

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
COUNTY DITCH 52 FINAL CONTINUED REDETERMINATION OF BENEFITS AND
IMPROVEMENT HEARING
FEBRUARY 21, 2023

The Faribault County Board of Commissioners acting as the Drainage Authority for County Ditch 52 met at 11:00 a.m. on February 21, 2023, at the Faribault County Courthouse Human Services Minnesota Room in Blue Earth, Minnesota. The following members were present: John Roper, Greg Young, Bill Groskreutz, Bruce Anderson, and Tom Loveall, Commissioners, Auditor/Treasurer/Coordinator Darren Esser, Drainage Manager Merissa Lore, and Acting Clerk to the Board Sarah Van Moer. Also attending were members of the public C. Hunt, M. Steele, S. Lawrence, and G. Feyereisen.

The meeting was called to order by Chair Anderson.

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Drainage Manager Lore explained the reason for the hearing.

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No public comment was received.

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Loveall/Young motion carried unanimously to approve Resolution 23-DA03-10 Findings & Orders to adopt the redetermination of benefits report as approved on February 16, 2023. Commissioners Groskreutz, Roper, Young, Loveall, and Anderson voted yes.

R E S O L U T I O N

Findings:

1. Faribault County Ditch 52 was established in 1916.
2. The system is located in Sections 30 and 31 of Blue Earth City Township; Section 6 of Elmore Township; Sections 25, 26, 35, and 36 of Jo Daviess Township; and Sections 1 and 2 of Pilot Grove Township.
3. The Board initiated a redetermination of benefits concurrent with the consideration of a petition to improve the drainage system. The redetermination was initiated upon the Board's finding that the existing benefits and damages did not reflect reasonable present-day land values, and the benefitted areas had changed for CD 52. Part of the Board's consideration was to ensure that any application of separable maintenance to the costs of the improvement would be properly allocated among properties benefitted by the drainage system.
4. The Board appointed viewers Mark Behrends, Bob Hanson, Bruce Ness, John Thompson and Kendall Langseth to conduct the redetermination of benefits.

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5. Upon taking their oath, the viewers initiated a redetermination of benefits according to statutes chapter 103E.
6. Under Minnesota Statutes § 103E.351 subdivision 1, the viewers' obligation is to proceed as provided for viewers and the Viewers' Report in sections 103E.311 to 103E.321. Under § 103E.311, they are obligated to determine the benefits and damages to all property affected by the drainage project and make a Viewers' Report.
7. The viewers completed their report which included a benefits and damages statement for all property affected by CD 52 and filed their report with the Drainage Authority.
8. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Report.
9. The viewers made themselves available for landowner questions and held an informational meeting on the proposed redetermination of benefits for CD 52. The informational hearing was attended by landowners who raised questions and confirmed conditions, land uses and drainage modifications within the CD 52 Watershed. Based on the information received, the viewers reconfirmed conditions, conducted additional viewings and made revisions to their reports as appropriate.
10. The final hearing was held on February 16, 2023, and continued to February 21, 2023, to allow for both preparation and consideration of these findings and order.
11. The Drainage Authority prepared a notice for the final hearing and (1) mailed it to owners of properties identified in the Viewers' Report, governmental units affected by the project and the commissioner of the MDNR; (2) posted it at the Faribault County Courthouse and the Faribault County Annex Building; and (3) published it in a newspaper in general circulation in the area of CD 52 in Faribault County. The timing and duration of notices were consistent with the requirements of statutes section 103E.325.
12. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas and presentation materials are present in the record of proceedings and are incorporated herein by reference.
13. At the February 16, 2023, hearing, the viewers appeared and presented the Viewers' Report, Benefits and Damages Statement and redetermined benefits. The viewers further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the Ditch; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from the construction of CD 52.
14. After opening the public comment period and receiving none, the Drainage Authority adopted a motion to: close the hearing to public comment and to continue the hearing to its regular meeting on February 21, 2023, for the purpose of considering and adopting findings and an order adopting the redetermined benefits and damages.

15. The Viewers' Report, as amended, is attached as **Exhibit A**.
16. The viewers prepared a Benefits and Damages Statement outlining the basis of their benefits and damages determinations. The Benefits and Damages Statement is attached as **Exhibit B**.
17. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process.
18. The viewers used maps, LIDAR data and other information, along with visual inspection of the watershed of the drainage system to determine the boundaries of the benefiting area.
19. Within the watershed of the drainage system, the viewers paid particular attention to altered land use and drainage alterations which facilitate the removal of water from property directing it to the drainage system.
20. To determine the economic benefit to lands deriving a drainage benefit from the drainage system, the viewers conducted a condition comparison comparing the expected, pre-ditch, unaltered state of the watershed to the existing, altered and improved condition of the watershed. The viewers used this comparison in determining the value of the properties receiving a direct drainage benefit.
21. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
22. The viewers determined that some acres within the watershed of the drainage system, i.e. existing wetlands and non-contributing basins, received no benefit from the drainage system.
23. The viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
24. The viewers applied an economic analysis using sales and income approaches to determine the increased value to each classification acre based on the drainage benefit provided by the drainage system.
25. The viewers determined the amount of economic benefit to property benefitted immediately by the drainage system, or for property for which the drainage system can become an outlet for drainage, make an outlet more accessible, or otherwise directly benefit the property.
26. The viewers determined that the drainage system draws off water from lower, previously assessed lands, thereby allowing drainage from unassessed lands to flow more readily and escape faster, thus preventing damage to the previously assessed lands, and such drainage constitutes a drainage benefit.
27. The viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural

production as a result of constructing the project; or (3) an increased value of the property as a result of a potential different land use.

28. Within the watershed of the drainage system, the viewers determined benefits on property that is responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
29. The viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each viewer was engaged in said work; the amount charged per day by each viewer; and every item of expense incurred by the viewers in said work.
30. The viewers' account of work has been filed with the Drainage Authority.
31. Upon review of information provided to the Drainage Authority during the public hearing, the Drainage Authority further finds and confirms that the benefits and damages determined in prior proceedings as well as the benefitted and damaged areas determined in the prior proceedings, do not reflect current, existing, actual benefits and benefitted areas.
32. Based on the record before it, the Drainage Authority determines that the redetermined benefits, as reflected in the Viewers' Report at **Exhibit A** are proper, reasonable and conform to the drainage code.

Order:

- A. The redetermined benefits on CD 52, the Viewers' Report and the Benefits and Damages Statement, prepared by the viewers and attached hereto as **Exhibits A and B** are hereby adopted by the Drainage Authority.
- B. The viewers are allowed payment of their account of work.
- C. The Faribault County Auditor-Treasurer shall ensure that the redetermined benefits replace the existing benefits previously determined for the ditch.

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Groskreutz/Young motion carried unanimously to approve Resolution 23-DA04-11 Findings & Orders to establish an improvement project, adopt and confirm the viewer's report, authorizing separable maintenance, and directing construction of the project. Commissioners Groskreutz, Roper, Young, Loveall, and Anderson voted yes.

R E S O L U T I O N

Findings:

1. In July 2021, the Faribault County Board of Commissioners, Drainage Authority for Faribault County Ditch (CD) 52, (the "Board") accepted a petition and bond for the improvement of portions of CD 52 ("Petition").

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2. The Petition included a request that the Board consider separable maintenance as part of the proposed improvement.
3. The Petition and Bond were properly filed with the Board pursuant to statutes sections 103E.202 and 103E.215.
4. The Board and its Attorney reviewed the Petition and Bond to verify compliance with statutes chapter 103E. The Board found that the Petition met the requirements of section 103E.215 and that the Bond met the requirements of section 103E.202.
5. The Board appointed the engineering firm of Houston Engineering, Inc. (Engineer Joe Lewis, P.E.), pursuant to section 103E.241, to perform the duties required of the project engineer. The Engineer executed an Oath and Bond.
6. Following appointment, the Engineer prepared and filed a Preliminary Survey Report with the Board.
7. Concurrent with its filing, the Engineer provided copies of the report to the Petitioners, the Commissioner of Natural Resources, and the local Department of Natural Resources (DNR) hydrologist.
8. The Board noticed and held a Preliminary Hearing on March 28, 2022, pursuant to Minnesota Statutes 103E.261, at which hearing the Board received public comment, including the DNR Preliminary Advisory Report on the Preliminary Survey Report.
9. By Findings and Order, the Board accepted the Preliminary Survey Report; directed the Engineer to address comments of the DNR and continue to coordinate with government authorities regarding external funding sources and technical assistance; directed the preparation of a Detailed Survey Report (aka Final Engineer's Report) of the proposed improvement; and appointed the viewing team of Mark Behrends, Bob Hanson, Bruce Ness, John Thompson and Kendall Langseth as Viewers to determine improvement benefits and damages to all property affected by the drainage project.
10. The Engineer prepared and filed its Final Engineer's Report, dated December 12, 2022, with the Board.
11. The Engineer provided the Final Report to the DNR for review.

12. The Viewers completed and filed their Viewers' Report of improvement benefits along with a benefits and damages statement (improvement reports).
13. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports.
14. Notice of the Final Hearing on the improvement was provided by publication, posting, and mail as required by statute – to include notice to landowners on the system affected by the application of separable maintenance.
15. In addition to the notice described above, the Joint Drainage Authority provided separate notice to all owners of property within the CD 52 system that would be affected by the application of separable maintenance.
16. The DNR provided its Final Advisory Report on January 13, 2023. The DNR's comments were read into the record and are attached to these findings as **Exhibit A**.
17. The DNR Final Advisory Report is required by statutes section 103E.301. The statutes require the Commissioner to examine the Final Engineer's Report and state whether the Commissioner:
 - 1) finds the Detailed Survey Report is incomplete and not in accordance with the provisions of this chapter, specifying the incomplete or nonconforming provisions;
 - 2) approves the Detailed Survey Report as an acceptable plan to drain the property affected;
 - 3) does not approve the plan and recommendations for changes;
 - 4) finds the proposed drainage project is not of public benefit or utility under the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1, specifying the facts and evidence supporting the findings; or
 - 5) finds a soil survey is needed, and, if it is, makes a request to the Engineer to make a soil survey.
18. The Board also received written comments in the form of a joint memorandum from Philip B. Solseng, Len Kramer and Thomas Johnson, dated January 23, 2023 ("joint comments" or "joint commenters"). The written comments were noted and received into the record and have been reviewed and considered by the Board as part of the proceedings herein. During the public comment portion of the hearing, joint author Len Kramer identified himself and provided further comment related to the project. Consideration of the written comment and Mr. Kramer's verbal comments are addressed, in detail, herein. The comments are substantial and are deserving of direct findings on the allegations made therein.

19. The Board has thoroughly reviewed the joint written comment, the direct comments of Mr. Kramer and the Final Engineer's Report. After consideration of each, and in response to the specific comments provided by the joint commenters, the Board finds as follows (joint comments in *italics*):

- a. *"The 2,041-acre CD 52 watershed, drains to private channel about 2,700 feet long and then into the Blue Earth River. The CD 52 Improvement Report indicates that existing main tile line is 3.7 miles long."*

The Board notes and acknowledges this clarification of the existing conditions of CD 52 and its outlet.

- b. *"The FER indicates that existing drain tile size limits the hydraulic capacity of the existing CD 52 system to a drainage coefficient with an overall average of 0.125 inches/day and that a 0.5 inches/day drainage coefficient is preferred with 3/8 inches/day as an alternative drainage coefficient. The proposed preferred subsurface drainage discharge of 0.5 in/day represents a discharge increase of four times the existing subsurface discharge."*

The use of appropriate drainage coefficients by the NRCS is presented in Appendix B. Basically, downstream water quality and water quantity are required to be considered when assigning a drainage coefficient for artificial drainage projects. It is our opinion that sufficient information has not been provided to justify changing the drainage coefficient from the original design because of the Blue Earth River water quality and water quantity issues."

The Board finds that NRCS design handbook and associated standards provide guidance on drainage system capacity design to balance increased crop yield with the cost of construction. Though the NRCS guidance provides drainage coefficients for various crops under varying circumstances, in the areas of the state where corn and soybean are the prevalent crop, a drainage coefficient value of 0.5 inches/day is widely used. As the prevalent crops in the CD 52 watershed are corn and soybeans, a 0.5 in/day coefficient was deemed most appropriate for the project.

- c. *"The XP-SWMM modeling results show that the installation of the proposed larger, deeper drain tile main will decrease the peak discharge into the outlet channel. This is counter intuitive and may indicate that actual physical conditions may not have been depicted properly by the XP-SWMM model."*

The Board finds that the engineer's report contains the results of detailed modeling performed by the project engineer and describes why and how the peak discharge reduction is occurring (see additional comments and findings, below). The joint commenters reviewed the XP-SWMM modeling files and identified minor items of concern, none of which have the potential to significantly affect the outcome of the analysis. Upon examination by the petitioners' attorney, Mr. Kramer admitted that neither he nor his joint commenters performed any independent modeling that would refute the analysis provided by the project engineer.

- d. *“This attenuation [peak discharge reductions] is exaggerated by routing the discharge downstream through the use of high- capacity conveyance weirs (100-foot wide sharp-crested weirs). As a result of using these high-capacity weirs, even a small difference in storage area elevation will result in a large difference in discharge routed downstream.”*

The Board finds that this comment reflects the joint commenters’ opinions and, by admission, is not supported by any objective evidence. As the project engineer explained, weirs were selected over irregular channels for use within the model at multiple locations for several reasons. The reasons include: 1) the weir connects two relatively close in proximity nodes in the model with minimal potential travel time between them; 2) avoidance of ‘double-counting’ temporary storage in both depressional areas and channels; and 3) generally better model computational stability. Irregular channels (derived from LiDAR) were used for longer distances when travel time was anticipated to be significant.

Additionally, land slopes in the watershed are relatively shallow, especially at depressional storage outlets, and thus overflow elevations will not change greatly across a distance of 100 feet. Variation of 0.1-0.2 feet is typical and have a minimal effect on model results.

- e. *“The actual condition may be that the peak discharged is not reduced as depicted in Figure 3 of the FER for the following reasons: (a) The Plans show that Hickenbottom Intakes and Surface Inlets will be used. The model, however, routes the runoff hydrographs directly into the tile main ignoring the possible flow restriction caused by the inlet grates and structures. If the inlet behavior is included in the modeling, the capture of runoff by the tile main may be similar when comparing the existing and proposed conditions and the storage areas may not be “drawn down” during the beginning of the storm; (b) Natural overflow sections and roadways are rarely flat and generally should be considered broad crested if modeled as weirs. For that reason, the downstream routing may be more accurately depicted by actual cross sections, rather than 100-foot flat sharp crested weirs. XP-SWMM may require the use of a short channel at the control section to capture the actual terrain. This may reduce the currently modeled large changes in discharges computed by small changes in upstream water surface elevation.”*

The Board finds that this comment reflects the joint commenters’ opinion and is, by admission, not supported by any objective evidence. As explained by the project engineer and detailed in the engineering report, an underlying assumption in the hydrologic analysis of the CD 52 agricultural watershed is that the excess precipitation will be able to enter the drainage system tile without restriction whether that’s through the surface inlets on the drainage system or from lateral connections. Due to the prevalence of private tiling in the CD 52 watershed, the Board finds that this assumption is both reasonable and necessary.

Analysis of individual inlets is often done in urban stormwater evaluation and design where there is very limited to no lateral connections that connect directly to the storm sewer infrastructure. This is not the case in an agricultural drainage system.

As mentioned in the comment response above, land slopes in the watershed – specifically at storage basin outlets and roadways are relatively shallow, and generalizing the overflow

as a flat weir will not lead to a significant decrease in accuracy in the model output. The Board finds the modeling approach used to develop the watershed, as used by the project engineer, is appropriate and accurately represents the relative difference between the pre- and post-improvements condition.

- f. *“The downstream boundary condition was modeled as a rating curve. The rating curve was developed using a HEC-RAS model. As a result, the hydrographs shown in Figure 3 of the FER were developed by combining the discharge from the tile main, culvert and overflow of the road. The downstream channel should be modeled in XP-SWMM so that the outlet discharge and velocity can be obtained, and the adequacy of the downstream outlet channel can be evaluated.”*

Again, the Board finds that this comment reflects the joint commenters’ opinion and is, by admission, not supported by any objective evidence. As explained by the project engineer, a HEC-RAS model was used to analyze the outlet channel, as it is generally a more rigorous model for evaluating velocities in stream channels. The discharge and velocities in this outlet channel are summarized in the report. The Board finds that modeling the outlet channel in XP-SWMM would be duplicative and is therefore unnecessary.

- g. *“Runoff and routed surface flow can enter the tile main at all XP-SWMM nodes, although no inlets are specified at these locations on the plans. For example, at Node P101, water enters the tile main in the model, but there is no inlet shown on the plans at this location. In addition, there are inlet locations are shown on the Plans that are not modeled in XP-SWMM. For example, an inlet is shown on the Plans at Station 45+00, but no inlet is programmed at that location in the XP-SWMM model.”*

As described in an earlier response and explained by the project engineer, it is a common, and necessary modeling assumption in agricultural drain tile design to assume that the tile main will receive drainage to its full capacity, either through surface inlets or private and public lateral connections. The Board finds that its engineer applied reasonably acceptable engineering and modeling practices in developing its modeling assumptions. In the absence of objective evidence that these assumptions have resulted in an inaccurate model of post project conditions, the Board is unable to agree with or find merit in the comments or allegations inferred therein.

- h. *“Delineated hydrologic subbasins were not changed when comparing existing to proposed conditions. The location of some inlets were changed when comparing existing to proposed conditions (Nodes P-17 and P-18 for example).”*

The Board finds that the assumption applied by the project engineer, that the CD 52 system will be utilized to its full capacity regardless of where inlets are located since runoff will also enter CD 52 tile through existing or future lateral connections is reasonable and results in consideration of the greatest impact anticipated by the project. The Board notes that hydrologic modeling does not yield a precise measurement or outcome – rather it provides a range of outcomes. In the case of the Board’s consideration of the proposed project, the Board appreciates the project engineer’s consideration of maximum utilization of the

drainage system improvement in assessing both the adequacy of the outlet and potential for downstream impacts.

- i. *“Consider delineating a hydrologic subbasin to each inlet that is active in the XP-SWMM model.”*

The Board finds that delineating a subbasin for each inlet will not result in any significant change in model result and therefore is not necessarily for design of the system nor to assess the impacts downstream. See prior comments regarding the difference in modeling approach between agricultural and urban drainage settings.

- j. *“Branch 110+31 is not programmed in the XP-SWMM model.”*

Branch 110+31 is not included in the improvement project, and therefore is not necessary to include in the model (for the same reason that individual private tile segments are excluded in the XP-SWMM model). This is consistent across the watershed and consistent between the pre- and post-improvement scenarios.

- k. *“Branches 110+31, 110, and 134 have no hydrologic inputs at the upstream end of the branch.”*

The joint commenters have not demonstrated how modeling of the additional branches will change the modeling results. Modeling every foot of public drainage system tile is not necessary to achieve the objective of the hydrologic analysis to determine downstream impacts and evaluate adequacy of the outlet. Branches 110 and 134 do have hydrologic inputs downstream of the upstream end of the tile and have been modeled.

- l. *“Pipe lengths in the model do not appear to always match pipe lengths on the Plans. For example, at 377th Street, the 60-inch culvert is shown to be 51 feet long on the plans but is 103 feet in the model. In addition, the tile main is shown to be about 250 ft from the outlet to upstream of 377th Street but the length is only about 100 feet in the model. Other locations have not been reviewed at this time. The XP-SWMM model should match the Plans.”*

There are minor discrepancies in tile or culvert lengths between the XP-SWMM model and the design plans included in the engineer’s report. As explained by the project engineer, these discrepancies are due to refinements of the tile alignment while finalizing the improvement project plan. The Board finds that the nature and scale of the discrepancies do not significantly affect the model results.

20. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas, minutes and presentation materials are present in the record of proceedings, on file with the Board and incorporated herein by reference.

21. At the Final Hearing, the Engineer presented the Final Engineer's Report and details of the project, including its analysis of the necessity and feasibility of the proposed improvement in light of the environmental and land use criteria contained in statute. The Engineer further provided an explanation of the need for repair on portions of the system proposed to be improved and the allocation of separable maintenance costs on the system.
22. The Engineer's evidence of the drainage system's need for repair included inspection and maintenance history, visual observation, landowner statements and consideration of the age and service life of the system.
23. The Engineer identified the improvements to the public drainage system, which include replacement of portions of existing branch tiles with new tiles sized to provide a not to exceed ½-inch drainage coefficient and the deepening of tile to protect the tile and accommodate modern farming practices and equipment.
24. The Engineer included in its project recommendations the enhancement of an existing water storage area to manage and attenuate peak flows and sediment delivery within the drainage system.
25. The Viewers appeared and presented their report of improvement benefits and damages based on their viewing and landowner meetings. The Viewers further provided detail of the viewing process and the information used by the Viewers to: (1) verify the boundary of the watershed of the Ditch; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from construction of the proposed improvement (determination of improvement benefits and damages).
26. The right of way acquired in the original proceedings to establish CD 52 was for tile alignment. This drainage system improvement will require a slight increase in the original footprint of construction of the drainage system so additional damages for the drainage system right of way were determined by the Viewers.
27. Members of the public attended the Hearing, but none offered substantive comments on either the improvement, the improvement benefits determination or the application of separable maintenance.
28. Denise Childs, Trustee of the Myron Childs Trust, commented regarding the cost of the proposed improvement and the possibility of creating a financial hardship on the owners of property within the drainage system. The Board finds that the current condition of the portion of CD 52 proposed to be improved needs repair and would, sooner than later, need to be repaired at significant expense to the drainage system. In this way, potential financial hardship exists regardless of the proposed improvement. The Board will consider the timing and duration of drainage system expenses should the improvement be established and a contract let for construction. At that time, the Board may

take steps, consistent with the drainage code, to limit immediate financial impact of the project on owners of benefitted property.

29. The Board notes and has considered the comments received during the Hearing. The comments are both of concern and significance to the Board as related to this project and as related to its role as a water management/planning authority within the Blue Earth River sub-watershed. Notwithstanding the comments, the evidence, modeling and analysis of the engineer appointed in these proceedings demonstrate that the proposed improvement will not be of any significant impact to downstream reaches of CD 52 or the Blue Earth River.
30. The Board supports the acquisition and implementation of storage projects within the CD 52 watershed in order to reduce peak flows downstream on the Blue Earth River and will continue to work with its SWCD to identify locations and sources of funding for storage projects.
31. After multiple calls for additional public comment, and hearing none, the Board closed the public comment portion of the Hearing.
32. During deliberations after the presentations and public comment portion of the Hearing, the Board made preliminary findings related to the improvement. The Board adopted a motion directing staff to prepare findings and an order consistent with the proceedings, including responses to all comments received through the public comment process; that the draft findings and order be written to affect adoption and confirmation of the Viewers' and Engineer's Reports; that the findings and order specify establishment of the improvement to include the storage alternative proposed by the engineer; and that the Hearing be recessed to the Board's regular meeting on February 21, 2023, at 11:00 a.m., in the Minnesota Room at the Faribault County Courthouse, 415 N. Main St., Blue Earth, MN, or by adjournment to an appropriate time on the Board's agenda, at which meeting the Board would consider findings and an order as discussed.

Findings Specific to the Determination of Improvement Benefits and Damages:

33. At the continued Hearing, the Board reviewed the findings and order herein.
34. The Viewers reviewed all property within the drainage area of the proposed improvement to determine the improvement benefits and damages.
35. To determine the economic benefit to lands deriving a drainage benefit from the proposed improvement, the Viewers conducted a condition comparison comparing the current efficiency of the drainage system with the improvement efficiency. The Viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.

36. Based on their detailed observations, the Viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
37. The Viewers determined that some acres within the watershed of the proposed improvement, i.e. existing wetlands and non-contributing basins, received no benefit from the proposed improvement.
38. The Viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
39. The Viewers determined the amount of economic benefit to property benefited immediately by the proposed improvement, or for property for which the proposed improvement can become an outlet for drainage, make an outlet more accessible, or otherwise benefit the property.
40. The Viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of a potential different land use.
41. The Viewers determined road benefits based on accelerated drainage from road surfaces and based on the reduced cost of road maintenance and construction because the ditch provides an outlet for drainage from the road and adjacent road ditches.
42. Additional right of way damages were determined and are herein awarded for the slight increase in the original footprint of construction of the drainage system.
43. The Viewers prepared a report which describes how the improvement benefits and damages were determined (“Benefits and Damages Statement”) which is attached and included as part of **Exhibit B** of these findings.

Total Benefits and Damages for the Improvement:

44. The Viewers determined improvement benefits of \$1,260,664.00. The Viewers described the improvement benefits by comparing the as-constructed system benefits of \$2,425,112.00 with the total benefits after improvement of \$3,685,776.00. The benefits for the project are included in **Exhibit C** of these findings (Viewers’ Report of Improvement Benefits). The Viewers opined there to be no difference in project benefits between the storage and no-storage options presented by the Engineer.

Improvement Costs and Separable Maintenance:

45. The Engineer's estimate of the cost of construction of the improvement is \$3,015,000 without the storage option and \$2,941,000 with the storage option. The Engineer's estimate of cost included damages determined by the Viewers.
46. The Engineer's estimate of the portion of the cost of improvement attributable to separable maintenance is \$2,376,037.00. Taking the separable maintenance cost out of the total cost of improvement yields a cost of approximately \$639,000.00 to be assessed against improvement beneficiaries. This amount is less than the improvement benefits determined by the Viewers.

Costs of Proceedings:

47. The Viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each Viewer was engaged in said work; the amount charged per day by each Viewer; and every item of expense incurred by the Viewers in said work.
48. The Engineer kept an accurate account of all time engaged in analysis and preparation of reports and every item of expense incurred by the Engineer in said work.
49. The Board's Attorney and the Petitioners' Attorney kept accurate accounts of all time engaged in assisting the Board and Petitioners in the proceedings and every item of expense incurred by the Attorneys in said work.
50. The Viewers', Engineer's, and Attorneys' accounts of work have been filed with the Board.

General Findings:

51. The Detailed Survey Report and Viewers' Report have been made and other proceedings have been completed as required by Minnesota Statutes, chapter 103E.
52. All reports made or amended in these proceedings are complete and correct.
53. The damages and benefits for the improvement of CD 52 have been properly determined.
54. CD 52 as proposed to be improved is in need of repair. The Engineer has included in the Detailed Survey Report a statement showing the proportionate estimated cost of the proposed improvement required to repair the separable part of the existing system and the estimated proportionate cost of the added work required for the improvement. The notice of hearing on the Detailed Survey Report

was given by publication and mailing to all persons owning property affected by the existing drainage system.

55. The improvement benefits (\$1,260.664) are greater than the total estimated improvement cost (\$639,000), including damages, after applying a separable maintenance value of \$2,376,037.
56. The proposed improvement of CD 52 will be of public utility and benefit, and will promote the public health and welfare.
57. The proposed improvement of CD 52 is practicable.
58. As part of its review, the Engineer presented alternatives to the improvement requested in the Petition. The Board, having considered those alternatives as well as the County's Water Plan and other applicable plans and studies within the watershed area of CD 52, finds that the inclusion of the storage option in the proposed project is consistent with each of the plans and presents the best alternative considering private and public benefits; the costs of the proposed project; conservation, allocation, and use of drainage waters for agriculture, stream flow augmentation, or other beneficial uses; reduction of downstream peak flows and flooding; drainage system capacity requirements; reduction of erosion and sedimentation; and protection or improvement of water quality.
59. As part of the evaluation of alternatives, the Board considered whether any external programs or resources could be applied to an alternative in order to achieve additional benefits within the proposed improvement. After consideration, the Board finds, because of the nature of the proposed improvement and resources within the project area, that such alternatives are not feasible and that no external sources of funding or technical assistance are available to implement such alternatives if feasible.
60. The proposed improvement is consistent with the present and anticipated land use within the project area and is consistent with the County's land use ordinance.
61. The Board finds, just as the original establishment of CD 52 promoted the public health by removing deleterious accumulations of water from the landscape, the proposed improvement will, similarly, promote the public health.
62. The Engineer evaluated the current and potential flooding characteristics of property within project area and evaluated the downstream outlet of the proposed improvement. The evaluation included consideration of 5-, 10-, 25-, and 50-year run-off events. Additionally, the Engineer considered and modeled the downstream impacts of the 2-year runoff event. Based on the Engineer's analysis, the Board finds that the proposed improvement will not increase flood potential or downstream channel

degradation or sedimentation and will provide relief from flood conditions within the project area. The Board further finds that the outlet is adequate for the proposed improvement.

63. The Engineer considered the effects of the proposed improvement on water quality; the effects of the proposed improvement on fish and wildlife resources; the effects of the proposed improvement on shallow groundwater availability, distribution, and use; and the overall environmental impact of the proposed improvement. Based on the Engineer's analysis, the Board finds that the proposed improvement will not create any negative impact on water quality; fish and wildlife; or shallow groundwater.
64. Based on the record and findings herein, the Board finds that proper consideration of conservation of soil, water, wetlands, forests, wild animals, and related natural resources, and to other public interests affected, together with other material matters as provided by law has been made in determining that the proposed improvement will be of public utility, benefit and welfare.

Based on the foregoing findings, the Board makes the following:

Order:

- A. The Faribault County Board of Commissioners, Drainage Authority for the improvement of Faribault County Ditch 52, hereby establishes and orders said improvement according to the project as described in the Detailed Survey Report (a.k.a., Final Engineer's Report), following the storage option alternative.
- B. Further, the Board directs the Engineer to prepare detailed plans and specifications and other necessary documents to allow for bidding on the project.
- C. Further, the Board directs its Auditor-Treasurer to take all necessary actions for the construction of said improvement and authorizes the Auditor-Treasurer and appropriate drainage authority staff to proceed as necessary, reserving to itself only those matters that the Board, by vote, must authorize.
- D. Further, the Board directs its Auditor-Treasurer, project engineer and appropriate drainage authority staff to coordinate with necessary landowners to determine whether portions of CD 52 may be abandoned from the drainage system, as not providing any substantial public benefit, and to document removal of said portions, if any, from the as-built drawings of the as-constructed and subsequently improved alignment of the drainage system.
- E. Upon completion of the project, the drainage system record shall be updated with the as-built alignment and conditions of CD 52. The prior alignment and any remnants thereof, shall be abandoned from the drainage system.

- F. The Viewers' determination of improvement benefits and damages contained in the Viewers' Report (See **Exhibit C** of these findings) and the Benefits and Damages Statement are hereby confirmed and adopted by the Board.
- G. The Viewers, Engineer, and Attorneys are allowed payment of their accounts of work.
- H. The Petitioners' Bond herein may be discharged upon the award of a contract for construction of the improvement and the costs of the proceedings herein shall be carried and assessed as part of the costs of the improvement.
- I. Because the Board has found application of separable maintenance is appropriate in this case, the Board orders that the cost of the improvement be allocated as follows: that the separable maintenance cost of \$2,376,000, or 79% of final contract costs, be assessed to all benefited properties on CD 52 according to the redetermined benefits roll of the whole system; that the improvement cost, less the cost of the separable maintenance, or 21% of final contract costs, as determined by the final contract for the improvement, be assessed to properties benefited by the improvement according to the Viewers' Report of improvement benefits and damages approved herein; that the Board reserves the right to amend this distribution based on total cost of the improvement determined after a contract is awarded for the improvement.
- J. The Board reserves to itself, by future order, the decision to bond for the proposed improvement and to determine the term and other conditions of assessment for the proposed improvement and the separable maintenance portion of costs.

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Groskreutz/Loveall motion to adjourn.

Bruce Anderson, Chair

Sarah Van Moer, Acting Clerk to the Board