

FARIBAULT COUNTY  
BOARD OF COMMISSIONERS  
OFFICIAL PROCEEDINGS  
DRAINAGE AUTHORITY MEETING  
AUGUST 15, 2023

The Faribault County Board of Commissioners met at the Courthouse in the City of Blue Earth as the Faribault County Drainage Authority pursuant to the conclusion of the regular session on August 15, 2023. The following members were present: Tom Loveall, Bruce Anderson, Bill Groskreutz, John Roper, and Greg Young Commissioners. Faribault County staff Engineer/Coordinator Mark Daly, Drainage Manager Merissa Lore, Deputy Tom Elmer, and Acting Clerk to the Board Sarah Van Moer also attended. Participating virtually were Faribault County employees B. Rauenhorst, S. Robbins, L. Mehrhof, S. Hauskins, and M. Sonnek.

The meeting was called to order by Chair Anderson.

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Groskreutz/Loveall motion carried unanimously to approve the agenda of August 15, 2023.

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Young/Groskreutz motion carried unanimously to approve payment of drainage voucher bills totaling \$13,395.41.

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Groskreutz/Loveall motion carried unanimously to approve repair projects as shown below:

System	Repair #	Branch	Comm Dist	Twp	Section	Landowner	Problem/Proposed Work
CD90	23-093	Main	3	Clark	17	RICHARD H NIEBUHR FAMILY TRUST	tile hole

\* \* \* \* \*

Groskreutz/Loveall motion carried unanimously to approve payment totaling \$ 1,323.69:

System	Repair #	Order	Branch	Comm Dist	Twp	Sec	Landowner	Repair Type	Vendor	Contractor	%	Cost
CD90	23-093	1	Main	3	Clark	17	RICHARD H NIEBUHR FAMILY TRUST	Blowout	5976	Giese Farm Drainage	100	\$809.27
CD70	23-082	1	Main	5	Walnut Lake	29	DYLLA,MARTIN L & NANCY L	Blowout	5976	Giese Farm Drainage	100	\$514.42

Total: **\$1,323.69**

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Loveall/Young motion carried unanimously to approve the following hearing findings and orders from July 12, 2023:

Resolution 23-DA37-73 Redetermination of Benefits & Damages & Consolidation Order for CD80/CD31:

## **RESOLUTION**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditches #31 and #80, pursuant to Minn. Stat. § 103E.351 and 103E.801, having adopted findings and ordered a redetermination of benefits and damages on August 3<sup>rd</sup>, 2021; having appointed viewers to redetermine and report the benefits and damages; having received the viewers' report; having followed proper notice requirements in Minn. Stat. § 103E.351; and having held a public hearing and followed all requirements of chapter 103E, based on the record and proceedings, the Faribault County Board of Commissioners, acting as the Drainage Authority for Faribault County Ditches #31 and #80, adopts the following Findings and Order:

### **Findings:**

1. The Faribault County Board of Commissioners is the drainage authority for County Ditches #31 and #80.
2. On August 3<sup>rd</sup>, 2021, the drainage authority adopted findings and ordered the initiation of a redetermination of benefits and damages for County Ditch #31 and #80 pursuant to Minn. Stat. § 103E.351. Mark Behrends, John Thompson, Robert Hansen, and Kendall Langseth were appointed as viewers.
3. The viewers held informational meetings on January 20<sup>th</sup>, 2022, and April 11<sup>th</sup>, 2023, after notice to all landowners and public authorities.
4. Concurrent with the redetermination of benefits for County Ditches #31 and #80, the Board considered and adopted a resolution of intent to consolidate County Ditches #31 and #80.
5. The drainage code allows for the consolidation of drainage systems so long as benefits between the consolidated systems are current. As part of its instructions to the viewers, the drainage authority directed the viewing and preparation of reports consistent with the Board's resolution of intent to consolidate County Ditches #31 and #80.
6. The viewers completed their report, which included a benefits and damages statement, on June 6<sup>th</sup>, 2023, for all property affected by the drainage system and filed their report with the drainage authority.
7. The Auditor under direction from the drainage authority Board, prepared property owners' reports and mailed them to the owners of property identified in the viewers' report.
8. The drainage authority on June 6<sup>th</sup>, 2023, by order, set a public hearing for review of the viewers' report and consolidation of the systems on July 12<sup>th</sup>, 2023, which is within 30 days after the property owners' reports were mailed.

9. A printed copy of the final hearing notice was posted for at least three weeks before the date of the final hearing at the front door of the courthouse of Faribault County.
10. Notice of the final hearing was published in the Faribault County Register for three successive weeks prior to the hearing.
11. Within one week after the first publication of the notice, the County Auditor provided notice by mail of the time and location of the final hearing to all property owners, and others affected by the redetermination of benefits and listed in the viewers' report.
12. Proper notice of the redetermination and consolidation hearing was made in conjunction with Minn. Stat. § 103E.351 and Minn. Stat. § 103E.801 requirements and chapters 103E. A record of the notice requirements is on file with the drainage authority.
13. Evidence of all actions in this matter, including findings and orders, appointments, oaths, affidavits of mailing, publication, and posting as well as hearing agendas, presentation materials, and recordings are present in the record of proceedings and are incorporated by reference.
14. The drainage authority held a public hearing on the redetermination of benefits and damages and consolidation on July 12<sup>th</sup>, 2023, at 1:00pm at the Faribault County Courthouse Board Room in Blue Earth, MN.
15. At the public hearing, Mark Behrends, one of the duly appointed viewers, presented the viewers' report and explained the process of completing the viewers' report. Behrends further provided detail of the viewing process and the information used by the viewers to: (1) verify the boundary of the watershed of the drainage system; (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 County Ditches #31 and #80.
16. The viewers reviewed all property within the drainage areas of the drainage system as part of the redetermination of benefits process. The viewers determined the amount of damages to be paid for the acquisition of property for the establishment of best management practices, including grass strips, necessary to control erosion, sedimentation, improve water quality, or maintain the efficiency of the drainage system as required under Minn. Stat. § 103E.021. The viewers compared sales in the area in arriving at an average sales price used in establishing a payment rate.
17. 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.
18. 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.
19. 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 increased market value of the properties receiving a direct drainage benefit.

20. Based on their detailed observations, the viewers determined benefit classifications, classified acres, and assigned economic benefit on a per acre basis.
21. 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.
22. 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.
23. The viewers determined the amount of economic benefit to property benefited 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.
24. 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 potential different land use.
25. Within the watershed of the drainage system, the viewers determined benefits on property that are 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.
26. 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.
27. The viewers' account of work has been filed with the drainage authority.
28. Upon review of information provided to the Board during the public hearing, the Board further finds and confirms its earlier findings that the benefits and damages determined in the original proceedings, as well as the benefited and damaged areas determined in the original proceedings, do not reflect current, existing, actual benefits, and benefitted areas.
29. The viewers' report is attached as **Exhibit A**.
30. The benefits and damages statement is attached as **Exhibit B**.
31. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board's response is indicated in italics following each comment):

- a. Anthony Zierke, Elmore Township, 37600 40<sup>th</sup> Street Elmore, MN 56027

Presented questions about a maintenance agreement with the Iowa Drainage Districts, how the process works and how hard it will be to get agreement.

*There is a historic record of previous maintenance agreements with Iowa which will help with the negotiations but there will need to be discussion and those discussions have*

*happened and we are hopeful there will be a signed agreement in the end. The numbers may not be what the viewers recommend but it is a starting point.*

32. County Ditch #31 and County Ditch #80 serve to drain the same watershed and overlap. County Ditch #31 was the original system consisting of open ditch and tile. County Ditch #80 was a petition that deepened County Ditch #31 open ditch and extended the open ditch to the county line and added additional tile.
33. County Ditch #31 account #583 consolidate with the maintenance account for County Ditch #80 account #659. The original construction of the systems have been paid for and is complete.
34. At the close of the public comment hearing, Commissioner Roper moved to direct staff to prepare Findings and an Order consistent with the proceedings, including all comments received through the public comment process; that the draft Findings and Order be written to confirm the redetermined benefits and damages as reported by the viewers, affect the acquisition of the proposed grass buffer areas, and confirm the damages as presented; consolidate accounts on the system; and that the Board will consider the Findings and Order Approving the Redetermination of Benefits, Confirming Damages, and Directing Payment at the Board's regular meeting on August 15<sup>th</sup>, 2023. Commissioner Groskreutz seconded and the motion carried.
35. Commissioner Young moved to grant the consolidation of County Ditches #31 and #80 to be County Ditch #80 going forward for the efficient, fair, and equitable administration of the drainage systems. Commissioner Roper seconded and the motion carried.
36. Commissioner Groskreutz moved to direct staff to make payments of the damages, and direct recording of the Order to reflect the acquisition in September 2023. Commissioner Roper seconded and the motion carried.
37. Based on the proceedings herein, the evidence presented during the pendency of these proceedings, the testimony of the viewers, and the public comments received, the Board finds:
  - a. The consolidation of County Ditches #31 and #80 is approved;
  - b. that the viewers' report has been made and other proceedings have been completed under Minnesota Statutes, chapter 103E;
  - c. that the viewers' report is complete and correct;
  - d. that the viewers have worked with landowners to address any concerns prior to filing the final report and no evidence was presented in opposition to the benefits and damages determined by the viewers in the viewers' report;
  - e. that the redetermined benefits and damages, as reflected in the viewers' report as **Exhibit A**, and as described in the benefits and damages statement as **Exhibit B**, are proper, reasonable, and conform to the drainage code; and

- f. that the acquisition of grass buffer strips as reported as damages in the viewers' report is necessary under Minn. Stat. § 103E.021.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditches #31 and #80, hereby orders as follows:

- A. The consolidation of County Ditches #31 and #80 is approved. Staff is directed to update the drainage system records to reflect the consolidation ordered herein.
- B. The redetermined benefits and damages and consolidation of County Ditches #31 and #80, the viewers' report attached hereto as **Exhibit A**, and the benefits and damages statement attached hereto as **Exhibit B** are hereby adopted by the Board and shall be used in place of the original benefits and damages in all subsequent proceedings.
- C. The viewers are allowed payment of their account of work.
- D. The County Auditor shall ensure that the redetermined benefits and consolidation replace the existing benefits previously determined for County Ditch #31 and #80.
- E. The County Auditor shall make the buffer easement payments in September 2023 in accordance with the Viewers' Report.
- F. The County Auditor shall ensure all account for County Ditch #31 is consolidated with account #659 main County Ditch #80 account for more efficient accounting.

Resolution 23-DA38-74 Order Granting Bridge Repair for CD64:

**R E S O L U T I O N**

The Faribault County Board of Commissioners, sitting as the drainage authority for County Ditch #64, received repair requests regarding an open ditch crossing on County Ditch #64. A MnDOT bridge inspector completed an inspection and determined the crossing needs replaced and load restrictions implemented on the existing structure; having noticed and conducted a public hearing on the repair report and followed all requirements of chapter 103E, based on the record and proceedings, Commissioner Young moved, seconded by Commissioner Roper to adopt the following Findings and Order:

**Findings:**

- 1. Faribault County Board of Commissioners is the drainage authority for County Ditch #64.
- 2. A bridge inspection was completed by a MnDOT certified bridge inspector. Upon inspection, the bridge was found to be in disrepair and in need of replacement due to internal decomposition of the wood pilings. The survey repair report was filed with the Auditor on April 27<sup>th</sup>, 2023.
- 3. An informational meeting was held on April 27<sup>th</sup>, 2023, after notice to all landowners and public authorities.

4. The drainage authority met on June 20<sup>th</sup>, 2023, at the Faribault County Courthouse Board Room and ordered a public hearing on the repair report.
5. The drainage authority, by order, set a public hearing for review of the staff repair report on July 12<sup>th</sup>, 2023, at 2:45 pm at the Faribault County Courthouse Board Room, 415 North Main Street Blue Earth, MN 56013. Notice of the hearing on the repair report was provided by mail to the owners of property, and political subdivisions likely to be affected by the repair in the repair report in accordance with Minn. Stat. § 103E.715, subd. 3.
6. At the public hearing, Mark Origer and Jacob Mueller, engineers of ISG, presented the Repair Report. The engineers recommended replacement of the existing bridge. 4 options were given. Option 1 box culvert estimated at \$259,407, Option 2 timber bridge estimated at \$422,090, Option 3 road realignment estimated at \$199,595, and Option 4 144” CMP culvert estimated at \$148,866.
7. The repair report contains all the details, plans, and specifications necessary to prepare and award a contract for the repairs.
8. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board’s response is indicated in italics following each comment):

- a. Gregory Leland, Brush Creek Township, 52244 80<sup>th</sup> Street Bricelyn, MN 56014

Presented comments about concerns with the 550<sup>th</sup> Avenue culvert capacity being the restriction and if the culvert option is chosen today to replace the bridge, it is less capacity than the bridge. Could there be more control structures further to the east, upstream, to take the pressure off of the crossings.

*The repair project that was completed last year did build storage and control structures into the system and the creation of the 2-stage channel downstream of 550<sup>th</sup> Avenue adds a lot of storage to the system. These things will help.*

- b. Jonathan Leland, Brush Creek Township, 54339 70<sup>th</sup> Street Bricelyn, MN 56014

Presented comments about rain events in the last 5 years and how the area has received both a 100-year storm event and a 500-year storm event. How much rain are those events? Also, the 550<sup>th</sup> Avenue crossing experienced washing and erosion during both of those events. How does the erosion that is occurring here affect the decision on the bridge replacement with the idea of utilizing a CMP culvert that has less capacity than the existing crossing. Already seen a CMP culvert experience erosion so it will just happen downstream if a CMP culvert is utilized again. He is one of the youngest landowners on the system and he prefers to do it once and have a long-term solution. We have heard several comments today about the 550<sup>th</sup> Avenue crossing not being adequate. If 550<sup>th</sup> Avenue crossing was replaced with more capacity, would the CMP culvert option for the bridge replacement have enough capacity for the additional increased capacity of 550<sup>th</sup> Avenue crossing. He feels the concrete box culvert is the best option because the load on the system will only increase (more drainage and water) and the odds of have to do something again with CMP culvert is high. Do it once, do it right.



*100-year storm event is 7 inches of rain in 24 hours and 500-year storm event is 8.5 inches of rain in 24 hours. The erosion to 550<sup>th</sup> Avenue is exacerbated by steep side slopes because there are not enough linear feet of pipe on the main culvert, so the banks are steep and don't hold with the velocities hitting it. The bridge replacement CMP culvert option is designed very differently than the 550<sup>th</sup> Avenue CMP crossing. The plan is to pour concrete around both ends of the culvert so there is no exposed soil to erode. If the CMP culvert option for the bridge replacement was built, a model would need to be reviewed to determine if the culvert could handle an increase of capacity at 550<sup>th</sup> Avenue. Could limit the size of 550<sup>th</sup> Avenue crossing to make sure the CMP culvert bridge replacement option remains sufficient to handle incoming capacities.*

- c. Craig Leland, Kiester Township, 5485 550<sup>th</sup> Ave. Bricelyn, MN 56014

Presented comments about 550<sup>th</sup> Avenue culverts are not enough capacity. He agrees with Greg that the water needs to be slowed upstream. He stated the bridge needs to be replaced and doesn't want it to erode but it is important to keep the cost down.

*Commissioner Loveall responded that there may be some grant funds available to do projects like that if landowners are interested to contact the Soil and Water Conservation District (SWCD). The SWCD is who worked with the Drainage Authority to get the grant funds that helped fund a lot of best management practices that were completed in last year's repair project.*

- d. David Kluender, Seely Township, 54990 70<sup>th</sup> Street Bricelyn, MN 56014

Presented comments about if an analysis has been completed on the ability to move water downstream of County Ditch #64 because it is already full downstream so if we are increasing capacity in County Ditch #64 we are just pushing the problem downstream. Both west and north of County Ditch #64 is already full. A Cadillac crossing isn't necessary either. \$30-40/acre assessment now, and another that high hurts. Feels the CMP culvert is the best option and keeps costs down.

*Modeling was not completed downstream of County Ditch #64, but the options presented do not increase capacity on County Ditch #64.*

- e. Richard Kingstrom, Kiester Township, 13764 750<sup>th</sup> Ave. Glenville, MN 56036

Presented comments about keeping the cost down and timing, needs to be replaced as soon as possible. There was just a \$305,000 assessment on the system and the box culvert would be another \$305,000 assessment. He has seen CMP culverts work on property he owns in Waseca County.

- f. The Drainage Authority had the following discussion:

Commissioner Anderson presented questions about changes in 550<sup>th</sup> Avenue and the need for a hydraulic analysis.

*Engineer, Mark Origer, responded that he does not recommend any increase in capacity to the township crossing with the CMP culvert bridge replacement option.*

Commissioner Loveall presented comments about the decision balancing longevity and costs and that the cost savings of the CMP culvert option makes sense.

Commissioner Young presented comments about the amount of time to get a concrete box culvert is over 1 year and the costs are going up on the box culverts immensely, County has been experiencing this through the Highway Department regularly.

Commissioner Roper presented comments about concern for access to the house that the bridge serves and replacing the structure needs to happen quickly. Longer construction timeline and lack of access to the house with the box culvert option. Flooding is going to happen at some point no matter which option is chose.

9. The drainage authority finds, consistent with the repair report, the public comments received at the public hearing on the repair report, and the entire record of proceedings, that portions of County Ditch #64 in Seely Township Section 12 of Faribault County is out of repair; that the condition of this portion of County Ditch #64 is a safety concern and is failing.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for County Ditch #64, hereby orders as follows:

- A. That the proposed repair to County Ditch #64 in the location specified in these findings and recommended in the repair report is approved consistent with the engineer recommendations and is necessary for the best interest of the affected property owners.
- B. The Auditor and Drainage Staff shall proceed and prepare and award a contract for the repair of the drainage system consistent with the procedures required by Minn. Stat. Ch. 103E and under Minnesota law. The contract must be for the repair described in the repair report and as determined necessary by the drainage authority in these findings and order and be prepared in the manner provided in Minn. Stat. Ch. 103E for the original drainage system construction.
- C. The cost of the repair shall be paid from the funds in the maintenance account for County Ditch #64 and/or by assessments made to the properties benefited by the drainage system in the drainage system records.

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Staff reports were presented.

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Groskreutz/Young motion carried unanimously to adjourn.  
The Faribault County Drainage Authority was adjourned for August 2023.

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Bruce Anderson, Chair

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Sarah Van Moer, Acting Clerk to the Board