RESOLUTION 2014-14

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

FINDINGS AND ORDER CORRECTING DRAINAGE SYSTEM RECORD, IDENTIFYING SCOPE OF DRAINAGE SYSTEM AND ABANDONING PORTIONS OF DRAINAGE SYSTEM OF NO SUBSTANTIAL PUBLIC PURPOSE

Manager [signature] offered the following Resolution and moved its adoption, seconded by Manager [signature]:

FINDINGS

1. The Rice Creek Watershed District (RCWD) is the Drainage Authority for Anoka County Ditch (ACD) 72.

2. The Board of Managers reviewed a historical and technical analysis of the system contained in engineer’s draft historical review dated July 24, 2013.

3. Inspection of ACD 72 revealed several undocumented modifications of the drainage system, several areas of disrepair, portions of numerous branches or laterals absent from the landscape and other branches or laterals providing only private benefit.

4. Several owners of land benefited by the drainage system have inquired of the RCWD regarding future property development and the level of expected service provided by ACD 72 as an outlet for beneficial drainage.

5. As part of its analysis of the drainage system, the engineer identified the existing functional alignment, dimension and grade of this system as it provides beneficial public drainage today. This functional alignment, dimension and grade match the basic functional efficiency of the system as designed and established to provide beneficial public drainage.

6. In order to properly manage the drainage system in a way that recognizes its intended, beneficial, public function, the RCWD initiated proceedings to identify the extent of its jurisdiction over the system as currently existing and providing beneficial public drainage.

7. The Board initiated the proceedings under statutes Section 103D.335, subd. 8, which allows the Board of Managers to “construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch...within the watershed district.” Since Statutes Chapter 103D does not provide specific guidance on proceedings to implement the powers of the managers under section 103D.335, subd. 8, the Board followed the processes contained in Statutes Chapter 103E as instructive of a process to assure proper notice and hearing for the owners of properties affected by correction of the drainage system record.
8. The intent of the proceedings was to reconcile the historical record of the drainage system with the functional alignment, dimension and grade of the system to describe the equivalent of the As-Constructed and Subsequently Improved Condition.

9. On November 26, 2013, upon mailed and published notice, the Drainage Authority held an informational meeting with landowners benefited by ACD 72 to discuss the correction of the drainage system record and establishment of a functional alignment and grade for the system.

10. During the pendency of the original proceedings, the legislature amended statutes section 103E.101 to provide a clear process for reestablishing and correcting the drainage system record.

11. Statutes Section 103E.101, subd. 4a, allows the Drainage Authority to initiate proceedings to reestablish records defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.

12. On January 22, 2014, the Board adopted Resolution 2014-03 directing proceedings to reestablish and correct the drainage system record for ACD 72 under statutes section 103E.101, subd. 4a.

13. The Board directed its engineer, to the extent not already accomplished in its analysis supporting the draft historical review memorandum, to investigate and report findings defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, elevations; and right-of-way of the drainage system.

14. On February 25, 2014, the engineer filed a final historical review memorandum in compliance with the Board's Resolution 2014-03. Said history is incorporated by reference into this resolution.

15. The Board noticed and held a public hearing on the correction of the drainage system record on March 26, 2014.

16. Pursuant to statutes section 103E.101, subd. 4a, the Drainage Authority gave notice of the hearing by mail to the commissioner of natural resources, the executive director of the Board of Water and Soil Resources, and all property owners benefited or damaged by the drainage system. The Drainage Authority provided additional notice by newspaper publication and by publication on Drainage Authority's web-site.

17. Additionally, a copy of the final historical review memorandum was provided to the commissioner of natural resources and the executive director of the Board of Water and Soil Resources.
Resources with their notice. The final historical review memorandum was made available for public review prior to the hearing.

18. No members of the public commented at the public hearing.

19. The proposed functional alignment and grade of ACD 72, as described in the engineer's review memorandum, reflects the historic public function of the drainage system and is consistent with the designed function and efficiency of the drainage system.

20. Correction of the drainage system record to adopt the proposed functional alignment and grade of ACD 72, as described in the engineer's review memorandum, will provide for the efficient administration of the drainage system.

21. Adopting the proposed functional alignment and grade of ACD 72, as described in the engineer's review memorandum, will reconcile the historical record of the drainage system with the functional alignment, dimension and grade of the system as it has historically provided public benefit.

22. The proposed functional alignment and grade of ACD 72, as described in the engineer's review memorandum, includes a recommendation to abandon portions of the drainage system that are in significant disrepair and do not and will not provide any public benefit if they remain part of the drainage system.

23. The portions of ACD 72 recommended for abandonment, because of their condition and function, do not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and are not of a substantial public benefit and utility.

24. Future work on the drainage system will utilize the As-Constructed and Subsequently Improved Condition, established in these proceedings, as a base line for determining repair or improvement of the system.

Therefore, the RCWD Board of Managers makes the following:

ORDER

A. The Board of Managers hereby corrects the drainage system record of ACD 72 to reflect the functional alignment, dimension and grade of the combined system as detailed in the engineer's review memorandum, dated February 25, 2014, attached as exhibit A.

B. The Board of Managers hereby vacates and abandons any remnant portions of ACD 72 not included in the functional alignment detailed in the engineer's review memorandum.
The question was on the adoption of the Resolution and there were 4 yea's and 0 nay's as follows:

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Upon vote, the Chair declared the Resolution passed.

Harley Ogata, Secretary

Dated: March 26, 2014

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I, Harley Ogata, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of March, 2014.

Harley Ogata, Secretary