

Heron Lake Watershed District (HLWD) Project 2
Adjourned Redetermination of Benefits (ROB) Hearing
June 27, 2017

1. **Call to order**

Managers: Bruce Leinen, Harvey Kruger, Wayne Rasche, Jim Buschena, and Gary Ewert
Staff: Jan Voit

Others: Dan Ruby, Ron Ringquist, Tom Mahoney, viewers; Dave Macek and Jim Eigenberg, Jackson County; John Haberman, Bob Ferguson, John Stenzel, Don Stenzel, Jim Appel, Jason Freking, Susan Schwab, Ed Freking, Dean Schumacher, Kevin Leopold, Kraig Leopold; other unidentified individuals may have been in attendance who chose not to sign the attendance sheet

Based upon a determination that the original benefits and damages determined in HLWD Project 2 do not reflect reasonable present day land values (or that the benefited or damaged areas have changed), the Board of Managers of the HLWD, acting as a drainage authority under Minn.Stat. Chapter 103E, appointed five viewers to redetermine and report the benefits and damages and the benefited and damaged areas in accordance with Minn.Stat. § 103E.351. The Viewers filed their Report on the ROB on April 5, 2017. A property owners report was prepared from the Viewers' Report and was mailed to each owner of property affected by the drainage system and a final hearing notice was prepared and notice was given in accordance with Minn.Stat. § 103E.325.

The Board of Managers of the HLWD, acting as a drainage authority under Minnesota Statutes, Chapter 103E, pursuant to Minn. Stat. § 103E.351, will now hold the hearing to consider the Viewers' Report on the ROB in the matter of HLWD Project 2 and take testimony from all persons, parties, municipalities, corporations, and others interested in said matter and show cause, if any, why said ROB report should not be confirmed. The board of managers was introduced. A quorum being present, the meeting was declared to be open at 7:00 p.m.

2. **ROB Report**

The next item of business was to consider the ROB Report. Dan Ruby gave a PowerPoint presentation explaining the reasons for the ROB, describing the watershed area, and explaining the process for redetermining the benefits and damages.

Dan Ruby stated that one change was made today. The viewers met with Kenneth Liepold. Three acres were removed from the system (SWSE Section 1 Township 104 Range 38W and SESE Section 1 Township 104 Range 38W). This has been corrected in the report.

Bruce Leinen asked if the viewers had any other recommendations relating to the project. They did not.

The meeting was opened to the public for questions or comments respecting the viewers' final report.

Ed Freking asked about the \$50,600 cost for six acres of buffer. Dan Ruby said that is what it calculated out to be. Ed Freking asked if those were numbers from the state. Dan Ruby replied

that the cost was market value minus \$500. Ed Freking asked if that was market value on the land. Dan Ruby responded that the amount was \$7,500 per acre.

Don Stenzel asked if the proximity adjustment was five percent per quarter. Dan Ruby stated that was the example. Ron Ringquist replied that proximity adjustments are typically 15 percent per 40 acre tract. Partial 40s are typically done in five percent increments. If you are one third of a 40 away, you are going to get 95. If you are a full 40 away, you will get 85.

Don Stenzel asked if it was more like 15 percent. Ron Ringquist stated that it is 15 percent for the first two 40s. If you are two 40s away, it's a 70. The standard then goes 60, 50, 40. Typically if you are further away, it takes a smaller tile with less cost to get your water to the outlet. Cumulatively, the evaluations we have done leave enough dollars to get your water to the system. We do not do individual subwatershed analysis for the systems. As a general application we do try to make sure we leave adequate dollars so a petition for a lateral or a private tile installation can get water to the public system. If it is through a blacktop road, we typically take a bigger adjustment because there are more costs that have to be considered.

Don Stenzel asked about Project 84-4A, which is a long private ditch. He wanted to know if the proximity adjustment for everybody was 25 percent. Ron Ringquist said that there is a minimum, which is the contributing impact on the ditch downstream. There is a minimum that is an accelerated runoff contribution that impacts the way the ditch functions. It doesn't ever go back to zero. In this particular system the viewers felt that 25 percent was the minimum.

Don Stenzel asked why the gross benefits changed from one report to the next. Ron Ringquist stated that the total gross benefits changed because of the parcels that were removed from the watershed because they were tiled out. Don Stenzel asked if gross benefits were based on soil types and the lay of the land. Ron Ringquist said that the watershed area changed. If there are 80 acres tiled the other way, which we assumed by surface elevation would drain into the system because of the land elevation, it reduces the total benefits by the benefits of that 80.

Don Stenzel asked why the individual gross benefits changed. There was a 50 percent change for his property. Ron Ringquist replied that if the acres haven't changed, the gross benefits should not change. The gross benefits are based on classification and having part of the acres taken out. If we reduced yours by eight acres, then your gross benefits for that should also have gone down.

Bruce Leinen made a motion to close discussion on the viewers' report. Jim Buschena seconded this. Motion carried unanimously.

3. **Taking and consideration of testimony by interested persons**

The next item of business was to receive, review, and discuss testimony from any interested person relating to the ROB which had not been previously covered. Ron Ringquist stated that the viewers would provide a board adopted version of the report on June 28, 2017 that reflects changes recommended.

Bruce Leinen made a motion to close discussion. Wayne Rasche seconded this. Motion carried unanimously.

4. **Action by the Board**

Bruce Leinen moved that based upon the evidence, the board find that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, Chapter 103E. Jim Buschena seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the reports made or amended are complete and correct. Wayne Rasche seconded this. Motion carried unanimously.

Bruce Leinen moved that based upon the evidence, the board find that the damages and benefits have been properly determined. Gary Ewert seconded this. Motion carried unanimously.

Based upon the findings, Bruce Leinen moved that the board issue its order:

- (i) containing the drainage authority's findings;
- (ii) adopting and confirming the viewers' report as made or amended; and
- (iii) Confirming the benefits and damages and benefited and damaged areas as set forth in the Viewers' Report.

- (iv) 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 original benefits and damages and benefited and damaged areas in all subsequent proceedings relating to the drainage system as required by Minn.Stat. § 103E.351. Wayne Rasche seconded this. Motion carried unanimously.

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 moved that this hearing be adjourned at 7:29 p.m. Wayne Rasche seconded this. Motion carried unanimously.

Harvey Kruger
Secretary