

County Joint Ditch Meetings

May 24, 2022 – 8:00 a.m.

Carver County Board Room

Carver County Government Center

Chaska, MN 55318

8:00 a.m. **A. Convene Joint Ditch 4 Meeting** – Carver County Commissioners Fahey, Chair, Workman, Vice Chair and Lynch will be present in County Board Room. McLeod County Commissioner Schmalz will be participating remotely from home office, 19906 Cable Avenue, Lester Prairie. Wright County Commissioner Kaczmarek is unavailable, Matt Detjen, Wright County Agriculture & Drainage Coordinator will be participating remotely from the Wright County Public Works office. If Wright County Commissioner Mark Daleiden attends, he will be participating remotely from the Wright County Government Center.

1. Welcome and Introductions – Chair
2. Review petition and legal standards under statutes chapter 103E
3. Consider appointment of an engineer to review the proposed action and provide a report in the proceedings
4. Public comment if any
5. Consider and adopt (or reject) initial findings and an order accepting the petition and appointing an engineer in the proceedings
6. Adjourn Joint Ditch 4

Special Meeting Posted at the Carver County Government Center beginning May 19, 2022 and remaining through May 24, 2022. Also posted at the Wright and McLeod County Government Centers

Agenda and Remote option available on our website at

<https://www.co.carver.mn.us/government/joint-ditch-meetings>

Kathleen Smith
David Frischmon

Carver County Land Records & Vitals Manager
Carver County Property & Finance Director

Before the Joint Board of Commissioners Acting
as Drainage Authority for Carver, McLeod and
Wright Counties - Judicial Ditch No. 4

**Petition for Impounding, Rerouting, and Diverting
Drainage System Waters and Partial Abandonment of a
Drainage System Pursuant to Minnesota Statutes
103E.227 and 103E.806**

1. Judicial Ditch No. 4 (JD 4) is a drainage system located in Carver, McLeod and Wright Counties, Minnesota.
2. The undersigned petitioning landowners are the owners of properties located in portions of the Southeast $\frac{1}{4}$ of Section 5 and the North $\frac{1}{2}$ of Section 8, Township 117 North, Range 26 West, Hollywood Township, Carver County, Minnesota.
3. The undersigned petitioners hereby petition the Joint Board of Commissioners for JD 4, acting as the drainage authority, to partially abandon and to re-route portions of JD 4 located within the above described properties.
4. The petition is offered as a result of a perpetual easement that the State of Minnesota is in the process of securing on lands owned by the petitioning landowner. Said easements will be located as follows:
 - a. Section 5 - The Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$.
 - b. Section 8 - Part of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and part of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$.
5. That within the secured easements will be the restoration of drained wetlands and adjoining uplands (Project).
6. That existing within the Project area are portions of the JD 4 Main open ditch and the Lateral 2 open ditch.
7. To facilitate restoration of Project wetlands and to maintain the drainage benefits of surrounding properties it will be necessary to reroute portions of the JD 4 Main open ditch and the Lateral 2 open ditch.
8. More specifically, the petition seeks to modify the JD 4 drainage system as follows:
 - a. JD 4 Main is an open ditch that is approximately 1,750 feet in length as it traverses through the Project area.
 - i. That pursuant to MN Statute 103E.227, the petition requests that a portion of the JD 4 Main be rerouted around the north edge of planned Project wetland no. 1. The petition proposes to reroute the JD 4 Main with approximately 1,276 feet of new open ditch. The reroute will begin at current Station 107+52 and will rejoin the existing ditch at Station 124+00. The new alignment will decrease the overall length of the JD 4 Main within the Project area by 372 feet. To avoid re-stationing the entire Main ditch, its new terminus (new junction with the main ditch) will be co-labeled as Station 120+28/124+00.
 - ii. That pursuant to MN Statutes 103E.806, the petition requests that the current reach of JD 4 Main between existing Station 107+52 and Station 124+00 be abandoned and removed from the drainage system as it will no longer serve a benefit or purpose for the drainage system.
 - b. Lateral 2 is an open ditch that is approximately 2,400 feet in length as it traverses through the Project area. At its current Station 0+00, it terminates in the central region of the Project where it junctions with Station 113+56 of the Main ditch.
 - i. That pursuant to MN Statute 103E.227, the petition requests that the lower portion of Lateral 2 be rerouted around the west edge of planned Project wetland no. 1. The petition proposes to reroute Lateral 2 with approximately 723 feet of new open ditch. The reroute will begin at current

station 8+15 and terminate into the Main ditch approximately 585 feet further west than it does currently. Its new terminus will occur at Station 107+52 of the Main ditch. To avoid re-stationing the entire Lateral 2 ditch, its new terminus will occur at Station 0+92, instead of Station 0+00, as the reach of new ditch will be 92 feet shorter in length than the reach it will be replacing.

- ii. That pursuant to MN Statutes 103E.806, the petition requests that the current reach of Lateral 2 that lies between existing Station 0+00 and Station 8+15 be abandoned and removed from the drainage system as it will no longer serve a benefit or purpose for the drainage system.
9. That for the following reasons, the drainage authority for JD 4 be responsible for future operation and maintenance of the above described modified and rerouted portions of the Main and Lateral 2 ditches:
 - a. The modified, rerouted portions of the Main and Lateral 2 ditches will continue to provide drainage benefits to assessed lands within the JD 4 drainage system and maintenance of these modified ditches will be simpler, more effective and have a greater degree of security if managed by the drainage authority,
 - b. The costs to maintain the modified portions of the Main and Lateral 2 ditches will be no greater than the cost to maintain what exists currently for these portions of the JD 4 drainage system.
10. That no other portions of the JD 4 drainage system will be modified as part of the Project. They will continue to function in their current condition and be operated and maintained by the drainage authority.
11. That other Project components not identified as being part of the JD 4 drainage system be managed and maintained in accordance with terms of the applicable conservation easement.
12. That attached, as:
 - a. Figure 1 is a map of the existing JD 4 drainage system located within the general Project area.
 - b. Figure 2 is a map of the proposed JD 4 drainage system within the general Project area, after completion of the Project.
 - c. Figures 3 are revised profiles for the proposed modified reaches of the Main and Lateral 2 ditches within the Project area, as described herein by this petition.
13. The petition does not seek through separable repairs the use of any drainage system funds for construction of the Project. Those costs will be the responsibility of the property owner for which conservation easement(s) will be or have been conveyed. The property owner will utilize conservation program payments to pay for the construction costs.
14. That pursuant to Subd. 2 of 103E.227, a bond for the Project will not be required as the petition is filed by a state agency or the local Soil and Water Conservation District in support of this Project and its property owners/co-petitioners.
15. Because the proposed Project will not significantly benefit the JD 4 drainage system the petitioning property owners agree, if required by the drainage authority, to utilize eligible conservation program payments and be responsible for the costs associated with conducting the associated drainage hearing for this Project.
16. That the proposed JD 4 drainage system modifications have been discussed with the owners of the properties in which proposed drainage system modifications will be occurring. The landowners acknowledge the drainage authority's need for and legal right of future access to inspect and maintain the rerouted portions of JD 4, as requested in this petition. If required, the affected landowners agree to convey an easement and right-of-way to the drainage authority providing future rights for access, inspection, and maintenance for the realigned

reaches of the drainage system and they request said easement and right-of-way documents be prepared and secured after construction of the Project and be a condition of the Project's approval. The petitioning landowner agrees to be responsible for the costs and to utilize Project funds to secure the necessary right-of-way easement.

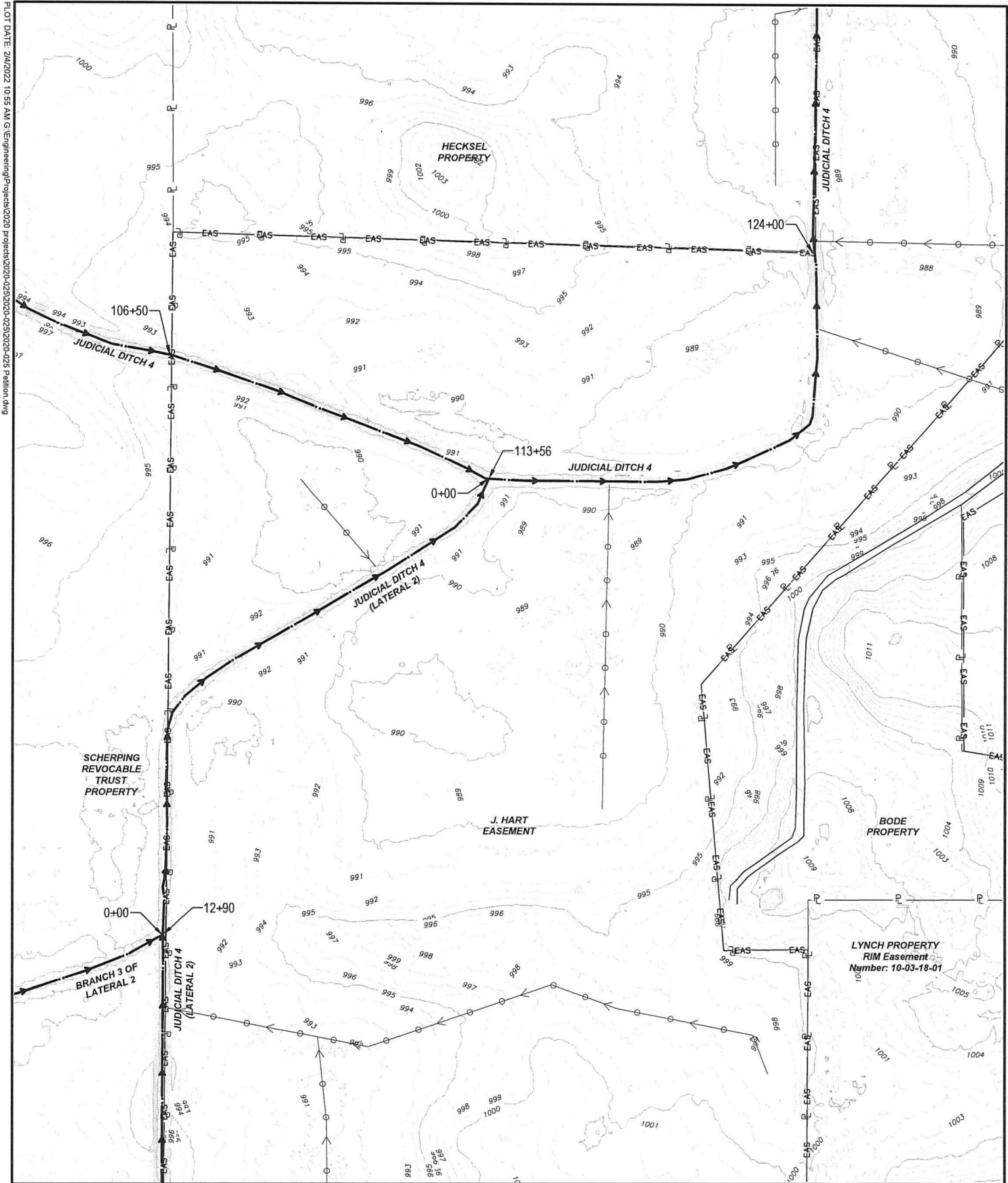
17. That no public water work permit, water use permit, or other permits required under Minnesota Statutes 103G are needed for this project.
18. That either as part of the submitted petition or shortly after the drainage authorities accepts the petition, a design report and preliminary construction plan will be provided by the petitioners to the drainage authority for its consideration and review prior to the scheduled hearing.

Dated this 24th Day of March, 2022

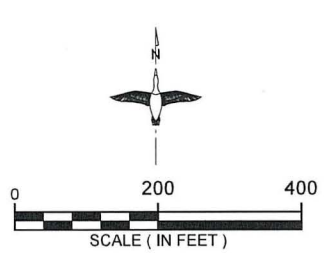

Jeffrey Hart (for Jeffrey D and Terri D Hart)


Shawn Bode


Sharon Doucette, BWSR Easement Section Manager



PLOT DATE: 2/4/2022 10:55 AM G:\Engineering\Project\2020-025\2020-025 Patton.dwg



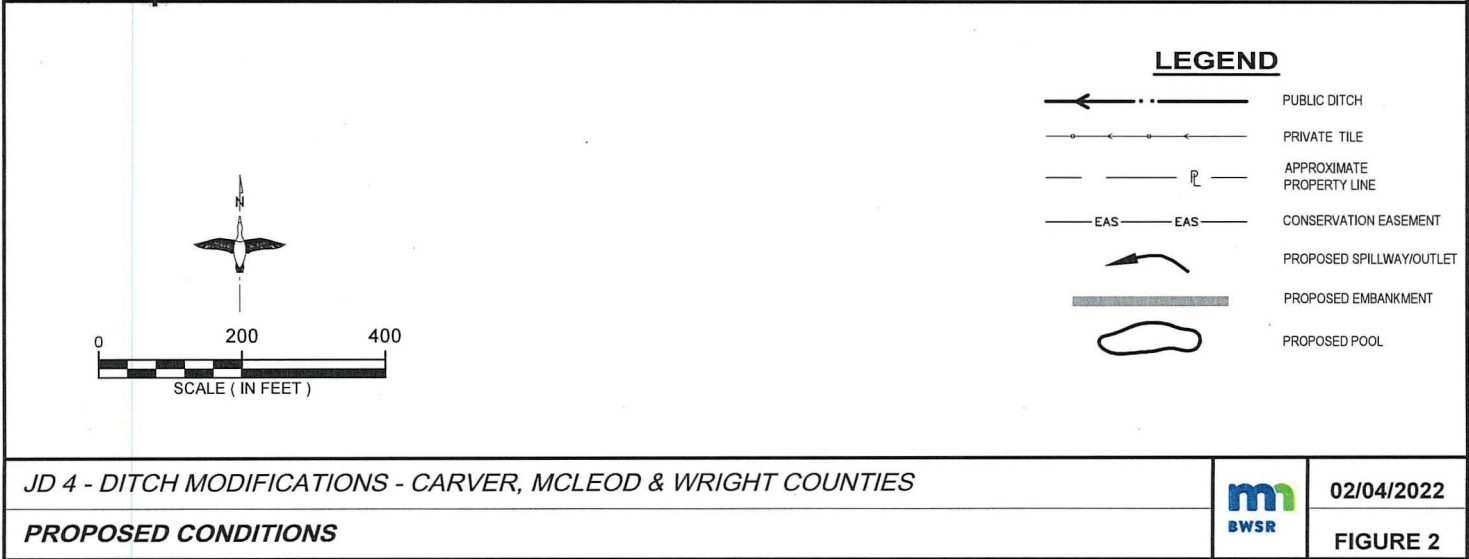
LEGEND	
	PUBLIC DITCH
	PRIVATE TILE
	APPROXIMATE PROPERTY LINE
	CONSERVATION EASEMENT

JD 4 - DITCH MODIFICATIONS - CARVER, MCLEOD & WRIGHT COUNTIES

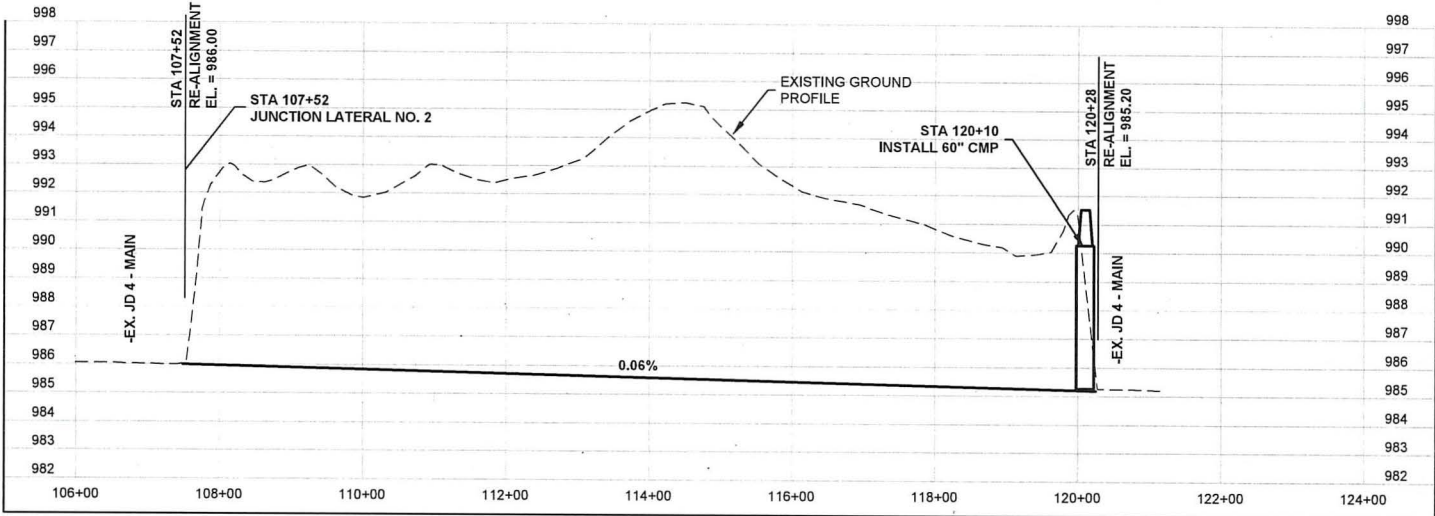
EXISTING CONDITIONS



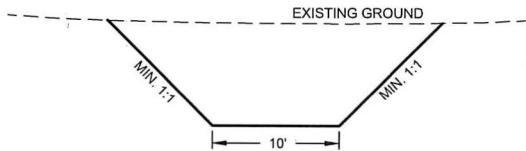
02/04/2022
FIGURE 1



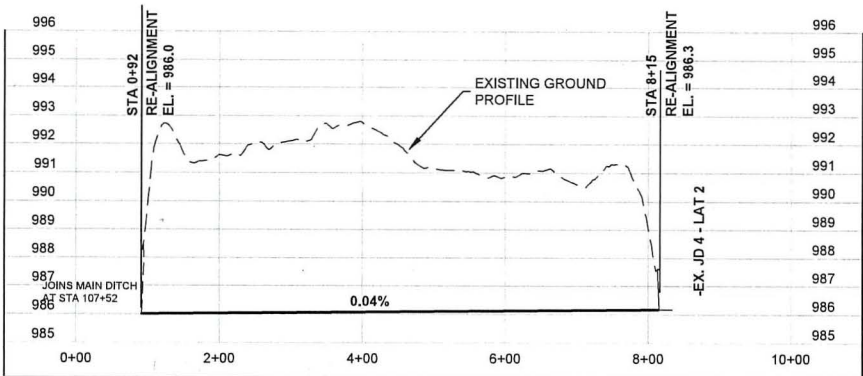
PLOT DATE: 2/4/2022 10:54 AM G:\Engineering\proj\2020-02\2020-02-25\2020-02-25\Partion.dwg



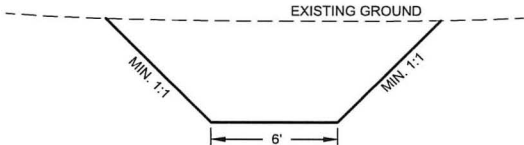
PROFILE ALONG CENTERLINE OF PROPOSED RE-ALIGNMENT OF JD 4 - MAIN
 SCALE 1" = 200'



X-SECTION OF JD 4 MAIN
 NOT TO SCALE



PROFILE ALONG PROPOSED RE-ALIGNMENT OF JD 4 - LAT 2
 SCALE 1" = 200'



X-SECTION OF LATERAL NO. 2
 NOT TO SCALE

STATE OF MINNESOTA
JOINT DRAINAGE AUTHORITY OF CARVER, WRIGHT, AND McLEOD COUNTIES
SITTING AS THE DRAINAGE AUTHORITY FOR
JUDICIAL DITCH 4

In the Matter of the Petition for Impounding,
Rerouting, and Diverting Drainage System
Waters and Partial Abandonment of Carver-
Wright-McLeod Judicial Ditch 4 Pursuant to
Minnesota Statutes, sections 103E.227 and
103E.806 (Hart et al.)

**FINDINGS AND ORDER
ACCEPTING PETITION AND
APPOINTING ENGINEER**

The Joint Drainage Authority of Carver, Wright, and McLeod Counties, sitting as the public drainage authority for Carver-Wright-McLeod Judicial Ditch 4, convened on _____, 2022, at a duly noticed meeting. Based on the record and proceedings, Commissioner _____ moved, seconded by Commissioner _____ to adopt the following Findings and Order:

Findings:

1. The Joint Drainage Authority (“Drainage Authority”), having been duly constituted with members from the Carver, Wright, and McLeod County Boards of Commissioners, is the public drainage authority under Minnesota Statutes, chapter 103E with jurisdiction over Carver-Wright-McLeod Judicial Ditch 4 (“JD 4”).
2. A petition dated March 24, 2022, attached hereto as **Exhibit A** (“Petition”), was received by the Drainage Authority requesting to impound, reroute, and divert drainage system waters, and partially abandon the rerouted portions, on JD 4 for beneficial use by petitioners Jeffrey and Terri Hart, Shawn Bode, and the Minnesota Board of Water and Soil Resources (“Petitioners”).
3. The beneficial use described by the Petitioners is for the purpose of restoration of drained wetlands and adjoining uplands for Petitioners’ participation in a State of Minnesota sponsored perpetual conservation easement program for lands located in portions of the Southeast Quarter of Section 5 and the North Half of Section 8, Township 117 North, Range 26 West, Hollywood Township, Carver County, Minnesota (the “Project”).

4. Pursuant to Minnesota Statutes, section 103E.227, subdivision 2(b), a bond was not required to be filed with the Petition because the Minnesota Board of Water and Soil Resources is a Petitioner on the Project. However, the Drainage Authority notes and the Petitioners have indicated that the costs of the proceedings, include engineering and legal review by the Drainage Authority, are to be paid by the Petitioners unless the Drainage Authority finds cause to pay all or a portion of those costs.
5. The Petition conforms with the requirements of Minnesota Statutes, sections 103E.227 and 103E.806 and chapter 103E for filing a petition.
6. Pursuant to Minnesota Statutes, section 103E.227, subdivision 3(a), the Petition requires appointment of an engineer to investigate the effect of the proposed reroute and diversion and file a report of findings with the Drainage Authority.

Order:

Based on the foregoing Findings and the entire record of proceedings before the Drainage Authority, the Drainage Authority for Carver-Wright-McLeod Judicial Ditch 4, orders the following:

- A. The Petition is hereby accepted for the commencement of proceedings under Minnesota Statutes, sections 103E.227 and 103E.806.
- B. Chris Otterness, P.E. of Houston Engineering, Inc. ("Engineer") is hereby appointed to investigate the effect of the proposed installation and file a report of findings with the Drainage Authority, care of the Carver County Property and Financial Services Department.
- C. The engineer shall subscribe to an oath to faithfully perform the assigned duties in the best manner possible and file a bond in the form approved by the Drainage Authority's counsel. The bond shall be conditioned to pay any person or the Drainage Authority for damages and injuries resulting from negligence of the engineer while the engineer is acting in the proceedings and provide that the engineer will diligently and honestly perform the engineer's duties.
- D. Upon the filing of the reports of findings, the Carver County Property and Financial Services Director, or his delegate, shall promptly notify the Drainage Authority which will set a time by order, not more than 30 days after the date of the order, for a hearing on the engineer's report of findings and on the Petition. The Carver County Property and Financial Services Director, or his delegate, shall provide notice of the public hearing on the report of findings and Petition for partial abandonment in accordance with Minnesota Statutes, sections 103E.227 and 103E.806.

- E. Petitioners shall be responsible for all costs, including administrative, engineering, legal, and all other costs incurred by the Drainage Authority to conduct these proceedings, to secure necessary land rights for construction and future maintenance of the reroute, and to construct the Project.

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
FAHEY (CARVER)	☐	☐	☐	☐
LYNCH (CARVER)	☐	☐	☐	☐
WORKMAN (CARVER)	☐	☐	☐	☐
SCHMALZ (MCLEOD)	☐	☐	☐	☐
KACZMAREK (WRIGHT)	☐	☐	☐	☐

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

John Fahey, Chairperson

Dated: _____, 2022

* * * * *

I, David Frischmon, Carver County Property and Financial Services Director, do hereby certify that I have compared the above motion and Findings and Order with the original thereof as the same appears of record and on file with the Drainage Authority and find the same to be a true and correct transcript thereof. The above order was filed with me, Carver County Property and Financial Services Director, on _____, 2022.

IN TESTIMONY WHEREOF, I hereunto set my hand this __ day of _____, 2022.

David Frischmon, Director
Carver County Property and Financial Services
Carver County, Minnesota