

STATE OF MINNESOTA

BEFORE THE WRIGHT COUNTY BOARD OF COMMISSIONERS, ACTING AS DRAINAGE
AUTHORITY FOR COUNTY DITCH 31, WRIGHT COUNTY, MINNESOTA

In the Matter of the Redetermination of
Benefits of County Ditch 31 of Wright
County, Minnesota

**FINDINGS AND ORDER ACCEPTING
VIEWERS' REPORTS AND ADOPTING
REDETERMINED BENEFITS**

A public hearing conducted by the Board of Commissioners of Wright County, Drainage Authority for County Ditch 31 of Wright County ("CD 31"), on June 7, 2022.

Findings:

1. CD 31 was established in 1917. The ditch system was constructed as an open ditch. The open length of CD 31 is approximately 6.17 miles. The watershed includes land in Woodland Township, Wright County, Minnesota and has not been viewed to determine benefits and benefited areas since 1917. CD 31 lies to the north and east of and drains starting at Lauzers Lake. Wright County serves as the drainage authority for CD 31 pursuant to Minnesota Statutes, chapter 103E.
2. Based on its review of the records for CD 31, and after observations made of the watershed of the drainage system, the Drainage Authority Board found and determined that the original benefits determined for CD 31 do not reflect reasonable present day land values, that the benefited areas have changed, and that the benefited areas did not reflect current, existing, actual benefits and benefited areas.
3. Based on its findings, the Drainage Authority issued an order directing the redetermination of benefits for CD 31 and appointing Ron Ringquest and three other disinterested parties as viewers on July 26, 2016.
4. The viewers were administered their oath and proceeded to redetermine benefits for CD 31 according to the procedures found in Minnesota Statutes, chapter 103E.
5. Under Minn. Stat. § 103E.351, subd. 1, the viewers' obligation is to proceed as provided for viewers and the viewers' report in sections 103E.311 to 103E.321. Under section 103E.311, they are obligated to determine the benefits and damages to all property affected by the drainage project and make a viewers' report.
6. The viewers completed their report which included a benefits and damages statement for all property affected by the drainage project and filed their report with the Board of Commissioners.

7. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the viewers' report.
8. Notice of the final hearing on the redetermination of benefits was published for three successive weeks.
9. Notice of the hearing on the viewers' report was mailed to owners of properties identified in the viewers' reports and governmental units affected by the redetermination.
10. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas and presentation materials are present in the record of proceedings and are incorporated herein by reference.
11. The final hearing on the viewers' redetermination of benefits was held on June 7, 2022 and was continued for the viewers to update the final report from the comments provided and to confirm the damages for buffer acquisition.
12. At the initial hearing, the viewers appeared and presented the viewers' report, benefits and damages statement, and redetermined benefits. The viewers further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of CD 10; (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 CD 10.
13. Several members of the public appeared at the hearing and asked questions or made the following comments regarding the redetermination of benefits (the Board's response is indicated in italics following the comment):

- a. **Doris Schendel:** Ms. Schendel asked if the viewer report was updated as of Thursday, June 2 after the Woodland Town Hall meeting. Ms. Schendel inquired if the buffers that were already in place were correct for every parcel located on Ditch 31. Ms. Schendel also asked who did the work on the buffers that are non-compliant and concluded by asking whether what the current account was on Ditch 31.

During the public hearing Mr. Cunningham said the report was updated as of June 3. Cunningham also stated the payments were the same. Daleiden answered Wright County's ditch inspectors took care of the buffer enforcement. Detjen further explained that the Wright County Soil and Water Conservation District (SWCD) Office does the inspection portion of Minnesota Statute 103F Buffer Law and he himself did the enforcement actions through Wright County. As to the account on CD 31 Agriculture and Drainage Specialist Janice Edmonson said on Ditch 31 there was some engineering work done through Huston engineering and the county was at about \$85,000 into this project, which included the

redetermination. Daleiden confirmed that this included the engineering that was done because there were no current records and it needed to be reestablished.

- b. Larry Brool:** Brool stated said he had lost two years of payments on his repairs. He wanted to understand how it could be partially owned by the county even though the county did not make payments. He said there was five feet where Ditch 31 crossed County Road 30 and he wondered if the county would utilize that space to drain more water. He felt that he was paying too much money for what he was getting. He suggested culverts as there were a lot of ditches that cleaned themselves but culverts on County Road 8 and County Road 30 is a sediment trap. He wanted the culverts taken care of on the main roads. He explained that his last bill was high and he cleans all his trees out. Brool thought that the job could have been done during the dry summer in 2021. Also there was a homemade bridge that his grandfather built that was eroding underneath, so he had to put in a new six-foot culvert and he was wondering what the county would do when they clean the ditch out. He wanted to know if the county would replace the culvert.

This comment is not germane to the issue of redetermining benefits. In any event the Drainage Authority appreciates the comment provided my Mr. Brool and makes it part of the official record in this proceeding.

- c. Robert Bakeberg:** Bakeberg asked if CD 23 was petitioned for a repair would that also require CD 31 to be repaired.

While this comment is not germane to the issue of redetermining benefits the Drainage Authority nonetheless provides the following comment: There is a possibility that the repair request in CD 23 could trigger a repair in CD 31 but it is highly unlikely as they are different County Drainage Systems.

14. The viewers submitted an amended viewers' report on July 11, 2022. The amended viewers' report includes the buffer acquisition damages discussed as part of the public hearing.
15. At the conclusion of public comment during the continued hearing on June 7, 2022, the Board adopted a motion to close the hearing to public comment and direct its staff to draft findings and an order for the Drainage Authority adopting the viewers' reports and the redetermined benefits and damages for CD 31 subject to further consideration of the damages for the acquisition of buffers.
16. The viewers completed a revised report which is attached as **Exhibit A**.
17. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.

18. The viewers recommended that acquisition of property for buffer strips was required under Minn. Stat. § 103E.021 due to this being an open system. The total amount of damage payments recommended was **\$80,536** that is to be paid to the benefitted landowners along the ditch system for the acquisition of grass buffer strips.
19. The viewers used maps and other information, along with visual inspection of the watershed of the drainage system to determine the boundaries of the benefiting area.
20. 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.
21. 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.
22. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
23. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
24. 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.
25. 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.
26. 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.
27. The viewers determined that the drainage system draws off water from lower, previously assessed lands, thereby allowing drainage from unassessed lands to flow more readily and escape faster, thus preventing damage to the previously assessed lands, and such drainage constitutes a drainage benefit.
28. 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 a potential different land use.

29. Within the watershed of the drainage system, the viewers determined outlet benefits on property that is 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.
30. Several owners of property affected by the redetermination offered comments regarding the nature and amount of benefit determined by the viewers.
31. The viewers addressed the concerns of each property owner as they related to the value of benefit or damage and the methods used by the viewers.
32. 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.
33. The viewers' account of work has been filed with the drainage authority.

Order:

- A. Upon review of information provided to the Drainage Authority during the public hearing, the Drainage Authority further finds and confirms 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 benefited areas.
- B. Based on the record before it, and the comments of those present at the final hearing, as continued, the Drainage Authority determines that the redetermined benefits are proper, reasonable and conform to the drainage code.
- C. The redetermined benefits on CD 31, the viewers' report and the benefits and damages statement, attached hereto as **Exhibits A** is hereby adopted by the Drainage Authority.
- D. The viewers are allowed payment of their account of work either upon submission of an update to their benefits and damages statement dated June 30th, 2022 or upon confirmation that no update is necessary.
- E. The Wright County Finance Director shall ensure that the redetermined benefits replace the existing benefits previously determined for the ditch.

Dated this 26th day of July, 2022.

WRIGHT COUNTY BOARD OF COMMISSIONERS,
SEATED AS DRAINAGE AUTHORITY UNDER

STATUTES CHAPTER 103E FOR WRIGHT COUNTY
DITCH 31.

By _____
Chairman, Board of Commissioners