

Before the
Two Rivers Watershed District
Board of Managers
SITTING AS THE DRAINAGE AUTHORITY FOR
Roseau County Ditch #4

In the Matter of:

**the Redetermination of Benefits for
Roseau County Ditch #4**

**FINDINGS AND ORDER APPROVING
THE REDETERMINATION OF BENEFITS**

The Two Rivers Watershed District Board of Managers, sitting as the drainage authority for **Roseau County Ditch #4**, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on September 30, 2020, and having appointed three viewers to redetermine and report the benefits and damages; and 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, the Board does hereby adopt the following Findings and Order:

Findings:

1. Two Rivers Watershed District is the drainage authority for **Roseau County Ditch #4**.
2. On September 30, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for **Roseau County Ditch #4** pursuant to Minn. Stat. § 103E.351. Viewers Jon Vold, Tom Meisner, and Kevin Klein were appointed as viewers.
3. The viewers each executed an oath which is on file and a part of the Record of these proceedings.
4. The viewers completed their report, which included a benefits and damages statement, on November 1, 2023, for all property affected by the drainage system and filed their report with the drainage authority. Subsequently, the viewers submitted revised reports filed April 4, 2024 and May 2, 2024.

5. The District staff, 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 dated April 4, 2024, set a public hearing for review of the viewers' report to take place May 2, 2024.
7. A printed copy of the final hearing notice was posted as required by law.
8. Notice of the final hearing was published in the Greenbush Tribune for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the District staff provided notice by mail of the time and location of the final hearing to the commissioner of natural resources, 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 Thursday, February 29, 2024, at the Kittson County Courthouse in Hallock, Minnesota. This hearing was initially held, then recessed and reconvened on May 2, 2024, where it resumed and was completed.
13. At the reconvened public hearing, Jon Vold, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Jon Vold 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 **Roseau County Ditch #4**.
14. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
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 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.

26. The viewers' account of work has been filed with the drainage authority.
27. The viewers, in the viewers' report, recommended the following parcels be split for benefits: NONE.
28. 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.
29. The viewers' report is attached as **Exhibit A**.
30. The benefits and damages statement is attached as **Exhibit B**.
31. 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):

Brian Lewis – asked a question about the drainage in the SW ¼, SW ¼, section 1, East Park Township, Marshall County.

Mr. Vold indicated that upon review of the Viewers, it was determined that water from this parcel will drain to Roseau County Ditch #4.

A letter was received from Orion Holdings, LLLP and was read into the record. It requested the NESW, NWSW, an SWSW all in section 32 Township 160 Range 44 be removed because the letter stated they do not benefit.

Mr. Vold indicated these parcels do not drain water to the ditch, however they are benefited by the ditch because it cuts water off from flowing onto the property, providing a protection benefit.

32. At the close of the public comment hearing, it was moved, seconded, and carried that this Board adopt Findings and an Order consistent with the proceedings, including all comments received through the public comment process confirming the redetermined benefits as reported by the viewers.
33. 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, as reflected in the viewers' report as **Exhibit A**, are proper, reasonable, and conform to the drainage code.
- e. that the landowners as listed on the damages role have previously been required under Minn. Stat. 103F.048 to maintain a one-rod (16.5 ft.) strip of perennial vegetative buffer strip immediately adjacent to the ditch, but have never been paid for said buffer strip. Under Minn. Stat. 103E.021, when a redetermination of benefits is undertaken, it becomes the obligation of the ditch fund to pay landowners along the ditch for a right-of-way for the creation and establishment of said buffer strip, and to undertake to plant, manage and maintain said strip. No landowners listed on the damages role appeared or objected to the damages as determined by the viewers.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for **Roseau County Ditch #4**, hereby orders as follows:

- A. The redetermined benefits of **Roseau County Ditch #4** and the viewers' report attached hereto as **Exhibit A** is 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 **Roseau County Ditch #4**.
- D. The Secretary is directed to assert as a charge against the ditch fund the following expenses related to the redetermination of benefits: \$50,000.
- E. The perennial grass buffer right-of-way is hereby granted to the District as set forth in the damages role attached hereto as **Exhibit B**, which right-of-way shall be 16-1/2 feet in width measured outward from the top edge of the constructed channel, or as measured from the boundary of the existing ditch right-of-way, whichever is greater. Upon receipt of the necessary purchase information, the

Administrator is directed to issue payment to the landowners in the total sum of \$32,616.00 as set forth on the damages role as compensation for the fair market value of the grass strip right-of-way acquired in these proceedings.



Rick Sikorski, Chairman

Dated: 6-6-24



ATTEST: Daryl Klegstad, Secretary

Dated: 6-6-24