

**STATE OF MINNESOTA
LE SUEUR COUNTY BOARD OF COMMISSIONERS
DRAINAGE AUTHORITY FOR LE SUEUR COUNTY DITCH 43**

In the Matter of the Proceedings for the
Repair of Le Sueur County Ditch 43

**ORDER FOR REPAIR UNDER STATUTES
SECTION 103E.715**

At a regular meeting of the Le Sueur County Board of Commissioners, Drainage Authority for Le Sueur County Ditch (CD) 43, on April 20, 2021, continued from April 6, 2021, Commissioner _____ moved, seconded by Commissioner _____ to adopt the following Findings and Order:

FINDINGS

1. CD 43 has a long history of actions dating back to its original establishment in 1916. Most notable in the drainage system record is a series of actions related to the inventory of public waters along the alignment of the drainage system and multiple permitting actions affecting the function of the drainage system in relation to those public waters.
2. In 2016, the Board directed its inspector to inspect and prepare a condition report for CD 43. Using the condition report and having gathered additional information regarding the distribution of drainage benefits within the drainage area of CD 43, the Board, on April 18, 2017, held an informal meeting of landowners to discuss necessary repairs and the need for a redetermination of benefits for the drainage system.
3. As a result of the landowner meeting and upon further investigation of the drainage system record, the Board made three determinations: (1) that CD 43 was in need of repair; (2) that the benefitted and damaged areas of the drainage system had changed as well as land values since the last determination of benefits on the drainage system; and (3) that the records identifying the alignment, grade, configuration, right of way and hydraulic efficiency of the drainage system were incomplete.
4. To address its determinations, the Board initiated, first, proceedings to reestablish the drainage system records; second, proceedings to redetermine benefits on the drainage system; and third, proceedings to repair the drainage system.
5. The Board completed the reestablishment of records process and adopted the reestablished records by order dated August 20, 2019.
6. The Board completed the redetermination of benefits process (based on the reestablished records) by order dated October 6, 2020.

7. During the pending proceedings, the Board received a less than 25% landowner petition to repair CD 43 in May, 2018. Having already determined that repair was required, the Board initiated and then suspended repair proceedings pursuant to statutes section 103E.715, appointing Chuck Brandel, P.E. (ISG) to examine the drainage system and prepare a report for the repair once the suspension was lifted.

8. The Board suspended the repair proceedings to allow both the records reestablishment and the redetermination of benefits proceedings to conclude. The Board's concern, in suspending the repair, was that (1) the repair would be oriented at the as-constructed hydraulic efficiency determined in the records reestablishment proceedings and (2) that costs of repair be properly allocated to benefitted lands.

9. Upon completion of the redetermination of benefits, the Board directed the engineer to complete a repair report as required by statutes section 103E.715.

10. The engineer completed its work and filed a repair report with the Board. The engineer's repair report is on file with the Board, incorporated into these findings by reference and attached hereto as **Attachment 1**.

11. The Board provided notice of a hearing on the repair report as required by statutes section 103E.715.

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

13. The hearing on the repair report was held on April 6, 2021. Due to the COVID-19 pandemic, emergency executive order and a determination by the Board that in-person hearings might not be safe, reasonable or practical for certain members of the public, the Board convened the hearing both in-person and by alternative means pursuant to statutes section 13D.021.

14. Notice of the hearing contained special provisions related to the COVID-19 pandemic and the hearing by alternative means. The notice provided detailed information on accessing the hearing remotely, providing comments in the proceedings and accessing the engineer's report for review.

15. At the hearing, the engineer appeared and presented the repair report.

16. Members of the public attended the hearing and asked questions or made comments regarding the drainage system repair. Oral public comments were provided by Glen Holicky, Al Woodson and Darrell Haigler. Written comments were received from Charles Prosocki and Leo

and Deloris Holicky. The written comments were read into the record and are attached hereto as **Attachments 2 and 3**. The comments were addressed to the satisfaction of the Board during the conduct of the hearing. The Board notes that similar comments of Charles Prosocki were addressed during the reestablishment of records proceeding.

17. Based on the repair report, the engineer's recommendation and the evidence presented, the Board finds that the engineer's recommended repair is necessary for the best interests of the affected property owners and best supports considerations of public utility, benefit and welfare; that based on the evidence presented, the work can occur within existing easements or rights of way acquired for the drainage system.

Therefore, based on the foregoing findings, the drainage authority makes the following:

ORDER

- A. The drainage authority shall proceed with the repair of CD 43 according to the plan set forth in the engineer's repair report.
- B. The drainage authority directs its staff and engineer to prepare final plans, specifications and bidding documents for the repair recommended in the engineer's repair report.
- C. The drainage authority reserves to itself subsequent actions in these proceedings which require board action.

After discussion, the President called the question. The question was on the adoption of the foregoing Findings and Order. The motion passed and the Findings and Order were adopted by a vote of ___ yes and ___ no.

Dated this 20th day of April, 2021.

LE SUEUR COUNTY BOARD OF COMMISSIONERS,
SEATED AS DRAINAGE AUTHORITY UNDER
STATUTES CHAPTER 103E FOR LE SUEUR COUNTY
DITCH 43

By _____
Steve Rohlfing, Chairman

* * * * *

I, Pam Simonette, Le Sueur County Auditor-Treasurer, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the drainage authority and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this ___ day of _____, 2021.

Pam Simonette, Auditor-Treasurer