

Final Hearing Part 2  
Redetermination of Benefits – Project # 5 - Reconvened  
Sand Hill River Watershed District Office  
Fertile, MN  
October 2, 2018  
9:00 AM

1. **Attendance:** Chairman Christian called the reconvened the final hearing for the Redetermination of Benefits for Project 5 to order at 9 AM on October 2, 2018. Staff member present included April Swenby SHRWD Administrative Assistant. Consultants present include the District Engineer, Zach Herrmann – Houston Engineering. Managers present were Stuart Christian, Clayton Bartz, Roger Hanson, and Dan Vesledahl. Others in attendance included the following: Steve Gullickson, Troy Lindberg and Brian Floan. Viewers present included Edwin Johnson. As a bid opening was scheduled for 9:30 AM, several contractors were in attendance along with landowners attending the regular monthly board meeting.
2. **Welcome:** Herrmann reviewed the comments and areas that required additional reviewed determined from the final hearing held on September 18, 2018.

Comment 1: Brian Floan’s Property. This area was at a reduced rate and was accounted for

Comment 2: Steve Gullickson’s property (SW Part): An adjustment was made and land draining to the wetland was pulled out of the assessed area.

Comment 3: Troy Lindberg’s property: The area was reviewed and verified that the field drains west and the property was left in the assessed area.

The viewers report was amended to reflect the changes.

3. **Proceeding:** Herrmann read the order verbatim.

The Sand Hill River Watershed District Board of Managers, sitting as the drainage authority for Project No. 5, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on October 2, 2018; having appointed three 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, Manager Hanson moved, seconded by Manager Bartz to adopt the following Findings and Order:

**Findings:**

1. The Sand Hill River Watershed District is the drainage authority for Project No. 5.
2. On April 4, 2017, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for Project No. 5 pursuant to Minn. Stat. § 103E.351.
3. On April 4, 2017, the Sand Hill River Watershed District Board of Managers appointed viewers to redetermine benefits pursuant with Minn. Stat. § 103E.311 through MN Stat. § 103E.321.
4. The viewers completed their report, which included a benefits and damages statement, on August 7, 2018 for all property affected by the drainage system and filed their report with the drainage authority.

5. The Secretary 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 August 7, 2018, which is within 30 days after the property owners' reports were mailed.
7. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Norman County and Polk County, Minnesota.
8. Notice of the final hearing was published in the local newspaper for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the secretary 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.
10. Proper notice of the redetermination hearing was made in conjunction with Minn. Stat. § 103E.351 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
11. 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.
12. The drainage authority held a public hearing on the redetermination of benefits on September 18, 2018 at 9:00 a.m. at the Sand Hill River Watershed District office (219 N Mill Street, Fertile, MN 56540).
13. At the public hearing, the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Further detail of the viewing process was provided 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 Project No. 5.
14. 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.
15. 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.

16. 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.
17. 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.
18. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. The viewers' account of work has been filed with the drainage authority.
26. 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 Project No. 5.
27. 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.
28. The viewers' report is attached as **Exhibit A**.

29. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):
- a. Brian Floan: His land Section 36, Garfield Township, Polk County, MN, drains into a low area that doesn't have an outlet.  
*The viewers will be instructed to review this area.*
  - b. Steve Gullickson: Questioned how land in Section 1, Sundal Township, Norman County, MN, and Section 6, Sundal Township, Norman County, MN, drains to Project #5.  
*The viewers will be instructed to review this area.*
  - c. Steve Gullickson: Questioned the required buffer area where the ditch is deep and if there would be any mandated erosion control.  
*Any erosion control beyond the required grass filter strip would not be mandated. Any major changes to Project 5 would likely require an Improvement.*
  - d. Troy Lindberg: Asked that the viewers review the NE ¼ Section 8, Bear Park Township, Norman County, MN.  
*The viewers will be instructed to review this area.*
  - e. Phillip Swenson: Questioned about ditch cleaning.  
*Under Watershed Law, ditch cleaning may occur.*
30. The public hearing was recessed to allow the viewers to investigate comments brought forward during the public hearing.
31. The public hearing was reconvened on October 2, 2018 at 9:00 a.m. at the Sand Hill River Watershed District office (219 N Mill Street, Fertile, MN 56540), and the following changes were recommended.
- a. 02.12380.00 (Norman County, MN) total acreage was adjusted to 10 acres and remains at \$200/acre Benefit Rate.
  - b. 02.12390.00 (Norman County, MN) was removed.
  - c. 02.12400.00 (Norman County, MN) total acreage was adjusted to 110 acres and remains at \$200/acre Benefit Rate.
  - d. 21.80020.01 (Norman County, MN) was removed.
  - e. 21.80040.00 (Norman County, MN) was removed.
32. 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, as modified by changes recommended at the reconvened public hearing on October 2, 2018, is complete and correct;
- c. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, are proper, reasonable, and conform to the drainage code; and
- d. 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 Project No. 5, hereby orders as follows:

- A. The redetermined benefits of Project No. 5, including the recommended changes from the reconvened public hearing on October 2, 2018, the viewers' report attached hereto as **Exhibit A** 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 Secretary shall ensure that the redetermined benefits replace the existing benefits previously determined for Project No. 5.
- 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 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.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 3 yeas, zero nays, 1 absent, and zero abstentions as follows:

	Yea	Nay	Absent	Abstain
Christian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bartz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hamre	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Hanson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vesledahl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

- 4. **Adjournment:** A **Motion** was made by Manager Bartz to close the hearing for the Redetermination of Benefits on Project # 5, **Seconded** by Manager Vesledahl, **Carried**. The meeting was adjourned at 9:21 AM.

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April Swenby, Administrative Assistant

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JJ Hamre, Secretary