

Lac qui Parle-Yellow Bank Watershed District

Special Meeting Minutes #662.2

County Ditch #63 Preliminary Engineer's Hearing

April 11, 2025

The Special meeting was held to conduct the Preliminary engineer's hearing on County Ditch #63. The hearing was held in the Lac qui Parle County Annex, 422 5th Avenue, Madison, MN 56256 at 9:30 a.m. **Managers present:** Chairman Andrew Weber, Vice-Chairman Mike Knutson, Secretary Brent Larson, Treasurer Jon Olson, Publicist Daniel Buseth. **Staff present:** Administrator Trudy Hastad, Ditch Inspector Jared Roiland, Ditch Specialist Cindy Brehmer. **Others present:** Attorney John Kolb, Engineers Adam Nies, Chris Otterness, & Matteo from Houston Engineering, Dean Sather, Marissa Ludvigson, Nate Ludvigson, Tony Abrahamson, Paul Wulf, Jeffrey Stamp, Jim Conner, John Sather, Commissioner DeRon Brehmer, Clayton Patzer, Sharron Haas, Doug Haas, Administrator Jake Sieg, & Tony Ludvigson.

Chairman Andrew Weber opened the hearing at 9:30 a.m. Attorney Kolb reviewed the purpose of the hearing, hearing details, and the criteria the Board must consider at the hearing. Administrator Hastad gave the notice requirements. Attorney Kolb then reviewed the petition and reported that 26 % of the owners or owners of the benefitted area the project passes over was met and said that actually 42% of owners (6 out of 14), the petitioners put up a bond of \$60,000, and the contents of the petition were correct and properly filed so the petition met the statutory requirements.

Attorney Kolb then read the DNR Advisory report into the record that was filed with the Watershed. Houston Engineer Adam Nies reviewed the preliminary engineer report. He discussed the age of the tile system, the survey results, alternatives, opinion of probable cost, how he came up with costs, separable maintenance cost, reviewed concerns brought up by DNR and addressed them. He believes the project to be necessary, feasible, & practicable and recommended the tile be replaced.

Chairman Weber asked for any comments from the petitioners or the petitioners attorney. There were none. Chairman Weber then asked the Board for any comments or questions.

Manager Jon Olson asked for clarification on the quote for tile cost and cost of tile installed. Engineer Nies reviewed his installed price, unit price, & bedding price and reminded everyone that the final cost depends on what is bid. Engineer Chris Otterness discussed what contingency costs were.

Attorney Kolb asked the Engineer to address if some branches were eliminated as there was some talk with landowners about that as they have done some private tile in this area. Engineer Nies addressed this issue and also talked about some non- alternatives as storage can change the system. He also talked about abandonment of some of the branches. He also talked about some external funding sources.

Chairman Weber asked for public comments. Sharron Haas asked some questions regarding costs, contingency, just replacing the main tile and not the branches, & if this could be done privately.

Attorney Kolb and Engineer Nies addressed her questions. Manager Jon Olson asked Attorney Kolb to address costs associated with abandonment of tile. Attorney Kolb addressed the question. Landowner Jim Connor said the projected cost has caused some angst in the neighborhood so was glad the Engineer addressed how he came up with his costs, he also questioned the outlet and needing a better outlet as CD #57 also uses the private ditch as an outlet. Attorney Kolb said that can be addressed along with the improvement to CD #57. Some discussion was held on getting local contractors to bid the project to help keep costs down. Landowner Nate Ludvigson said there was a lot of sticker shock when they seen the proposed numbers. He also asked if the project was done privately, would they still need to address the DNR comments. Attorney Kolb answered that DNR is required by statute to comment on ditch improvements and you could probably hang your hat that it will be the same for private tile, although they are not given proactive notice on private tile but they will still look at this in a private project. Discussed crop damages can be paid if they install project during crop season. Tony Abrahamson questioned using 8" dualwall and why not use 12" single wall. Engineer Otterness said he wouldn't recommend going with that as it is a public system and multiple inputs on tile so the dual wall has more resiliency, always recommends dual wall on public mains, but if the Board approved they could change that but he doesn't recommend. Tony Abrahamson asked about some grades and slope with Engineer Otterness and Nies responding. Dean & John Sather discussed some concerns with the public waterway backing up onto their property during high flow events. Jim Conner replied that Wayne Enger had just received permission from DNR to do a cleanout in the public waterway which should help them with their issue. Attorney Kolb replied to keep being proactive in cleaning the public watercourse with DNR permits. Dean Sather said he was hoping we could tell DNR to cleanout the public waterway. The landowners discussed a culvert on the County Hwy road that sits a little high. Attorney Kolb told them to talk to the county engineer about that. Tony Ludvigson commented on the outlet. Nate Ludvigson asked at what point do we abandon branches. Attorney Kolb said we would look at eliminating branches that are feasible and we could do that as part of this improvement if deemed feasible. Nate Ludvigson asked if you abandon a branch do those landowners still get assessed benefits to the ditch. Attorney Kolb responded they would probably still have benefit to the ditch system. He encouraged the landowners to get their private tile maps to the Watershed office to get to the engineers.

Chairman Weber asked for further comments. There being none he closed the public comment portion of the hearing.

The Board started deliberation to see if the petition meets the legal requirements of the drainage code and if the project as described in the petition and preliminary survey report, meet statutory criteria for establishment.

The Board then made their decision (see attached – Appendix A)

The hearing adjourned at 11:59 p.m.

Andrew Weber, Chairman

ATTEST:

Brent Larson, Secretary

STATE OF MINNESOTA
LAC QUI PARLE-YELLOW BANK WATERSHED DISTRICT
DRAINAGE AUTHORITY FOR LAC QUI PARLE COUNTY DITCH 63

The matter of the petition of Connor, et al., for the improvement of Lac qui Parle County Ditch 63

Preliminary Hearing Order

The Board of Managers of the Lac qui Parle-Yellow Bank Watershed District, seated as the Drainage Authority for the improvement of Lac qui Parle County Ditch 63, met at 9:30 p.m. on April 11, 2025, at the Lac qui Parle County Annex, 422 5th Avenue, Madison, Minnesota. The hearing was held according to Minnesota Statutes Section 103E.261. Having considered the preliminary engineer's report, the DNR preliminary advisory report and the comments and testimony received at the hearing, Manager Olson moved, seconded by Manager Larson for adoption of the following:

Findings:

1. The Drainage Authority met at 9:30 p.m. on April 11, 2025, at the Lac qui Parle County Annex for the preliminary hearing on the Engineer's Preliminary Survey Report related to the petition of Connor, et al., for the improvement of Lac qui Parle County Ditch 63.
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 and delivery of said report to the Department of Natural Resources (DNR) for preliminary review and preparation of a preliminary advisory report.
5. The Drainage Authority's attorney presented an examination of the petition and bond to determine their sufficiency.
6. The Drainage Authority finds the following regarding the sufficiency of the petition:
 - a. The Board's attorney verified the signatures and ownership interests of the petitioners and finds that the petitioners are the owners of 13 of the 19 40-acre or smaller parcels that the proposed improvement passes over and 6 of the 14 owners of property affected by the proposed improvement. As such, petitioners are at least 26 percent of the owners of the property that the proposed

improvement passes over and at least 26 percent of the owners of property affected by the proposed improvement. (103E.215)

- b. 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, or portion thereof. (103D.625)
 - c. The petition properly designated the drainage system proposed to be improved by number and map description that identifies the drainage system.
 - d. The petition alleges that the drainage system has insufficient capacity or needs enlarging to furnish sufficient capacity.
 - e. The petition describes the improvement, including the names and addresses of owners of the 40-acre tracts or government lots and property that the improvement passes over.
 - f. The petition alleges that the proposed improvement is necessary and will be of public utility and promote the public health.
 - g. 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.
 - h. The petition was accompanied by cash bond in the amount of \$10,000. The initial cash bond has been replaced by a commercial bond with an initial face value of \$60,000. The bond is adequate surety and has been reviewed by the Board's attorney. The bond is 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)
 - i. The costs incurred before the proposed drainage project is established may not exceed the amount of the petitioners' bond. A claim for expenses greater than the amount of the bond may not be paid unless the bond amount is increased or an additional bond is filed. If the Drainage Authority determines that the cost of the proceeding will be greater than the petitioners' bond before the proposed drainage project is established, the Drainage Authority shall require an increase in the bond amount or an additional bond to cover all costs to be filed within a prescribed time. The proceeding will be stopped until the additional bond prescribed by the Drainage Authority is filed. If the additional bond is not filed within the time prescribed, the proceedings will be dismissed.
 - j. The Board's attorney has reviewed the petition and bond and determined they meet the requirements of these proceedings.
7. A copy of the preliminary engineer's report was provided to the DNR Commissioner and BWSR inviting advisory review. By letter dated April 8, 2025, the commissioner provided comments (preliminary advisory report) on the preliminary engineer's report. The comments were read into the record.
 8. The engineer presented its preliminary engineer's report.

9. The drainage system is located in Sections 26, 34, 35, and 36 in Garfield Township (117N, R45W), Lac qui Parle County. The system includes a Main Trunk and several branches and begins in the east half of Section 34 and proceeds in an easterly direction across lands in Section 35, the south half of Section 26, and the west half of Section 36. The system outlets into a creek located in the northeast quarter of Section 36. Branches are included as named: Branch 33, Branch 37, Branch B, Branch C, Branch C7, Branch 53, Branch 66, Branch 68, and Branch 96.
10. CD 63 and its branches proposed to be improved have insufficient capacity and are in need of repair. The installation of larger tile is required to furnish sufficient drainage capacity and fulfill its original intended purpose.
11. CD 63 and its branches proposed to be improved are in need of improvement. The tile system was constructed in 1920 and is now over 100 years old and is past its functional life. Tiles of this age typically experience displacement of individual pipe sections, which decrease the functional cross-section of the pipe and consequently decrease the capacity from its as-built condition. Numerous repairs have been required in recent years to repair blow-outs and other failures of the system. It is likely that deterioration will continue to accelerate due to its age. The existing tile cannot easily be modified to increase its capacity and must be replaced in its entirety.
12. The proposed project includes improving CD 63 and its branches which are named Branch 33, Branch 37, Branch B, Branch C, Branch C7, Branch 53, Branch 66, Branch 68, and Branch 96.
13. The preliminary engineer's report indicates that the problems being experienced within CD 63 and its branches proposed to be improved are due to both insufficient capacity and disrepair of the tile system.
14. A copy of the preliminary engineer's report was also provided to the Lac qui Parle County SWCD, Lac qui Parle County, and Lac qui Parle County NRCS offices 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 and engineer have identified any external sources of funding to facilitate incorporation of environmental, land use, and multipurpose water management features or alternatives available to individual landowners. No funding was discovered to pay the costs of system-included features and practices.
15. During the hearing, the engineer addressed the DNR comments.
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; concerns over cost including uncertainty in the engineer's opinion of cost for both the improvement and repair; whether the system could be abandoned and reconstructed as a private system; whether some laterals could be eliminated from the improvement; whether the proposed configuration could be changed to accommodate future improvement of CD 57; materials, tile size and grade elevation options; the efficiency and function of the private ditch outlet and the downstream public watercourse; and downstream obstructions on the public watercourse. All comments were addressed to the satisfaction of the Board.
18. The proposed improvement of CD 63 and its branches as petitioned and as addressed in the engineer's preliminary report is feasible, necessary, will be of public utility and benefit, and promote public health.
19. The environmental and land use criteria in the 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. However, the Board acknowledges the concerns raised by the DNR regarding both capacity and stability of the outlet and downstream, receiving waters.
21. The Drainage Authority has identified a viewing team, consisting of at least 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 this 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 improvement.
- b. The Board, upon filing this preliminary hearing order with the Lac qui Parle County Auditor-Treasurer, 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. If feasible, the engineer should include changes in the final project plans.
- d. The Board directs the engineer to consider alternatives that eliminate branches and laterals from the improvement in order to save costs.

- e. 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. This consideration should include an attempt to directly coordinate with the DNR staff to further clarify and address both concerns raised and any disagreement between the engineer and the DNR's comments as contained in the DNR preliminary advisory report.
- f. The Board directs the engineer to continue to coordinate, in addition to the coordination which occurred in advance of this order, with the Soil and Water Conservation District, and the 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.
- g. 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.
- h. 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:
 - Scott Henderson
 - Ken DeGier
 - Larry Murphy
 - Randy Kramer
- i. The viewers shall subscribe to an oath to faithfully perform their duties.
- j. The Watershed District Secretary, Board President or other authorized staff, is authorized to enter into a professional services contract with the viewers or their management company, H2Over Viewers, Inc., for viewing services.
- k. 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.
- l. 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 Findings and Order, and there were 5 yeas and 0 nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
WEBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BUSETH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OLSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KNUTSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the motion Passed.



Andrew Weber, President

Dated: April 11, 2025

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I, Brent Larson, Secretary of the Lac qui Parle-Yellow Bank Watershed District, do hereby certify that I have compared the above motion, findings and order with the original thereof as the same appears of record and on file with the Board of Managers and find the same to be a true and correct transcript thereof as adopted by and filed with the Board of Managers, on April 11, 2025.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 11 day of April, 2025.



Brent Larson

