Ditch Management Checklist (Improvement)

RE: Minn. Stat. § 103E

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Ditch No. Commissioner’s District**

\_\_\_\_\_\_\_\_\_\_\_ Petition and bond received from landowners for improvement\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*103E.202 – 103E.235* name

\_\_\_\_\_\_\_\_\_\_\_ Petition and bond fwd’d to County Attorney for review (The county attorney must review the petition and bond within 30 days after it is filed) *103E.238*

\_\_\_\_\_\_\_\_\_\_\_ Petition and bond returned to Land Records, if adequate; if inadequate, it is returned to petitioners by the County

Attorney with a description of the deficiencies *103E.238*

\_\_\_\_\_\_\_\_\_\_\_ Schedule the board appearance w/Bob to present petition to Board. (The auditor shall present the petition to the board at its next meeting) 103E.215

\_\_\_\_\_\_\_\_\_\_\_ Notify County Commissioner of the petition and the upcoming discussion

\_\_\_\_\_\_\_\_\_\_\_ Board appoints engineer (within 30 days after receiving the

petition) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *103E.241*

*\_\_\_\_\_\_\_\_\_\_\_*  Bond and Oath received from the engineer. *103E.241*

\_\_\_\_\_\_\_\_\_\_\_ Following survey of the proposed drainage project, engineer files preliminary report w/Land Records

and copies the DNR *103E.251*

\_\_\_\_\_\_\_\_\_\_\_ Schedule preliminary hearing no more than 30 days after the date of the order (include enough time

for mailings—to be mailed at least 10 days before the hearing) *103E.261*

\_\_\_\_\_\_\_\_\_\_\_ Mail notice of preliminary hearing to landowners affected by the drainage project (including

property owners, political subdivision, etc.) *103E.261*

**If it includes a repair, mail to all within the ditch system**

**\_\_\_\_\_\_\_\_\_\_\_** *Although not a statutory requirement, notice of preliminary hearing may be published and/or posted; consult*

*County Commissioner*

Newspaper(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dates published\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_ Ensure the preliminary DNR report has been received; if it hasn’t follow up with the local DNR office

**\_\_\_\_\_\_\_\_\_\_\_** Prepare preliminary hearing agenda

\_\_\_\_\_\_\_\_\_\_\_ Attend preliminary hearing

* Confirm that all legal requirements have been met (i.e. mailing of notices, receipt of DNR advisory report—if rec’d, etc.). If DNR report is rec’d, it must be read into the record. *103E.261, subd. 2 & 3*
* *Sufficiency of petition—County Atty comments on sufficiency of petition at the prelim hearing*
* Board Action:
* viewers are appointed
* engineer directed to prepare detailed survey report (final report)

\_\_\_\_\_\_\_\_\_\_\_ Within 5 days after the engineer’s final report is filed, schedule a meeting w/viewers and provide them with a

copy of the order appointing them; also complete the oath... (See files) *103E.305, subd. 2 & 3*

*NOTE: In practice, viewers meet shortly after they are appointed, typically before the engr’s final report is rec’d.*

\_\_\_\_\_\_\_\_\_\_\_ Viewers prepare and file a report (viewers’ report) *103E.321*

\_\_\_\_\_\_\_\_\_\_\_ DNR examines the engineer’s final report and makes a final advisory report within 30 days of receipt of

the final report by the drainage authority *103E.301*

\_\_\_\_\_\_\_\_\_\_\_ Following receipt of engineer’s final report, viewers’ report, and DNR report (if rec’d), schedule final hearing date

(25 to 50 days after the first date of publication of the final hearing notice) w/Dave\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*103E.285 &*

*103E.291, and 103E.325, subd. 1* hearing date

\_\_\_\_\_\_\_\_\_\_\_ Following receipt of the viewers’ report and the DNR report, prepare owner’s report from the viewers’ report

within 30 days after it is filed *103E.323*

\_\_\_\_\_\_\_\_\_\_\_ Mail a copy of the owner’s report to each property owner affected by the proposed drainage project, notify County

Board, auditors of affected counties, and all interested persons of the time and location of the final hearing by

**publication, posting, and mail** *103E.325*

***NOTE: Notices are to be mailed within 1 week after the notice is first published in the paper.***

\_\_\_\_\_\_\_\_\_\_\_ Provide a copy of the final hearing notice to Jody for posting (must be posted at least *3 weeks* before the date of

the final hearing at the front door of the courthouse) *103E.325*

\_\_\_\_\_\_\_\_\_\_\_ Publish the final hearing notice once per week for 3 consecutive weeks in a legal newspaper of general circulation in each county affected by the notice (usually the Free Press and one newspaper located in general area of ditch)

Newspaper(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dates published\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_ Following publication, the publisher should return an affidavit of publication for the ditch file

\_\_\_\_\_\_\_\_\_\_\_ File posted notice, property owner’s report, affidavit of publication, final hearing notice, etc. in ditch file before

final hearing

\_\_\_\_\_\_\_\_\_\_\_ Prepare final hearing agenda

\_\_\_\_\_\_\_\_\_\_\_ Final Hearing

* Confirm that all legal requirements have been met (i.e. mailing of notices, receipt of DNR advisory report—if rec’d, etc.). If DNR report is rec’d, it must be read into the record.
* Board Action:
* adopt and confirm the viewers’ and engineer’s reports as made or amended
* establish the proposed drainage project
* adopt resolution relating to financing
* Determine if damages are to be paid; pay damages or deduct from payment before construction begins?? (see 103E.515)

*In practice, we have waited until the appeal period is up before damages are paid.*

# CONSTRUCTION OF DRAINAGE PROJECT (*103E.501 – 103E.555)*

\_\_\_\_\_\_\_\_\_\_ Schedule the bid opening (leave enough time for publication) and bid award (letting)—*allow 30 days for appeal*

*period to expire*; bid award should be scheduled during the next board meeting following the bid opening

Bid Opening\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Bid Award\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Note: The bid award is set for the next board meeting, following the bid opening; notify Jody to get on board

agenda

**\_\_\_\_\_\_\_\_\_\_** Engineer prepares specs and advertises for construction bids in the construction bulletin

\_\_\_\_\_\_\_\_\_\_ Publish advertisement for bids in the legal newspaper (Free Press), and in the newspaper in the town near where the

ditch is located. **\*\*\*publish for each week for 3 consecutive weeks (cannot be published during the same**

**week as the bid opening) \*\*\***

**\*\*\*Bids must remain sealed until the day and time of the bid opening. At the bid opening, bids are publicly opened and read. A bid bond or a certified check must accompany the bid\*\*\***

\_\_\_\_\_\_\_\_\_\_Hold bid opening (Land Records Director, ditch manager, and engineer attend); after the opening, the engineer

takes all bids to his office for review

\_\_\_\_\_\_\_\_\_\_ Hold bid award (the Land Records Director, ditch manager, and engineer attend the next board meeting, following

the bid opening); following his review of the bids, the engineer recommends the low bidder for award of the

contract

Board moves to award the contract to the low bidder

# of bids received\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Low bidder and bid\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tentative start date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tentative completion date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_ Bid award processing—forward letters to unsuccessful bidders

\_\_\_\_\_\_\_\_\_\_ Contractor constructs the drainage project; the engineer oversees this process

NOTE: When paying bills for the drainage project, retain the final payment (about 10% of total cost) until after

the ditch work is complete and approved by the engineer.

\_\_\_\_\_\_\_\_\_\_ Engineer contacts Land Records when the process is complete

\_\_\_\_\_\_\_\_\_\_ Issue and Sell bonds (Jerry and Dave handle this item)

\_\_\_\_\_\_\_\_\_\_ Schedule a completion hearing, following the completion hearing, following the completion of the construction of

the drainage project

\_\_\_\_\_\_\_\_\_\_ Provide notice of hearing to the affected landowners by publication or notice by mail at least 10 days before the

hearing *103E.555*

The notice should state that

* the engineer’s survey and inspection report is filed?
* the time and location of the hearing
* a party objecting to the acceptance of the contract may appear and be heard

\_\_\_\_\_\_\_\_\_\_ IC 134 received from the contractor. (Required by State Auditor before final payment)

\_\_\_\_\_\_\_\_\_\_ Hold the completion hearing (to consider the engineer’s survey and inspection report on the completed drainage

project *103E.555*

Board action: direct payment of the balance due, if it determines that the contract has been completed in

accordance with the plans and specifications