

Judicial Ditch 3
Hearing Continuation Minutes
September 22, 2021 ~ 8:00 a.m.
Heron Lake Community Center

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

Staff Present: Attorney Louis Smith ~ virtual, Engineers Chuck Brandel, Jacob Rischmiller, Jackson County Drainage Coordinator Kelly Rasche, Attorney Bruce Sellers

Online Staff Present: Viewer Byron Murphey, Louis Smith, DNR Tom Kresko and Todd Kolander

Public present sign in sheets available

- 1) Call to order – Chair Rasche called the proceedings to order at 8:00 a.m.
 - a. Welcome and Introductions
 - b. Housekeeping items reviewed

- 2) Redetermination of Benefits – Continued from September 2, 2021
 - a. Redetermination of Benefits Report Update – Bryon Murphey H2Over Viewers updated the board on the updated reports. Three changes were made property in Sections 4 and 9 in Rost township were removed as a berm has been constructed to divert water from the drainage system, a building has been constructed on Buresch property making those acres changed from crop, acres were removed on receipt of tile information from Baily. Horace Thompson property information before the land is put into a permanent easement has an assessment share of .87% after/when the easement is completed the benefit will become .03% for the redetermination of benefits. The benefit for the improvement is currently 1.86% after/when the easement is completed the benefit will become .07%.
 - b. Additional Public Testimony
 - i. P Kruger – Do permanent easements that are entered into in the future, before the project is completed, can the landowner get the assessment reduction be applied as it has been applied to the Horace Thompson property. Murphey stated the benefits are applied as the land stands today, the board has the ability to put the Thompson land because of the situation. The landowner that enters into a permanent easement can petition for a removal, a redetermination would be required. Smith stated the status of the Thompson land is expected to be a condition of the findings for adoption of this redetermination. Zimmerli representing Horace Thompson stated MN Land Trust Conservation process have until the assessment is applied to the properties to complete the process.
 - ii. P. Kruger asked about the bonding process for a project. K. Rasche, Jackson County Drainage Coordinator, explained the prepay/payment process for Jackson County
 - iii. Mike Handzus asked about the percentages of landowners and the ability for projects to move forward. Brandel stated a 26% landowner request is needed for an improvement a 50% landowner request is needed to establish a new system. Mike shared a statement of concern of removal of rainwater from the land. Getting aquifers to recharge if the rainwater is removed into rivers and ending up in the Gulf.
 - iv. P. Kruger asked the board to create a policy for entering property into a permanent easement if a project is in process. W. Rasche stated a redetermination is a “snapshot in time”. W. Rasche stated the reason this is occurring for the Thompson property is the improvement is utilizing the property for water storage.
 - v. H. Kruger considers his land a non-farmable wetland and his cost increased. The changes that have occurred thru the hearing process increased the costs distribution. The benefit percentage was reduced for the property, but the changes thru the entire system caused the cost to increase. He concerned why his land is not considered for storage. Brandel stated many properties were reviewed for storage options. There is an opportunity to store water on the property, but not for the improvement. Storage for the current project was placed in locations that are effective for the proposed improvement.
 - vi. P. Kruger asked Smith if the board can approve the redetermination without the landowners seeing the amounts they will be assessed. Murphey stated there has been minor changes to the

report since the September 2, 2021, meeting, Murphey considers them immaterial. The Redetermination of Benefits is establishing the percentage each landowner is allocated of ANY costs to the system.

Motion to close the discussion at 8:48 a.m. to close the discussion made by Manager W. Rasche with a second by Manager R. Luebben, all yes, motion carried.

- c. The Drainage Authority considered the public comments and found:
 1. Based on the evidence, the board finds the Viewer's Report(s) has been made and other proceedings have been completed under MN Statutes 103E a motion to approve this finding made by Manager W. Rasche with a second by Manager J. Freking, all yes, motion carried.
 2. Based on the evidence, the board finds the Viewers' Report made or amended is complete and correct a motion to approve this finding made by Manager M. Bartosh with a second by Manager W. Rasche, all yes, motion carried.
 3. Based on the evidence, the board finds the damages and benefits have been property determined a motion to approve this finding was made with a motion by Manager W. Rasche with a second by Manager C. Reith, all yes, motion carried.
 4. Based upon the evidence, the board finds that the damages and benefits for the Horace Thompson property located at NENE of Section 33 West Heron Lake Township are based on the characterization of the property as conserved wetland and detention of the Redetermination of Benefits at .03%; in the event that the proposed conservation agreement with Minnesota Land Trust is not executed on or before the completion of the final assessment rolls, the damages and benefits for said property shall be based on its current classification at .87%. Motion made by Manager W. Rasche with a second by Manager R. Luebben, all yes, motion carried.
 5. Based upon the findings, a motion was made by Manager W. Rasche with a second by Manager J. Freking that the board issue its order:
 - (i) containing the drainage authority's findings;
 - (ii) adopting and confirming the viewers' report as made or amended; and
 - (iii) Confirming the benefits and damages and benefited and damaged areas as set forth in the Viewers' Report.
 - (iv) based upon the findings, that the redetermined benefits and damages and benefited and damaged areas be forwarded to the auditor to be used in place of the benefits and damages of record and the benefited and damaged areas of record in all subsequent proceedings relating to the drainage system as required by Minn. Stat. § 103E.351, subd. 3.
All yes, motion carried
 6. Motion to direct the secretary of the HLWD draft the board's Order confirming the Redetermination of Benefits and Damages as adopted and that the President and Administrator of the Board of Managers of the HLWD be, and hereby are, duly authorized to execute said Order and file a copy with the Jackson County Auditor Treasurer made by Manager W. Rasche with a second by Manager C. Reith, all yes, motion carried.

Close Hearing for Redetermination: The hearing was closed at 8:58 a.m. with a motion made by Manager W. Rasche with a second by Manager R. Luebben, all yes, motion carried.

- 3) Final Engineer's Report – Continued at 9:00 a.m. by Chair W. Rasche
 - a. Petition and bond were found to be sufficient at previous hearing and no new information has been received to change that status.
 - b. DNR Commissioner's Report – Tom Kresko requested the email sent this a.m. to be read. (**Attachment A**) W. Rasche asked what the level of the lake was before the 2010 rainfall event referenced in the email. The level was 1402 South Heron Lake, 1407 North Heron Lake. The engineers shared the most updated information on the modeling completed after meetings with the DNR. This modeling is in addition to the information shared in the FER, this is a modeling of North Heron Lake and South Heron Lake and their contributing drainage area; other lakes, creeks, drainage systems, etc. (**Attachment B**) The JD 3 drainage outlet is at 1397. The engineer's feel with the additional storage the improvement brings to the JD 3 system, there is little to no effect on the lake level compared to current events. Kresko, DNR, stated at first look this latest modeling addresses many of the requested data from the email. The DNR requests

additional time to review the new information. Kresko shared the fact the outlet of the system is affected by the level of the lake. Brandel stated the storage areas are placed as related to the outlet limits affected by lake levels.

- c. Engineer Brandel stated there is still supply issues for pipe, causing an increase in the costs of the product. Suppliers believe the supply/cost increase issue will not see a reduction to product cost until 2022.
- d. Board of Water Soil Resources Advisory Report – No additional information provided by BWSR
- e. Additional Public Testimony
 - i. P. Kruger commented to the board with the recent project improvements of the systems that also use the lakes as an outlet, using historical data may not be correct. 103E states the board must consider the environmental effects of the project. W. Rasche stated the water already goes into the lake, the addition of storage slows the flow to the lake. The improvement helps the peak level. Brandel adding additional acres to the lake must be petitioned and reviewed before the project could happen. The FER states storage must be added for the improvement project to be approved.
 - ii. B Sellers asked the engineers:
 - 1. Are you required to consider current and potential flooding characteristics of property in the drainage project or system downstream for the 5-,10-, 25- and 50-year flood events including the adequacy of the outlet and overall environmental impact of the criteria in 103E.015 sub. 1? Brandel stated yes and more.
 - 2. Did engineers perform more modeling than required by the Statute? Brandel stated yes went further downstream to address the calcareous fen concerns.
 - 3. Did engineers look at the impacts further downstream than required? Brandel state yes, there is a negligible effect.
 - 4. Did engineers look at the effect of the improvement on the calcareous fen? Brandel stated yes.
 - 5. Do the engineers believe amended reports are complete and correct? Brandel stated yes.
 - 6. Do the engineers believe the proposed project will be of public utility and public benefit and will promote the public health? Brandel stated yes.
 - 7. Do the engineers believe the proposed project is practical? Brandel stated yes.
 - 8. Do the engineers still believe the outlet is adequate? Brandel state yes.
 - iii. L. Kalfs shared that flooding of the lake has happened more often over the past years. Where is the water coming from, is it the addition of pattern tiling? Private tile in lands are increasing the flooding on the lake and increasing the sediment and nutrients to the lake.
 - iv. Todd Kolander, DNR, requesting the additional modeling information from the engineers. The DNR is still not satisfied an EAW is not needed. W. Rasche asked when the fen issue was brought to the DNR? DNR stated after the preliminary hearing but before the final hearing.
- f. Board Action
 - i. W. Rasche asked Smith what is the next step. Louis stated the board must decide if they have received the information necessary. If the board is prepared to proceed, the findings can be addressed. Direct findings and order to be prepared for review at the next meeting of the board. Consider timing for grant deadlines.
 - ii. Brandel stated the grants were applied for as they were applied for with the thought construction would have started in 2020 completed in 2021. The grant will be lost if the final decision is not made in the next couple of weeks for moving forward. The grant is tied to the project as the matching portion is in the project. The grant projects can move forward alone, but no matching is in place without the project. Currently requesting a 6-month extension from BWSR, the extension is not approved, yet.
 - iii. Smith, if the board feels they have adequate information to adopt the findings and preparation of the order with approval consideration at a future meeting to continue meeting the grant deadlines. The engineer's feel they have gone above and beyond to answer the DNR questions/concerns.
 - iv. J. Kruger asked how much grant funding is in jeopardy. Rischmiller stated \$250,000 of grant funds is in flux.
 - v. M. Handzus asked why grant funding was awarded. The grant was awarded for water quality improvements. Clean water grants were received. This is funding for practices for water quality. This project has many water quality aspects.

Motion to close public hearing on the Final Engineer's Report, subject to comments from the DNR related to the most recent modeling completed to be heard at the next meeting set by the board, made by Manager W. Rasche with a second by Manager R. Luebben, all yes, motion carried.

- g. Viewer's Improvement Report Update – Bryan Murphey of H2Over Viewers stated – changes as addressed in the Redetermination of Benefits hearing held earlier were applied to the Improvement.
 - i. Benefit of the Improvement Project \$10,104,781.12
 - ii. Damages \$426,332.84 estimate per the Determination of Benefits
 - iii. Cost benefit ratio is more than \$5.525 million with the Improvement
 - iv. M. Handzus asked the viewers to explain the cost benefit of the Improvement. The Improvement project makes the system value of the system \$30 million vs. the \$20 million value currently valued with the Redetermination of Benefits adopted earlier.
 - v. P. Kruger asked if the final numbers for the determination have been shared with the landowners. The changes to the report have not much material difference in the report have occurred since the Sept 2, 2021, hearing.

Motion to close the discussion on the viewer's report at 10:21 made by Manager W. Rasche with a second by Manager M. Bartosh, all yes, motion carried.

h. Board Findings

- i. Manager W. Rasche with a second by Manager R. Luebben that based upon the evidence, the Board find that the detailed survey report and viewers' report have been made and other proceedings have been completed under Minnesota Statutes, Chapter 103E; all yes, motion carried.
- ii. Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the evidence, the Board finds that the reports made or amended are complete and correct; all yes, motion carried.
- iii. Manager W. Rasche with a second by Manager C. Reith made a motion the board has made careful consideration of the DNR concerns, based on the findings of the engineers the project does not adversely affect the calcareous fen all yes, motion carried.
- iv. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that the damages and benefits have been properly determined; all yes, motion carried.
- v. Manager W. Rasche with a second by Manager M Bartosh made a motion that based upon the evidence, the Board finds that the estimated benefits are greater than the total estimated cost, including damages; all yes, motion carried.
- vi. Manager W. Rasche with a second by C. Reith made a motion that based upon the evidence, the Board finds that the proposed drainage project will be of public utility and benefit, and will promote the public health; all yes, motion carried.
- vii. Manager W. Rasche with a second by R. Luebben made a motion that based upon the evidence, the Board finds that the proposed drainage project is practicable; all yes, motion carried.
- viii. Manager W. Rasche with a second by Manager J. Freking made a motion based upon the evidence, the board finds that the damages and benefits on the Determination of Benefits for the Horace Thompson property located at NENE of Section 33 West Heron Lake Township are based on the characterization of the property as conserved wetland and detention at .07%; in the event that the proposed conservation agreement with Minnesota Land Trust is not executed on or before the completion of the final assessment rolls, the damages and benefits for said property shall be based on its current classification at 1.86%, all yes, motion carried.
- ix. Based upon the findings, Manager W. Rasche moved with a second by Manager J. Freking that the Board issue its order:
 - (i) containing the drainage authority's findings;
 - (ii) adopting and confirming the viewers' report as made or amended; and
 - (iii) establishing the proposed drainage project as reported and amended.

All yes, motion carried.

- x. Manager W. Rasche with a second by Manager J. Freking made a motion that the Jackson County Auditor be contacted by petitioner's attorney to confirm the length of time and number of annual statements in which the assessments for the project shall be paid and the interest rate to be borne by the drainage lien, and whether drainage bonds are to be issued to finance the construction, including the rate of interest for such bonds; and that this information be included in the final resolution and order. (Second, waive discussion, and vote)
- xi. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that only a separable portion of the existing drainage system will be improved and that this portion also needs repair. All yes, motion carried.
- xii. Manager W. Rasche with a second by Manager M. Bartosh made a motion that based on the evidence, the Board determine and assess, by order, that the amount of \$10,713,843 be allocated as repairs and assessed against all property benefited by the entire drainage system, and that the balance of the cost of the improvement be assessed in addition to the repair assessment against the property benefited by the improvement. All yes, motion carried.
- xiii. Manager W. Rasche with a second by Manager R. Luebben made a motion that the attorney for petitioners shall draft the resolution and order establishing the drainage project and forward the draft order to the HLWD's attorney for review. Upon review and approval as to form and content by the HLWD's attorney, the resolution and order will be considered and adopted at the next open meeting of the board of managers, and duly issued forthwith. All yes, motion carried.

Manager W. Rasche with a second by Manager R. Luebben made a motion to continue the hearing on September 29, 2021, at 8:00 a.m. in the Heron Lake Community Center with the limited purpose to hear DNR comments on the most recent modeling information and approve the Findings and Order for the project, all yes, motion carried.

- 4) Preliminary Engineer's Report Laterals – Continued from September 2, 2021 opened at 10:53 a.m.
 - a. On July 14, 2020 petitions for the proposed construction of Laterals A, S4, C and Lateral O3 of Jackson County Judicial Ditch 3 were presented to the Board of Managers of the HLWD (Board); and on August 4, 2020 petitions for the proposed construction of Lateral A, Lateral A1, and Lateral C of Jackson County Judicial Ditch 3 were presented to the Board. The petitions were reviewed by HLWD Legal Counsel Louis Smith and approved by the Board on August 19, 2020. Chuck Brandel, ISG, was appointed as engineer for the project and was instructed to draft an engineer's preliminary report. The preliminary report was submitted to the Board on April 5, 2021. An Order and Notice of Hearing for Preliminary Hearing was issued on May 19, 2021. The purpose of today's hearing, continued from September 2, 2021, is to review the engineer's survey report and the viewers' report for JD 3 and take testimony from all parties to determine whether to proceed with the four (Lateral A1 petition was removed at the September 2, 2021 hearing) laterals construction projects or dismiss the petition. The attorney for HLWD has reviewed the petitions. All legal requirements have been met. The petition has been deemed adequate. The funds provided to date are adequate to cover costs incurred through the preliminary hearing. Should the Board vote for continued proceedings, additional funds may be needed to cover the costs of the final survey and viewers. The costs will be monitored on a monthly basis and an additional bond would be required of petitioners pursuant to Minn.Stat. 103E.202, Subd. 6, if the costs incurred before the proposed drainage project is established will exceed the amount of the petitioner's bond.
 - b. Engineer's Preliminary Report – the PER has not changed since the Sept 2, 2021 with the exception of removal of A1 from the proceedings. With the cost information, the engineers feel the laterals are cost effective and meet the statute requirements.
 - c. Petitioner's attorney comments—Sellers had no additional information to provide beyond the engineer's information
 - d. Public testimony on the laterals
 - i. M. Handzus asked how many landowners on the petition? Brandel stated the laterals require a 50% landowner. The petitioners are the owners of the land the project crosses over, they will be responsible for the costs.
 - ii. P. Kruger asked if an outlet fee is required. The land is within the JD 3 system they do not have to pay an outlet fee. If landowner wants to bring land into JD 3 outside of the JD 3 system, a petition for outlet would be required.

Hearing was closed to public comment by W. Rasche at 11:10 a.m.

e. Branch A \$116,522

- i. Manager W. Rasche with a second by Manager M. Bartosh made a motion that based upon the evidence, the Board finds that the private and public benefits will not exceed the costs of the proposed drainage project; All yes, motion carried.
- ii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that anticipated agricultural land acreage availability and use in the drainage project or system will be increased from the present availability and use of the land; All yes, motion carried.
- iii. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that anticipated land use within the drainage project or system will be improved from the present use of the land; All yes, motion carried.
- iv. Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the evidence, the Board finds that the flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events will be insignificantly affected; All yes, motion carried.
- v. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that there are no viable alternative measures to drain the waters in the project area, nor that there are feasible alternative measures to conserve, allocate, and use the waters in the project area, including storage and retention of drainage waters; all yes, motion carried.
- vi. Manager W. Rasche with a second by Manager M. Bartosh that based upon the evidence, the Board finds that there is an insignificant effect on water quality of constructing the proposed drainage project; All yes, motion carried.
- vii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that there is an insignificant effect upon fish and wildlife resources affected by the proposed drainage project; All yes, motion carried.
- viii. Manager W. Rasche with a second by Manager R. Luebben that based upon the evidence, the Board finds that the shallow groundwater availability, distribution, and use in the drainage project or system will be unaffected; All yes, motion carried; and
- ix. Manager W. Rasche with a second by J. Freking that based upon the evidence, the Board finds that the overall environmental impact of the above criteria relating to the proposed drainage project is insignificant. All yes, motion carried.

f. Branch C \$65,000

- i. Manager W. Rasche with a second by Manager M. Bartosh made a motion that based upon the evidence, the Board finds that the private and public benefits will not exceed the costs of the proposed drainage project; All yes, motion carried.
- ii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that anticipated agricultural land acreage availability and use in the drainage project or system will be increased from the present availability and use of the land; All yes, motion carried.
- iii. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that anticipated land use within the drainage project or system will be improved from the present use of the land; All yes, motion carried.
- iv. Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the evidence, the Board finds that the flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events will be insignificantly affected; All yes, motion carried.

- v. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that there are no viable alternative measures to drain the waters in the project area, nor that there are feasible alternative measures to conserve, allocate, and use the waters in the project area, including storage and retention of drainage waters; all yes, motion carried.
 - vi. Manager W. Rasche with a second by Manager M. Bartosh that based upon the evidence, the Board finds that there is an insignificant effect on water quality of constructing the proposed drainage project; All yes, motion carried.
 - vii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that there is an insignificant effect upon fish and wildlife resources affected by the proposed drainage project; All yes, motion carried.
 - viii. Manager W. Rasche with a second by Manager R. Luebben that based upon the evidence, the Board finds that the shallow groundwater availability, distribution, and use in the drainage project or system will be unaffected; All yes, motion carried; and
 - ix. Manager W. Rasche with a second by J. Freking that based upon the evidence, the Board finds that the overall environmental impact of the above criteria relating to the proposed drainage project is insignificant. All yes, motion carried.
- g. Branch S4 \$150,000
- i. Manager W. Rasche with a second by Manager M Bartosh made a motion that based upon the evidence, the Board finds that the private and public benefits will not exceed the costs of the proposed drainage project; All yes, motion carried.
 - ii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that anticipated agricultural land acreage availability and use in the drainage project or system will be increased from the present availability and use of the land; All yes, motion carried.
 - iii. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that anticipated land use within the drainage project or system will be improved from the present use of the land; All yes, motion carried.
 - iv. Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the evidence, the Board finds that the flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events will be insignificantly affected; All yes, motion carried.
 - v. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that there are no viable alternative measures to drain the waters in the project area, nor that there are feasible alternative measures to conserve, allocate, and use the waters in the project area, including storage and retention of drainage waters; all yes, motion carried.
 - vi. Manager W. Rasche with a second by Manager M. Bartosh that based upon the evidence, the Board finds that there is an insignificant effect on water quality of constructing the proposed drainage project; All yes, motion carried.
 - vii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that there is an insignificant effect upon fish and wildlife resources affected by the proposed drainage project; All yes, motion carried.
 - viii. Manager W. Rasche with a second by Manager R. Luebben that based upon the evidence, the Board finds that the shallow groundwater availability, distribution, and use in the drainage project or system will be unaffected; All yes, motion carried; and
 - ix. Manager W. Rasche with a second by J. Freking that based upon the evidence, the Board finds that the overall environmental impact of the above criteria relating to the proposed drainage project is insignificant. All yes, motion carried.
- h. Branch O3 \$27,000

- i. Manager W. Rasche with a second by Manager M Bartosh made a motion that based upon the evidence, the Board finds that the private and public benefits will not exceed the costs of the proposed drainage project; All yes, motion carried.
- ii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that anticipated agricultural land acreage availability and use in the drainage project or system will be increased from the present availability and use of the land; All yes, motion carried.
- iii. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that anticipated land use within the drainage project or system will be improved from the present use of the land; All yes, motion carried.
- iv. Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the evidence, the Board finds that the flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events will be insignificantly affected; All yes, motion carried.
- v. Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that there are no viable alternative measures to drain the waters in the project area, nor that there are feasible alternative measures to conserve, allocate, and use the waters in the project area, including storage and retention of drainage waters; all yes, motion carried.
- vi. Manager W. Rasche with a second by Manager M. Bartosh that based upon the evidence, the Board finds that there is an insignificant effect on water quality of constructing the proposed drainage project; All yes, motion carried.
- vii. Manager W. Rasche with a second by Manager C. Reith made a motion that based upon the evidence, the Board finds that there is an insignificant effect upon fish and wildlife resources affected by the proposed drainage project; All yes, motion carried.
- viii. Manager W. Rasche with a second by Manager R. Luebben that based upon the evidence, the Board finds that the shallow groundwater availability, distribution, and use in the drainage project or system will be unaffected; All yes, motion carried; and
- ix. Manager W. Rasche with a second by J. Freking that based upon the evidence, the Board finds that the overall environmental impact of the above criteria relating to the proposed drainage project is insignificant. All yes, motion carried.

Determination of public utility, benefit, or welfare

Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that the proposed drainage projects will be of public utility, benefit, or welfare in that it will protect agricultural lands from overflow, and will reclaim or render suitable for cultivation agricultural lands which are normally wet and needing drainage. All yes, motion carried.

Adequacy of Outlet

Manager W. Rasche with a second by Manager M. Bartosh made a motion that based upon the evidence, the Board finds that the outlet for the proposed drainage project is adequate to sustain the flow of water that is anticipated by the improvement. All yes, motion carried.

Proposed Finding and Order for Continued Proceedings

Manager W. Rasche with a second by Manager R. Luebben made a motion that based upon the evidence, the Board finds that the project as stated in the petition, is feasible, and there is a necessity for it. Additionally, the Board has considered the environmental, land use, and multipurpose water management criteria in Minnesota Statutes Section 103E.015, subdivision 1, and finds that the proposed project is of public benefit and promotes the public health and that the outlet is adequate; therefore, it is appropriate for the Board to direct the engineer to proceed with a detailed survey and to issue its order appointing viewers. All yes, motion carried.

Manager W. Rasche with a second by Manager J. Freking made a motion that based upon the findings, the Board's order directing the engineer to proceed with a detailed survey and appointing viewers shall issue forthwith. All yes, motion carried.

Manager W. Rasche stated the hearing was complete. A motion to close the hearing for Laterals Petitions made by Manager R. Luebben with a second by Manager J. Freking. All yes, motion carried.

Days proceedings ended at 11:23 a.m.

*Respectfully submitted by
Kelly R. Rasche, Drainage Coordinator
Jackson County*