**STATE OF MINNESOTA**

***Before the*
<DRAINAGE AUTHORITY NAME>
SITTING AS THE DRAINAGE AUTHORITY FOR
<NAME OF DRAINAGE SYSTEM>**

|  |  |
| --- | --- |
| **In the Matter of:****the Petition to Repair <Name of Drainage System>** | **FINDINGS AND ORDER <GRANTING/DENYING> PETITION TO REPAIR** |

The <name of drainage authority> Board of <Commissioners/Managers>, sitting as the drainage authority for <name of drainage system>, having received a Petition to repair pursuant to Minnesota Statutes, section 103E.715 by <Petitioners>, having noticed and conducted a public hearing on the engineer’s report, and based on the record and proceedings, <Commissioner/Manager> \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ moved, seconded by <Commissioner/Manager> \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to adopt the following Findings and Order:

**Findings:**

1. A Petition dated <date> was received by the <Auditor/Secretary> of the <drainage authority> requesting to repair <name of drainage system> pursuant to Minn. Stat. § 103E.715.
2. The drainage authority met at <time> on <date> at <location>, accepted a petition for the repair of <name of drainage system>, determined that the drainage system needed repair, and appointed <name of engineer> to prepare an engineer’s report pursuant to Minn. Stat. § 103E.715, subd. 2.
3. The engineer’s report was filed with the drainage authority on <date>. The drainage authority, in consultation with the auditor, ordered a public hearing on the repair report.
4. 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.

[Note: If the engineer reported under Minn. Stat. § 103E.741 that property which was not assessed for benefits for construction of the drainage system has been drained into the drainage system or has otherwise benefited from the drainage system, also include the following finding.]

1. As required under Minn. Stat. § 103E.741, notice was also given to property owners determined by the engineer to be draining into the drainage system or benefiting from the drainage system but for which no assessment of benefits was made for the construction of the drainage system>.
2. A public hearing before the drainage authority was held on <date> at <time> at <location of hearing>.
3. At the public hearing, Engineer <name> presented the engineer’s report. The Engineer <recommended/does not recommend> a repair of the drainage system <if repair is recommended, specify the locations presented in the engineer’s report to be repaired>.
4. <Include findings summarizing the engineer’s justification for recommending repair or for recommending no repair>.
5. The engineer estimated the cost of the repairs to be <estimated repair costs>.
6. The engineer’s report contains all of the details, plans, and specifications necessary to prepare and award a contract for the repairs.
7. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board’s response is indicated in italics following each comment):
	1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

* 1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

[Note: If the engineer’s report recommends repair and the drainage authority intends to order repair, the findings consistent with the following paragraphs are also recommended.]

1. 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 <name of drainage system> <location of part of drainage system needing repair> is out of repair; that the condition of <name of drainage system> 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.

[Note: If the engineer’s report recommends repair and the drainage authority intends to order repair, the findings consistent with the following paragraphs are also recommended.]

1. In the engineer’s report, the Engineer determined that property which was not assessed for benefits for construction of the drainage system has been drained in to the drainage system or has otherwise benefited from the drainage system. The engineer submitted a map with the repair report showing all public and private main ditches and drains that drain into the drainage system, all property affected or otherwise benefited by the drainage system, and the names of the property owners to the extent practicable.

[Note: If the repair includes resloping ditches, incorporating a multistage ditch cross-section, leveling spoil banks, installing erosion control measures, or removing trees, also include the following.]

1. At the public hearing on the engineer’s report, the drainage authority <(1) determined that the <resloping, incorporation of a multistage ditch cross-section, spoil bank leveling, installation of erosion control measures, and/or tree removal> required the taking of property not contemplated and included in the proceeding for the establishment or subsequent improvement of the drainage system; or (2) determined that the <spoil bank leveling and/or tree removal> located at <Section(s), Township, County, State> will directly benefit those properties>.
2. The drainage authority appointed <name of viewers> as viewers to assess and report on <damages/benefits>. On date, the <Auditor/Secretary> administered the viewers’ oath.
3. The viewers filed a viewers’ report in conformance with Minn. Stat. § 103E.321 with the <Auditor/Secretary> on <date>. Included with the viewers’ report was a detailed statement showing the actual time the viewers were engaged and the costs incurred.
4. The drainage authority, after consulting with the auditor, ordered a public hearing on the viewers’ report to be held at <time> on <date> at <location.> Public notice of the hearing was mailed to the drainage authority, auditors of all affected counties, and all interested persons. Notice of the public hearing was also posted at least three weeks before the date of the final hearing at the front door of the courthouse in each county and published in the <name of official newspaper>.
5. <Name of viewer> presented the viewers’ report. <Statements summarizing the findings of the viewers>.
6. During the public hearing portion of the proceedings, the following persons appeared and provided comment on the viewers’ report (the Board’s response is indicated in italics following each individual comment):
	1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

* 1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

1. The drainage authority finds that the viewers’ report has been made and, based on the testimony of the viewer(s) and all interested parties and the entire proceedings herein, that the viewers’ report is complete and correct.
2. The drainage authority finds that the damages and benefits as reported in the viewers’ report have been properly determined.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for <name of drainage system>, hereby orders as follows:

1. That the Petition of <name of petitioners> to repair <name of drainage system> in the location specified in these findings and recommended in the engineer’s report is <denied/granted> <consistent with the engineer’s recommendations>.

[Note: If the Petition is granted, the Order may also include the following.]

1. The <auditor/secretary> and the Board chair shall proceed and prepare and 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.
2. The cost of the repair shall be paid from the funds in the maintenance account for <name of drainage system> and/or by assessments made to the properties benefited by the drainage system in the drainage system records.

[Note: If the drainage system is a joint county drainage system, also include the following.]

The cost of the repair shall be apportioned among <name of counties in the joint county drainage system> in the same manner required in the most recent determination of benefits and damages.

[Note: If the repair includes resloping ditches, incorporating a multistage ditch cross-section, leveling spoil banks, installing erosion control measures, or removing trees, also include the following.]

1. The original drainage system records shall be modified to reflect the abandonment of the portion of the drainage system running through the respective impoundment, reroute, and diversion locations as described in the project concept plans and engineer’s report of findings.
2. The drainage authority shall have jurisdiction over and be responsible for repairs of the rerouted portion of the drainage system. Petitioners shall be solely responsible for the maintenance of the proposed project.
3. The <Auditor/Secretary> shall pay the damages as reported in the viewers’ report and in conformance with these proceedings. The damages paid shall be a cost of the repair ordered herein. The <Auditor/Secretary> shall also add the benefits as reported in the viewers’ report and in conformance with these proceedings to the benefits determined as the basis for the pro rata assessment for the repair of the drainage system.

[Note: If under Minn. Stat. § 103E.741 the property which was not assessed for benefits for construction of the drainage system but was found to have been drained into the drainage system or otherwise benefit from the drainage system is approved, include the following order.]

1. In all future proceedings relating to repairing, cleaning, improving, or altering the drainage system, the property benefited in the viewers’ report hearing is part of the property benefited by the drainage system and must be assessed in the same manner provide for the assessment of property originally assessed for and included in the drainage system.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ absent, and \_\_\_\_\_ abstentions as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Yea | Nay | Absent | Abstain |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |

Upon vote, the Chair declared the motion passed and the Findings and Order adopted.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<Full Name>, Chairperson

\* \* \* \* \* \* \* \* \* \* \*

I, <Full Name>, <Name of County or Watershed District> <Auditor/Secretary>, 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 <name of drainage authority> and find the same to be a true and correct transcript thereof. The above order was filed with me, <name of county of watershed district> <Auditor/Secretary>, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN TESTIMONY WHEREOF, I hereunto set my hand this
\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 <Full Name>