

**FINDINGS AND ORDER FOR ACCEPTANCE OF CONTRACT  
BY THE BOARD OF MANAGERS OF THE HERON LAKE WATERSHED DISTRICT  
IN THE MATTER OF THE IMPROVEMENT PROJECT FOR  
JUDICIAL DITCH, NO. 13, MURRAY COUNTY, MINNESOTA**

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The above-entitled matter came before the Board of Managers of the Heron Lake Watershed District, on May 21, 2002, for an adjourned hearing upon the Acceptance of the Contract for the Improvement Project for Judicial Ditch No. 13, pursuant to Minnesota Statutes Section 103E.555. The following persons were present at said hearing: the entire Board of Managers of the Heron Lake Watershed District, consisting of Gary Ewert, Leo Crowley, Jack Beardsley, Mike McCarvel, and Larry Eike, sitting as a drainage authority respecting Judicial Ditch No. 13, Murray County, Minnesota; also present were the Murray County Auditor, Gary Spaeth; the watershed's administrator, Jan Voit; the project Engineer, Duane W. Hansel of Bolton & Menk, Inc.; the project Contractor, Timothy Kregel of Kregel Brothers, Inc.; the watershed's attorney, Michael V. Tow, Esq.; and numerous individual petitioners and other interested parties.

President of the Board of Managers, Gary Ewert, convened the meeting at 7:02 p.m., and after brief comments explaining the present status of the proceedings, the Board president called upon the project Engineer to present and explain amendments to the Engineer's final report, which had been previously submitted to the Board on April 15, 2002. The Board President then invited any interested party or person to make comment respecting the improvement and the Engineer's Final Report. A discussion period ensued wherein all interested parties were heard and their testimony considered by the Board. Several additional modifications were orally made to the Engineer's final report, which modifications the project Engineer promised to incorporate into a revised written final report.

Based upon the unsworn statements of persons present at the hearing and at prior hearings, and based upon the Engineer's report, and upon the other reports, documents, and other matters contained within the file, the Board of Managers of the Heron Lake Watershed District, acting as the drainage authority for the improvement of Murray County Judicial Ditch No. 13, make the following:

**FINDINGS OF FACT:**

1. That the Engineer's final report satisfies the requirements of Minnesota Statutes, Section 103E.555.
2. That the Engineer's final report, as orally amended, is complete and correct.
3. That the Engineer's final report, as amended, should be approved.
4. That the Engineer should complete a revised final report containing the plan, profiles, and design of structures to show the drainage project as actually constructed on the original tracings, and copies thereof should be filed with the Murray County Auditor and the Director, Division of Waters, of the Department of Natural Resources.
5. That, with the exception of final seeding, the contract has been completed in accordance with the plans and specifications.

6. That all complaints and liquidated damages have been dealt with, and everyone entitled has been paid.
7. That, subject to the retainage of \$3,000.00 as and for the final seeding on the project, the Contractor should be paid the balance due under the contract.

**IT IS THEREFORE ORDERED**, based upon the foregoing findings, and based upon all the documents, records, and other evidence contained within the file, the Board of Managers of the Heron Lake Watershed District, acting as a drainage authority, orders:

1. That pursuant to Minnesota Statutes Section 103E.555, Subdivision 2, the Murray County Auditor shall draw a warrant on the treasurer of the county for the balance due on the contract, retaining only the sum of \$3,000.00 as and for the final seeding upon the project, and deliver the same to the Contractor.
2. That upon satisfactory completion of the final seeding, the retained sum shall be remitted to the Contractor, the contract shall be accepted and the Contractor and its bond shall be discharged, subject only to the warranties imposed by Minnesota law and/or the construction contract.
3. That upon filing of the revised Engineer's final report to include all plans, profiles, and design of structures showing the drainage project as actually constructed on the original

tracings, with the Murray County Auditor, and upon satisfactory completion of the final seeding, the Engineer and its bond shall be discharged.

Dated: This 25 day of June 2002.

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Gary Ewert  
President of the Board of Managers  
Heron Lake Watershed District  
Drainage Authority for Improvement to JD 13

ATTEST:

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Jan Voit  
District Administrator  
Heron Lake Watershed District