

PROCEEDINGS OF THE MURRAY COUNTY DITCH AUTHORITY
FOR COUNTY DITCH NO. 22
FINAL HEARING FOR THE IMPROVEMENT TO COUNTY DITCH NO. 22
MURRAY COUNTY GOVERNMENT CENTER – SLAYTON, MINNESOTA
February 19, 2019 continued to March 21, 2019

Pursuant to notice given, the Drainage Authority Board for Murray County Ditch No. 22 met for a final improvement hearing with the following members present: Murray County Commissioners – David Thiner, James Jens, Dennis Welgraven and Lori Gunnink. Also present were Heidi E. Winter, Murray County Auditor-Treasurer; Howard Konkol, Murray County Drainage Inspector; Travis Smith, Murray County Attorney; Kurt Deter, Drainage Authority Attorney; Bill Helget – Bolton & Menk, Drainage Authority Engineer; Jim Weideman and Duane Bendixen, Ditch Viewers; Jeff Braegelman, Petitioner Attorney; Bruce Sellers, Landowner Attorney; Chuck Brandel, Landowner Engineer; Community Relations Coordinator Christy Riley; 13 Landowners.

The public hearing was opened at 9:00 a.m. by Chair David Thiner.

Ditch Authority Attorney Kurt Deter reviewed the purpose of the hearing.

Auditor-Treasurer Heidi Winter reported that the notice requirements were met.

Engineer Bill Helget gave the Engineer's Final Report.

The Public Hearing recessed at 9:32 to open bids on Sundquist Park Projects.

The Board reconvened the public hearing at 9:43 a.m. to continue discussion about the Final Engineer's Report and Viewer's Reports on a petition for the improvement to County Ditch 22. Helget continued with the Final Engineer's Report.

The DNR Advisory Report was read into record and is attached to these minutes as "Exhibit A".

The floor was opened to public comment:

- Comments were made by Bruce Sellers, Chuck Brandel, Jeff Braegelman, Swede Campbell, Gary Kass, Mike Erbs, Clayton Campbell, Pamela Cooreman and Jeff Meyer.
- Engineer Chuck Brandel presented for consideration an alternative repair option that included open ditch cleaning, slough repair, tile outlets, soft armoring and buffer strip seeding all in Section 13-Shetek. The proposed estimate for the repair option is \$110,857.

Jim Weideman presented the Viewer's Report for the Redetermination of Benefits Report showing net benefits of \$3,315,419.45.

The floor was opened to public comment on the Viewer's Report for the **Redetermination of Benefits**. No comments were made.

MOTION APPROVING VIEWER'S REPORT - REDETERMINATION OF BENEFITS:

It was moved by Jens and seconded by Gunnink and passed to accept the Ditch Viewers Report for the Redetermination of Benefits (Total Benefits \$3,315,419.45) for County Ditch 22 because the following items have been met:

- 1. The Viewers' Report has been made and other proceeding shave been completed under Minnesota Statute 103E.**
- 2. The Viewers' Report as amended is complete and correct.**
- 3. The damages and benefits for the Redetermination of benefits have been properly determined.**

Further moving that the new list shall be used in place of the original benefits and damages in all subsequent proceedings related to Murray County Ditch No. 22.

Jim Weideman presented the Viewer's Report for the **Improvement** to County Ditch No. 22 showing Benefits/Recaptured Cost of \$113,410 and Improvement Cost of \$107,714. Part of the Benefits/Recaptured Cost includes a \$60,000 recaptured severance for 120 acres at \$500/acre.

The floor was opened to public comment on the Viewer's Report for the Improvement to County Ditch No. 22.

- Kurt Deter commented that 40 of the 120 acres do not appear to meet the statutory definition of severed acres. Taking these 40 acres out of the calculation would bring the project short of the benefits needed to move forward.
- Jeff Braegelman commented that the Engineer's Report shows the project is feasible and separable maintenance should apply. He also feels that all 120 acres meet the definition of severed acres.
- Bruce Sellers commented that the issues on the ditch could be remedied with a repair and different farming practices in the improvement area. He encouraged the Board to consider a different repair option before approving the improvement. He also commented that 40 of the 120 acres do not appear to meet the statutory definition of severed acres and ask the Board not include it in the severance calculation.

MOTION FOR ADDITIONAL REPAIRS TO BE CONSIDERED:

It was moved by Jens, seconded by Gunnink and passed to direct Bolton & Menk to consider repair alternatives by partially filling in the east and west portions of the open ditch north of 211th Street all based on discussion during the public hearing on February 19th, further moving to continue the hearing to March 21, 2019 at 1:00 p.m.

The Public Hearing was recessed at 11:41 p.m. to be continued on March 21, 2019 at 1:00 p.m.

FINAL HEARING CONTINUED

The Public Hearing was reconvened on March 21, 2019 at 1:00 p.m. with the following people present Murray County Commissioners – David Thiner, James Jens, Dennis Welgraven, Jim Kluis and Lori Gunnink. Also present were Heidi E. Winter, Murray County Auditor-Treasurer; Howard Konkol and Travis Radke, Murray County Drainage Inspectors; Travis Smith, Murray County Attorney; Kurt Deter, Drainage Authority Attorney; Bill Helget – Bolton & Menk, Drainage Authority Engineer; Jim Weideman, Steve Johnson and Duane Bendixen, Ditch

Viewers; Jeff Braegelman, Petitioner Attorney; Bruce Sellers, Landowner Attorney; Chuck Brandel, Landowner Engineer; 9 Landowners.
Attorney Deter reviewed the status of the project.

Engineer Bill Helget gave the Engineer's Amended Final Report as follows:

- Reviewed earlier alternatives and estimated costs
 - Original Improvement - \$389,884
 - Improvement with storage alternative D - \$435,834
- Reviewed repair alternatives
 - Repair Alternative C (Sloping and Riprap) - \$282,170
 - Alternative E1 (30" Tile with Overflow Ditch at 211th Sloping Northern East-West Ditch) - \$253,520
 - Alternative E2 (30" Tile with Overflow Ditch Both East-West Ditches) \$308,845

The floor was opened to public comment on the Final Engineer's Report and Repair Alternatives:

- Comments were made by Swede Campbell, Jeff Meyer, Clayton Campbell, Chuck Ankrum and Mike Erbes.
- Engineer Chuck Brandel presented an additional repair alternative with 36" buried pipe with an estimated cost of \$177,598

Both engineers, Bill Helget and Chuck Brandel agreed that Repair Options C, E1 and E2 were all repair and not improvements. They both also agreed that going from open ditch to buried tile would not cause landowners to see adverse drainage.

Jim Weideman reviewed the Viewer's Report for the **Improvement** to County Ditch No. 22 showing Benefits/Recaptured Cost of \$113,410 and Improvement Cost of \$107,714. Part of the Benefits/Recaptured Cost includes a \$60,000 recaptured severance for 120 acres at \$500/acre.

Attorney Bruce Sellers commented that the Board was given less expensive repair options to consider.

Petitioner Attorney Jeff Braegelman reminded the Board that they are at the hearing to consider the petitioned Improvement to County Ditch No. 22 and that his clients still want the Improvement to move ahead as petitioned.

MOTION FOR IMPROVEMENT:

It was moved by Thiner, seconded by Welgraven and passed that the Ditch Authority favored the Improvement with Storage Alternative D with estimated costs of \$435,834.

MOTION REPAIR ALTERNATIVE FOR SEPARABLE MAINTENANCE:

It was moved by Gunnink to choose Repair Alternative E2 (Tile with Overflow Ditch Both East-West Ditches) with estimated costs of \$308,845 when considering Separable Maintenance. The motion died for lack of a second.

It was moved by Welgraven, seconded by Jens and passed to choose Repair Alternative C (Sloping and Riprap) with estimated costs of \$282,170 when considering Separable Maintenance.

MOTION ACCEPTING VIEWER’S REPORT FOR IMPROVEMENT:

It was moved by Jens and seconded by Welgraven and passed to accept the Ditch Viewers Report for the Improvement of Benefits for County Ditch 22 (Total Improvement Benefits \$93,410) because the following items have been met:

- 1. The Viewers’ Report has been made and other proceeding shave been completed under Minnesota Statute 103E.**
- 2. The Viewers’ Report as amended is complete and correct.**
- 3. The damages and benefits for the improvement have been properly determined.**

MOTION REJECTING IMPROVEMENT:

It was moved by Kluis, seconded by Welgraven and passed that the Improvement to Murray County Ditch No. 22 will not move forward because the improvement costs of \$153,664 exceed benefits of \$93,410 by \$60,254.

The hearing was adjourned at 2:52 p.m.

ATTEST:

Heidi E. Winter, Auditor-Treasurer

David Thiner, Chairman of the Board

“EXHIBIT A”



Division of Ecological & Water Resources
21371 Highway 15 South
New Ulm, MN 56073

Filed this 27th day of September 20 18
Ms. Ellet
Murray County Auditor/Treasurer

September 24, 2018

Heidi Winter
Murray County Auditor
2500 28th Street
P.O. Box 57
Slayton, MN 561721

Subject: Final Engineer's Report
Improvement of Main Ditch of Murray County Ditch No. 22
Murray County, MN

Dear Ms. Winter:

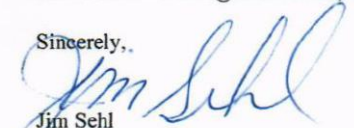
On behalf of the Director of the Division of Ecological and Water Resources of the Department of Natural Resources (MNDNR), I offer the following comments on the Final Engineer's Report (FER) for the project referenced above, in accordance with Minnesota Statutes Section 103E.301.

As required under Minnesota Statutes Section 103E.301 the MNDNR finds:

1. The detailed survey report is complete and in accordance with this chapter.
2. The detailed report is an acceptable plan to drain the affected property provided the Board directs the engineer to move forward with Alternative D. According to the modeling results in Table 5, Alternative D reduces peak flow and peak elevation for all flow events. This will reduce the transport of excess nutrients, erosion, and flooding downstream in Plum Creek.
3. The commissioner does not approve or disapprove the plan. We do recommend the Drainage Authority ensures the project is consistent with the Murray County Local Water Management Plan.
4. The proposed drainage project appears to be of public benefit or utility under the environmental and land use criteria in section 103E.015.
5. The commissioner determines that a soil survey is not required for the project.

Please contact Kevin Mixon, Regional Environmental Assessment Ecologist, at (507-359-6073; email: kevin.mixon@state.mn.us) if you have any questions about this letter.

Sincerely,


Jim Sehl
EWR Assistant Regional Manager

Ms. Heidi Winter
September 24, 2018
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Ec: Kevin Mixon, EWR
Bill Helget, Bolton & Menk
Lucas Youngsma, Area Hydrologist
Bill Schuna, Wildlife
Ryan Doorenbos, Fisheries
Todd Kolander, EWR
ERDB#20180300