

STATE OF MINNESOTA
Before the
HERON LAKE WATERSHED DISTRICT
SITTING AS THE DRAINAGE AUTHORITY FOR
JACKSON COUNTY JUDICIAL DITCH 3

In the Matter of:

**the Redetermination of Benefits of Jackson
County Judicial Ditch 3**

FINDINGS AND ORDER
INITIATING THE REDETERMINATION OF
BENEFITS AND APPOINTING VIEWERS

The Board of Managers (Board) of the Heron Lake Watershed (HLWD), sitting as the drainage authority for Jackson County Judicial Ditch (JD) 3, pursuant to Minn. Stat. § 103E.351, based on the record and proceedings, Wayne Rasche moved, seconded by Jim Buschena to adopt the following Findings and Order:

Findings:

1. The Order Establishing Ditch for Jackson County JD 3 was approved by the Jackson County Commissioners on May 1, 1908.
2. Benefits for Jackson County JD 3 were determined concurrent with establishment in 1908, prior to the initiation of modern, intensive farming and drainage practices within the HLWD.
3. Improvement projects, which added open ditch and tile to the system, were ordered by Jackson County in 1953, 1955, and 1968.
4. The 1968 benefits roll reflects the benefitted properties, benefitted areas, and benefit values as determined by viewers based on assumptions regarding the future use and drainage of said properties prevailing at that time.
5. Since the 1968 improvement of Jackson County JD 3, the determination of benefits and damages, land uses and drainage practices have changed resulting in the acceleration of and increase to the flow of water within the drainage system changing the nature and value of benefits accruing to lands from construction.
6. Since the 1968 determination of benefits and damages, land values have changed significantly within the benefitted area of Jackson County JD 3 and do not reflect reasonable present day land values.

7. On April 5, 2017, a Petition for the Improvement of Jackson County JD 3 was filed with the HLWD. The petition was deemed legally sufficient by HLWD legal counsel and formally accepted on May 16, 2017.
8. On September 18, 2017, the petitioners' attorney made a request to the Jackson County Commissioners that in order to allow for a more timely procedure on the petition for improvement, a redetermination of benefits be completed as soon as possible and appointment of viewers to examine the system and provide the appropriate reports for consideration.
9. The Jackson County Commissioners held a hearing on December 7, 2017, to consider the request for a redetermination of benefits and appointment of viewers. Kurt Deter, legal counsel for Jackson County acting as Drainage Authority for Jackson JD 3 briefed them regarding the option of transferring authority for the ditch to the HLWD according to Minnesota Statutes 103D.625. The request was tabled.
10. On March 20, 2018, the Board of the HLWD sent correspondence to the Jackson County Commissioners respectfully requesting the county's plan relative to the redetermination of benefits.
11. At a meeting on October 16, 2018, the HLWD was informed that because only a portion of the JD 3 system is being improved, the HLWD would only be able to order the redetermination of benefits for the area identified in the petition as the improved portion of the system.
12. On January 22, 2019, the Board of the HLWD sent correspondence to Jackson County informing them that the preliminary engineering report would be submitted the first week of February. A meeting to discuss drainage system management was requested.
13. On March 12, 2019, a joint meeting was held between the Board of the HLWD and the Jackson County Commissioners. The purpose of the meeting was to discuss drainage system management. No action was taken on transfer of authority.
14. On March 19, 2019, the Jackson County Commissioners approved a motion authorizing the Jackson County Auditor-Treasurer to begin the process of transfer of authority of the entire Jackson County JD 3 system to the HLWD.
15. On April 12, 2019, the Jackson County Commissioners held a duly noticed public hearing on the transfer of jurisdiction of the Jackson County JD 3 system pursuant to Minn. Stat. § 103D.625. Following the public hearing, the Jackson County Commissioners found that the takeover of the Jackson County JD 3 system by the HLWD serves the purpose of Minn. Stat. Ch. 103D and the public welfare and public interest and ordered a transfer of jurisdiction of the Jackson County JD 3 system in its entirety to the HLWD.
16. Pursuant to Minn.Stat. § 103D.625, effective April 12, 2019, the Board of Managers of the HLWD is the drainage authority for Jackson County JD 3.
17. Based upon the foregoing, the HLWD finds that the conditions required for the initiation of a redetermination of benefits as set forth in Minn.Stat. § 103E.351, Subd. 1, exist, specifically, that the original benefited and damaged areas have changed and

land values have changed significantly within the benefited area of Jackson County JD 3 and do not reflect reasonable present day land values, and that a redetermination of benefits is therefore warranted.

Order:

Based on the foregoing Findings, the Board of the HLWD, acting as the drainage authority for Jackson County JD 3, hereby orders as follows:

1. The Board shall follow the procedures of Minn. Stat. § 103E.351 to conduct a redetermination of benefits for Jackson County JD 3.
2. That Bryan Murphy, Larry Murphy, and Shantel Hecht are hereby appointed as viewers to redetermine and report the benefits and damages for Jackson County JD 3.
3. That within five days of this Order, the Secretary shall execute an Order designating a time and location for the first meeting of the viewers and mail to the viewers a copy of the Secretary's Order along with a certified copy of this Order.

After discussion, the Board President called the question. The question was on the adoption of the foregoing findings and order, and there were five yeas and zero nays.

Upon vote, the Board President declared the motion passed and the Findings and Order adopted.



Bruce Leinen, President

Dated: 4-23-19

ATTEST:



Jan Veit
District Administrator
Heron Lake Watershed District