

Heron Lake Watershed District (HLWD) Project 4
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 4 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 4 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 7:30 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.

Ron Ringquist explained the most significant change and why the damages don't work out exactly the same. There was a correction made on the outlet end of the ditch where it dumps into Jack Creek. In the original ditch plan it was determined that this should be farmable. Because of the creek water backing in, a lot of that was pasture value. Pasture value does not get paid damages equal to tillable crop acres. The damages to the restriction on that pasture were lowered to \$500 per acre. That is why it doesn't work out at \$7,500 per acre. The tillable acres are still at \$7,500. It also lowered the total benefits on the outlet end. We took them from being tillable acres to minor improvement of hay and pasture. They are not getting the same benefit as was originally determined because of the conditions of the outlet, not the design of the ditch itself. It is because Jack Creek is so big compared to this small watershed.

It forces backwater to flood and inundate those lower areas.

Ron Ringquist explained that the viewers attempted to make adjustments for all of the watershed changes. Because of trying to secure adequate depth and outlet for the drainage of these lands, much of the physical elevation data that we started with did not match the drainage patterns. People go where they can get an outlet, not just because the water says that is the way it should go. We made adjustments to reflect where the actual drainage goes. Those areas that were not within the watershed were removed. Those that were added were taken into the ditch.

Ron Ringquist stated that in that process he talked with John Stenzel. He asked how come his was zero. It was originally thought that it would go into 4A. We did not get it into Project 4. It should be included. There are 15 benefited acres and three acres of trees within that 40 acre parcel (SWSW Section 16 Township 104 Range 38W). The other part of that is tiled north. It would add \$7,152 in benefits. His share of the cost of a \$100,000 project would be \$201.83. It is in the upper reach, so it is at that 25 percent for proximity. It should be included. We do not want to cut off his outlet. There were so many changes that day. We attempted to catch them all. He apologized because they didn't get the reports perfect this time either.

Bruce Leinen asked if the viewers had any other recommendations relating to the project. Ron Ringquist stated that they would provide a final version of the report on June 28, 2017.

The meeting was opened for questions or comments from the public.

Dave Macek asked why in the Project 2 report there were classifications A, B, C, D, but in this one there was an A-. Ron Ringquist explained that the A- was the adjustment for the backwater impact in the lower reaches where the value is only pasture. Rather than trying to say it is only 10 percent of the A benefit because it's not tillable, we established an A- value. It is \$500 per acre for helping to contain the lower flows, but will not contain the backwater from the creek for higher storm events.

Bruce Leinen made a motion to close discussion on the viewers' report. Wayne Rasche 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. Harvey Kruger 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. Gary Ewert 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. Harvey Kruger 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. Harvey Kruger seconded this. Motion carried unanimously.

Bruce Leinen moved that the hearing be adjourned at 7:42 p.m. Jim Buschena seconded this. Motion carried unanimously.

Harvey Kruger
Secretary