RESOLUTION NO. 2015-32

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

FINDINGS AND ORDER CORRECTING DRAINAGE SYSTEM RECORD
FOR ANOKA/WASHINGTON JUDICIAL DITCH 3

Manager Haake offered the following Resolution and moved its adoption, seconded by Manager Waller:

FINDINGS

1. The Rice Creek Watershed District (RCWD) is the Drainage Authority for Anoka/Washington Judicial Ditch 3 (AWJD 3).

2. On May 13, 2015, the Board, by resolution 2015-18, initiated proceedings under Minnesota Statutes Section 103E.101, subd. 4a, to reestablish and correct the drainage system record for AWJD 3 to reflect the functional alignment, dimension, grade and right-of-way of the system.

3. 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 AWJD 3 dated March 27, 2015. Said analyses are incorporated by reference into this Resolution.

4. Inspection of AWJD 3 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.

5. 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 AWJD 3 as an outlet for beneficial drainage.

6. 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.

7. 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.
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. 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.

10. The Board noticed and held an informational meeting on July 14, 2015, at 6:30 p.m. at the City of Hugo Council Chambers, 14669 Fitzgerald Avenue No., Hugo, 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.

11. The Board noticed and held a public hearing on the correction of the drainage system record on Monday, August 31, 2015 at 6:30 p.m. in the City of Hugo Council Chambers, 14669 Fitzgerald Avenue No., Hugo, MN. Evidence of all notices is on file with the District office.

12. 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. Alice Waller, 14189 Finale Ave N. Hugo, branch 2 of AWJD3: commented regarding the presence of trees in the drainage system.

   b. Nick Forchette, 16210 Harrow Avenue North on Oneka Lake: inquired whether any work on the drainage system would alter water levels on Oneka Lake.

   c. Steve Dalum, 7060 Eagle Trail, Centerville: inquired whether any work on the drainage system would alter stormwater ponds near his property in Centerville.

   Staff provided responses to the comments and inquiries based on traditional maintenance activities authorized or required by statute and the limitations on maintenance activities allowed by statute or other regulation. 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 AWJD 3. The Board appreciates being alerted of these concerns, but finds that the current repair condition of AWJD 3 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 AWJD 3.

13. At the close of the public comment hearing, Manager Wagamon 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 September 23, 2015. Manager Waller seconded and the motion carried, 5-0.

14. The proposed functional alignment and grade of AWJD 3, as described in the engineer's Historical Review Memorandum, 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.

15. Correction of the drainage system record to adopt the proposed functional alignment and grade of AWJD 3, as described in the engineer's review memorandum, will provide for the efficient administration of the drainage system.

16. Adopting the proposed functional alignment and grade of AWJD 3, 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 AWJD 3 to reflect the functional alignment, dimension and grade of the combined system as detailed in the engineer's Historical Review Memorandum dated March 27, 2015, attached as Exhibit A.

B. The alignment of the drainage system, as corrected, shall include the drainage system right of way as indicated by the engineer, which includes the area affected by the original construction of the drainage system for which damages were paid. The right of way includes the area physically occupied by the drainage system and an area of reasonable setback adjacent to the drainage system, necessary to protect the drainage system and to allow the drainage authority to perform its statutory obligations of inspection and maintenance.

C. The Board of Managers hereby vacates and abandons any remnant portions of AWJD 3 not included in the functional alignment detailed in the Historical Review Memorandum.
The question was on the adoption of the Findings and Order and there were 5 yeas and 0 nays as follows:

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

I, Michael Bradley, 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 23rd day of September 2015.

Michael Bradley, Secretary