RESOLUTION NO. 2014-23
RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS
FINDINGS AND ORDER CORRECTING DRAINAGE SYSTEM RECORD
FOR ANOKA/RAMSEY JUDICIAL DITCH 1

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

FINDINGS

1. The Rice Creek Watershed District (RCWD) is the Drainage Authority for Anoka/Ramsey Judicial Ditch 1 (ARJD 1).

2. The Board of Managers has reviewed a historical and technical analysis of the system which is contained in the engineer's Historical Review Memorandum of ARJD 1 dated May 3, 2013, and the Addendum to ARJD 1 Historical Review dated July 16, 2014. Said analyses are incorporated by reference into this Resolution.

3. Inspection of ARJD 1 reveals several documented and undocumented modifications of the drainage system, lack of written documentation describing elevations and grades throughout the system, several areas of disrepair, and portions of branches or laterals absent from the landscape as a result of changed land use from agricultural production to urban, commercial, and residential development.

4. Several owners of land benefitted by the drainage system have inquired of the RCWD regarding future property development and the level of expected service provided by ARJD 1 as an outlet for beneficial drainage.

5. As part of its analysis of the drainage system, the engineer has 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 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.

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

9. Statutes section 103D.335, subdivision 8, 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."

10. Since statutes Chapter 103D does not provide specific guidance on proceedings to implement the powers of the managers under section 103D. 335, subdivision 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.

11. On February 26, 2014, the Board adopted findings and an order to follow the procedures of statutes section 103E.101, subdivision 4a, to reestablish and correct the drainage system record for ARJD 1 to reflect the functional alignment, dimension, and grade of the system.

12. The February 26, 2014, Order directed the district engineer 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 as a final addendum to the May 3, 2013, Historical Review Memorandum.

13. The Board noticed and held an informational meeting on May 20, 2014, at 6:00 p.m. at in the Mounds View Banquet Center, 5394 Edgewood Drive, Mounds View, MN, to inform the public of the proceedings and the proposed action. At the informational meeting, the Board's staff reviewed the information contained in the engineer's Historical Review Memorandum – describing the history of the system, its current condition and the proposal to establish a functional alignment, grade and capacity of the system which continues to perform a beneficial public drainage function.

14. On July 16, 2014, the District Engineer, Nancy Stowe of Houston Engineering, Inc., delivered a Final Addendum to ARJD 1 Historical Review Memorandum meeting the requirements of the Board's February 26, 2014, Order.

15. The Board noticed and held a public hearing on the correction of the drainage system record on July 23, 2014, at 9:00 a.m. in the Shoreview City Council Chambers, 4600 North Victoria Street, Shoreview, MN. Evidence of all notices is on file with the District office.
16. During the pendency of the proceedings, the District received comments regarding property affected by the reestablishment and correction of the drainage system records. The Board directed its staff to investigate those concerns. Upon investigation, the Board finds the following:

a. Several residents near the Branch 4 system of ARJD 1 communicated to the District that reoccurring and problematic high water issues exist. Further investigation by staff verified that portions of the north-south segment of the historic Branch 4 open channel still exist, confirming the physical establishment of the branch. The proposed functional alignment and grade of Branch 4 of ARJD 1, as described in the engineer’s Final Addendum dated July 16, 2014, reflects the level of performance similar in nature to the as-constructed, subsequently improved condition of the drainage system considering the function required by the change in land use to reestablish the historic drainage function of benefited lands.

b. Public comments were received from Ken Bursaw (8601 Xylite St. NE), Marlan J. Arndt and M.J. Arndt Construction Co. (8842 Xylite St. NE), Leigh Anne Price, Rich Price and LRP Properties (8700 Xylite St. NE) also regarding reoccurring and problematic high water issues. Further investigation by staff verified that these concerns were related to requests for repair of the ARJD 1 system and not the reestablishment and correction of the drainage system records pertaining to these proceedings.

17. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board’s response is indicated in italics following the individual comment):

a. Ken Bursaw (8601 Xylite St. NE): Bursaw provided a handout to the Board which was accepted into the record as part of the proceedings. Bursaw expressed concerns that the construction of 85th Avenue blocked drainage through Branch 4 of ARJD 1, causing Bursaw’s yard to flood and limiting the use of his acreage.

b. Rich Price (8700 Xylite St. NE): Price provided a photograph handout to the Board which was accepted into the record as part of the proceedings. Price is concerned that the current state of Branch 4 is not providing the same level of drainage benefit that it has historically provided to agricultural lands and is causing retention ponds on Price’s property to be at capacity.

c. Leigh Anne Price (8700 Xylite St. NE): Price was present at the informational meeting and brought information to the board regarding the current disrepair condition of Branch 4. Price expressed concerns that she was not sure at what point in the proceedings she would be allowed to discuss the state of repair on Branch 4 of ARJD 1.

The Board finds that the public comments received during the public hearing portion of the proceedings pertain to information that is relevant to the current state of repair on ARJD 1. The Board appreciates being alerted of these concerns, but finds that the current repair condition of ARJD 1 is not relevant to these proceedings, nor is it relevant to these Findings which are being made to reestablish and correct the drainage system record for ARJD 1.
18. At the close of the public comment hearing, Manager Haake moved to direct staff to prepare findings and an order consistent with the proceedings, including responses to all comments received through the public comment process; that the draft findings and order be written to affect the reestablishment and correction of the public drainage system records consistent with the engineer's findings; direct recording of the order to reflect the reestablishment and correction of the public drainage system record; and that the hearing be recessed until the Board's regular meeting on August 13, 2014. Manager Waller seconded and the motion carried, 5-0.

19. The proposed functional alignment and grade of ARJD 1, as described in the engineer's Historical Review Memorandum and Final Addendum, reflects the level of performance similar in nature to the as-constructed, subsequently improved condition of the drainage system considering the function required by the change in land use to reestablish the historic drainage function of benefited lands.

20. Correction of the drainage system record to adopt the proposed functional alignment and grade of ARJD 1, 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 ARJD 1, as described in the engineer's Historical Review Memorandum and Final Addendum, 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.

Therefore, the RCWD Board of Managers makes the following:

ORDER

A. The Board of Managers hereby corrects the drainage system record of ARJD 1 to reflect the functional alignment, dimension and grade of the combined system as detailed in the engineer's Historical Review Memorandum dated May 3, 2013, attached as Exhibit A and Final Addendum dated July 16, 2014, attached as Exhibit B.

B. The Board of Managers hereby vacates and abandons any remnant portions of ARJD 1 not included in the functional alignment detailed in the Historical Review Memorandum dated May 3, 2013, and the Final Addendum dated July 16, 2014.
The question was on the adoption of the Findings and Order and there were 5 yea and 2 nays as follows:

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

Harley Ogata, Secretary

Dated: August 13, 2014

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I, Harley Ogata, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above Findings and Order 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 hereunto set my hand this 13th day of August, 2014.

Harley Ogata, Secretary