

STATE OF MINNESOTA
Before the
HERON LAKE WATERSHED DISTRICT
SITTING AS THE DRAINAGE AUTHORITY FOR
HERON LAKE WATERSHED DISTRICT PROJECT 84-4A

In the Matter of:

**the Redetermination of Benefits for
Heron Lake Watershed District
Project 84-4A**

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

The Board of Managers (Board) of the Heron Lake Watershed District (HLWD), sitting as the drainage authority for HLWD Project 4, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on June 27, 2017; having appointed five viewers to redetermine and report the benefits and damages; having received the viewers' report; 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, Bruce Leinen moved, seconded by Jim Buschena to adopt the following Findings and Order:

Findings:

1. The Board of the HLWD is the drainage authority for HLWD Project 4.
2. On March 20, 2017, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for HLWD Project 4 pursuant to Minn. Stat. § 103E.351. Ron Ringquist, Dan Ruby, Chuck Bowers, Tom Mahoney, and Greg Tusa were appointed as viewers.
3. Jan Voit, HLWD Administrator administered the Viewers' Oath on March 30, 2017.
4. The viewers completed their report, which included a benefits and damages statement, on April 5, 2017, for all property affected by the drainage system and filed their report with the drainage authority.

5. The viewers and HLWD Administrator, under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
6. The drainage authority, by order, set a public hearing for review of the viewers' report on May 25, 2017, which is within 30 days after the property owners' reports were mailed.
7. Notice of the final hearing was published in the *Tri County News* on April 26, 2017.
8. Within one week after the first publication of the notice, the HLWD Administrator provided notice by mail of the time and location of the final hearing to all property owners and others affected by the redetermination of benefits and listed in the viewers' report.
9. 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.
10. The drainage authority held a public hearing on the redetermination of benefits on June 27, 2017 at 7:43 p.m. at the Heron Lake Community Center.
11. At the public hearing, Dan Ruby, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Dan Ruby further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of HLWD Project 4.
12. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including grass strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
13. The viewers used maps, LiDAR data, and other information, along with visual inspection of the watershed of the drainage system, to determine the boundaries of the benefiting area.

14. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
15. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
16. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
17. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
18. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
19. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
20. The viewers determined the amount of economic benefit to property benefited immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.
21. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of potential different land use.
22. Within the watershed of the drainage system, the viewers determined benefits on property that are responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
23. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said

work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.

24. The viewers' account of work has been filed with the drainage authority.
25. The viewers included, in their determinations, the amount of damages necessary to acquire and establish a one-rod grass buffer strip along all reaches of open ditch on HLWD Project 4.
26. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits and benefitted areas.
27. The viewers' report is attached as **Exhibit A**.
28. The benefits and damages statement is attached as **Exhibit B**.
29. Several members of the public attended the hearing and asked questions or made comments regarding the drainage system and the redetermination of benefits. A record of those attending the hearing was kept. The Board allowed the viewers to respond to the general comments and inquiries of the public during the hearing.
30. 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 is complete and correct;
 - c. that no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
 - d. 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; and
 - e. that the acquisition of grass buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for HLWD Project 4, hereby orders as follows:

- A. The redetermined benefits of HLWD Project 4, 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.
- B. The viewers are allowed payment of their account of work.
- C. The Jackson County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for HLWD Project 4.
- D. The damages for the acquisition of the grass buffer area shall be paid and the grass buffer areas established as required by statute.
- E. The effective date of the acquisition of the grass strip shall be June 27, 2017.
- F. The Board's staff is directed to work with the County Recorder's office to ensure that the drainage system and the grass buffer area acquisition is reflected on the property records of affected landowners.


Bruce Leinen moved that the secretary for the HLWD shall draft the board's Order Confirming the ROB and Damages as adopted and that the President and Secretary of the Board of Managers of the HLWD be, and hereby are, duly authorized to execute said Order and file a copy with the County Auditor. Jim Buschena seconded this. Motion carried unanimously.



Bruce Leinen, President

8.14.17

Date



Harvey Kruger, Secretary

8-14-17

Date