peggy Janson, having noticed and conducted a public hearing on the Petition, and based on the record and proceedings, the Board moved to adopt the following Findings and Order:

Findings:

1. A Petition dated January 17, 2025 was received by the Benton County Auditor/Treasurer of the Benton County Board of Commissioners requesting to abandon **Benton County Ditch No. 4** pursuant to Minn. Stat. § 103E.811.
2. Petitioners, Michael and Susan Rajkowski, Tim and Gloria Rajkowski, James and Cynthia Gans, Rita Knott, Thomas and Rose Lubbesmeier, Todd and Marissa Lubbesmeier, James and Peggy Janson Living Trust, by and through its trustees James Janson and Peggy Janson, are the owners of benefited property on **Benton County Ditch No. 4**.
3. The Petition asserts that the drainage system proposed to be abandoned is not of substantial public benefit and utility.

4. The Petition for Abandonment is in proper form and is legally sufficient and adequate for the purposes of these proceedings.
5. The drainage authority, in consultation with the Benton County Auditor/Treasurer set a public hearing for the petition to take place on April 15, 2025 at 9:00 a.m. at Benton County Board of Commissioners Boardroom and directed the Benton County Auditor/Treasurer to give notice of the hearing by mail to the owners of all property benefited by the drainage system and to give notice by publication either once a week for three successive weeks in a newspaper of general circulation within the affected drainage area or by publication on a Web site of the drainage authority.
6. Notice of the public hearing was properly provided as required by law. Evidence of all notice provided for the hearing is on file with the drainage authority.
7. At the April 15, 2025, meeting, the drainage authority continued the public hearing until May 6, 2025 at 9:00 a.m. to allow staff to prepare Findings and an Order consistent with the proceedings including all comments received through the public comment process that granted the petition for abandonment.
8. A presentation was made at the public hearing by petitioners. Jim Gans, 3101 135th St NE Rice, MN, and Michael Rajkowski, 3368 Little Rock Road Sauk Rapids, MN. Jim Gans stated he was in favor of the abandonment. Michael Rajkowski stated that the landowners have maintained the open channel and plan to continue to maintain the open channel. The petitioners stated the petition for abandonment was more of a cost factor.
9. Chris Byrd, Benton County Drainage Engineer, stated **Benton County Ditch No. 4** was established in 1904 and was repaired in 1927. The length of the open channel was 8800 feet, and the channel terminates in Sucker Creek. A repair has not been completed by the drainage authority since that time. There is currently no petition for repair on **Benton County Ditch No. 4**. A redetermination of benefits was completed in 2022. Ditch No. 4 benefits 693.81 acres and provides a benefit of \$438,892.77 to the benefitting property owners. The land use is primarily Agricultural with Residential on the Western Edge of the Watershed. Currently the open channel is only 2800 feet. A repair would require 6000 feet to be returned to an open channel. There are multiple wetlands along **Benton County Ditch No. 4** that would require mitigation by purchasing wetland credits. Based on information from other ditch repairs, purchase of wetland credits which likely would exceed the benefits of the drainage system. Mr. Byrd did verify with H2Overviewers that the open channel length would not impact what properties benefitted from the drainage system since it would change the watershed.

10. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):

Other than the petitioners, there were no other public comments.

Commissioner Gapinski noted that the landowners would maintain the ditch themselves. Commissioner Heinen and Commissioner Benoit stated Chris Byrd mentioned that the cost to repair the ditch may exceed the benefits of the ditch.

11. The majority of the drainage system has ceased to function as it was designed to, and it is not practicable to restore the ditch so that it functions as intended. When constructed, the ditch was an open channel of 8800 feet. Currently only 2800 feet of the channel is open requiring 6000 feet of the ditch to be reconstructed. The current benefits derived from the drainage system are \$438,000. There are numerous wetlands along the drainage system that will require mitigation. The purchase of wetland credits alone would likely exceed the benefits of the drainage system.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for **Benton County Ditch No. 4** hereby orders as follows:

The petition for abandonment of **Benton County Ditch No. 4** is approved. No further repair petition for the abandoned portion of the drainage system may be accepted and the drainage authority's responsibility to maintain the abandoned portion of drainage system is terminated by this order. This order shall not release any property from a drainage lien filed on account of the drainage system before the date of this order, nor shall this order release any property from any assessment or a drainage lien filed on or after the date of this order for costs incurred on account of the drainage system before the date of the order.

If there are any excess funds in the **Benton County Ditch No. 4** account, the excess funds shall be returned to the benefiting property owners on a pro rata

basis as determined by the **Benton County Ditch No. 4 Benefits and Damages Statement.**

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 5 yeas, 0 nays, 0 absent, and 0 abstentions as follows:

	Yea	Nay	Absent	Abstain
Popp	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heinen	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gapinski	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benoit	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

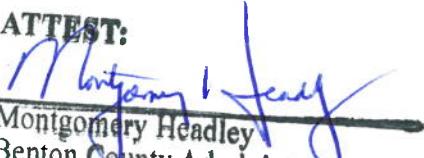
Upon vote, the Chair declared the motion passed and the Findings and Order adopted.



Scott Johnson, Chairperson

Dated: 5/06/2025

ATTEST:



Montgomery Headley
Benton County Administrator

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I, Christine Scherbing, Benton County Auditor/Treasurer, do hereby certify that I have compared the above motion; findings and order with the original thereof as the same appears of record and on file with the Benton County Board of Commissioners and find the same to be a true and correct transcript thereof. The above order was filed with me, Benton County Auditor/Treasurer, on May 16, 2025

IN TESTIMONY WHEREOF, I hereunto set my hand this
6 day of May, 2025.



Christine Scherbing
Christine Scherbing