

Lac qui Parle-Yellow Bank Watershed District  
Special Watershed Meeting #591.1  
June 13, 2019

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The matter of the petition of Kruse and others  
for the improvement of Lac qui Parle County  
Ditch #42

Preliminary Engineer's Hearing

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The preliminary engineer's hearing for the matter of the petition of Kruse and other for the improvement of Lac qui Parle County Ditch #42 was called to order by Chairman Ellefson at 10:00 a.m. at the Lac qui Parle County Commissioners' Room, Lac qui Parle County Courthouse, 600 6<sup>th</sup> Street #7, Madison, MN. **Managers present:** Chairman Darrel Ellefson, Treasurer David Ludvigson, & Secretary David Craigmile. **Managers absent:** Vice-Chairman John Cornell, & Publicity Michael Frank. **Staff present:** Trudy Hastad, & Jared Roiland. **Others present:** Attorney John Kolb, Rinke-Noonan Attorney, Engineer Chris Otterness, Houston Engineering, Landowners Donovan Wildung, Donn Streich, Lyle Kruse, & Ronald Stafne.

Chairman Ellefson called for introductions. Once introductions were complete, Attorney Kolb stated the purpose of the preliminary engineer's hearing. Administrator Hastad gave the record of Notice requirements. The public notice was advertised for three weeks in the Western Guard and Dawson Sentinel papers, posted on the legal bulletin board in the Lac qui Parle County Courthouse, and sent to each landowner of the County Ditch #42 system.

Attorney Kolb reviewed the petition received and stated the petition met requirements of MN Statutes as there are eleven parcels affected by the proposed improvement, and the petitioners owned nine of the parcels so the petition met the 26% landowner signatures, the petition listed the contents of the system to be improved along with a map, and it met the criteria necessary for the public health and benefit, appropriate bond was received, and petitioners agreeing to pay all costs if the petition would be dismissed.

Houston Engineer, Chris Otterness presented his preliminary engineers report on the County Ditch #42 system. He reported the petition was for the main branch of County Ditch #42 and not the existing branches. Mr. Otterness gave the background of the current system, stating the system was established in 1916 with a main trunk and five branches. The tile system is 103 years old and past its' functional life. There have been a number of blowouts and failures to the system. They did not televise the system. The system has insufficient capacity for current land practices being less than 1/8" co-efficient per day. The engineer stated the current system

has 8" to 14" tile and the proposed improvement would be 15" to 30" diameter tile to provide a ½" co-efficient per day for the main trunk of the system. The proposed tile would be deeper to provide adequate cover as the old tile system is very shallow. They propose to reconnect every public and private tile and add inlets to provide full benefit of the system. The co-efficient would improve from 1/8" co-efficient to ½" co-efficient and the existing branches would still benefit from a new outlet to the system. The branches were not petitioned to be improved. The Environmental considerations would require voluntary participation, possible change in land use, and possible easement. DNR suggested consideration of restoring a wetland along the drainage system. The current improvement fits in with the County land use plans as is considered Agriculture land. The Engineer stated there is adequacy of the outlet with less than 1% velocity. The project bisects several wetlands and construction would qualify as a no-loss and tile inlets would be sized so no additional wetland loss would occur. The project would require a storm-water pollution prevention plan. The project would result in little change to nutrient loading. They looked at fish & wildlife and groundwater concerns, along with other environmental impacts. There is potential for external funding from Federal & State water quality funding thru the SWCD competitive grants and would require match and landowner voluntary participation. The cost of the project with 20% contingency is estimated at \$614,660 with another \$158,600 for additional expense (attorney, engineering, etc.) for a total projected cost of \$773,200. The separable maintenance is estimated at \$535,500 (that would be the cost to fix the existing tile as is) and viewers should be appointed to consider separable maintenance. The Engineer stated the project is necessary, feasible, & practicable and recommended to continue with the project. He suggested considering repair to the five branches in conjunction with the improvement as they are also 103 years old and he figures the cost to repair the five branches to be \$287,000. There is some cost savings doing the branches at the same time.

Chairman Ellefson asked the Board if they had any questions for the Engineer. There being none, Attorney Kolb read the DNR's preliminary advisory report response into the record. Attorney Kolb said the Engineer would address the DNR's concerns following the hearing.

Chairman Ellefson opened the meeting to public comment. He asked people to state their name and location to the project if commenting.

Landowner Ron Stafne was concerned with being assessed to the ditch system. He said his water never leaves his land and neighbors have never complained of water coming from him. There is no culvert in his land so his water is contained on his property and doesn't go to the ditch, therefore he should not pay any ditch assessment. His water is contained on his property and probably goes to China, nowhere else. His neighbor, John, has a mud hole and for years hasn't been able to farm it, and tried to tile it and still can't farm it. There is an intake in his water puddle and the puddle is still there so the ditch system does not help him. Mr. Stafne's property is assessed eleven acres, and the water doesn't go to the ditch.

Attorney Kolb informed Mr. Stafne that this hearing wasn't to address assessment concerns. There is a statute to formerly petition for removal of property from a ditch system. He thought it was Statute #103E.806 or 805. Attorney Kolb said there was recently a redetermination of benefits completed on the ditch system and said Mr. Stafne could have appealed the redetermination of benefits at that time. The other way to remove the property is to petition for removal from the ditch system. Mr. Stafne said he tried to get the County Attorney to help him with the petition and he couldn't and he tried the Chippewa attorney and he wouldn't help him either. Attorney Kolb said he could petition without an attorney as long as he followed the Statute.

Chairman Ellefson asked for other comments.

Administrator Hastad reported that Todd Patzer wasn't able to attend the hearing, but called and said the Branch on his property (Br. 5) was not working properly and he would like to see that fixed, but would go along with what the other landowners felt was best.

Chairman Ellefson asked for further comments. Attorney Kolb asked the Engineer to put the NWI map on the screen that shows the inventoried wetlands. There is a possibility for a wetland restoration in Section 26/27 in the South ½. He asked for landowners to turn in their USDA certification of wetlands so we make sure no acres affected by the proposed improvement would be converted. The Engineer can design the system to use non-perf tile if there is an FW or he can modify surface inlets if there would be a concern.

Landowner Lyle Kruse owns property on the system and asked about the NWI wetland showing on the map as that affects his property.

Attorney Kolb responded that the map shows capabilities for wetland restoration, and DNR brought it up in their report so we need to address the possibility. The landowner would probably have to be compensated, if an area was converted for water storage.

Landowner Don Wildung asked if repairing the system as is, no improvement, you wouldn't have to worry about wetland determinations as that information is already existing. If all you do is replace existing – same to same – then there is no issue.

Lyle Kruse commented that the DNR wants wetland and wildlife areas restored.

Attorney Kolb replied that if you needed to reduce the stream level at the outlet this would be an opportunity to reduce flow and the landowner would be compensated. If you need a place to store water this would be a good area.

Lyle Kruse asked if DNR wanted a grassed area.

Attorney Kolb said they didn't say that, but if you had to store water, it was noted this would be a good place to do that.

Engineer Otterness replied if you had to store water, you would have to daylight the tile, and then water would potentially back up – there would be several things they would have to address to drain water into that area, and potential USDA compensation. Engineer Otterness reiterated that the outlet is adequate.

Attorney Kolb replied that the Engineer has to address the DNR comments in his final engineer's report, and reminded the landowner that the goal of the improvement is to improve efficiency of the drainage system.

Chairman Ellefson asked for further comments and/or questions.

Landowner Lyle Kruse asked the engineer how long would water stay in the circular area on the map before it would drain out – 10 days or 2 days?

Engineer Otterness responded that they did not compute that as they did not do a rigorous model of the whole system, just at the outlet of the system. If the drainage authority ordered it, they could model what the reduction timeline estimate would be.

Attorney Kolb asked Mr. Kruse how the land currently behaves. Mr. Kruse responded taking crop off probably the last 2 of 10 years as tile is not working properly. Attorney Kolb said if you can get rid of the water you can farm it, but if they needed an area to store water and you got compensated, if your struggling to get crop off 20% of the time, it may be an area to look at for storage. Mr. Kruse said he wouldn't know until the tile is fixed. Attorney Kolb said you can always do things later, but more efficient and cost-efficient on the front end versus the back end of a project.

Engineer Otterness responded the improvement project would likely give the greatest amount of benefit to this land. Mr. Kruse agreed that most of the problem is due to the tile not working, as it wasn't like this 20 years ago.

Attorney Kolb wanted to make sure landowners were on the same page. He just asked to show the map due to DNR comments and the map was best data showing where these potential storage areas are located.

Landowner Don Streich replied that we mainly addressed the area on Mr. Kruse land, but the other half of the circle is on the Wildung property and concerned if you store water there you would make the top half of the system inadequate. Attorney Kolb responded you want to do what is best for everyone on the system. Mr. Streich replied.... to basically appease the DNR.

Attorney Kolb said the drainage authority has the obligation to look at the adequacy of the outlet, and other environmental considerations when doing improvement projects, and make sure the land can still produce. Part of the reason to have this discussion is to show that the drainage authority looked at these benefits and can see all issues.

Chairman Ellefson asked if there were any other questions. There being none, the public comment portion of the hearing was closed.

Attorney Kolb recommended the drainage authority approve the draft findings and order (attached as exhibit A) and recommended appointing the viewing team of Brad Nesvold, Kody Nesvold & Jordan Connor as viewers and instruct the Engineer to move forward to complete a more detailed engineer report.

Manager Craigmile motioned to adopt the findings, move ahead with the order as attached (Exhibit A), seconded by Manager Ludvigson. Chairman Ellefson stated there is a motion, and a second, any discussion?

Manager Ludvigson asked Engineer if he could prepare something showing landowners how much water will sit on the surface during rainfall events. Engineer Otterness responded he could do a simple model of an estimate.

Chairman Ellefson said there was a motion made, and a second to adopt the findings & order(as attached) and appoint viewers Brad Nesvold, Kody Nesvold, & Jordan Connor.

On motion, the motion passed 3-0.

Chairman Ellefson adjourned the hearing at 11:23 a.m.

  
Darrel Ellefson, Chairman

ATTEST:

  
David Craigmile, Secretary

