

**Statement of Donald Etlar, P.E., Before the  
Levee and Drainage District Law Study Committee  
December 15, 2010**

Senator Kibbie, Representative Miller and Committee Members:

I appreciate the opportunity to discuss drainage districts with you. I am a licensed professional drainage engineer in Iowa. For more than thirty years the focus of my life's work has been in providing services to Iowa's drainage districts. In that time I have worked with boards of supervisors, boards of trustees, drainage clerks, drainage attorneys, county auditors and county treasurers in more than thirty Iowa counties. I am pretty sure that I have the most direct drainage district experience of any active engineer in Iowa.

I am particularly proud of the time- and court-tested methodology that my firm, Kuehl & Payer, Ltd., has developed to assist benefit commissions in developing fair and equitable benefit classifications and assessments. When combined with the state-wide LiDAR ground surface elevation data and on-line soils data this proven methodology, which is now GIS-based, can be used by an experienced engineer and benefit commission to develop drainage district benefit classification schedules of far greater accuracy and equity than has been possible in the past.

The benefit classifications and resulting assessments of Joint Drainage District No. 77 and of Drainage District No. 80 were our first projects to utilize LiDAR elevations in the GIS-based methodology. The drainage districts contracted this LiDAR and it was some of the first LiDAR produced for rural areas of the state.

As our presentation will document, the appointed benefit classification commissions classified Rush Lake in Jt. Drainage District No. 77 and Five Island Lake in Drainage District No. 80 in very much the same way. Both benefit classifications were challenged by the IDNR and both ended up in district court. The resulting decisions were polar opposites – the benefit classification methodology was supported by the court in the Rush Lake case and the IDNR did not appeal it. The IDNR appeal succeeded in the Five Island Lake case and it also was not appealed. The latter appeal was not made because, as I understand, the DD #80 attorney did not believe the deficient notice finding could be overcome and he did not want to have the findings of the district court regarding the lake not being "other land" and having "no benefit" to be turned to binding precedent in the higher court.

What is most troubling to me is that the IDNR did not at any time at least attempt to negotiate a lower assessment for Five Island Lake or to learn how the assessment was calculated and how it compared to other lands in DD #80 or to Rush Lake. Instead the IDNR went after the total elimination of all benefit and assessment.

Especially in establishing benefit classifications and the resulting assessments a drainage engineer will not gain in stature and respect over a thirty-year career by playing politics or by playing favorites. I take seriously the code of ethics that is a part of the state rules that govern professional engineers. If I knowingly guided a benefit commission to an assessment on Five Island Lake that was more than what it reasonably should have been then I should have my profession license jerked for unethical practices.

However, the IDNR did assume that I had influenced the benefit commission to sock it to Five Island Lake. The DD #80 attorney, now deceased, told me of a call he received from the IDNR's attorney, now retired, which began with the exclamation, "Do you know what that Etlar has done to us now!" I do not believe this state attorney's implication that the benefit commission or I acted improperly is appropriate.

This presentation will explain the assessment procedures. It will show comparisons of the lake's assigned benefit to those of other properties and of other land uses in the district. It will also compare the approved assessment on Rush Lake with the failed assessment on Five Island Lake.

I believe you will agree that there was no attempt to unfairly assess Five Island Lake. I am hopeful that you will agree that the assessment was reasonable. What you learn will be much more than what the State sought to learn before choosing to pursue the complete elimination of all responsibility of the State to help remove the excess waters that flow from Five Island Lake.