

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
DRAINAGE AUTHORITY MEETING
DECEMBER 09, 2021

The Faribault County Board of Commissioners met at the Courthouse in the City of Blue Earth as the Faribault County Drainage Authority pursuant to the recess of the regular session at 1:00pm on December 9, 2021. The following members were present: Bruce Anderson, Bill Groskreutz, Tom Loveall, 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. J. Blair attended virtually.

The meeting was called to order by Chair Roper.

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Loveall/Anderson motion carried unanimously to approve the December 9, 2021 drainage authority agenda.

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Lynn Cole appeared during public comment. He spoke regarding the CD24 easement extent on his property and areas he felt still needed to be repaired on CD24.

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Loveall/Young motion carried unanimously to approve the following repair projects as shown below:

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Young/Anderson motion carried unanimously to approve pay application #6 for the JCD202FM repair project for \$13,629.29 to Kruger Excavating of Albert Lea, LLC.

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Groskreutz/Young motion carried unanimously to approve the minutes from the November 16, 2021 CD77 Redetermination of Benefits & Damages hearing, the CD85 Redetermination of Benefits & Damages hearing, the CD86 Redetermination of Benefits & Damages and Repair hearing, the November 17, 2021 JD10F Redetermination of Benefits & Damages hearing, the CD40 Redetermination of Benefits hearing, and the CD46 Permission to Use the System as an Outlet hearing.

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Anderson/Young motion carried unanimously to adopt the following hearing Findings & Orders:

Resolution 21-DA45-120 approving the redetermination of benefits and damages on CD77

RESOLUTION

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #77, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 21, 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 #77, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #77.
2. On July 21, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #77 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on July 30, 2020.
4. The viewers held informational meetings on December 2nd, 2020 and September 3rd, 2021 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits and damages statement, on October 1, 2021, 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.

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7. The drainage authority, by order, set a public hearing for review of the viewers' report on November 16, 2021, 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 and damages on November 16, 2021, at 2:00pm at the Golden Bubble, Wells, 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 #77.
15. 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.
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 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. The benefits and damages 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. John Sonnek, Minnesota Lake Township, 22275 525th Ave. Wells, MN 56097

Stated he came to the hearing to learn and understand the process as it is new to him. He has no concerns.

The Board thank him for attending.

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 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 9, 2021. Commissioner Loveall seconded and the motion carried.
32. Commissioner Young moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2022. Commissioner Anderson seconded and the motion carried.
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 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 #77, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #77, 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 #77.

Resolution 21-DA46-121 ordering a redetermination of benefits and damages on CD85.

R E S O L U T I O N

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #85, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 21, 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 #85, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #85.
2. On July 21, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #85 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on July 30, 2020.
4. The viewers held informational meetings on December 2nd, 2020 and June 11th, 2021 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits and damages statement, on October 1, 2021, 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 November 16, 2021, 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 and damages on November 16, 2021 at 2:30pm at the Golden Bubble, Wells, MN.
14. At the public hearing, Kendall Langseth, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Langseth 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 #85.
15. 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.
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 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. The benefits and damages statement is attached as **Exhibit B**.
30. No public comment.
31. At the close of the public comment hearing, Commissioner Young 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 9, 2021. Commissioner Anderson seconded and the motion carried.
32. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2022. Commissioner Young seconded and the motion carried.
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 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 #85, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #85, 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 #85.

Resolution 21-DA47-122 approving a redetermination of benefits and damages on CD86.

R E S O L U T I O N

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #86, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on July 21, 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 #86, adopts the following Findings and Order:

Findings:

- 1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #86.

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2. On July 21, 2020, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #86 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on July 30, 2020.
4. The viewers held informational meetings on June 11, 2021 and September 3, 2021 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits and damages statement, on October 1, 2021, 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 November 16, 2021, 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 and damages on November 16, 2021 at 3:00pm at the Golden Bubble, Wells, MN.
14. At the public hearing, John Thompson, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Thompson 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 #86.

15. 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.
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 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. The benefits and damages 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 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 9, 2021. Commissioner Loveall seconded and the motion carried.
32. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2022. Commissioner Anderson seconded and the motion carried.
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 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:

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Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #86, hereby orders as follows:

- A. The redetermined benefits and damages of County Ditch #86, 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 #86.

Resolution 21-DA48-123 granting repair on CD86

RESOLUTION

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #86, received repair requests regarding a portion of the mainline open ditch. A system inspection was completed by drainage staff verifying repair needs on the system; having noticed and conducted a public hearing on the staff repair report 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 County Ditch #86, adopts the following Findings and Order:

Findings:

- 1. Faribault County Board of Commissioners is the drainage authority for County Ditch #86.
- 2. A system inspection was completed by drainage staff on County Ditch #86 in the summer of 2020. Upon inspection, portions of the mainline and branch 9 open ditch were found to be in disrepair.
- 3. Inspection report and staff repair report were presented to the drainage authority on August 4th, 2020.
- 4. The drainage authority met at 1pm on October 5th, 2021, at the Faribault County Board Room and ordered a public hearing on the staff repair report.
- 5. The drainage authority, by order, set a public hearing for review of the staff repair report on November 16th, 2021, at 3:00pm at the Golden Bubble, 11575 State Hwy 22 Wells, MN 56097. Notice of the hearing on the repair report was provided by mail to the owners of property, and political subdivisions likely to be affected by the repair in the repair report in accordance with Minn. Stat. § 103E.715, subd. 3.

6. At the public hearing, Merissa Lore, Drainage Staff, presented the staff report. Lore recommended a repair of portions of the drainage system, which included open ditch cleaning, tile outlet repairs, side inlet replacement, crossing repairs and armoring, tree and brush removal, and reseeding disturbed buffer strips.
7. Staff estimated the cost of the repairs to be \$62,260.00.
8. Cost-share is available from the Faribault County Soil and Water Conservation District to provide grant funds to offset the costs of the side inlet repairs. The estimated cost of the side inlet repairs is \$6,600.00. Cost-share would provide grant funds for 75 percent of the cost for a total of \$4,950.00. System cost would be \$1,650.00.
9. The staff repair report contains all the details, plans, and specifications necessary to prepare and award a contract for the repairs.
10. 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. Audrey Kastenmeier, Minnesota Lake Township, 20394 540th Ave. Wells, MN 56097:

Presented questions about the impact to drainage from the repair. She stated the ditch drains really slow and was wondering if the repair would help water drain quicker.

There is sediment accumulation in the ditch bottom and culverts. The repair should help with some drainage concerns.
11. The drainage authority finds, consistent with the staff repair report, the public comments received at the public hearing on the staff repair report, and the entire record of proceedings, that portions of County Ditch #86 in Sections 12, 13, and 14 of Minnesota Lake Township in Faribault County are out of repair; that the condition of these portions of County Ditch #86 impedes the flow of water and reduces the hydraulic efficiency of the drainage system below that established by the original construction and/or subsequent improvement of the drainage system.

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 #86, hereby orders as follows:

- A. That the proposed repair to County Ditch #86 in the location specified in these findings and recommended in the staff repair report is approved consistent with the staff recommendations and is necessary for the best interest of the affected property owners.

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- B. Drainage Staff shall proceed with securing grant funds through the Faribault County Soil and Water Conservation District for the replacement of side inlets associated with the repair.
- C. The Auditor and Drainage Staff shall proceed and prepare and award a contract for the repair of the drainage system consistent with the procedures required by Minn. Stat. ch. 103E and under Minnesota law. The contract must be for the repair described in the repair report and as determined necessary by the drainage authority in these findings and order and be prepared in the manner provided in Minn. Stat. ch. 103E for the original drainage system construction.
- D. The cost of the repair shall be paid from the funds in the maintenance account for County Ditch #86 and/or by assessments made to the properties benefited by the drainage system in the drainage system records.

Resolution 21-DA49-124 approving the redetermination of benefits and damages on JD10F.

R E S O L U T I O N

The Faribault County Board of Commissioners, sitting as the drainage authority for Judicial Ditch #10, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits and damages on January 19th, 2021; 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 Judicial Ditch #10, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for Judicial Ditch #10.
2. On January 19th, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for Judicial Ditch #10 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on January 28th, 2021.
4. The viewers held informational meetings on April 7th, 2021 and July 13th, 2021 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits and damages statement, on October 1, 2021, 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 November 17, 2021, 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 and damages on November 17, 2021 at 1:00pm at the Golden Bubble, Wells, 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 Judicial Ditch #10.
15. 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.
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 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. The benefits and damages 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. Mark Bassett, Prescott Township, 1475 Loffler Court Chippewa Falls, WI 54729

Presented questions about the differences between the original or previous benefits and the proposed benefits. The data he received from the Auditor indicated there were currently

2,346 benefited acres and the proposed benefited acres are 2,925.6 acres so there is an increase in acres paying towards repairs and maintenance.

Faribault County Auditor, Darren Esser clarified that the data Mr. Bassett received was just the land benefits and excluded railroad and road authority benefits. While there could be a slight increase in the proposed benefitted acres, it is less than 579.6 acres. The main reason for the redetermination of benefits on Judicial Ditch #10 is due to substantial land use changes in the watershed with a large wetland restoration that was completed in 2001-2002.

Mark Bassett also presented questions about the redetermination process if the viewers start with the system total benefits and then divide that number up by 40-acre lots or if benefit values are assigned per 40-acre lot and then total to determine the system's total benefit and what data is used for the benefit values.

Each 40-acre lot is broke out and every acre is assigned a benefit value based on a number of data like location, soil type, elevation, and presence of county tile or open ditch. Ultimately it is a comparison of the benefit of the land prior to the establishment of the drainage system verses the benefit of the land after the establishment of the drainage system and in the increase production of the land over a 25 year period. The total system benefits is calculated by adding the benefit from each 40-acre lot.

b. Lafe Ioerger, Prescott Township, 39985 State Highway 109 Delavan, MN 56023

Presented questions about his property in Sections 4 and 9 of Prescott Township and the wetland restoration. He feels he has more issues with drowned out and more water ponds on his property.

There were multiple informational meetings held to collect specific information regarding individual's properties. Mr. Ioerger brought up concerns with drown out at one of the informational meetings. The Viewers reduced benefits on the drown out acres and removed the county tile benefit on his property because the tile is backing up and causing flooding. Staff will follow up on the tile and if there is investigating and/or maintenance that needs to be completed.

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 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 9, 2021. Commissioner Anderson seconded and the motion carried.
32. Commissioner Loveall moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in February 2022. Commissioner Young seconded and the motion carried.
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 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 Judicial Ditch #10, hereby orders as follows:

- A. The redetermined benefits and damages of Judicial Ditch #10, 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 Judicial Ditch #10.

Resolution 21-DA50-125 approving the redetermination of benefits on CD40.

R E S O L U T I O N

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #40, pursuant to Minn. Stat. § 103E.351, having adopted findings and ordered a redetermination of benefits on March 2nd, 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 #40, adopts the following Findings and Order:

Findings:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch #40.

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2. On March 2nd, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits for County Ditch #40 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, Kendall Langseth, Dennis Distad, and Bruce Ness were appointed as viewers.
3. Faribault County Auditor Darren Esser administered the Viewers' Oath on March 12th, 2021.
4. The viewers held informational meetings on April 7th, 2021 and September 3rd, 2021 after notice to all landowners and public authorities.
5. The viewers completed their report, which included a benefits statement, on October 1, 2021, 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 November 17, 2021, 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 and damages on November 17, 2021 at 1:30pm at the Golden Bubble, Wells, 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 #40.
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 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 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 9, 2021. 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 #40, hereby orders as follows:

- A. The redetermined benefits of County Ditch #40, 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 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 #40.

Resolution 21-DA51-126 authorizing outlet on CD46.

R E S O L U T I O N

WHEREAS, as part of a repair project on Faribault County Ditch #40, a request was made

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to outlet County Ditch #40 into Faribault County Ditch #46; and

WHEREAS, pursuant to legal notice, an Outlet Hearing was held on November 17, 2021, at 2:30

p.m. at the Golden Bubble, located in Wells, Minnesota; and

WHEREAS, Darren Esser, the Faribault County Auditor-Treasurer, indicated that Notice Affidavits were on file with the Faribault County Auditor's Office; and

WHEREAS, Kurt Deter explained the process for granting an outlet into a drainage system; and

WHEREAS, Engineers Mark Origer and Jen Widmer presented their recommendations as to an outlet into Faribault County Ditch #46 as follows:

1. Faribault County Ditch #40 tile outlet currently outlets into the floodplain of the East Branch of the Blue Earth River and is under water.
2. Maintenance through the flood plain of these branches of Blue Earth River is limited and expensive.
3. Faribault County Ditch #46 is in good condition and outlets above the Blue Earth River.
4. Rerouting County Ditch #40 outlet into the open ditch of Faribault County Ditch #46 would reduce the drainage outlets into the East Branch of the Blue Earth River and provide a better outlet for County Ditch #40.
5. ISG Engineers recommended rerouting the County Ditch #40 tile approximately 360' upstream of its current outlet and extending the reroute 400' southeast and then approximately 360' to the northeast to outlet into Faribault County Ditch #46 approximately 240' upstream of the current legal ditch outlet.
6. ISG Engineers presented two options for the reroute and recommended rerouting a 24" dual wall plastic tile at 0.06% grade to outlet into Faribault County Ditch #46, such that it mimics the existing conditions such that the reroute would be a repair; and

WHEREAS, John Thompson, one of the duly appointed viewers, gave a history of County Ditch #46 that was used for the basis of determining a recommended outlet fee and benefits; and

WHEREAS, the viewers recommended an outlet fee to be paid by Faribault County Ditch #40 in the amount of \$2,918.00; and

WHEREAS, the viewers recommended that County Ditch #40 will have an obligation to pay 13.3% of future repair and maintenance costs on the open channel of Faribault County Ditch

#46; and

WHEREAS, the Hearing was open for public comment and there was no public comment.

NOW, THEREFORE, the Faribault County Board of Commissioners, makes the following

Findings of Fact:

FINDINGS OF FACT

1. That the Drainage Authority has considered capacity of County Ditch #46 and finds that County Ditch #46 has the capacity to not unreasonably impact the County Ditch #46 system by granting this outlet.
2. That the outlet fee to be paid by Faribault County Ditch #40 to the Faribault County Ditch #46 system is in the amount of \$2,918.00.
3. That Faribault County Ditch #40 shall pay 13.3% of the future repair and maintenance costs of the open ditch of Faribault County Ditch #46.

ORDER

NOW, THEREFORE, it is hereby ordered that the requested outlet of Faribault County Ditch #40 into Faribault County Ditch #46 is hereby granted under the above described terms and conditions.

* * * * *

Anderson/Young motion carried unanimously to approve the 2021 crop damages.

* * * * *

Staff reports and project updates were given.

* * * * *

The Faribault County Drainage Authority was adjourned.

John Roper, Chair

Sarah Van Moer, Acting Clerk to the Board

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