

HLWD JD 3

Final Hearing Proposed Improvement

June 21, 2021

Board Present: Mark Bartosh, Cory Reith, Randy Lubben, Jason Freking, Wayne Rasche

Staff Present: Kelly Rasche-Jackson Co. Drainage Coordinator, Louis Smith – HLWD Attorney, Chuck Brandel and Jacob Rischmiller-ISG Engineers, Tim Stahl-Jackson Co. Engineer, Dave Macek-Jackson Co. Ditch Supervisor, Bruce Seller-Petitioners Attorney, DNR Staff – Todd Kolander, Brian Nyborg, Ann Hall, Tom Kresko, Jennie Skancke and H2OverViewers – Bryan Murphy, Shantel Hecht

Public Present: Andrea Monson, Paul Pietz, Lloyd Kalfs, Rokney and Nitz Atz, David Post, Tom Glaser, Dean Zimmerli (Gislason & Hunter), Robert Lang, Paul Henning, James Kruger, Paul Rentschler, Phillip Kruger, Dwayne Milbrath, Chuck Dewanz, Matt Henning, Klay Walinga, Gregg Hussong, Albert Henning, Brent Pavelko, Brian Rossow, Dan Cranston, Gloria VanVoorst, Horace Thompson, Dick Amendt, Harvey Kruger, Nancy Ackermann, Jerry Ackermann, Justin Farmer, Vern Bass, Greg and Sylvia Hasara

President Wayne Rasch of the HLWD called the Final Hearing for the JD 3 Improvement to order at 10:22 a.m.

Notice of the hearing was published on May 26, June 2 and June 9, 2021 in the Tri County News and Notices where mailed on June 2, 2021.

Attorney Bruce Sellers shared a history and proceedings of the Improvement Petition, that was presented to the HLWD board of managers on April 5, 2019.

- The petition and bond were found to be sufficient.
- Preliminary Engineers Report presented to the board in October 2019
 - Found Improvement was feasible, necessary and the outlet was adequate
- Preliminary Hearing held in December 2019
 - Found Improvement was feasible, benefit in the project
 - A redetermination of benefits was ordered and viewers appointed
- Final Engineers Report was prepared
 - Final hearing was set and noticed for June 21, 2021. Notices were mailed on June 2, 2021, and published in the Tri County News May 26, June 2 and 9, 2021.

Bond balance is sufficient at this time.

Manager Bartosh shared the DNR Commissioner Advisory report of April 22, 2021 and a second letter dated June 17, 2021 in response of the engineer's information from the April 22, 2021 letter. – all letters are included in the file for reference.

Lloyd Kalfs expressed his support of the DNR comments.

Greg Hasara concerned the information from the DNR was not provided earlier in the process. Meetings with the DNR were held has there been collaboration with the DNR in the past? Brandel reported meetings and DNR collaboration has happened, the DNR concern may not be satisfied. DNR stated collaboration has happened, that doesn't mean the DNR concerns have been satisfied.

Jim Kruger asked if the DNR concerns have been addressed? Brandel will share the information after the project is presented.

No report has been received from BWSR. The ISG Engineers did meet with BWSR engineers with plans and modeling of the project.

Motion made to close the comments on DNR information made and withdrew by W. Rasche.

Brandel and Rischmiller of ISG presented the Final Engineer's Report.

The watershed is just over 16,000 acres and 125' of fall. The entire system drains into South Heron Lake, established in 1907, some abandonments in 1908, repairs over the years. Improvement in 1915 that added lines to the system.

Some of the original system was abandoned, there is some thought that portions were never built, they were abandoned before they were built.

The system includes 3 public ditches, 94 public tiles and has 10 open repairs yet to be completed.

Existing capacities show tile below the .5 coefficient and are below the drainage coefficient in practice today.

Work on all 3 of the open ditches and 46 of the tiles is proposed or approximately 49% of the system. Additional storage area options have been suggested by landowners, these could be incorporated and work to alleviate the DNR concerns. Brandel thanked those landowners that stepped forward with storage options along the system

Sloughing is occurring in the outlet bank. Poor soil conditions have been found, proposal to include benching to catch sloughing before it enters the bottom of the ditch, reducing silt to S. Heron Lake.

Branches proposed for the project at Branch L, Branch P rerouted and Branch R and laterals, Branch S and laterals, Branch T and Lateral, Lateral 5 and 6, Ditch deepened in this area to gain depth, Branch 2, Branch M, Branch O, Branch N, Branch 1 ditch cleaned, Branch B, Branch B2 is a request for an addition (board needs to consider this addition), Branch 11 ditch cleaned, Branch II, Branch K, Branch O, Branch HO and Branch H3, Branch H1 and H2, Branch H4 and H5, H6 ,Branch HH3, H7, Branch HH, Branch H10 and H11. 5 culverts replaced or moved, others armored. Capacity raised to .5" coefficient.

Storage and erosion practices include flattening slope and adding benching (bench ends at Co. Rd 20) in the slope. 1.6-acre area at the outlet. Riparian storage added of 5+ acres, Branch H storage 11+ acres. If the Thompson property is added along the Branch H area that could add 40% more storage to the system. Branch 11 storage 2+ acres.

Abandonment of existing tile puts maintenance back to the landowner. Public funds no longer used to maintain. The old lines are broken at points, it is not a secondary outlet for landowners.

Construction – if approved expect to break the project into 8/10 bid packages. This allows contractor to bid in their specialty like dirt work, tile size work, etc. System is televised entirely before it is finalized.

System include 57 acres of buffer. 616 acres expected to have temporary damages.

Addition of Branch B2 would add \$46,000 to project.

Projected cost is \$15,626,785 net benefit is estimated of \$5.8 million.

Grants received have expiration dates, the improvement project provides the matching requirement for the grant funds.

Brandel asked the DNR to set up a meeting to address the DNR concerns as this hearing is expected to be continued to address the concerns heard in the Redetermination Hearing.

The DNR may be requiring a public water permit based on the impacts the DNR feels the improvement project will have on the lake.

DNR concern a true elevation of FEN area. DNR LIDR is not necessarily accurate because of vegetation. The DNR is responsible to protect the FEN. Looking for lake modeling to show what happens with the system. Brandel stated the FEN elevations were received from the DNR. DNR stated those elevations need to be field verified.

DNR concern of water at cumulative flows vs peak flows. Looking at peaks only, doesn't show backwater effects. It is important to know the elevations of North Heron Lake and South Heron Lake and how they impact the outlet and feel the pressures of the JD 3 water.

The grant funding is tied to the improvement, as they require a matching dollar. The improvement project satisfies the matching requirement.

Brandel asked the DNR to meet very soon to discuss their concerns. All parties stated this will happen, Brandel and Kresko will set up the meeting.

Engineers feel it is a feasible cost-effective project, practical and meets the requirements of the statute.

The outlet may need to be completed as a separate repair to maintain the grant funding for that outlet repair depending on the timeline of the DNR discussions with the engineers.

W. Rasche chair opened the public input portion of the hearing.

Paul Rentschler – how was the lines selected that needed replacement picked? Brandel the lines are evaluated on their condition. Once many repairs are in a section, replacement makes sense financially. Some televising is used. Cement and clay tile were not meant to last 100 years.

W. Rasche asked for the engineers estimate on the percent of disrepair in the system. Brandel estimates a majority of the tile is in disrepair. Dave Macek reported on the repairs, multiple repairs have been requested over the past. He completed a record review and found every branch of the system has had a call for a repair. He noted that tile has been found to have the bottom of the concrete deteriorated/gone. The multiple repairs signal the system is failing.

Klay Walinga – 19.033.0100 parcel Thompson land- if the board approves the redetermination of benefits without the contingency on the potential conservation easement thru the Minnesota Land Trust, they ask for consideration of reimbursement of the assessments between the current grade of land use vs the ending grade of land use. Continue to work together to use the property in the best way to benefit the system. They are not necessarily offering to make a 120-acre lake, but want to work together to make the best use of the property for the system. He reiterated the request to make

compensation of the assessments either at the front end with a contingency or an abatement at the backend of the project.

Greg Hasara – If there are better alternatives for the overall benefit of citizens, have they been investigated? A 15% increase since February has been seen in the cost of the improvement project. Brandel trying to practice and promote best practices for the system. Landowner practices within the system help. When is the dollar amount considered to be too high? Brandel shared that statute requires bids more than 30% over engineer's estimate be refused. The base amount is set with the final approval at the final hearing.

Dick Amendt – What number is used for the 30% over statute. The board has the authority to refuse bids as they see fit. Brandel until 2021 the cost estimates have been solid, 2 projects in 2021 have had bids refused because of the 30% statute.

Phil Kruger -- What the final overage was for JD 19? That information was not available at the meeting, he intends to have the number available at the continuation. He also asked the DNR to share the lake levels during the 2019 and 2020 high water years. He feels every 10 years they lake levels are rising some. He feels the capacity of the lake is diminishing because of the sediment getting into the lake. Sediment continues to flow farther into the lake over time. Brandel feels the improvements will help with the sediment being discharged to the lake. The tile improvements/holding areas reduce the overland flow, thus reducing sediment throughout the system.

Lloyd Kalfs – Concern the modeling for JD 3 doesn't include the flow from JD 19. Also, a concern that enlarging tile on branches without storage included cannot reduce flow. There are inconsistencies in the flow charts. Do the calculations consider water flow when holding ponds are already full. Consider JD 8 issues on Loon Lake with this improvement with the faster flow of water thru the JD 3 system. Rischmiller shared that the JD 19 information is in the modeling, it is shortcut to shorten the time needed for the model to run. Brandel also noted the spreadsheet didn't transfer numbers correctly from the model. They will double check those numbers for inconsistencies.

Harvey Kruger -- asked if storage for JD 19 flow in their property was considered. Brandel stated this could be considered and a grant applied for if Kruger's are willing to consider. Brandel suggests this be considered outside of the current improvement project. Further analysis is needed for storage possibilities in the Kruger property.

Lloyd Kalfs – He stated personal experience has more water outside the banks vs what the model shows. Brandel stated they have updated the modeling software it shows the flooding.

Attorneys recommend continuing the proceedings. No action to close the hearing at this time.

H2Over Viewers, Bryan Murphy, shared the information concerning the viewer's reports. Total benefit of the Improvement is \$10,232,758.26 and \$426,332.84 damages.

No public comments for the viewer's reports.

Motion to continue the hearing to a later date at a time to be determined made at 12:44 p.m. by Bartosh second by Reith, all yes, motion carried.

Moved to preliminary hearing for 5 laterals for JD 3 after short break.