

**BEFORE HERON LAKE WATERSHED DISTRICT BOARD OF MANAGERS,
ACTING AS DRAINAGE AUTHORITY FOR JACKSON COUNTY DITCH NO. 3**

**FINDINGS OF FACT AND FINAL ORDER
ESTABLISHING DRAINAGE PROJECT,
ADOPTING AND CONFIRMING VIEWERS'
REPORT OF IMPROVEMENT BENEFITS
AND DAMAGES, AUTHORIZING THE
APPLICATION OF SEPARABLE
MAINTENANCE, AND DIRECTING
CONSTRUCTION OF THE PROJECT**

The above-entitled matter came on before the Board of Managers (Board) of the Heron Lake Watershed District (HLWD), at the Heron Lake Community Center in the City of Heron Lake, Minnesota, at 10 o'clock a.m., on Thursday, March 29, 2018, for the adjourned final hearing upon the petition for improvement of Judicial Ditch No. 3, pursuant to Minn.Stat. § 103E.325. The following persons were present at said hearing: A quorum of the Board, consisting of Jim Buschena, Gary Ewert, Wayne Rasche, and Harvey Kruger, sitting as a Drainage Authority respecting Jackson County Ditch No. 3 (CD 3), Jackson County, Minnesota; also present were petitioners' attorney, Bruce Sellers, Esq.; the HLWD Administrator, Jan Voit (District Administrator); the project Engineer, Chuck Brandel of I+S Group (ISG); viewer, Ron Ringquist, the watershed's attorney, Michael V. Tow, Esq.; and numerous individual petitioners and other interested parties.

The Vice President of the Board, Jim Buschena, acting as chair of the meeting, convened the proceedings at 10:00 a.m., and after introductory comments had the Petitioner's attorney, Bruce Sellers, provide the history of the proposed project to the present status of the proceedings. The Board then reviewed the sufficiency of the petition and the bond which were deemed adequate. The Chairman then had the project Engineer, Chuck Brandel review the Engineer's final report. The Chairman then invited any interested party/person to make comment respecting the proposed improvement. A discussion period ensued wherein all interested parties were heard and their testimony considered by the board. The discussion on the Engineer's final report was then closed.

The Chairman next called upon viewer, Ron Ringquist, to present a summary of the Viewers' Report and to explain the method used to calculate benefits and damages, and the net benefits of the project. Mr. Ringquist also summarized the redetermination of benefits and damages previously ordered by Jackson County. Mr. Ringquist stated the total amount of benefits, the total amount of damages, and the net benefits and confirmed that the benefits exceeded the damages. A discussion period ensued wherein all interested parties were heard and their testimony considered by the board. The discussion on the Viewers' Report was then closed.

Finally, the Chairman opened the hearing to the public to receive, review, and discuss any questions or concerns. After all public discussion was heard the meeting was then closed to public discussion. Based upon the unsworn statements of persons present at the hearing and at prior hearings, and based upon the Engineer's final report, the Viewers' Report, and based upon the other reports, documents, and other matters contained within the file, the Board of the HLWD, acting as the Drainage Authority for the proposed improvement of Jackson CD 3, made the following:

FINDINGS OF FACT

1. On August 28, 2014, a Petition for the Improvement of Jackson CD 3, along with a Surety Bond, was filed with District Administrator pursuant to Minn. Stat. § 103E.202, Subd. 4, requesting consideration

from the Board of the HLWD, acting as the Drainage Authority for Jackson CD 3 to initiate proceedings to improve Jackson CD 3. The petition included a request that the Board consider separable maintenance as part of the proposed improvement.

2. The Board did forward the Petition to its legal counsel to review the Petition and Surety Bond to determine if they met the legal requirements of the proceedings in accordance with Minn. Stat. § 103E.238.
3. On or about October 10, 2014, Michael Tow, legal counsel for the Board of the HLWD, acting as Drainage Authority for Jackson CD 3 as it related to the proposed Petition for Improvement project, reviewed the Petition and Surety Bond to verify compliance with Minn. Stat. § 103E.215 and Minn. Stat. § 103E.202, Subd. 5, respectively and found that the Petition and Surety Bond met the requirements of said statutes, and recommended that the Board review the petition and determine that a legally sufficient and proper petition had been filed and formally accept the Petition.
4. On or about October 21, 2014, following the advice of its legal counsel, the Board reviewed the petition and determined that the petition was legally sufficient and proper in accordance with Minn. Stat. § 103E.215, and accepted the petition. The Board appointed Chuck Brandel, ISG, as the Engineer and requested Mr. Brandel prepare a preliminary engineering survey and report pursuant to Minn. Stat. § 103E.241. The Engineer executed the required oath and bond.
5. On September 16, 2015 the Engineer filed a preliminary survey report with the Board, pursuant to Minn. Stat. § 103E.215. 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).
6. Notice of the preliminary hearing on the improvement was provided by publication, posting, and mail as required by statute.
7. On November 4, 2015, the DNR filed a preliminary advisory report with the Board, in accordance with Minn. Stat. § 103E.255, Subd. 1.
8. On Thursday, December 10, 2015, the Board held a preliminary hearing at 4:30 p.m. at the Heron Lake Community Center. The Engineer presented the Preliminary Engineering Report and its findings to the Board. The DNR Advisory Report and responses to those comments were read into the record during this hearing pursuant to Minn. Stat. § 103E.261, Subd. 2.
9. 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; and issues affecting individual parcels and the anticipated effect of the proposed project on those parcels.
10. After asking for further requests for comment by the public on the engineer's report but hearing none, the Board closed the public comment portion of the hearing.

11. At the conclusion of this hearing, based upon the evidence presented, the Board 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.
12. On December 19, 2016, the viewers did complete and file their report on the redetermination of benefits pursuant to an order by the Jackson County Board of Commissioners dated February 11, 2014.
13. On December 19, 2016, the viewers did complete and file their completed Viewers' Report of improvement benefits along with a benefits and damages statement with the Board.
14. On December 20, 2016, the Engineer filed its Final Engineer's Report with the Board pursuant to Minn. Stat. § 103E.291.
15. 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.
16. On January 18, 2017, the DNR provided comments to the proposed Final Engineering Report with the Board in accordance with Minn. Stat. § 103E.301.
17. On January 18, 2017, the Engineer and viewers held an informational meeting for landowners 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.
18. The hearing on the Final Engineering Report 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 Minn. Stat. § 103E.325.
19. On February 20, 2017, the Engineer filed Amendment No. 1 to the Final Engineering Report with the Board pursuant to Minn. Stat. § 103E.291.
20. On February 28, 2017, the Board of Water and Soil Resources (BWSR) submitted comments on the Final Engineering Report to the Board in accordance with Minn. Stat. § 103D.711, Subd. 5.
21. On March 3, 2017, the Board prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports.
22. On March 15, 2017, the Engineer met with petitioners to review the proposed project, answer questions, and determine if changes or modifications were requested.
23. On March 28, 2017, the Engineer filed Amendment No. 2 to the Final Engineering Report with the Board.

24. On March 30, 2017, the Jackson County Board of Commissioners, acting as the Drainage Authority for CD 3, held a public hearing on the redetermination of benefits of CD 3. Thereafter, the County Board adopted the redetermined benefits for CD 3.
25. On Thursday, March 30, 2017, the hearing to consider the Final Engineering Report was held at 10:00 a.m. at the Heron Lake Community Center, Heron Lake, Minnesota.
26. At the hearing, the Engineer presented the Final Engineering Report. The Engineer again summarized the Final Engineering Report 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 No. 1 and Amendment No. 2 which were based upon landowner comments and requests and at the direction of the Board.
27. The Engineer advised that he had consulted with the DNR and BWSR prior to the hearing 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.
28. 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 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 Final Engineer's Report be approved and that the Board order the establishment the proposed improvement.
29. Several members of the public attended the final hearing and asked questions or made comments regarding the project. The questions and comments were audio recorded.
30. After asking for further requests for comment by the public on the engineer's report but hearing none, the Board closed the public comment portion of the hearing.
31. 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 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). Mr. Ringquist stated the viewers reviewed all property within the drainage area of the proposed improvement to determine the improvement benefits and damages, and explained that in order to determine the economic benefit to lands deriving a drainage benefit from the proposed improvement, the viewers conducted a condition comparison comparing the current efficiency of the drainage system with the improvement efficiency. The viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.

32. 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.
33. 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.
34. The viewers determined improvement benefits of approximately \$2,000,000, which included damages attributable to the temporary interference with property during construction of improvement.
35. Several members of the public who attended the hearing asked questions or made comments regarding determination of improvement benefits during the public comment portion. The questions and comments were audio recorded.
36. After asking for further requests for comment by the public on the engineer's report but hearing none, the Board closed the public comment portion of the hearing.
37. After considering the evidence presented by the Engineer, viewers, and landowners' comments, the Board 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 Board.
38. At the conclusion of public comment, the Board 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 Board's direction and to offer any amendments to their reports incorporating its findings.
39. On April 14, 2017, the Engineer filed Amendment No. 3 to the Final Engineering Report with the Board.

40. 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 Board.
41. On May 9, 2017, the Board 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, 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.
42. On April 3, 2017, a landowner contacted the Engineer to request that Branch 7A be removed from the proposed improvement plan.
43. On Thursday, May 25, 2017 at 9:00 a.m., the continued 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 Board 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 Board 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 Board 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 presented at the request of some 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 Board at the March 30 hearing.
44. Several members of the public attended the final hearing and asked questions or made comments regarding the project. The questions and comments were audio recorded.
 45. After asking for further requests for comment by the public on the viewer's report but hearing none, the Board closed the public comment portion of the hearing.
 46. 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 CD 3 system, but these parcels were included in the viewers' determination of improvement benefits and damages.
 47. Considering the evidence presented during the hearing, the Board 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 CD 3 system but desiring an outlet to Branch 9D to present a petition to the Jackson County Board of Commissioners for an outlet to CD 3, and the Board directed that the public hearing would reconvene after a final decision was made by the Jackson County Board to allow or deny the petition for outlet. The Board further directed that the appropriate updated Engineer's report, Viewers' Report, and Property Owners' Report be provided to the Board based on the Jackson County Board's final decision.
 48. On July 6, 2017, an appeal of the redetermination of benefits was served on the Jackson County Auditor.
 49. On September 12, 2017, a Petition for Outlet to CD 3 was filed with the Jackson County Auditor.
 50. On November 21, 2017, a hearing to consider the Petition for Outlet was held after Notice of the hearing was provided by publication, posting, and mail as required by statute.
 51. As a result of the hearing, the Jackson County Board of Commissioners approved the petition for outlet to CD 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.
 52. On December 7, 2017, a public hearing was held before the Jackson County Board of Commissioners to discuss issues related to the appeal of the redetermination of benefits, specifically to clarify the appropriate method to repair the ditch system using the existing individual tile replacement repair method. At the hearing, the viewer explained to the Jackson County Board that while no decision had been made by the Jackson County Board or HLWD Board 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 Jackson County Board or HLWD Board 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 Jackson 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.

53. On January 9, 2018, the Engineer filed Amendment No. 4 to the Final Engineering Report with the Board.
54. On February 13, 2018, an Order and Notice of Adjourned Hearing was issued by the Board, and the updated Property Owners' Report and hearing notice were mailed to the landowners of CD 3, including notice to landowners that the Viewers' Report was available on the HLWD website.
55. On March 2, 2018, the Engineer filed Amendment No. 5 to the Final Engineering Report with the Board.
56. On March 5, 2018, the viewers filed their updated Property Owners' Reports and Determination of Benefits for Option 1 with the Board.
57. 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.
58. On Thursday, March 29, 2018 at 10:00 a.m., the adjourned final hearing was conducted at the Heron Lake Community Center. During the adjourned final hearing, the Engineer presented and explained the final engineering report.
59. The Engineer's estimate of the cost of construction of the improvement is \$7,127,154.
60. The Engineer found that taking the separable maintenance cost out of the total cost of improvement yielded a cost of \$5,759,471 to be assessed against improvement beneficiaries, and this amount was less than the improvement benefits determined by the viewers.
61. Several members of the public and attorney's representing various landowners attended the adjourned final hearing and asked questions or made comments regarding the project. The questions and comments were audio recorded.
62. After asking for further requests for comment by the public on Engineer's Final Report but hearing none, the Board closed the public comment portion of the hearing.
63. Ron Ringquist, on behalf of the viewers, appeared and presented its updated Property Owners' Reports, and Determination of Improvement Benefits and Damages Report based on the updated information provided to them by the Engineer.
64. The viewers determined improvement benefits of approximately \$1,888,015.45, which included damages attributable to the temporary interference with property during construction of improvement, and damages of \$134,940.

65. The viewers determined total net benefits for the improvement of CD 3, as described in the Final Engineer's Report are \$1,888,015.45. The benefits for the project are included in the Viewers' Report dated March 3, 2018.
66. The Board's attorney and the Petitioner's attorney kept accurate accounts of all time engaged in assisting the Board and Petitioners in the proceedings and every item of expense incurred by the attorneys in said work.
67. After asking for further requests for comment by the public on the viewer's report but hearing none, the Board closed the public comment portion of the hearing.
68. After considering the evidence presented by the Engineer, viewers, and landowners' comments, the Board, upon motion and voice vote, found:
 - (1) The Engineer's detailed Survey Report and Viewers' Report have been made and other proceedings have been completed as required by Minnesota Statutes, chapter 103E; and
 - (2) All reports made or amended in these proceedings are complete and correct; and
 - (3) The damages and benefits for the improvement of CD 3 have been properly determined; and
 - (4) The portion of CD 3 proposed to be improved is in need of repair. The Engineer has included in the detailed survey report a statement showing the proportionate estimated cost of the proposed improvement required to repair the separable part of the existing system and the estimated proportionate cost of the added work required for the improvement. The notice of hearing on the detailed survey report was given by publication and mailing to all persons owning property affected by the existing drainage system; and
 - (5) The improvement benefits \$1,888,015.45, are greater than the total estimated costs, including damages of \$1,370,966, after applying a separable maintenance value of \$5,759,471; and
 - (6) The proposed improvement of CD 3 will be of public utility and benefit, and will promote the public health and welfare; and
 - (7) The proposed improvement of CD 3 is practicable; and
 - (8) As part of its review, the Engineer presented alternatives to the improvement requested in the petition. The Board, having considered those alternatives as well as the Jackson County Water Plan and DNR and BWSR comments, finds that the proposed project is consistent with each of the plans and presents the best alternative considering private and public benefits; the costs of the proposed project; conservation, allocation, and use of drainage waters for agriculture, stream flow augmentation, or other beneficial uses; reduction of downstream peak flows and flooding; drainage system capacity requirements, reduction of erosion and sedimentation; and protection or improvement of water quality; and
 - (9) As part of the evaluation of alternatives, the Board considered whether any external programs or resources could be applied to an alternative in order to achieve additional benefits within the proposed improvement. After consideration, the Board finds that if external sources of

funding or technical assistance are available, that the Engineer shall implement such alternatives if external sources of funding or technical assistance is available; and

(10)The proposed improvement is consistent with the present and anticipated land use within the project area and is consistent with the Jackson County land use ordinance; and

(11)The Engineer evaluated the current and potential flooding characteristics of property within project area and evaluated the downstream outlet of the proposed improvement. The evaluation included consideration of 5-, 10-, 25-, and 50-year run-off events. Based on the Engineer's analysis, the Board finds that the proposed improvement will not increase flood potential and will provide relief from flood conditions within the project area; and

(12)The Board further finds that the outlet is adequate for the proposed improvement; and

(13)That based on the Engineer's estimated total cost of construction of the improvement is \$7,155,488, which includes \$25,051 of road authority costs, and that based on the Viewers' determined total improvement benefits of \$1,888,015.45, with damages attributable to the temporary interference with property during construction of the improvement of \$134,940, the Board determined that the benefits of the proposed project were more than the total costs including damages awarded and the petition for the proposed improvement should be established and constructed as described in the detailed survey report (a.k.a. Final Engineering Report).

(14)The viewers', engineer's, and attorneys' accounts of work have been filed with the Board; and

(15)The Petitioner's attorney, Bruce E. Sellers, and its staff were directed to draft findings and an order for the Board establishing the proposed drainage project and adopting and confirming the Viewers' Reports of benefits and damages in a manner consistent with the proceedings; and

ORDER

- A. The Board of the HLWD, acting as Drainage Authority for the Improvement of Jackson CD 3, hereby establishes and orders said improvement as described in the detailed survey report (a.k.a., Final Engineering Report) dated December 20, 2016.
- B. Further, the Board directs the engineer to prepare detailed plans and specifications and other necessary documents to allow for bidding on the project.
- C. Further, the Board directs its District Administrator, in conjunction with the Jackson County Auditor, to take all necessary actions for the construction of said improvement and authorizes the Administrator to proceed as necessary, reserving to itself only those matters that the Board, by vote, must authorize.
- D. Upon completion of the project, the drainage system record shall be updated with the as-built alignment and conditions of the improvement and the portions of CD 3, replaced by the improvement, shall be abandoned from the drainage system.

- E. The viewers' determination of improvement benefits and damages contained in the Viewers' Report dated March 2, 2018 and the benefits and damages statement are hereby confirmed and adopted by the Board.
- F. The viewers, engineer, and attorneys are allowed payment of their account of work.
- G. The Auditor shall ensure that the benefits roll is updated to reflect the improvement benefits.
- H. Because the Board has found application of separable maintenance is appropriate in this case, the Board orders that the cost of the improvement be allocated as follows: that the separable maintenance cost of \$5,759,471 be assessed to all benefited properties on CD 3 according to the current benefits roll of the whole system; that the improvement cost, less the cost of the separable maintenance, or \$1,370,966, be assessed to properties benefited by the improvement according to the viewers' report of improvement benefits and damages approved herein; and \$25,051 be assessed to road authorities; that the Board reserves the right to amend this distribution based on total cost of the improvement determined after a contract is awarded for the improvement.
- I. The Board reserves to itself, by future order, the decision to bond for the proposed improvement and to determine the term and other conditions of assessment for the proposed improvement and the separable maintenance portion of costs.

Dated this 17th day of April, 2018

BOARD OF MANAGERS OF THE
HERON LAKE WATERSHED DISTRICT,
ACTING AS DRAINAGE AUTHORITY
FOR JACKSON COUNTY DITCH NO. 3

By  _____
Vice President

ATTEST:

By  _____
District Administrator