

Heron Lake Watershed District (HLWD) Project 84-4A
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 84-4A 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 4A 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 7:43 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 ROB, watershed area, and process for determining the benefits and damages.

Dan Ruby explained that there was one change. Three acres for Marion Freking will be deleted (SENE Section 17 Township 104 Range 38W). Don Stenzel's property got deleted from the worksheet and needs to come back in (NESE and SESE Section 17 Township 104 Range 38W). That will be done for tomorrow.

Ron Ringquist explained that Don Stenzel's parcel was 80 acres. Part of that was tiled to the north. Somehow the whole 80 got deleted. This change will add back to the benefited acres 22 acres of the NESE for a benefit of \$10,085. The 38 acres of benefit from the SESE that should not have been removed at all was \$27,464.50. The estimated share is about 7.1 percent.

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

The meeting was opened for public comment.

Kevin Leopold asked that since the ditch was constructed, were no assessments made against that 80 that had just been discussed. Ron Ringquist stated that it was his understanding that there were no assessments made to any of the property north of the county road as part of the original construction. There are lots of parcels that previously had no assessments into this ditch system. They were added at the 25 percent, because there is a large cost to get that water underneath the county blacktop and avoid wetland issues in order to receive that outlet. We looked at the minimum 25 percent because of the amount of capacity and maintenance issues that the drainage of these areas, as well as the availability of the outlet that would be provided to these properties.

Dave Macek stated that these projects, Project 84-4A and Project 4, drain all the same lands. He asked that for maintenance and auditor's ease, these reports could be combined and called Project 4. Ron Ringquist stated that before consolidating ditch systems the statute requires that a ROB must be completed. Through this ROB, Project 84-4A is now paying 8.2 percent of the benefit of Project 4. If they are consolidated, which takes a separate proceeding that can be done for administrative purposes, the outlet benefit should be removed. Then the benefits would add together and everyone would be paying the same. Reports have addressed that they are two separate systems. We looked at the share that the upper watershed would contribute to the lower watershed. They could be consolidated, but that is a separate proceedings and was not officially noticed as part of the ROB. It would take notice and action by the board, but it is not a petition process.

Bruce Leinen asked why it could not happen tonight. Ron Ringquist said that it could not happen because notice had not been given of the intent to consolidate the systems. A hearing would have to be held to allow people to comment or object. It was the viewers' understanding that Projects 4 and 84-4A were a single system when the viewing process began. It was not until they got into the report making process that it was realized they were two separate systems. It would make sense to consolidate them.

Bruce Leinen asked if that could be done at one of our monthly meetings. Ron Ringquist stated that it would be determined by giving notice and time for the hearing.

Wayne Rasche asked if the ditches were in good condition. Dave Macek replied that both Project 4 and 84-44A were cleaned this past year. Spoil bank on most of it has been leveled and seeded. A crossing was replaced four years ago. They are in pretty good shape. There will be some maintenance this summer on side inlets.

Kevin Leopold asked if the notice that was mentioned for possibly consolidating the two projects would be sent to each landowner. Ron Ringquist replied that notice would be mailed to each individual that is listed as benefitted on the systems.

Bruce Leinen made a motion to close discussion on the viewers' report. Harvey Kruger 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. No comments were made.

Bruce Leinen made a motion to close discussion. Jim Buschena 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. Harvey Kruger 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. Jim Buschena 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 made a motion to adjourn the hearing at 7:57 p.m. Wayne Rasche seconded this. Motion carried unanimously.

Harvey Kruger
Secretary