

STATE OF MINNESOTA
Before the
HERON LAKE WATERSHED DISTRICT
SITTING AS THE DRAINAGE AUTHORITY FOR
HERON LAKE WATERSHED DISTRICT PROJECT 6

In the Matter of:

**the Redetermination of Benefits for Heron
Lake Watershed District
Project 6**

**FINDINGS AND ORDER APPROVING THE
UPDATED REDETERMINATION OF BENEFITS,
ACQUIRING GRASS BUFFER, CONFIRMING
DAMAGES, AND DIRECTING PAYMENT**

The Board of Managers of the Heron Lake Watershed District (“Board”), sitting as the drainage authority for Heron Lake Watershed District Project 6 (“Project 6”), pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered an updated redetermination of benefits on December 18, 2018; having appointed viewers to redetermine and report the benefits and damages; and having adopted a revised order on April 23, 2019, updating the appointment of viewers; having received the draft viewers’ report on January 10, 2020, and following receipt of an engineer’s memorandum dated March 12, 2021 providing an historical review of the records of Project 6; having received an updated viewers report on November 18, 2021; having followed proper notice requirements in Minn. Stat. § 103E.351; and having held a public hearing and followed all requirements of chapter 103E, based on the record and proceedings, Manager Bartosh moved, seconded by Manager Freking, to adopt the following Findings and Order:

Findings:

1. The Board of Managers of the Heron Lake Watershed District is the drainage authority for Project 6.
2. On December 18, 2018, the Board adopted findings and ordered the initiative of a redetermination of benefits and damages for Project 6 pursuant to Minn. Stat. §

103E.351. Pursuant to an order of April 23, 2019, Chuck Bowers, Dan Ruby, Tom Peterson, and alternate Ron Ringquist were appointed as viewers.

3. The viewers prepared a draft report on January 10, 2020, and the engineer prepared a memorandum on March 12, 2021 providing an historical review of the records of HLWD Project 6. The viewers presented an updated report on November 18, 2021. The Board proceeded to follow all steps required under Minn. Stat. § 103E.351.
4. The Board, by order, set a public hearing for review of the viewers' report on January 19, 2022, which is within 30 days after the property owners' reports were mailed. Notice of the final hearing was properly published, and HLWD provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
5. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
6. The Board held a public hearing on the redetermination of benefits on January 19, 2022, at the Heron Lake Community Center, 10th Street, Heron Lake, Minnesota, with an option to attend by Microsoft Teams due to the COVID-19 pandemic.
7. At the public hearing, Dan Ruby, one of the duly appointed viewers, presented the updated viewers' report. This is a redetermination of benefits for a previously established system of 1913. The Redetermination of Benefits has net landowner benefits of \$2,521,556.74, road authority benefits of \$76,463.22 for a total net benefit of \$2,598,019.96. The system has 11,290 feet of open ditch and is 1,556.1 acres in size. An addition of 6 acres needed in section 15 that were inadvertently left out due to a mapping line issue. Sandra Kalfs requests the property at 19.016.0300 be given zero benefit as it is in a perpetual easement. Viewers have reduced the benefit for the property from 9% to 1.27%. 90 acres of the 164 deeded are no benefit. The viewers do not recommend a 0% benefit as there is runoff and if a rain comes that overtops the dike, it will use the system.
8. In the public testimony portion of the January 19 hearing, Mr. Lloyd Kalfs and Mr. Phil Kruger asked questions about tiling, benefits, and buffers. Jackson County Drainage Supervisor David Macek asked whether the buffer easements had already been acquired and paid for. The answer to this question was not available at the hearing, and the Board voted to continue the hearing to February 16, 2022, at 11:00 a.m. to investigate the buffer easement payment question. The hearing was further continued to March 1, 2022.

9. At the continued hearing on March 1, 2022, Mr. Dan Ruby reported the following:
 - a. Peitz Farm split and map adjustment – The watershed line was incorrect with the first map and benefits provided. The area was incorrectly excluded. The property has been in the Project 6 watershed. The farm benefits is .52% and .74% for the wetland benefit, for a total of 1.26% overall;
 - b. Kalfs Benefits – No change recommended;
 - c. Buffer Damages – in 1978 the buffer damages were paid with an improvement project that occurred. Buffer damages should be removed from the ROB submitted in January. The amended report reflects the buffer damages payment removed;
 - d. Revised benefits are \$2,594,778.76 with 24,270 feet of tile;
 - e. Jackson County Drainage staff will be inspecting and to ensure the buffer is the correct width and seeded. Lands that have areas not meeting the requirements will be notified and worked with to meet the 16.5-foot buffer.

10. During the public testimony portion of the continued hearing Mr. Lloyd Kalfs requested review of the numbers and Mr. Ringquist stated that historic use is not a part of the viewer process. The viewers use the present-day use. Under current state the lands are restricted in use because of the permanent easement. Even if sold, the land must stay as wetland. 34 acres are still farm land and are assigned benefits to the system. The 1978 ROB has a value of \$87,610, with the Kalfs land being assigned \$8,100 of benefit (.942%). Current benefit assigned is 1.27%.

11. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
 - a. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
 - b. that the viewers' report made and amended is complete and correct; and
 - c. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits and damages statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

ORDER

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, sitting as the drainage authority for Project 6, hereby orders as follows:

- A. Based upon the findings, that the redetermined benefits and damages and benefited and damaged areas be forwarded to the auditor to be used in place of the benefits and damages of record and the benefited and damaged areas of record in all subsequent proceedings relating to the drainage system as required by Minn. Stat. § 103E.351, subd. 3.
- B. The updated redetermined benefits of Project 6, the viewers' report attached hereto as **Exhibit A**, and the benefits and damages statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- C. The viewers are allowed payment of their account of work.
- D. The Secretary shall ensure that the updated redetermined benefits replace the existing benefits previously determined for Project 6.

The President and Secretary of the Board of Managers are duly authorized to execute said Order and file a copy with the County Auditor.

After discussion, the Board President called the question 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
Bartosh	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Freking	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lubben	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rasche	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reith	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Wayne Rasche
Wayne Rasche, President

Dated: 3-22-22

Cory Reith
Cory Reith, Secretary

Dated: 3/22/2022

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I, Cory Reith, Heron Lake Watershed District Secretary, 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 Heron Lake Watershed District and find the same to be a true and correct transcript thereof. The above order was filed with me, Cory Reith, Heron Lake Watershed District Secretary, on March 22 2022

IN TESTIMONY WHEREOF, I hereunto set my hand this
22 day of March, 2021.



Cory Reith

EXHIBIT A
Viewers' Report

EXHIBIT B
Benefits and Damages Statement