

STATE OF MINNESOTA
Before the
HERON LAKE WATERSHED DISTRICT
SITTING AS THE DRAINAGE AUTHORITY FOR
JACKSON COUNTY JUDICIAL DITCH NO. 36

In the Matter of:

**the Improvement of Jackson County
Judicial Ditch No. 36**

FINDINGS AND ORDER

The Board of Managers of the Heron Lake Watershed District (Board), sitting as the drainage authority for Jackson County Judicial Ditch No. 36 (JD 36), having received a Petition for Improvement of JD 36 pursuant to Minnesota Statutes § 103E.215 by the petitioners, having noticed and conducted a public hearing on the preliminary survey report, having noticed and conducted a public hearing on the detailed survey report, and based on the record and proceedings, Manager Lubben moved, seconded by Manager Freking to adopt the following Findings and Order:

Findings:

1. On July 12, 2019, a Petition for the Improvement of Jackson County JD 36 (Petition) and bond was filed with the Board requesting to improve JD 36, located in Sections 22 of Weimer Township and Sections 4, 5, and 6 of West Heron Lake Township in Jackson County, Minnesota pursuant to Minn. Stat. § 103E.202.
2. The Board met on August 13, 2019, and accepted the Petition and bond. The drainage authority also appointed, pursuant to Minn. Stat. § 103E.241, Chuck Brandel of I+S Group (ISG) as engineer to make a preliminary survey pursuant to Minn. Stat. § 103E.245.
3. The engineer submitted a preliminary survey report to the Board on March 23, 2020. The drainage authority mailed a copy of the preliminary survey report to the Director of the Division of Ecological and Water Resources in the Department of Natural Resources (DNR) and to the Board of Water and Soil Resources. The District held a landowner information meeting on May 21, 2020.

4. On July 9, 2020, the Board held a duly noticed public hearing in accordance with Minn. Stat. § 103E.261 for review of the engineer's preliminary survey report. .
5. At the public hearing, the engineer presented the preliminary survey report, which estimated the estimated total cost of the improvement as requested to be \$586,029 with storage and \$502,621 without storage. The report demonstrated that the improvement was feasible, practical, and necessary; that the proposed improvement would be a public benefit, and that the existing outlet for the project was adequate.
6. The Board of Water and Soil Resources' advisory report, received by the Board on April 27, 2020, was publicly read and included in the record of proceedings. Comments from the petitioners and other interested parties were received at the public hearing in accordance with Minn. Stat. § 103E.261.
7. Following the preliminary hearing, on August 19, 2020, the drainage authority adopted findings pursuant to Minn. Stat. § 103E.261 determining that continued proceedings on the Petition were necessary and proper, and ordered that proceedings on the Petition continue, that the Board issue an order directing the engineer to proceed with the detailed survey, and that the Board issue an order appointing three viewers to determine benefits and damages.
8. In December, 2021, the engineer filed the detailed survey report with the Board secretary pursuant to Minn. Stat. § 103E.291. A copy of the detailed survey report was mailed to the commissioner of the DNR for review and filed with the Jackson County auditor.
9. The drainage authority set a final hearing for February 16, 2022 for review of the engineer's detailed survey report and the viewers' report and directed the Board secretary to provide notice of the final hearing by publication, by posting, and by mail to the petitioners, political subdivisions, and owners of property likely to be affected by the proposed project. Notice of the public hearing was properly provided as required by law.
10. At the final hearing commenced on February 16, 2022, the engineer presented the detailed survey report, and Amendment #1 to the report, which presented updated cost estimates based on recent project bids in Jackson and Nobles Counties. The revised total project costs for landowners was \$695,708, and total construct costs were estimated to be \$494,258. The report demonstrated that the improvement was feasible, practical, and necessary; that the proposed improvement would be a public benefit, and that the existing outlet for the project was adequate.

11. During the public testimony portion of the February 16, 2022 proceedings, Eric Hartman appeared and asked questions concerning the size of his parcels considered by the viewers, land classification and private tile lines. Mr. Dan Ruby agreed to meet with Mr. Hartman on behalf the viewers to consider these issues further. Mr. David Hussong asked questions concerning other ditch work coming into the system, elevations of his land and peak lake levels. The Board voted to continue the hearing to March 1, 2022 at 9:00 a.m. to allow for the meeting with Mr. Hartman and the viewers.
12. The Board reconvened the hearing on March 1, 2022, and Mr. Dan Ruby and Mr. Ron Ringquist presented an updated viewers report, noting and explaining changes as to the Eric Hartman property.
13. The detailed survey report and viewers' report have been made and other proceedings have been completed under this chapter, as well as a redetermination of benefits.
14. The reports made or amended are complete and correct.
15. The damages and benefits have been properly determined based on the viewers' report and updates.
16. The estimated benefits are greater than the total estimated cost, including damages.
17. The proposed drainage project will be of public utility and benefit, and will promote the public health.
18. The proposed drainage project is practical as demonstrated by the findings in the engineer's report.
19. The benefits assessed against the Hartman property include acres that are assessed for surface drainage only and would require a petition for outlet to connect other tile or drainage to Judicial Ditch #36 system; anything labeled as D minuses would need the petition.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board of Managers of the Heron Lake Watershed District, acting as the drainage authority for Jackson County Judicial Ditch No. 36, hereby orders as follows:

- A. The Heron Lake Watershed District, acting as drainage authority for the Improvement of Jackson County Judicial Ditch No. 36, hereby establishes and orders said improvement according to the project as described in the final engineer's report and subsequently amended.
- B. The Board adopts and confirms the viewers' report as made or amended, and adopts the redetermination of benefits dated March 1, 2022.
- C. The amount recommended by the engineer as separable maintenance shall be charged to the Improvement of Jackson County Judicial Ditch No. 36 and deducted from the cost of the improvement.
- D. The Board directs the engineer to prepare the detailed plans and specifications and other necessary documents to allow for bidding on the project.
- E. The Board directs the secretary to take all necessary actions for the construction of said improvement and authorizes the secretary to proceed as necessary, reserving to itself only those matters that the Board, by vote, must authorize.
- F. Upon completion of the project, the drainage system record shall be updated with the as-built alignment and conditions of the improvement.
- G. The viewers' determination of the improvement benefits and damages contained in the amended viewers' report dated March 1, 2022 and the benefits and damages statement are hereby confirmed and adopted by the drainage authority.
- H. The viewers, engineer, and attorneys are allowed payment of their accounts of work.
- I. The Auditor shall ensure that the benefits roll is updated to reflect the benefits and the redetermination of benefits confirmed in this order.
- J. The percentage of the cost of the drainage project to be paid by each affected county shall be in direct proportion to the benefits and damages as determined in the viewers' report.

After discussion, the Board president called the question. The question was on the adoption of the foregoing findings and order, and there were 5 yeas, 0 nays, 0 absent, and 0 abstentions as follows:

	Yea	Nay	Absent	Abstain
BARTOSH	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREKING	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LUBBEN	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RASCHE	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
REITH	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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



Wayne Rasche, President

Dated: 3-22-2022

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I, Cory Reith, Heron Lake Watershed District Secretary, do hereby certify that I have compared the above motion; findings and order with the original thereof as the same appears of record and on file with the Heron Lake Watershed District and find the same to be a true and correct transcript thereof. The above order was filed with me, Heron Lake Watershed District Secretary, on March 22nd 2022

IN TESTIMONY WHEREOF, I hereunto set my hand this
22 day of March, 2022.



Cory Reith