

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
COUNTY DITCH 41 REDETERMINATION AND REPAIR HEARING
MARCH 29, 2017

The Faribault County Board of Commissioners, acting as the Drainage Authority for County Ditch 41 met at 1:00 p.m. on March 1, 2017 at Hamilton Hall in Blue Earth, Minnesota. The following members were present: John Roper, Bill Groskreutz, Tom Loveall, Tom Warmka, and Greg Young Commissioners. County Auditor/Treasurer/Coordinator John Thompson, Drainage Manager Merissa Lore, Project Engineer Charles Brandel, Drainage Authority Legal Counsel Kurt Deter, Viewers Chris Christianson, Mark Behrends and Robert Hanson. Also attending were Kossuth County Iowa Supervisors Don McGregor, Jack Plathe and Roger Tjarks.

The meeting was called to order by Chair John Roper.

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Young/Warmka motion carried unanimously to accept the affidavit of mailing as presented by County Auditor/Treasurer/Coordinator Thompson.

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Drainage Authority Attorney Kurt Deter explained the reason for a preliminary hearing

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Chris Christenson, viewer, presented the viewers report. Two landowner informational meetings have been held to discuss the viewing processes before this hearing. County Ditch 41 (CD41) consists of 3,663.91 acres of farmland, roads, and building sites with benefits of \$7,135,237. Faribault County Ditch 47 outlets into CD41 and contains 230 acres, Iowa Drainage District 129 and Iowa Drainage District 135 outlet into CD41 and contain 1,520 acres and 2,364 acres respectively. The total watershed is about 7,778 acres.

CD41 was constructed in 1916 with the Kossuth County landowners paying 35% of the cost. CD 41's outlet is the Blue Earth River. Various clean outs and repairs of the system were discussed.

As reported in the viewers report 19.83 acres will be purchased for buffer strips pursuant to Minnesota Statute 103E.201 for a cost of \$147,892. .93 acres of these buffer strips were awarded damages for the buffer strips at 10% of the cropland rates due to standing trees on the property for a cost of \$694. 63.21 acres for a 100-foot wide permanent construction easement from the center of the ditch will be acquired for a cost of \$23,577. The viewers report and the property owners report reflects an estimated assessment of \$582,294 plus the cost of the buffer strips with Kossuth County landowners paying 35% of the total cost. The estimated assessment left for CD41 landowners is estimated to be \$492,997.

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The redetermination hearing was opened for public comment.

Tracy Zierke, landowner, questioned how the Iowa share of 35% was determined. Viewer Christenson stated the percentage has long been the share that Iowa landowners have paid in past proceedings. The Iowa

landowners have a tiled system and cannot use the full capacity of the open ditch portion of CD41. While the Iowa landowners contribute to the repair of the open channel of CD41, the CD41 Minnesota landowners do not contribute to the repair of the Iowa systems.

The public hearing portion of the hearing was closed.

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Young/Warmka motion carried unanimously to make the following findings and direct staff to prepare order approving the viewers report and the redetermination of benefits for CD41.

The Faribault County Board of Commissioners finds that:

1. The Faribault County Board of Commissioners is the drainage authority for County Ditch 41.
2. The Viewers' Report has been made and other proceedings have been completed under Minnesota Statutes 103E.
3. The Viewers' Report, made and amended, is correct and complete.
4. The damages and benefits have been properly determined.

and the further directs that an order be prepared stating the following:

- A. That the redetermined benefits of CD41 are completed under Minnesota Statutes and are hereby adopted by the Board and shall be used in place of the original benefits and damages in all future proceedings.
- B. The County Auditor shall ensure that the redetermined benefits replace the existing benefits previously determined for CD41.
- C. The damages for the acquisition of the grass buffer area shall be paid and the grass buffer areas established as required by state statute
- D. That the effective date of the acquisition of the grass strip shall be September 1, 2017

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A repair was presented based on a repair petition of Harley Wilmert.

Charles Brandel of I&S Group presented the engineers repair report. Field investigations have revealed that portions of CD41 have significant amounts of slough areas and poor ditch bottom drainage. One rod ditch buffers will also be implemented. A considerable amount of ditch bottom is one foot or more above legal grade. Some highway and field crossings were showing signs of erosion. The engineer determined that portions of the ditch will need to be repaired for the ditch to properly function in a safe manner. Approximately 20.610 linear feet of existing ditch bottom will need to be cleaned and reshaped to allow the six-foot bottom. Erosion protection as detailed in the report was discussed. It was reported that all non-HPDE tiles and side intakes that outlet into the open ditch will be or at least protected with riprap and geotextile fabric. Tree removal details were also discussed. The engineer discussed that the railroad trestle bridge is proposed to be removed. The engineer also recommended replacing a private field crossing with a properly sized crossing in section 36 of Elmore Township and a culvert at the crossing of 420th Avenue should be replaced and set at the correct grade. Timing and amount of actual damages to crops and land were discussed. Actual acres of damages caused by construction will be determined at the conclusion of the repair and paid at county determined rates.

The engineer discussed various multi-purpose projects that could be implemented in the project and that possible grants and cost sharing opportunities for landowners exist.

Brandel reported that the cost of the repair is estimated at \$552,007 as detailed in his handout at the hearing. It is the opinion of the engineer that CD41 needs repair to restore the open ditch to its designed capacity, repair large sloughing areas along the ditch, provide erosion protection, repair and protect all tile outlets, establish all grass buffer strips, and remove the abandoned railroad bridge and trees in the 16.5 buffer strip area. The repairs are necessary and feasible and should be implemented to maintain the original capacity of County Ditch 41.

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The meeting was opened for public discussion.

Don McGregor, Kossuth County Supervisor, asked about the type of protection to be used to limit future erosion and sloughing. Brandel discussed the products and procedures to be used.

Jack Plathe, Kossuth County Supervisor, asked about the number of trees to be removed and the budget amount for them. Brandel and others stated that some of the trees have been removed already. The areas with trees were discussed as outlined in the engineer's report.

Clair Sansgaard, landowner, asked if tile outlets would be steel or plastic. It was reported that dual wall plastic was preferred. Discussion was also held on marking the outlets for future repair protections was discussed.

Clair Sansgaard, landowner, asked about the opportunity for improvements on the system. Kurt Deter explained the improvement process versus the repair process.

Tony Zierke, landowner, asked about the ability to replace open ditch with a tile. Brandel and Deter discussed the procedure. The size of CD41's open channel would reduce the opportunity for this process due to cost.

Tom Loveall, Commissioner, asked about locating tile outlets and the cost of repairs now and in the future. Brandel reported that he has not done that but each outlet will be given a GPS location for drainage staff information. The board discussed possible policy changes for this issue.

Randy Peter, Elmore Township Supervisor, questioned the township crossing replacement. It was stated that Elmore Township would be responsible for the cost. Opportunities may exist for financing.

Gene Huber, Rome Township, stated he felt that private landowners should pay the costs of private tile inlets into the system.

The public comment portion of the hearing was closed.

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Warmka/Young motion and unanimously passed to approve the repair as recommended by the engineer in his report and direct staff to prepare findings and order that states the following;

Findings of Fact

03-29-17

1. A petition, dated April 15, 2013, was received by the County Auditor of Faribault County requesting to repair County Ditch 41 pursuant to Minn. Stat. § 103E.715.
2. On May 7, 2013, the County Board appointed Charles Brandel of I+S Group to prepare a repair survey and report.
3. The engineer's report was filed with the drainage authority on April 18, 2014. The drainage authority, in consultation with the auditor, ordered a public hearing on the repair report. At a public hearing on July 18, 2014 the drainage authority noticed and held a hearing on the report. Action was delayed and the County Board ordered a redetermination of benefits and a new agreement with Kossuth County to allocate costs to Iowa drainage districts.
4. The viewers filed their report with Faribault County on February 13, 2017.
5. The engineer filed his revised report on February 14, 2017.
6. Notice of the hearing on the repair report was provided by mail to the petitioners, 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.
7. A public hearing before the drainage authority was held on March 29, 2017 at 1:00 p.m. in the Hamilton Hall Meeting Room, Blue Earth, MN.
8. At the public hearing, Engineer Brandel presented the engineer's report. The engineer stated that CD41 needs repair to restore the open ditch to its designed capacity, repair large sloughing areas along the ditch, provide erosion protection, repair and protect all tile outlets, establish all grass buffer strips, and remove the abandoned railroad bridge and trees in the 16.5 buffer strip area. The repairs are necessary and feasible and should be implemented to maintain the original capacity of County Ditch 41.
9. The Drainage Authority accepted the engineer's findings that the open ditch is above the legal ditch grade with sediment and vegetation accumulation. That there are also multiple slough and erosion areas throughout the ditch, two culverts to be replaced, an abandoned railroad bridge to be removed and other recommendations found in the repair report as revised.
10. The engineer estimated the cost of the repairs to be \$552,007 including the replacement of a township road crossing to be paid for by Elmore Township.
11. The engineer's report contains all the details, plans, and specifications necessary to prepare and award a contract for the repairs.
12. The drainage authority finds, consistent with the engineer's report, the public comments received at the public hearing on the engineer's report, and the entire record of proceedings, that the open

channel of County Ditch 41 is out of repair; that the condition of County Ditch 41 impedes the flow of water and reduces the hydraulic efficiency of the drainage system below that established by the original construction and/or subsequent improvement of the drainage system.

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 41 hereby orders as follows:

- A. The petition of Harley Wilmert for the repair of CD41 in the location specified in these findings and recommended in the engineer's report as amended is granted and is consistent with the engineer's recommendations and with the findings above.

- B. The County Auditor and the Engineer shall proceed to prepare and to 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.

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The hearing was adjourned.

John Roper, Chair

John Thompson, Auditor/Treasurer/Coordinator