

STATE OF MINNESOTA  
STEARNS COUNTY BOARD OF COMMISSIONERS  
SITTING AS THE DRAINAGE AUTHORITY FOR  
STEARNS COUNTY DITCH 28

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In the Matter of the Petition for a  
Redetermination of Benefits and Damages  
for Stearns County Ditch 28

**FINDINGS AND ORDER  
INITIATING THE REDETERMINATION OF  
BENEFITS AND DAMAGES AND APPOINTING  
VIEWERS**

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At a duly noticed and public meeting, the Stearns County Board of Commissioners, sitting as the public drainage authority for Stearns County Ditch 28, pursuant to Minnesota Statutes, section 103E.351, based on the record and proceedings, Commissioner Mergen moved, seconded by Commissioner Perske to adopt the following Findings and Order:

**Findings:**

1. The Stearns County Board of Commissioners is the public drainage authority under Minnesota Statutes, chapter 103E ("Drainage Authority") for Stearns County Ditch 28 ("CD 28").
2. CD 28 was established in 1906. CD 28 is an open channel ditch, approximately 7.8 miles in length, serving predominantly agricultural land, located in Holding, Krain, and Albany Townships. CD 28 contains roughly 3,089 benefited acres
3. CD 28 is located in Sections 1, 12, and 13 of Township 125 North, Range 31 West (Albany Township), Section 36 of Township 126 North, Range 31 West (Krain Township), and Sections 17, 19, 20, 30, and 31 of Township 126 North, Range 30 West (Holding Township).
4. CD 28 flows from south to north. The drainage system starts near the intersection of Rushmeyer Lake Road and Quaker Road and terminates on the south side of County Road 17 in the City of Holdingford.
5. No significant modifications on CD 28 were documented in available records since its establishment in 1906. Records establishing the alignment, cross-section, profile, and right-of-way of a drainage system were re-established by the Drainage Authority on September 24, 2019.
6. A petition to redetermine benefits and damages for CD 28 was received by the Stearns County Auditor-Treasurer's office on January 7, 2022.

7. Drainage Authority staff and legal counsel reviewed the petition to validate that it meets the requirements of Minnesota Statutes, section 103E.351, subd. 1(b) – that the petition represents owners of 26 percent of the property that is benefited by CD 28. Petitioners own 1,086.28 of the CD 28 benefited acres.
8. Minnesota Statutes, section 103E.351, subd. 1(b) states that “[i]f more than 26 percent of the owners of property or owners of 26 percent of the property that is benefited or damaged by a drainage system petition to redetermine benefits and damages, the drainage authority must make a determination on the petition according to paragraph (a).” Paragraph (a) of that section states, “[i]f the drainage authority determines that the benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values or that the benefited or damages areas have changed, the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.”
9. Benefits for CD 28 were determined concurrent with establishment in 1906, prior to the initiation of modern, intensive farming and drainage practices within the CD 28 watershed.
10. The current benefits roll reflects the benefitted properties, benefitted areas, and benefit values as determined by viewers based on assumptions regarding the future use and drainage of said properties.
11. Since the original establishment of CD 28 and the original determination of benefits and damages, land uses and drainage practices have changed to accelerate and increase the flow of water to the drainage system changing the nature and value of benefits accruing to lands from construction of CD 28.
12. Since the original determination of benefits and damages, land values have changed within the benefited area of CD 28.
13. The Drainage Authority finds that the conditions required for the initiation of a redetermination of benefits exist, that the original benefits and damages do not reflect reasonable present day land values, and the benefitted areas have changed.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Drainage Authority, the Stearns County Board of Commissioners, acting as the public drainage authority for Stearns County Ditch 28, hereby orders as follows:

- A. The Drainage Authority shall follow the procedures of Minnesota Statutes, section 103E.351 to conduct a redetermination of benefits and damages for CD 28.

B. That the following persons are hereby appointed as viewers to redetermine and report the benefits and damages for CD 28:

<u>Joe Jacobs</u>	Alternate	Ron Ringquist
<u>Allen Kerber</u>		Dave Schmidt
<u>Brad Wick</u>		Jeff Johnson

C. That within 5 days of this Order, the Auditor-Treasurer shall execute an Order designating a time and location for the first meeting of the viewers and transmit to the viewers a copy of the Auditor-Treasurer's Order along with a certified copy of this Order.

D. If an appointed viewer or alternate viewer does not qualify for any reason, the Auditor-Treasurer shall designate another qualified person to take the disqualified viewer's place pursuant to Minnesota Statutes, section 103E.305, subd. 3.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 4 yeas, 0 nays, 1 absent, and      abstentions as follows:

	Yea	Nay	Absent	Abstain
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LENZMEIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NOTCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PERSKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

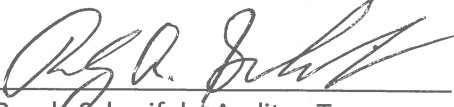
Steve Notch  
 Steve Notch, Chairperson  
 Stearns County Board of Commissioners,  
 Stearns County Ditch 28 Drainage Authority

Dated: July 19, 2022

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I, Randy Schreifels, Stearns County Auditor-Treasurer, do hereby certify that I have compared the above motion and findings and order with the original thereof as the same appears of record and on file with the Stearns County Board of Commissioners and find the same to be a true and correct transcript thereof. The above order was filed with me, Stearns County Auditor-Treasurer, on July 19, 2022.

IN TESTIMONY WHEREOF, I hereunto set my hand this  
19<sup>th</sup> day of July, 2022.

  
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Randy Schreifels, Auditor-Treasurer  
Stearns County, Minnesota