

CHRONOLOGICAL HISTORY OF PROJECT
Jackson County Ditch No. 3

1. On August 28, 2014 a Petition for the Improvement of Jackson County Ditch No. 3 (C.D. 3) was filed with Heron Lake Watershed District (HLWD) Administrator along with a surety bond to initiate proceedings to improve C.D. 3 pursuant to Minnesota Statute Section 103E. The petition included a request that the Drainage Authority consider separable maintenance as part of the proposed improvement.
2. The District Board did forward the Petition to its legal counsel to review the Petition and Surety Bond to determine if it met the legal requirements of the proceedings.
3. Michael Tow, legal counsel for the Board of Managers of the HLWD, acting as Drainage Authority for C.D. 3 as it related to the proposed Petition for Improvement project, reviewed the petition and bond to verify compliance with Section 103E., and found that the petition met the requirements of the Section 103E.215 and that the bond met the requirements of Section 103E.202, and by a letter dated October 10, 2014, Mr. Tow recommended that the Drainage Authority review the petition and determine that a legally sufficient and proper petition had been filed and formally accept the petition.
4. On October 21, 2014, following the advice of its legal counsel, the Drainage Authority reviewed the petition and determined that the petition was legally sufficient and proper, and accepted the petition. The Drainage Authority appointed Chuck Brandel, I+S Group (ISG), as the project engineer and requested Mr. Brandel prepare a preliminary engineering survey and report pursuant to Minnesota Statute Section 103E.241. The engineer executed the required oath and bond.
5. On September 16, 2015, an informational meeting was held for landowners with the Engineer for the purpose of reviewing the Preliminary Engineering Report (PER) and to provide an opportunity for the Engineer to answer questions, address individual landowner concerns, and gain better information regarding the proposed project.
6. The Engineer prepared and filed a preliminary survey report dated October 2, 2015 with the Drainage Authority on October 22, 2015. The report found that the improvement was feasible, necessary, would be of public benefit, and that the existing outlet for the proposed project was adequate. The report was forwarded to the Minnesota Department of Natural Resources (DNR).
7. Notice of the preliminary hearing on the improvement was provided by publication, posting, and mail as required by statute.
8. A preliminary advisory report from the DNR dated November 4, 2015 was filed with the Drainage Authority on that same day.

9. The Drainage Authority held a preliminary hearing on Thursday, December 10, 2015 at 4:30 p.m. at the Heron Lake Community Center. The Engineer presented the PER and its findings to the Drainage Authority. The DNR Advisory Report and responses to those comments were read into the record during this hearing.
10. Several members of the public attended the preliminary hearing and asked questions or made comments regarding the project, including the anticipated flow rate and capacity of specific portions of the system; the potential of extending an individual branch to provide improved outlet to a specific parcel; the status of the redetermination of benefits; the establishment of buffer strips along all the open ditch; issues affecting individual parcels; and the anticipated effect of the proposed project on those parcels.
11. After asking for further requests for comment by the public on the PER, but hearing none, the Drainage Authority closed the public comment portion of the hearing.
12. Based upon the evidence presented at this hearing, the Drainage Authority ordered the proceedings continue by directing the Engineer to complete a detailed survey and detailed survey report of the proposed improvement, also appointed Ron Ringquist, Tom Mahoney, Milo Holland, and Dan Ruby as viewers to complete a determination of improvement benefits and damages to all property affected by the proposed drainage improvement project.
13. Pursuant to an order dated February 11, 2014 by the Jackson County Board of Commissioners, acting as the Drainage Authority for C.D. 3, which ordered the redetermination of benefits on C.D. 3, the viewers did complete and file their report on the redetermination of benefits on December 19, 2016.
14. The viewers did complete and file their completed Viewers' Report of improvement benefits along with a benefits and damages statement with the Drainage Authority on December 19, 2016.
15. On December 20, 2016, the Engineer filed its Final Engineer's Report (FER) with the Drainage Authority and provided a copy of the Report to the DNR and Board of Water and Soil Resources (BWSR).
16. Notice of the final hearing on the improvement was provided by publication, posting, and mail as required by statute, including notice to landowners on the system affected by the application of separable maintenance.
17. The DNR provided comments dated January 18, 2017, and the BWSR submitted comments dated February 28, 2017.
18. On January 18, 2017, an informational meeting was held for landowners in order to review both the Engineer's and viewers' reports. Additionally, the viewers were made available to meet with individual property owners for the purpose of addressing individual

concerns and to gain better information regarding the unique features, if any, of an individual property.

19. The hearing on the FER scheduled for January 25, 2017 was postponed due to weather, and later rescheduled for March 30, 2017. Again, notice of the final hearing on the improvement was provided by publication, posting, and mail as required by statute – and included notice to landowners on the system affected by the application of separable maintenance.
20. On February 20, 2017, the Engineer filed Amendment No. 1 to the FER with the Drainage Authority.
21. On February 28, 2017 the BWSR submitted comments on the FER to the Drainage Authority.
22. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports on March 3, 2017.
23. On March 15, 2017, the Engineer met with petitioners to review the proposed project, answer questions, and determine if changes or modifications were requested.
24. On March 28, 2017, the Engineer filed Amendment No. 2 to the FER with the Drainage Authority.
25. On March 30, 2017, the Jackson County Board of Commissioners, acting as the Drainage Authority for C.D. 3, held a public hearing on the redetermination of benefits of C.D. 3. Thereafter, the County Board adopted the redetermined benefits for C.D. 3.
26. The hearing to consider the FER was held at 9:00 a.m. on Thursday, March 30, 2017 at the Heron Lake Community Center, Heron Lake, Minnesota.
27. At the hearing, the Engineer presented the FER. The Engineer again summarized the FER including a history of the system, an overview of the proposed improvements and options, an explanation of the need for repair on portions of the system, adequacy of the outlet, estimated costs, feasibility, and separable maintenance. The Engineer also identified the changes that were made in Amendment 1 and Amendment 2 which were based upon landowner comments and requests and at the direction of the Drainage Authority. [at the time of and after the preliminary hearing.]
28. Prior to the final hearing, the Engineer consulted with the DNR and BWSR to resolve the issues raised by the individual agencies in their respective comments. The comments, and responses to those comments, were read into the minutes during the hearing.
29. The Engineer presented an estimate of the cost of construction of the improvement as originally petitioned, including storage, to be \$7,182,286, and further estimated the

portion of the cost of improvement attributable to separable maintenance to be \$5,658,325. The Engineer concluded that the proposed improvement project, as described in its report, was feasible, practical, and necessary in order to provide drainage for the cultivation of crops in the watershed area. The Engineer further concluded that the existing tile system was inadequate to provide proper drainage for current agricultural practices, and the outlet was adequate in order to convey the discharge. The Engineer recommended that the FER be approved and that the Drainage Authority order the construction of the proposed improvement.

30. Several members of the public attended the final hearing and asked questions or made comments regarding the project during the public comment portion, including requested changes, feasibility, and the appropriateness and accuracy of the amounts proposed to be used and costs allocated as separable maintenance and whether an independent engineer should be retained to review the project and provide a second opinion to the Drainage Authority.
31. After asking for further requests for comment by the public on the FER, but hearing none, the Drainage Authority closed the public comment portion of the hearing.
32. Ron Ringquist, on behalf of the viewers, appeared and presented its improvement reports of improvement benefits and damages based on their viewing and landowner meetings, and how the improvement benefits and damages were determined. Mr. Ringquist further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from construction of the proposed improvement (determination of improvement benefits and damages).
33. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis. 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. The viewers further determined the amount of economic benefit to property benefited immediately by the proposed improvement, or for property for which the proposed improvement can become an outlet for drainage, make an outlet more accessible, or otherwise benefit the property.
34. The viewers determined road benefits based on accelerated drainage from road surfaces and based on the reduced cost of road maintenance and construction because the ditch provides an outlet for drainage from the road and adjacent road ditches, and explained that additional right of way damages were determined and awarded for the slight increase in the original footprint of construction of the drainage system.

35. The viewers determined improvement benefits of approximately \$2,000,000, which included damages attributable to the temporary interference with property during construction of improvement.
36. Several members of the public who attended the hearing asked questions or made comments regarding determination of improvement benefits during the public comment portion.
37. After asking for further requests for comment by the public on the viewers' report, but hearing none, the Drainage Authority closed the public comment portion of the hearing.
38. After considering the evidence presented by the Engineer, viewers, and landowners' comments, the Drainage Authority took the following actions:
 - deciding not to hire an independent engineer to review the project;
 - directing the Engineer complete and submit a revised final report which incorporated:
 - options, with cost estimates, for improvements to Branch 2A, Branch 7, Branch 7A, Branch 11, Branch 12, Branch 12A as requested by landowners;
 - removing Branch 6B, as requested by landowners;
 - removing ditch cleaning from separable maintenance and allocating that to improvement cost;
 - including private tile outlet replacements as separable maintenance cost;
 - removing the costs attributed to the acquisition of buffer strips from separable maintenance;
 - removing the cost attributed to the redetermination of benefits from the project costs;
 - reexamination of the engineering plan to present a recommendation as to what could be done to combine multiple tile lines; and
 - directing the Engineer and viewers complete and submit new reports based on the requested modifications to the proposed project plans as ordered by the Drainage Authority.
39. The Drainage Authority continued the public hearing and ordered to reconvene on May 25, 2017 at 9:00 a.m. to allow time for the Engineer and viewers to consider the Drainage Authority's direction and to offer any amendments to their reports incorporating its findings.
40. On April 14, 2017, the Engineer filed Amendment No. 3 to the FER with the Drainage Authority.
41. On May 9, 2017, the viewers filed their updated Property Owners' Reports, Determination of Benefits for Options 1, 2, and 3, and Redetermination of Benefits for Options 1, 2, and 3 with the Drainage Authority.

42. The Drainage Authority prepared the updated Property Owners' Reports, Determination of Benefits for Options 1, 2, and 3, and Redetermination of Benefits for Options 1, 2, and 3 and mailed the Property Owners' Reports to the landowners of property identified in the Viewers' Reports on May 9, 2017, and included notice to the landowners that the updated Viewers' Reports, Determination of Benefits, Redetermination of Benefits were available for review on the HLWD website.
43. On April 3, 2017, a landowner contacted the Engineer to request that Branch 7A be removed from the proposed improvement plan.
44. On Thursday, May 25, 2017 at 9:00 a.m., the adjourned final hearing was conducted at the Heron Lake Community Center. During the continued final hearing, the Engineer explained the final report, including Amendments No. 1, No. 2, and No. 3. The Engineer presented the Drainage Authority with the following information:
 - ISG had used a drone equipped with GPS to examine and compare the existing condition of the open ditch with its findings from its 2014 survey, and found that areas of the ditch were meandering, not at legal width or depth, contained washouts, bank sloughing, and vegetation, which verified that the ditch was in need of repair. The Engineer expressed the opinion that the cost to repair the system to its originally constructed state, including cleaning of the ditch and tile replacement, should be included in separable maintenance as originally presented on March 30. The Engineer explained that procedure used by the Engineer in calculating the total cost for repairs and allocating separable maintenance included the cost to replace individual tile lines separately as originally constructed, and the procedure outlined in the Engineer's Report was the same procedure used by Jackson County when completing repairs on public ditch systems. The Engineer reasoned that because the entire system paid to originally install the tile lines individually, it accepted the future cost to repair the system for each line in the same manner.
 - The Engineer reviewed Amendment No. 3, addressing issues requested by the Drainage Authority at the March 30 hearing, including the appropriateness and allocation of separable maintenance, specifically as it related to double- and triple-tile lines; open ditch cleaning; private tile outlets; effect of removing the buffer strip acquisition from separable maintenance; proposed addition of Branch 2A and 12A; re-routing of Branch 7; removing proposed Branch 6B extension and Branch 7A; and water storage design and its impact by decreasing peak flows.
 - The Engineer presented Option 1 as the same project proposed previously, and was the option the Engineer recommended the Drainage Authority adopt because the procedure used by the Engineer in calculating the total cost for repairs and allocation of separable maintenance included the cost to replace individual tile lines separately as originally constructed was consistent with the method the Engineer had employed in past improvement projects, that the procedure was the same used by Jackson County when completing repairs on public ditch systems, and the storage pond provided a decrease in peak flow in most rain events.

- The Engineer explained that Option 2 offered a cap on separable maintenance on tile areas at the cost to improve the tile where the repair costs are higher than the proposed improvement costs, and this option was requested to be presented by petitioners.
 - Finally, the Engineer presented Option 3 which combined multiple tile branches or laterals with a single line that would meet the same proposed capacity, and this option was requested to be examined by the Drainage Authority at the March 30 hearing.
45. Several members of the public attended the hearing asked questions or made comments regarding the project.
 46. After asking for further requests for comment by the public on the viewer's report but hearing none, the Drainage Authority closed the public comment portion of the hearing.
 47. As a result of the evidence presented during the hearing it was determined that the proposed improvement was providing an outlet to Branch 9D for parcels that were not currently part of, or assessed benefits to, the C.D. 3 system, but these parcels were included in the viewers' determination of improvement benefits and damages.
 48. The Drainage Authority approved a motion to adjourn the public hearing to an unspecified future date to allow time for the landowners of parcels not currently part of the C.D. 3 system, but desiring an outlet to Branch 9D, to present a petition to the Jackson County Board of Commissioners for an outlet to C.D. 3. The Drainage Authority directed that the public hearing would reconvene after a final decision was made by the County Board to allow or deny the petition for outlet. The Drainage Authority further directed that the appropriate updated Engineer's report, Viewers' Report, and Property Owners' Report be provided to the Drainage Authority based on the County Board's final decision.
 49. An appeal of the redetermination of benefits was served on the Jackson County Auditor on July 6, 2017.
 50. A Petition for Outlet to C.D. 3 was filed with the Jackson County Auditor on September 12, 2017.
 51. Notice of the hearing on the petition was provided by publication, posting, and mail as required by statute, and a hearing was held on November 21, 2017.
 52. As a result of the hearing, the Jackson County Board of Commissioners approved the petition for outlet to C.D. 3, and benefits and outlet fee were set in the event the proposed improvement to Branch 9D was approved and constructed, and the outlet be used.
 53. On December 7, 2017, a public hearing was held before the Jackson County Board of Commissioners, related to the appeal of the redetermination of benefits to clarify the

appropriate method to repair the ditch system using the existing individual tile replacement repair method. The viewer explained to the County Board that while no decision had been made by the County Board or HLWD Board of Managers which changed the existing method used for repair in Jackson County, and that such argument of the method changing is strictly theoretical, if a determination was made by the County Board or Board of Managers to employ a different method or otherwise change the existing method to repair tile, the assessed values presented by the viewers in its previously approved report of the redetermination of benefits would be incorrect. The County Board concluded that no evidence had been presented to support the assertion that the repair costs calculated in the approved redetermination of benefits were inaccurate, and further concluded that the values, damages, and benefits as previously approved in the viewers' report of the redetermination of benefits were properly determined.

54. On January 9, 2018, the Engineer filed Amendment No. 4 to the FER with the Drainage Authority.
55. An Order and Notice of Adjourned Hearing was issued by the Drainage Authority on February 13, 2018, and the updated Property Owners' Report and hearing notice were mailed to the landowners of C.D. 3, including notice to landowners that the Viewers' Report was available on the District website.
56. On March 2, 2018, the Engineer filed Amendment No. 5 to the FER with the Drainage Authority.
57. On March 5, 2018, the viewers filed their updated Property Owners' Reports, Determination of Benefits for Option 1 with the Drainage Authority.
58. On March 22, 2018, another informational meeting was held for landowners in order to review both the updated and revised Engineer's and viewers' reports and to provide an opportunity for the Engineer and viewers to answer questions and address concerns of individual landowners related to the proposed improvement project.