



Tax Ditch Modernization Workgroup

June – September 2021

Hosted by the DNREC Division of Watershed Stewardship Conservation Programs Section; Drainage Program in partnership with the Delaware Association of Conservation Districts



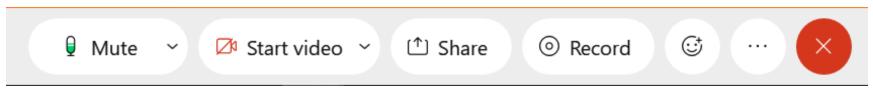
Jen Nelson

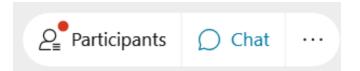
- Position: Executive Director, Delaware Association of Conservation Districts
- Background: I started a contracting business in 2013 after working for the Chesapeake Bay Program, Sussex Conservation District, DNREC and NRCS. I love that my current role allows me to bring partners together and collaborate on effective solutions for landowners and farmers. I live in Sussex County with my husband, two boys, and a cowardly pit bull.



How to Use WebEx

- Use your personal call-in number
- Chat box
- Icons
- Muting
- Turning on or off video
- Polling







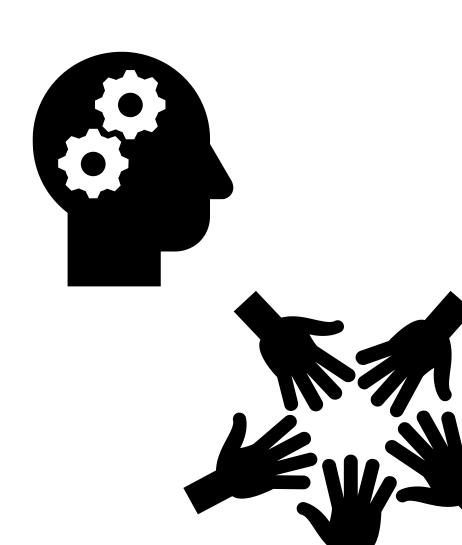
Workgroup Session Format

- Virtual Sessions
- Sessions will be recorded but will not be made publicly available
- Sessions scheduled for 3 hours with breaks.
- Material for review emailed ahead of session
- Sessions will include polls and/or moderated breakouts for feedback on items discussed and questions/concerns posed.



Purpose of Workgroup

- Gather stakeholders to discuss challenges facing Tax Ditch Organizations today
- Identify solutions or improvements to tackle these challenges
- Report and share findings
- Work collaboratively to implement solutions

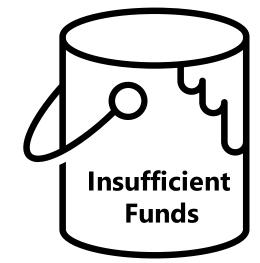




Challenges to Tackle









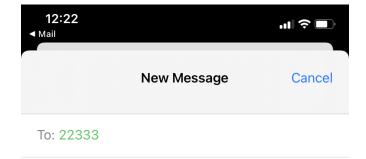




We Value Your Input

- Identified as a stakeholder
- Programs, policies and/or decisions made affect Tax Ditch Organizations
- Platform to share information and discuss ideas to resolve issues surrounding Tax Ditches





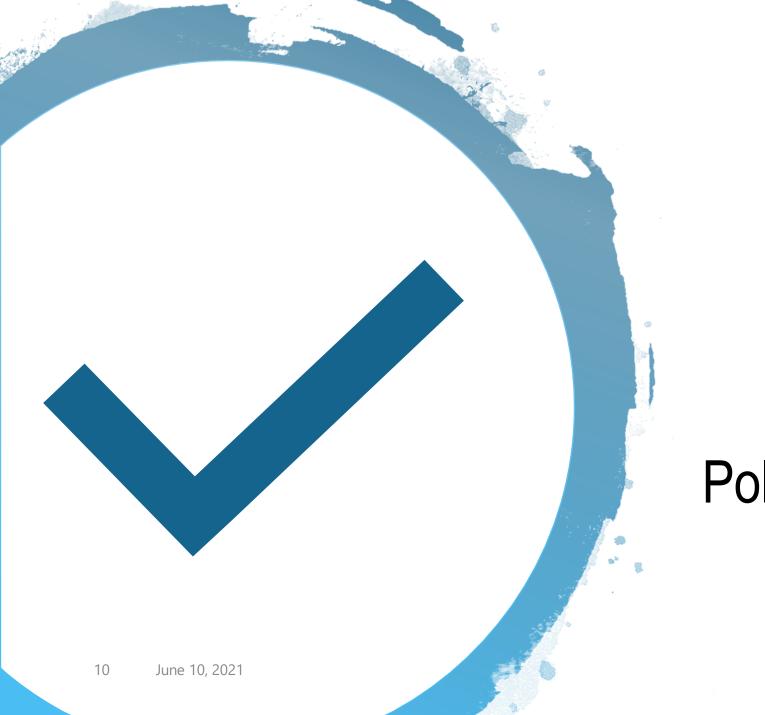
Jennelson484" 1 2 3 4 5 6 7 8 9 0 - / : ; () \$ & @ " #+= . , ? ! ' 🔀 ABC space return

Answering Poll Questions

We'll be using poll questions throughout the presentation. To join in:

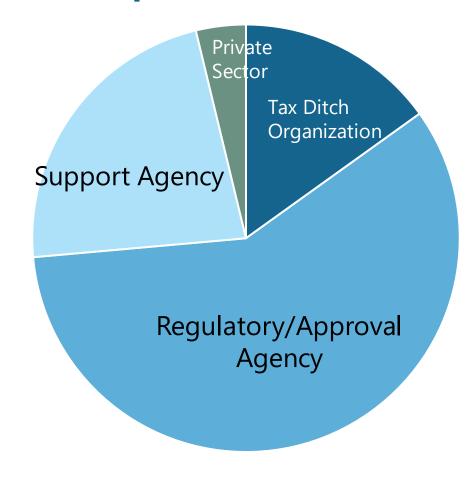
- Create a new text on your phone.
- The number you're texting to is "22333"
- The message that you're sending is "Jennelson484"





Polling Time

Workgroup Composition







Workgroup Sessions 1 & 2 Objectives

Operational Issues Objectives:

- Provide overview of Title 7 Chapter 41
- Provide overview of Tax
 Ditch design and resulting
 drainage benefit

Workgroup Session 3
Objectives

Changing Land
Use Right of Way (ROW) Issues
Objectives:

Present Tax Ditch ROW obstruction issues

Review process for Tax
 Ditch Organizations to resolve ROW issues

 Discuss potential solutions to resolve existing & prevent future ROW issues



Workgroup Session 4 Objectives

Changing Land Use Tax Ditch & External Agency Approvals Objectives:

- Present reviews conducted on behalf of Tax Ditch Organizations
- Identify any additional reviews to be considered
- Discuss measures to incorporate Tax Ditches into existing processes/approvals





Photo by Fabian Blank on **Unsplash**

Workgroup Session 5 Objectives

Insufficient Funds Financing Tax Ditches Objectives:

- Present process for tax collection
- Determine if Tax Ditch Organizations can collect sufficient funds and discuss potential improvements
- Discuss challenges associated with back taxes and guidance to resolve



Workgroup Session 6 Objectives

Insufficient Funds

State and County Matching Funds/
"3921 Funds"

Objectives:

- Review Title 7 Chapter 39 §3921
- Discuss current allocation and needs of Tax Ditch Organizations for maintenance



Workgroup Session 7 Objectives

Limited Resources

Tax Ditch Officer Recruitment & Retention

Objectives:

- Present Officer Recruitment and Retention Strategy for feedback
- Review and discuss Annual Meeting notice requirements for improved attendance
- Discuss solutions for Tax Ditch management if there is no interest from taxables

Workgroup Session 8 Goals & Objectives

Report Workgroup Findings Objectives:

- Determine path forward to implement "low hanging fruit" suggestions
- Determine path forward to continue conversations with identified agencies to address "bigger ticket" items and suggestions.

Schedule of Workgroup Sessions

Session	Topic	Date	Time	
Operational Issues				
1	Tax Ditch Law 101	Wednesday, June 9	1:30-4:00	
2	Tax Ditch Function 101	Wednesday, June 23	1-4:00	
Changing Land Use				
3	Tax Ditch Right of Way Issues	Wednesday, July 14	1-4:00	
4	Tax Ditch & External Agency Approvals	Wednesday, July 28	1-4:00	
Insufficient Funds for Tax Ditch Maintenance				
5	Financing Tax Ditches	Wednesday, August 4	1-4:00	
6	3921 Funds	Wednesday, August 25	1-4:00	
Tax Ditch Officer Retention and Turnover				
7	Limited Resources	Wednesday, September 8	1-4:00	
Wrap Up				
8	Report Workgroup Findings	Wednesday, September 29	1-4:00	



Polling Time





Operational Issues Tax Ditch Law 101

June 9, 2021



Melissa Hubert

- Position: Program Manager II, DNREC Drainage Program, Tax Ditch Program
- **Background:** Raised in the agricultural community and continue to help my family raise beef cattle. I completed my Master's Degree in Plant and Soil Science at the University of Delaware where I studied ditch bottom sediments from tax ditches throughout the state. I have been with the DNREC Drainage Program since 2015 where I started as an Environmental Scientist and and am now the Tax Ditch Program Manager.



Workgroup Session 1 Agenda

- History of Tax Ditches
- Tax Ditch Organization 101
- Associated Agencies Responsibilities
- Open Dialogue

History of Organized Drainage in Delaware

1793-1950

 Ditch Companies/ Corporations

1940's

 Regional Drainage Outlets Reconstructed

April 1943

 House Bill 54 "Soil Conservation Districts Act"

June 1943

 Soil & Water Conservation Commission

1951

 Uniform Drainage Law – Tax Ditches

August 1944

 New Castle Conservation District Established

February 1944

 Sussex Conservation District Established

 Kent Conservation District Established

1970

. DNREC Division of Soil and Water Conservation Established

1970's

· Peak of Tax Ditch Construction

1980's

Clean Water Act

August 1943

Why Tax Ditches?



Uniform system to establish, finance, administer, and maintain drainage in perpetuity for the prevention of flooding and water management for public health and safety.

DELAWARE CODE UNDER TITLE 7 CHAPTER 41 "AGRICULTURAL AND SOIL CONSERVATION; DRAINAGE AND RECLAMATION OF LOWLANDS"



A Tax Ditch is...

- A governmental subdivision of the state
- •Formed by a prescribed legal process in Superior Court
- Watershed-based organization
- •Comprised of all landowners (taxables) in a particular watershed/subwatershed boundary
- Managed by elected taxables.



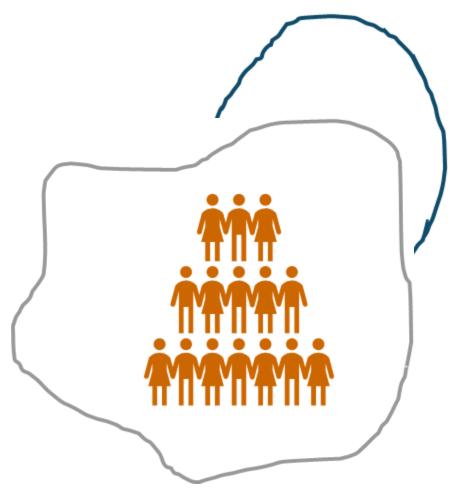


Tax Ditch Organizations

County	Number of Tax Ditches	Miles of Tax Ditch Channel
New Castle	26	57
Kent	78*	769
Sussex	137*	1,193
Totals	234 (7 are dual county*)	2,019



Tax Ditch Organization Boundaries





Powers of a Tax Ditch

All powers are specific to maintaining the effective function of the Tax Ditch system.

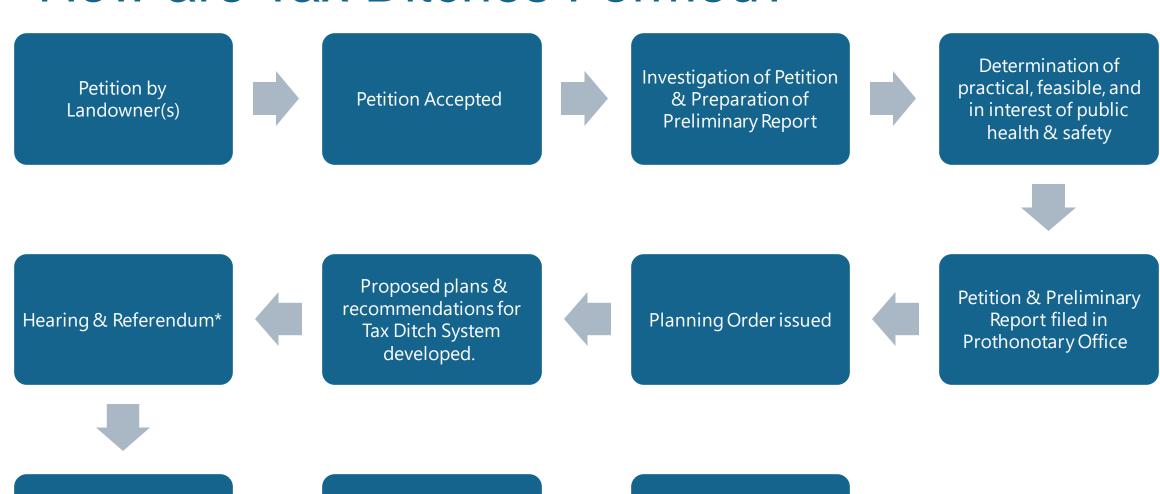
- Levy taxes
- Sue & be sued
- Make & execute contracts
- Borrow money
- Acquire real or personal property
- Receive administrative & technical assistance from the Division of Watershed Stewardship.
- Enter into agreements with government agencies
- Accept contributions from landowners

Powers of a Tax Ditch

- Exercise eminent domain
- Turn over Tax Ditch responsibilities to DNREC
 - Requires approval of DNREC and
 - Written consent of majority of all taxables, owning majority of watershed area



How are Tax Ditches Formed?



Results & Ditch
Commissioner Report
filed
in Prothonotary Office



Review of Materials & Final Hearing by Superior Court



Superior Court grants
Ditch Order.





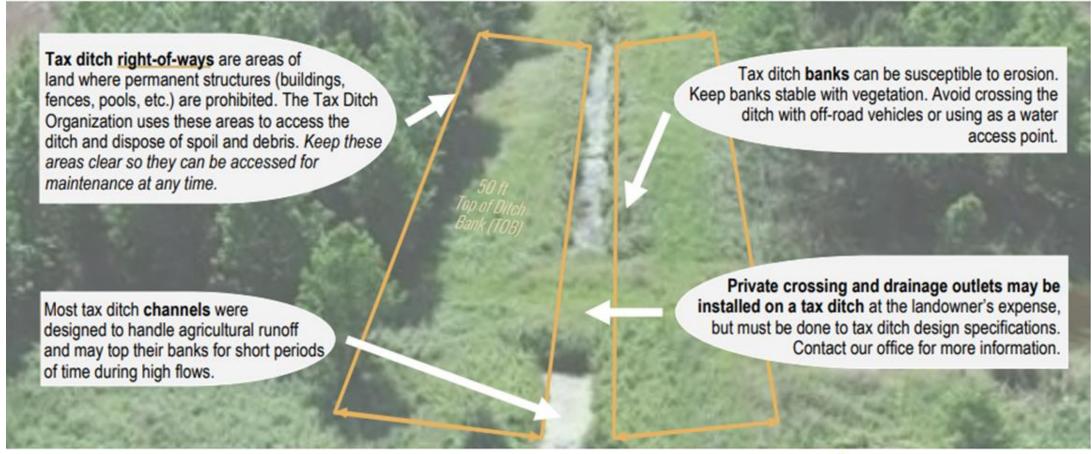




What do Tax Ditches look like?



Configuration of a Tax Ditch





Tax Ditch Right-of-Ways

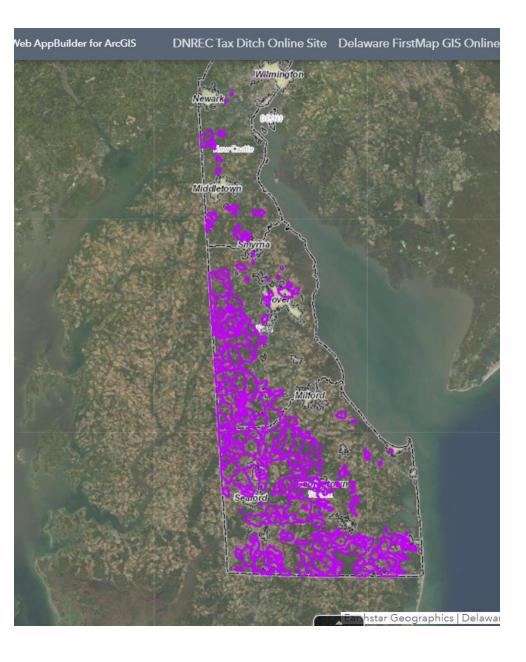
 Right-of-Ways designated as Major, Minor, or Special Access

Used for Tax Ditch maintenance includes access and disposal

 Tax Ditch Right-of-Ways vary in size due to:

- Formation criteria
- Channel widths
- Tax Ditch system
- Court Order Changes





Determining Tax Ditch Right-of-Ways

Check out these tools:

- Visit: <u>de.gov/taxditchmap</u> to view tax ditch channels and right-of-ways from any web browser
- To download the tax ditch GIS Feature Service layer to your own application, visit Delaware FirstMap



Polling Time

ST. GEORGES



80 ft TOB 48 ft CL GEORGETOWN-VAUGHN DEEP CREEK 32,ft,CL June 10, 2021

Tax Ditch ROW Acronyms

- ROW- Right-of-Way
- TOB- Top of Bank
- CL- Center Line of Ditch
- SAR- Special Access Right-of-Way
- # ft Maint.- Maintenance Turnaround
- Variable ft TOB- Top of bank sinuous and has established distance for maintenance

Alterations to Tax Ditch Court Order

Additions or Alterations to the Tax Ditch Order can be processed following Title 7 Chapter 41 § 4188 & 4189

Alterations include:

- Addition or Reduction of Right-of-Way (ROW)
- Elimination, Addition, or Relocation of Tax Ditch channel
- Tax Ditch Design Change
- Tax Ditch Watershed Boundary Change
- Tax Ditch Assessment Base Change



Requesting Alterations to Tax Ditch Order

- Requests to alter a Tax Ditch are referred to as Court Order Changes (COC)
- The DNREC Drainage Program provides administrative assistance for COCs:
 - Review of submitted request
 - Determine feasibility of request
 - Discuss with Tax Ditch Officers for feedback or concurrence
 - Prepare legal document for requesting landowner to obtain signatures
 - Provide instructions for filing and recording completed document



Current Landowner Name(s):						
Email Address:			Phone I	Number:		
Mailing Address:						
City, State:			Z	ip Code:		
Are you making this request on b If so, please fill out the below info		owner?	Choose One	e(Yes	_ <i>/</i>	No 🔲)
Engineering/Consulting Firm:						
Eng./Consult. Contact Name(s):						
Eng./Consult. Email(s):						
Eng./Consult. Phone Number:						
For Office Use Only:						
Minimum existing ROW in area, please include whether 1-sided ROW or 2:						
Any existing structures in ROW?	Yes No		grandfathered in acted pre-2008?)		Yes	No

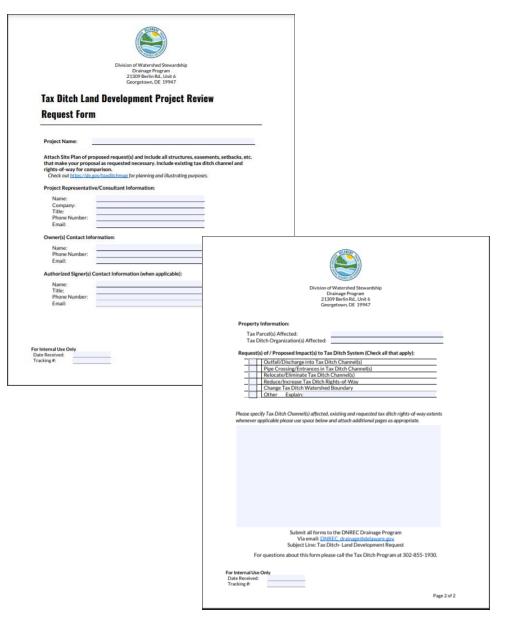
Available at de.gov/taxditch

21309 Berlin Road, Unit 6, Georgetown, DE 19947
302-855-1930 DNREC_Drainage@delaware.gov de.gov/taxditol

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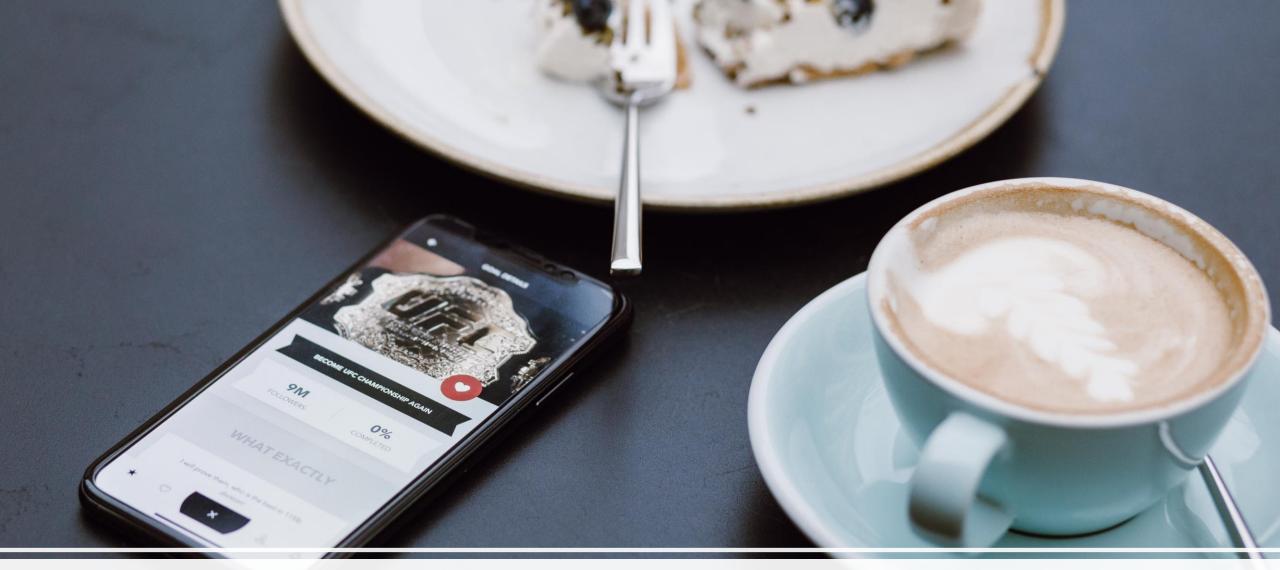
Requesting Additional Features in Tax Ditch Systems

- Features and Structures are subject to limitations and protections of the Tax Ditch.
- The DNREC Drainage Program provides technical assistance on behalf of the Tax Ditch:
 - Review of submitted request
 - Determine feasibility of request
 - Provide feedback on request or stipulations based on Tax Ditch design specifications



Available at de.gov/taxditch





10 Minute Break - Return 2:55 PM



Brittany Haywood

- **Position:** Program Manager I, DNREC Drainage Program, Tax Ditch Program
- Background: As the daughter of a waterman, I have worked the water in some form or fashion my whole life from backbreaking work pulling nets, to researching water quality and underwater grasses, to compiling and organizing our history, to GIS, communicating, marketing, and investigating our wetlands, and now pulling those skills gained together to assist our tax ditches.

Remaining Topics

- Financing Tax Ditches
- Tax Ditch Manager Responsibilities
- Partner Agency Responsibilities
- Open Discussion



Financing Tax Ditch Organizations

At formation:

- <u>Total Assessment Base</u> assigned and distributed across parcels
- Tax Ditch Property Assessment Bases vary throughout watershed based on the drainage benefit
- Drainage Benefit varies due to:
 - Land use
 - Location of parcel
 - Parcel size
 - Stipulations established

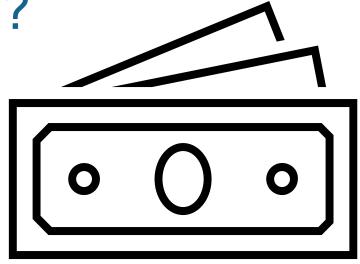


Tax Ditch Property Assessment = number of votes to cast, to add text



How is the Ditch Tax Collected?

- Warrant rate discussed and voted on at Annual Meeting
- Warrant rate remains unless voted to change
- Special Warrants have a 1-year term and only processed under extenuating circumstances.
- All Warrant Rate changes must be processed fully by May 1
- Ditch Tax is collected annually through County Property Tax Bill

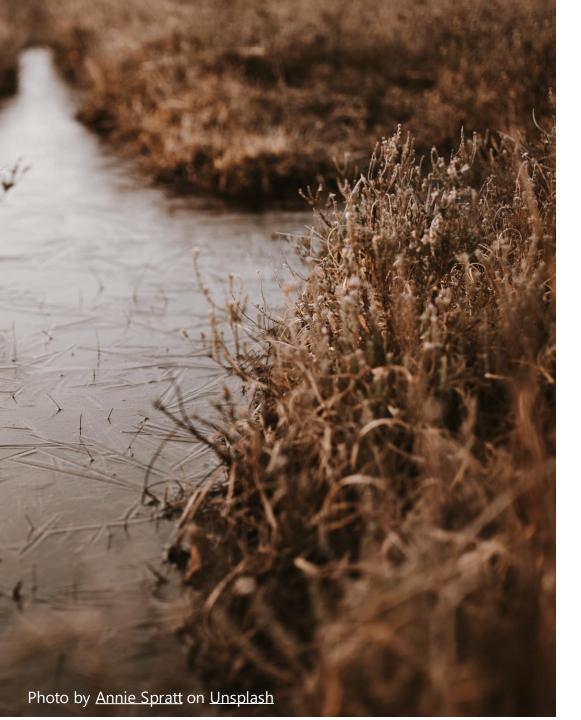


ALBAN PARK II TAX DITCH

Ditch Number (14) // 61 Taxables Total Assessment Base: \$38,000.00 Warrant: 5.00%

2020 Revenue: \$1,900.00





Supplemental Funds Leveraged by Tax Ditch Organizations

- State and County Matching Funds or 3921 Funds
- Community Transportation Funds
- Resource Conservation and Development (RC&D) Funds
- Grants



How are Tax Ditch Organizations Managed?

- Participation and involvement of taxables is required
- Number of elected officers are specified in each Ditch Order
 - Chairperson
 - Manager
 - Secretary-Treasurer
- Term of office is 1 year
- DNREC provides administrative and technical assistance



Taxable Responsibilities

- Attend Annual Meeting
- Pay Ditch Tax
- For those with a channel or Rightof-Way (ROW) on property:
 - Maintain unobstructed Rightof-Ways
 - Refrain from dumping trash and debris in channel
 - Refrain from damaging the tax ditch banks
 - Address minor maintenance needs within/along tax ditch

DNREC



Maintaining Tax Ditches in Your Backyard

Did you know that a Tax Ditch Organization is a governmental subdivision of the state and run by elected officers who own land in its watershed? Typically, officers choose to mow ditch channels and right-of-ways every 2-3 years in order to control woody plant growth, but the schedule depends on system maintenance needs, availability of funds, and presence of obstructions in the right-of-way that prevent access to the ditch. As a landowner or caretaker with a tax ditch on your property there are things you can do to assist in maintaining your portion of the ditch.

You Can Help with Flooding Issues & the Environment by...

- Ensuring that trash and yard debris, such as grass clippings and leaves, are not placed in the ditch. These items could cause blockages in the ditch or pipes.
- Mowing the right-of-way or ditch channel at least once or twice a year. Leaving taller grasses or non-woody plants along the edge of the ditch and the channel can help maintain the stability of your soil and improve water quality.
- Avoiding the use of herbicides on tax ditch banks or within the channel. These chemicals negatively affect the health of our waters and habitats. In addition, they can destroy a plant's root system which may lead to erosion issues. If erosion occurs as a result of herbicide application, you could be held financially liable for the damage.
- Removing invasive plants such as bamboo, European reed, or English ivy in your yard. Invasive plants quickly take over tax ditch right-of-ways or channels making them hard to maintain and create blockages. Native plants can live in harmony with your ditch and wildlife. Visit the <u>delawareinvasives.net</u> for more information.
- Attending annual meetings of your Tax Ditch Organization. Look in your local newspaper for meeting annual meetings or call our office for more information.

Web Links To Know

Delaware Tax Ditch Law: delcode.delaware.gov/title7/ c041/index.shtml

DNREC Tax Ditch Website: de.gov/taxditch

Map of Tax Ditch and Right-of-Way Location: de.gov/taxditchmap

Ditch Manager Responsibilities (§4162)

- Determine desired program of operations
- Determine and execute warrants
- Secure specific borrowing authority (if needed)
- Present New and Old Business at Annual Meetings
- Provide for construction and maintenance work on the tax ditch



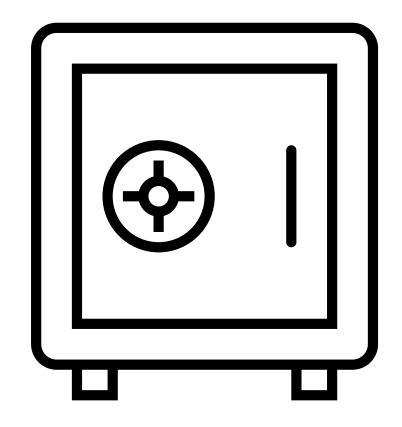


Chairperson Responsibilities

- Call meetings of the ditch managers and taxables
- Preside at Meetings
- Sign any note, bond, warrant or other instrument issued by a tax ditch
- Assist manager(s) in providing for adequate maintenance

Secretary-Treasurer Responsibilities

- Attend all tax ditch meetings
- Keep minutes
- Provide for the safekeeping of funds
- Obtain bond
- Prepare and present financial statement
- Arrange for annual audit of financial records
- Attest signature of Chairperson on instruments issued by tax ditch



Laugh Break



I don't wanna know who made the drainage system I want to know who made the fence!





DNREC Tax Ditch Program

The DNREC Tax Ditch Program provides administrative and technical assistance to the 234 tax ditch organizations across the state.

DNREC Tax Ditch Program



Melissa Hubert Program Manager II Melissa.Hubert@delaware.gov

Responsibilities: Provides overall Tax Ditch Program direction, Manages Program staff, Fields questions, Performs site visits in Kent & New Castle Counties, Approves commercial and residential land development letter of no objections (LONO) & court order changes (COC)



Brittany Haywood

Program Manager I

Brittany.Haywood@delaware.gov

Responsibilities: Manages Tax Ditch Program staff, Fields questions, Performs site visits in Sussex County, Oversees Tax Ditch Program process planning and improvements, Reviews commercial land development projects



Allison Wheatley
Environmental Planner
Allison.Wheatley@delaware.gov

Responsibilities: Identifies and improves Tax Ditch Program processes, Assists with DNREC sediment & stormwater permits, Coordinates commercial land development review projects & letters of no objection (LONO)



Michele Garner
Environmental Planner
Michele.Garner@delaware.gov

Responsibilities: Coordinates commercial & residential land development court order changes (COC), Consults with Tax Ditch Officers, Assists with Tax Ditch Organization banking issues/concerns, Provides bonding guidance, Processes tax ditch warrants



Aaron Gorka
Environmental Planner
Aaron.Gorka@delaware.gov

Responsibilities: Assists Tax Ditch Organizations by obtaining permitting for maintenance activities, Provides consultation for requested tax ditch crossings, Field inspection of tax ditches



Heather Hitchens Environmental Planning Survey Technician

Heather.Hitchens@delaware.gov

Responsibilities: Handles tax ditch right-of-way inquiries, Coordinates residential court order changes, Assists Tax Ditch Officers with legal filings, audits, financial services, information housing, and administrative support for meetings



John Inkster Sr. Application Support Specialist John.Inkster@delaware.gov

Responsibilities: Maintains and develops Tax Ditch Program geographic information system (GIS) resources, Supplies and updates assessment information as required and requested



Jordan Watson Environmental Planning Survey Technician

Responsibilities: Field inspection of tax ditches, Certified Construction Site Reviewer (CCR), Prepares mower/right-of-way (ROW) maps of tax ditch systems, Investigates ROW obstructions

Tax Ditch Commissioners

Tax Ditch Commissioners act as officers of Superior Court and have duties and responsibilities assigned related to the formation of petitioned tax ditches of petitioned ditch amendments.

Conservation District Board of Supervisors

Conservation District Board of Supervisors have responsibilities related to the acceptance of filing of Tax Ditch Petitions and Tax Ditch Warrant Changes

New Castle Conservation District

- Administers 3921 Funds
- Provides technical assista nce to the 26 Tax Ditch Organizations in New Castle County
- Performs Audits

Working Together DNREC & Conservation Districts

DNREC's Tax Ditch Program works closely with the Conservation Districts to assist Tax Ditch Organizations. Here are some of the areas in which the Conservation District directly assist tax ditches in their county.

New Castle Conservation District

Address: 2430 Old County Road Newark, DE 19702

Phone: 302-365-8970

Website: newcastlecd.org

Point of Contact: Rick Mickowski

Title: Conservation Planner Direct Contact: 302-365-8979

Email: rick.mickowski@delaware.gov





fowing of the Guthrie Tax Ditch.

Conservation District staff:

- . Assist DNREC in performing site visits, evaluations, and resolutions of tax ditch drainage concerns in New Castle County from either Tax Ditch Officers or the public
- Assist New Castle County Tax Ditch Officers in the development of maintenance plans
- Attend Tax Ditch annual meetings as requested by Tax Ditch Officers
- Provide financial assistance for tax ditch maintenance based on need and availability of funding with §3921 Funds from DNREC; priority given to tax ditch groups that hold annual meetings, provide financial documents for audit and where officers have been bonded

Conservation District

Perform audits of Tax Ditch Organizations as requested by the Tax Ditch Officer

DELAWARE DEPARTMENT OF **NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

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Kent Conservation District

- Administers 3921 Funds
- Performs Audits
- Provides technical assistance to the 78 Tax Ditch Organizations in Kent County
 - Construction/MaintenanceStakeout

Working Together DNREC & Conservation Districts

DNREC's Tax Ditch Program works closely with the Conservation Districts to assist Tax Ditch Organizations. Here are some of the areas in which the Conservation District directly assist tax ditches in their county.

Title: Field Coordinator

Direct Contact: 302-608-5372

Kent Conservation District

Address: 1679 S. Dupont Highway Dover, DE 19901

Phone: 302-608-5370

Website: kentcd.org
Email: taxditch@kentcd.org

Mobile: 302-363-4420

Email: gene.vanderwende@delaware.gov

Point of Contact: Gene Vanderwende







Dipping out tax ditch. Photo: Kent Conservation District

Conservation District staff:

- Assist DNREC in performing site visits, evaluations, and resolutions of tax ditch drainage concerns in Kent County from either Tax Ditch Officers or the public
- Assist Kent County Tax Ditch Officers in the development of maintenance plans
- . Conduct construction stakeout of Kent County Tax Ditch maintenance work
- Attend Tax Ditch annual meetings as requested by Tax Ditch Officers
- Administer Tax Ditch Cost-Share Program for tax ditches in Kent County with §3921 Funds from DNREC and Kent County Levy Court
- · Perform audits of Tax Ditch Organizations as requested by the Tax Ditch Officers

DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Sussex Conservation District

- Administers 3921 Funds
- Provides technical assistance to the 137 Tax Ditch Organizations in Sussex County
- Equipment Program and Invasive Species Management for hire in Kent and Sussex Counties

Working Together DNREC & Conservation Districts

DNREC's Tax Ditch Program works closely with the Conservation Districts to assist Tax Ditch Organizations. Here are some of the areas in which the Conservation District directly assist tax ditches in their county.

Sussex Conservation District

Address: 23818 Shortly Road Georgetown, DE 19947

. 202 956 2105

Phone: 302-856-2105

Website: sussexconservation.org

Point of Contact: Jason Strauss

Title: Project Manager

Direct Contact: 302-396-7620

Email: jason.strauss@sussexconservation.org







SCD can provide tax ditch maintenance in Kent and Sussex County. Photo is of the Marshyhope dip-out with long arm excavator. Credit: Sussex Conservation District (SCD)

Conservation District staff:

- Assist DNREC in performing site visits, evaluations, and resolutions of tax ditch drainage concerns in Sussex County from either Tax Ditch Officers or the public
- Administer Tax Ditch Cost-Share Program for tax ditches in Sussex County with §3921 Funds from DNREC
- Offers maintenance assistance in the form of dip-outs, spoil spreading, emergency repairs, pipe installations and replacement and invasive species management in Kent and Sussex County

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Tax Ditch Support Summary



June 10, 2021



Polling Time



Open Discussion