

FARIBAULT COUNTY  
BOARD OF COMMISSIONERS  
OFFICIAL PROCEEDINGS  
DRAINAGE AUTHORITY MEETING  
DECEMBER 8, 2022

The Faribault County Board of Commissioners met at the Courthouse in the City of Blue Earth as the Faribault County Drainage Authority at 1:00 p.m. on December 8, 2022. The following members were present: Bruce Anderson, Tom Loveall, Bill Groskreutz, John Roper, and Greg Young Commissioners. Auditor/Treasurer/Coordinator Darren Esser, Drainage Manager Merissa Lore, and Acting Clerk to the Board Sarah Van Moer also attended. Faribault County employee J. Blair attended virtually.

The meeting was called to order by Chair Young.

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Closed session was held for attorney-client privileged discussion due to pending litigation on CD21. Present were Commissioners Bruce Anderson, Tom Loveall, Bill Groskreutz, John Roper, and Greg Young, Auditor/Treasurer/Coordinator Darren Esser, Drainage Manager Merissa Lore, and Acting Clerk to the Board Sarah Van Moer. Attorney Roger Justin joined virtually.

Anderson/Roper motion carried unanimously to reopen the meeting.

Auditor/Treasurer/Coordinator Darren Esser gave a recap of the session.

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Groskreutz/Anderson motion carried unanimously to approve the agenda of December 8, 2022.

\* \* \* \* \*

No one appeared during public comment.

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Anderson/Roper motion carried unanimously to approve repair projects as shown below:

System	Repair #	Branch	Comm Dist	Township	Sec	Landowner	Problem/Proposed Work
CD31	22-125	Branch 449	1	Elmore	09	HOWARD W PASCHKE TRUST &	Tile hole
CD41	22-131	Lateral 22+50	1	Elmore	29	RISK,WAYNE O	Replace 1100' of 10" tile
JD13F	22-132	B	1	Rome	14	HANSON,ROBERT	Tile hole
JD7FM	22-127	Branch X	2	Pilot Grove	21	PAUL THOMAS CARR DISC TRUST	Tile hole
CD9	22-130	D	4	Delavan	13	SCHAIBLE,CHARLES W	Connection by stand pipe washed out
JCD23FM	14-034	Branch B	4	Winnebago City	07	HARTMAN,WARREN C & SHIRLEY A	Tile outlet failure
JD10F	22-128	54	4	Prescott	17	WHITNEY,CAROLINE A	Tile hole
JD2F	22-129	Main	4	Barber	19	EVELYN B HARDY TRUST AGREEMENT	Slough where ditch turns to go under CR108
CD20	22-124	Branch C	5	Walnut Lake	04	MEYER,JAMES E	MediaCom cable caused tile hole

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Groskreutz/Anderson motion carried unanimously to approve payment totaling \$70,522.13:

System	Repair #	Order	Branch	Comm Dist	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
CD31	22-125	1	Br 449	1	Elmore	09	HOWARD W PASCHKE TRUST &	Blowout	4299	Osmundson Construction	100	\$1,034.56
JD13F	22-132	1	B	1	Rome	14	HANSON,ROBERT	Blowout	3908	Hodgman Drainage Co.	100	\$512.50
CD60	22-027	1	Main	2	Jo Daviess	01	PFAFFINGER,DAVID & DENISE	Grind weeds, re-seed banks	7678	Krueger Excavating of Albert Lea, LLC	100	\$7,557.50
JD22F	22-123	1	Br 3	2	Verona	27	ILIFF,F ROGER	Blowout	4299	Osmundson Construction	100	\$647.80
JD2MF	22-102	1	Main	2	Jo Daviess	18	MADAY,RICHARD & JOANNE M	Slough	7678	Krueger Excavating of Albert Lea, LLC	100	\$7,335.00
JD4FM	22-101	1	B1 Imp	2	Jo Daviess	07	HANNAMAN,NOREEN R	Culvert/Crossing	7678	Krueger Excavating of Albert Lea, LLC	100	\$12,522.46
JD7FM	22-127	1	Br X	2	Pilot Grove	21	PAUL THOMAS CARR DISC TRUST	Blowout	4299	Osmundson Construction	100	\$2,805.06
JCD301FF	21-167	2	Main	3	Clark	32	KIRSTYN E WEGNER REV LIV TR &	Build back berm	6701	Trevor Leland	100	\$540.00
CD9	22-109	1	Main	4	Delavan	25	K & L FARMS LLC	Slough	7678	Krueger Excavating of Albert Lea, LLC	100	\$1,220.00
CD9	22-110	1	Main	4	Delavan	24	SCHAIBLE,CHARLES W	Slough	7678	Krueger Excavating of Albert Lea, LLC	100	\$3,945.00
CD9	22-112	1	Br B	4	Delavan	14	HERRMANN,KIP	Tile Outlets	7678	Krueger Excavating of Albert Lea, LLC	100	\$3,067.50
CD9	22-120	1	Br C	4	Delavan	24	SCHAIBLE,CHARLES W	Replacement	4299	Osmundson Construction	100	\$772.50
CD9	22-130	1	D	4	Delavan	13	SCHAIBLE,CHARLES W	Blowout	4299	Osmundson Construction	100	\$1,273.11
JD10F	22-128	1	54	4	Prescott	17	WHITNEY,CAROLINE A	Blowout	4299	Osmundson Construction	100	\$2,044.00
JD17F	22-122	1	Main	4	Prescott	07	MARSH,BARRY L & JOY K	Blowout	4299	Osmundson Construction	100	\$865.79
JD2F	15-033	2	K	4	Prescott	25	WINTER, DAVE	Surface Intake	5976	Giese Farm Drainage	100	\$3,680.00
JD2F	22-129	1	Main	4	Barber	19	EVELYN B HARDY TRUST AGREEMENT	Slough	7678	Krueger Excavating of Albert Lea, LLC	100	\$1,410.00
JD9FBE	22-045	2	Br 192	4	Lura	05	WHITNEY,STANLEY B	Clean Out, investigate	594	Krengel Bros. Inc.	100	\$17,957.45
JD13F	22-121	1	939	5	Seely	22	FLO FARMS LLC	Blowout	4299	Osmundson Construction	100	\$1,331.90

Total: **\$70,522.13**

12-08-22

-235-

\* \* \* \* \*

Roper/Groskreutz motion carried unanimously to approve the hearing meeting minutes from 11/14/22 for CD65, CD53, CD54, CD78, and CD102; and from 11/15/22 for CD29 and CD30.

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Groskreutz/Anderson motion carried unanimously to approve the following hearing findings and orders:

Resolution 22-DA47-86 Redetermination of Benefits Order on CD65 from the 11/14/22 hearing:

## **RESOLUTION**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #65, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on November 2<sup>nd</sup>, 2021; having appointed viewers to redetermine and report the benefits; 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 Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #65, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #65.
2. On November 2<sup>nd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #65 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on November 12<sup>th</sup>, 2021.
4. The viewers held an informational meeting on July 28<sup>th</sup>, 2022 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority, by order, set a public hearing for review of the viewers' report on October 18<sup>th</sup>, 2022, which is within 30 days after the property owners' reports were mailed.
8. 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 Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.

10. Within one week after the first publication of the notice, the County Auditor 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.
11. 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.
12. 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.
13. The drainage authority held a public hearing on the redetermination of benefits on November 14<sup>th</sup>, 2022, at 1:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends 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 County Ditch #65.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. 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.
17. 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.
18. 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.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
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. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited 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. The benefits statement is attached as **Exhibit B**.
30. No public comment.
31. At the close of the public comment hearing, Commissioner Groskreutz moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Roper seconded, and the motion carried.
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 is complete and correct;

- c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
- d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #65, hereby orders as follows:

- A. The redetermined benefits of County Ditch #65, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #65.

Resolution 22-DA48-87 Redetermination of Benefits Order on CD53 from the 11/14/22 hearing:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #53, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on January 18<sup>th</sup>, 2022; having appointed viewers to redetermine and report the benefits; 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 Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #53, adopts the following Findings and Order:

**Findings:**

- 1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #53.

2. On January 18<sup>th</sup>, 2022, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #53 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on February 25<sup>th</sup>, 2022.
4. The viewers held an informational meeting on July 28<sup>th</sup>, 2022 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority, by order, set a public hearing for review of the viewers' report on October 18<sup>th</sup>, 2022, which is within 30 days after the property owners' reports were mailed.
8. 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 Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor 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.
11. 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.
12. 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.
13. The drainage authority held a public hearing on the redetermination of benefits on November 14<sup>th</sup>, 2022, at 1:30pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Bruce Ness, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Ness 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 County Ditch #53.

15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. 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.
17. 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.
18. 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.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
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. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited 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. The benefits statement is attached as **Exhibit B**.
30. 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. David Murray, Emerald Township, 8823 440<sup>th</sup> Avenue Blue Earth, MN 56013  

Presented questions about benefits assigned to his parcel. He has 3.1 acres in the watershed, and he tiled those acres into a private tile that drains to the East Branch of the Blue Earth River.

*The benefits on the 3.1 acres would be reduced by 50% due to the subsurface water draining out of the system. 50% benefit remains because the surface water during excess rain events will utilize County Ditch #53 tile system. This changes the benefits on parcel 08.021.0600 from \$2,890 to \$1,445. The private tile location is known, and maps are on file. This changes the system total benefits to \$403,563.*
31. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Loveall seconded, and the motion carried.
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 is complete and correct;

- c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
- d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #53, hereby orders as follows:

- A. The redetermined benefits of County Ditch #53, the viewers' report attached hereto as Exhibit A, and the benefits statement attached hereto as Exhibit B are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #53.

Resolution 22-DA49-88 Redetermination of Benefits Order on CD54 from the 11/14/22 hearing:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #54, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on January 18<sup>th</sup>, 2022; having appointed viewers to redetermine and report the benefits; 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 Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #54, adopts the following Findings and Order:

**Findings:**

- 1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #54.
- 2. On January 18<sup>th</sup>, 2022, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #54 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, and Bruce Ness were appointed as viewers.

3. Faribault County Auditor Darren Esser administered the Viewers' Oath on February 25<sup>th</sup>, 2022.
4. The viewers held an informational meeting on July 28<sup>th</sup>, 2022 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority, by order, set a public hearing for review of the viewers' report on October 18<sup>th</sup>, 2022, which is within 30 days after the property owners' reports were mailed.
8. 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 Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor 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.
11. 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.
12. 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.
13. The drainage authority held a public hearing on the redetermination of benefits on November 14<sup>th</sup>, 2022, at 2:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Bruce Ness, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Ness 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 County Ditch #54.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. 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.

17. 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.
18. 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.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
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. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited 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. The benefits statement is attached as **Exhibit B**.

30. No public comment.
31. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Loveall seconded, and the motion carried.
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 is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
  - d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #54, hereby orders as follows:

- A. The redetermined benefits of County Ditch #54, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #54.

Resolution 22-DA50-89 Redetermination of Benefits and Damages Order on CD78 from the 11/14/22 hearing:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #78, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on January 7<sup>th</sup>, 2020; having appointed 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, the Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #78, adopts the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #78.
2. On January 7<sup>th</sup>, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #78 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. The viewers held informational meetings on August 10<sup>th</sup>, 2020 and March 2<sup>nd</sup>, 2022 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
5. The Auditor 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 October 18<sup>th</sup>, 2022, 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 Faribault County.
8. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the County Auditor 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 and damages on November 14<sup>th</sup>, 2022, at 2:30pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
13. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends 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 County Ditch #78.
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. 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.
27. The viewers' report is attached as **Exhibit A**.
28. The benefits and damages statement is attached as **Exhibit B**.
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. Mark Anderson, Seely Township, 52497 20<sup>th</sup> Street Bricelyn, MN 56014

Presented questions about when assessments would be due and when buffer payments would happen and maintenance like tree removal schedule. Also, asked questions about township board notices for the proceeding and who is responsible for the culverts under the road.

*Assessments letters will go out in the mail in November 2023 and payments will start on 2024 tax statements if not paid in full by the end of 2023. There is a 4% interest charge on any unpaid assessments after the end of 2023. Buffer payments will be issued in February 2023. There has been some tree removal where there were beaver issues. More tree removal is needed and Iowa would like to see the ditch cleaned. A full survey was completed on the system and an informational meeting with landowners will be scheduled this winter to discuss the proposed repairs.*

*The township notices are mailed to the Township Board Clerk. The road authority is responsible for the culverts under the road including maintenance and replacement of the crossing.*
30. At the close of the public comment hearing, Commissioner Anderson moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, and confirm the damages as presented; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits, Confirming Damages, and

Directing Payment at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Groskreutz seconded and the motion carried.

31. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2023. Commissioner Anderson seconded and the motion carried.
  
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 is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
  - d. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits and damages statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code; and
  - e. 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 County Ditch #78, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #78, the viewers' report attached hereto as **Exhibit A**, and the benefits and damages statement attached hereto as **Exhibit B** 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 County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #78.
- D. The County Auditor shall make the buffer easement payments in February 2023 in accordance with the Viewers' Report.

Resolution 22-DA51-90 Redetermination of Benefits and Damages Order on CD102 from the 11/14/22 hearing:

## **R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #102, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on January 7<sup>th</sup>, 2020; having appointed 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, the Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #102, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #102.
2. On January 7<sup>th</sup>, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #102 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. The viewers held informational meetings on August 10<sup>th</sup>, 2020 and March 2<sup>nd</sup>, 2022 after notice to all landowners and public authorities.
4. The viewers completed their report, which included a benefits and damages statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
5. The Auditor 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 October 18<sup>th</sup>, 2022, 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 Faribault County.
8. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
9. Within one week after the first publication of the notice, the County Auditor 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 and damages on November 14<sup>th</sup>, 2022, at 3:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
13. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends 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 County Ditch #102.
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. 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.
27. The viewers' report is attached as **Exhibit A**.
28. The benefits and damages statement is attached as **Exhibit B**.
29. No public comment.
30. At the close of the public comment hearing, Commissioner Groskreutz moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, and confirm the damages as presented; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits, Confirming Damages, and Directing Payment at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Roper seconded and the motion carried.
31. Commissioner Roper moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2023. Commissioner Loveall seconded and the motion carried.
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 is complete and correct;

- c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
- d. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits and damages statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code; and
- e. 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 County Ditch #102, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #102, the viewers' report attached hereto as **Exhibit A**, and the benefits and damages statement attached hereto as **Exhibit B** 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 County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #102.
- D. The County Auditor shall make the buffer easement payments in February 2023 in accordance with the Viewers' Report.

Resolution 22-DA52-91 Redetermination of Benefits Order on CD29 from the 11/15/22 hearing:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #29, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on November 2<sup>nd</sup>, 2021; having appointed viewers to redetermine and report the benefits; 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 Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch #29, adopts the following Findings and Order:

**Findings:**

- 1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #29.

2. On November 2<sup>nd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #29 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on November 12<sup>th</sup>, 2021.
4. The viewers held an informational meeting on July 28<sup>th</sup>, 2022 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority, by order, set a public hearing for review of the viewers' report on October 18<sup>th</sup>, 2022, which is within 30 days after the property owners' reports were mailed.
8. 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 Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor 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.
11. 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.
12. 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.
13. The drainage authority held a public hearing on the redetermination of benefits on November 15<sup>th</sup>, 2022, at 1:30pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends 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 County Ditch #29.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.

16. 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.
17. 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.
18. 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.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
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. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited 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. The benefits statement is attached as **Exhibit B**.
30. No public comment.
31. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Loveall seconded, and the motion carried.
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 is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
  - d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #29, hereby orders as follows:

- A. The redetermined benefits of County Ditch #29, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch #29.

Resolution 22-DA53-92 Redetermination of Benefits Order on CD30 from the 11/15/22 hearing:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch 30, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on November 2<sup>nd</sup>, 2021; having appointed viewers to redetermine and report the benefits; 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 Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditch 30, adopts the following Findings and Order:

**Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 30.
2. On November 2<sup>nd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch 30 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on November 12<sup>th</sup>, 2021.
4. The viewers held an informational meeting on July 28<sup>th</sup>, 2022 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 17<sup>th</sup>, 2022, for all property affected by the drainage system and filed their report with the drainage authority.
6. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
7. The drainage authority, by order, set a public hearing for review of the viewers' report on October 18<sup>th</sup>, 2022, which is within 30 days after the property owners' reports were mailed.
8. 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 Faribault County.
9. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
10. Within one week after the first publication of the notice, the County Auditor 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.
11. 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.
12. 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.

13. The drainage authority held a public hearing on the redetermination of benefits on November 15<sup>th</sup>, 2022, at 2:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
14. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends 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 County Ditch 30.
15. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
16. 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.
17. 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.
18. 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.
19. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
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. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits determined in the original proceedings, as well as the benefited 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. The benefits statement is attached as **Exhibit B**.
30. No public comment.
31. At the close of the public comment hearing, Commissioner Loveall moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits as reported by the viewers; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits at the Board's regular meeting on December 8<sup>th</sup>, 2022. Commissioner Groskreutz seconded, and the motion carried.
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 is complete and correct;
  - c. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits determined by the viewers in the viewers' report; and
  - d. that the redetermined benefits, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch 30, hereby orders as follows:

- A. The redetermined benefits of County Ditch 30, the viewers' report attached hereto as **Exhibit A**, and the benefits statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits in all subsequent proceedings.
- B. The viewers are allowed payment of their account of work.
- C. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for County Ditch 30.

\* \* \* \* \*

Anderson/Groskreutz motion carried unanimously to approve the 2022 crop damages totaling \$9,925.00.

\* \* \* \* \*

Roper/Loveall motion carried unanimously to approve pay application #2 on the JD6F open ditch repair project and release retainage to Leland Drainage & Excavating in the amount of \$68,773.94.

\* \* \* \* \*

Loveall/Anderson motion carried unanimously to approve the following cost-share forms:

Project	Cost-Share Form	C-S Amount	Final Cost	System Cost
CD64 Upland BMPs	Amendment #1	Increase \$19,572.56	-	-
CD64 Upland BMPs	Voucher & Certification	\$60,822.56	\$81,096.75	\$20,274.19
CD64 In-Channel	Voucher & Certification	\$85,689.38	\$114,252.50	\$28,563.12
JD6F ASIs	Amendment #1	Decrease \$5,250.00	-	-
JD6F ASIs	Voucher & Certification	\$41,850.00	\$55,800.00	\$13,950.00
CD74 ASIs	Voucher & Certification	\$1,050.00	\$1,400.00	\$350.00

\* \* \* \* \*

Staff reports were presented, and project updates given.

\* \* \* \* \*

Anderson/Roper motion carried unanimously to adjourn.

The Faribault County Drainage Authority was recessed to December 20<sup>th</sup>, 2022.

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Greg Young, Chair

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Sarah Van Moer, Acting Clerk to the Board