

STATE OF MINNESOTA  
LAC QUI PARLE-YELLOW BANK WATERSHED DISTRICT BOARD OF MANAGERS  
SEATED AS DRAINAGE AUTHORITY UNDER STATUTES CHAPTER 103E  
FOR THE IMPROVEMENT OF LAC QUI PARLE COUNTY DITCH 54

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The matter of the petition of Brandenburger  
and others for the improvement of Lac Qui  
Parle County Ditch 54

**Preliminary Hearing Order**

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The Board of Manages of the Lac Qui Parle-Yellow Bank Watershed District, sitting as Drainage Authority for Petition for Improvement of Lac Qui Parle County Ditch 54 (CD 54) met at 11:15 a.m. on Monday, April 24, 2017, in the Lac qui Parle County Commissioners' Room, Lac qui Parle County Courthouse, 600 6th Street, Madison, MN 56256. Upon receipt of information that other proceedings were required before proceeding with the petition improvement, the Drainage Authority continued the hearing to a date, time and location to be determined. Upon completion of the other proceedings, the Drainage Authority re-noticed the hearing for 10:00 a.m. on Tuesday, September 19, 2017 at the Lac qui Parle County Commissioners Room located in the Lac qui Parle County Courthouse, 600 6<sup>th</sup> Street, Madison, MN. The hearing was held according to Minnesota Statutes Section 103E.261. Having considered the preliminary engineer's report, the DNR's Preliminary Advisory Report and the comments and testimony received at hearing, Manager Craigmile moved, seconded by Manager Ludwigson, for adoption of the following:

**Findings:**

1. The Drainage Authority met at 10:00 a.m. on Tuesday, September 19, 2017 at the Lac qui Parle County Commissioners Room located in the Lac qui Parle County Courthouse, for the preliminary hearing on the petition for improvement of CD 54.
2. The hearing was held according to Minnesota Statutes Section 103E.261.
3. The drainage authority's attorney presented the history of the proceedings through the preliminary hearing and summarized the requirements of the drainage code.
4. The hearing was noticed according to statute after filing of the preliminary engineer's report.
5. The drainage authority's attorney presented an examination of the petition to determine its sufficiency.
6. The drainage authority finds the following regarding the sufficiency of the petition:



- a. The Board verified the signatures and ownership interests of the petitioners and finds that the petitioners are the owners of at least 5 of the 12 – 40-acre parcels that the proposed improvement passes over. As such, petitioners are at least 26 percent of the owners of the property affected by the proposed improvement; or the owners of at least 26 percent of the property area that the proposed improvement passes over. (103E.215)
  - b. The petition was filed with the Watershed District Board of Managers. The petition was properly filed with the Board of Managers to initiate improvement proceedings. For the purpose of a properly filed petition for improvement of a drainage system within the Watershed District, the Board of Managers composes the Drainage Authority for the improvement and, if the improvement is ordered and constructed, for all subsequent actions on the drainage system. (103D.625)
  - c. The petition properly designated the drainage system proposed to be improved by number and map description that identifies the drainage system; the petition alleges that the drainage system has insufficient capacity or needs enlarging to furnish sufficient capacity; the petition describes the improvement (exhibit C), including the names and addresses of owners of the 40-acre tracts or government lots and property that the improvement passes over (exhibit B); the petition alleges that the proposed improvement is necessary and will be of public utility and promote the public health; the petition contains an agreement by the petitioners that they will pay all costs and expenses that may be incurred if the improvement proceedings are dismissed; the petition alleges that the existing drainage system needs repair and further petitions the Board to consider separable maintenance when determining the allocation of costs of the improvement; and the petition was accompanied by cash bond from the petitioners of \$10,000, conditioned to pay the costs incurred if the proceedings are dismissed or a contract is not awarded to construct the drainage system proposed in the petition. (103E.215)
7. The preliminary engineer's report, as amended, was read and reviewed by the drainage engineer.
  8. CD 54 provides beneficial drainage to agricultural properties, public roadways, and other lands in Sections 12, 13, and 24 of Township 116 North, Range 46 West (Manfred Township), and Sections 18 and 19 of Township 116 North, Range 45 West (Freeland Township), Lac Qui Parle County, Minnesota.
  9. CD 54 is in need of repair. CD 54 has remained in service since its original construction in @1919. Besides minor repairs, no major repair or replacement of tile has occurred since original construction. The tile is experiencing more frequent failure at the end of its useful life. Because the original construction did not anticipate the future demands on the drainage system, construction materials and techniques were used that are now prone to failure and rapid deterioration. Previous repairs on the tile have indicated that the existing



tile is deteriorated and out of alignment. Years of use and settlement of sections of the tile have reduced the hydraulic capacity of the tile.

10. CD 54 is in need of improvement. Even in a repaired state, CD 54 is inadequate to support beneficial drainage for current farming and drainage practices. CD 54 has insufficient capacity and needs enlarging to furnish sufficient capacity. CD 54 does not meet current design criteria: the original construction of CD 54 was not deep enough to accommodate adequate drainage to much of the watershed it was intended to serve; new drainage and farming practices in the watershed of the ditch create further need for increase tile capacity; and shallow installation depth must be corrected to reduce frequency of repair to accommodate current farming implements.
11. The proposed improvements include: lowering the depth of the drainage system to accommodate current farming practices, tile outlets and improve drainage efficiency; increasing the size of existing tile segments to accommodate improved flow; construction of new surface intakes where necessary to provide improved, buffered and stabilized inlets and to prevent erosion of soil into the system; and construction of two new branches.
12. The preliminary engineer's report indicates that the capacity of the portion of CD 54 proposed to be improved is inadequate to convey the drainage demand being placed on the drainage system.
13. The proposed improvement includes a separable maintenance portion of cost as recommended by the engineer based on the current alignment of tile portions of CD 54 having reached or exceeded its useful life and tile deterioration and settling having reduced the hydraulic efficiency of the system.
14. A copy of the original preliminary engineer's report was mailed to commissioner of natural resources as required by Minnesota Statutes Section 103E.255. By letter dated April 5, 2017, the commissioner provided comments (preliminary advisory report) on the preliminary engineer's report. The comments were read into the record. The DNR also received a copy of the amended preliminary engineer's report. However, because the amendments were not substantial, no supplemental DNR advisory report was received.
15. A copy of the original and amended preliminary engineer's report was also provided to the Lac Qui Parle County SWCD, Lac Qui Parle County Environmental Services and the Lac Qui Parle County NRCS office to initiate coordination and investigation of potential external sources of funding to facilitate incorporation of environmental, land use, and multipurpose water management features or alternatives into the project as required by Minnesota Statutes Section 103E.015. As of the date of the preliminary hearing, the Board has not identified any external sources of funding to facilitate incorporation of environmental, land use, and multipurpose water management features or alternatives.



16. The Board invited comment from landowners present at the hearing.
17. Comments were received regarding the condition of the ditch and the need for the improvement.
18. The proposed improvement of CD 54 as petitioned and as addressed in the engineer's preliminary report, as amended, is feasible, necessary, will be of public benefit and promote public health.
19. The environmental and land use criteria in drainage code have been adequately considered by the engineer and, as directed herein, will be further investigated in considering the final scope of improvement.
20. Based on the engineer's evaluation of the receiving watercourse, the outlet for the proposed improvement is adequate.
21. The drainage authority has identified a viewing team, consisting of three disinterested residents of the state, qualified to assess benefits and damages, available to view this project and willing to perform the duties of viewers for the is project.

Based on the foregoing findings, the Joint Drainage Authority adopts the following:

**Order:**

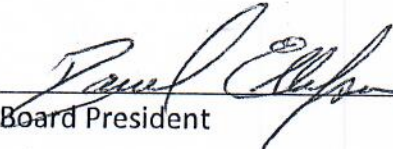
- a. The Board accepts and adopts the preliminary engineer's report for the petitioned improvements.
- b. The Board, upon filing this preliminary hearing order with the Lac Qui Parle County auditor, orders the engineer to make a detailed survey with plans and specifications for the proposed drainage project and submit a detailed survey report to the drainage authority as soon as possible.
- c. The Board directs the engineer to address comments of the DNR commissioner, and evaluate whether changes to the proposed project are feasible to address concerns raised by the commissioner. If feasible, the engineer should include changes in the final project plans.
- d. The Board directs the engineer to continue to work through the processes contained in statutes section 103E.015 to ensure that environmental, land use, and multipurpose water management criteria are considered for inclusion in final project plans.
- e. The Board directs the engineer to continue to coordinate, in addition to the coordination which occurred in advance of this order, with soil and water conservation district, county and USDA planning authorities about potential external sources of funding and technical

assistance for environmental, land use, and multipurpose water management features or alternatives.

- f. The Board directs the engineer to request additional information about potential funding or technical assistance for environmental, land use, and multipurpose water management features or alternatives from the executive director of the Board of Water and Soil Resources.
- g. The Board appoints the following viewers to determine the benefits and damages to all property affected by the proposed drainage project and make a viewers' report:
  - Brad Nesvold
  - Jon Olson
  - Kody Nesvold
- h. Upon issuance of the Secretary's Order calling the first meeting of the viewers, the viewers shall subscribe to an oath to faithfully perform their duties.
- i. The Board directs the viewers, once qualified, to work with the engineer and to commence viewing as soon as practical upon receipt of the engineer's design plans and specifications indicating the efficiency of the drainage system improvement.
- j. The engineer is directed to assist the viewers in identifying properties receiving a hydrological improvement from the project and in identifying properties responsible for increased sedimentation in downstream areas of the watershed or responsible for increased drainage system maintenance or increased drainage system capacity because the natural drainage on the properties has been altered or modified to accelerate the drainage of water from the property.

After discussion, the Board President called the question. The question was on the adoption of the foregoing preliminary findings and order, and there were 3 yeas and 0 nays.

Upon vote, the President declared the motion approved.

  
Board President

Dated: September 19, 2017

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I, David C. Laignelle Secretary of the Lac Qui Parle-Yellow Bank Watershed District, do hereby certify that I have compared the above Findings and Order with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 19<sup>th</sup> day of September, 2017.

David C. Laignelle  
LQP-4B, Secretary