

**BEFORE THE JACKSON COUNTY BOARD OF
COMMISSIONERS, ACTING AS DRAINAGE AUTHORITY
FOR JACKSON COUNTY JUDICIAL DITCH #42**

**Findings of Fact and Order Establishing the
Improvement to Jackson County Judicial
Ditch #42**

WHEREAS, a Petition was submitted requesting an Improvement to portions of Jackson County Judicial Ditch #42; and

WHEREAS, ISG was appointed the engineer to provide a Final Engineer's Report and Viewers were appointed to complete a Benefits and Damages Report concerning the Improvement; and

WHEREAS, pursuant to proper notice, an initial Final Hearing was held on February 23, 2022, at 2:30 p.m.; and

WHEREAS, Kurt Deter indicated a legally sufficient Petition was filed on July 12, 2019, and this was the Final Hearing to allow the engineer and viewers to give their reports and for the public to ask any questions or comments; and

WHEREAS, Kelly Rasche indicated that the statutory notices had been sent; and

WHEREAS, ISG Engineers went through the Final Engineer's Report concerning the proposed Improvement as reflected in the Engineer's Final Report, and the DNR Advisory Report was read into the record; and

WHEREAS, a representative of MN/DOT indicated their objection to paying for the tile through State Highway Right-of-Way; and

WHEREAS, Dean Zimmerli, representing Henrietta Malchow, indicated that he would ask that property be reviewed as the acres did not appear to be correct; and

WHEREAS, Ron Ringquist, one of the duly appointed viewers, indicated that they desire to amend their report due to land value changes; and

WHEREAS, the public hearings continued until March 22, 2022, at 1:30 p.m., at the Government Center, East Cafeteria Room, located in Jackson, Minnesota; and

WHEREAS, the hearing was reconvened on March 22, 2022, in the Government Center, East Cafeteria Room, at 1:30 p.m.; and

WHEREAS, Chuck Brandel of ISG Engineers indicated that the crossing in State Highway #86 predated the construction of Judicial Ditch #42, and that MN/DOT would not be charged for that crossing; and

WHEREAS, Chuck Brandel replied to several of the DNR comments and further reiterated that the items required to be included in the Engineer's Report had been provided at both hearings and also in the Final Engineer's and Amended Engineer's Report; and

WHEREAS, the hearing was open for public comment and there were questions concerning the costs and questions concerning the Henrietta Malchow property; and

WHEREAS, Ron Ringquist, one of the appointed viewers, gave the Amended Viewers' Report for the Improvement and also indicated the recommended changes on the Henrietta Malchow property; and

WHEREAS, the hearing was open for public comment and there was public comment received concerning the Henrietta Malchow property and whether the branches had been improved.

NOW, THEREFORE, based on all the evidence presented, all reports filed, and all testimony taken at the Public Hearings, the Jackson County Board of Commissioners, acting as

Drainage Authority for Jackson County Judicial Ditch #42, makes the following Findings of Fact and Order:

FINDINGS OF FACT

1. The engineer's Amended Final Report and Amended Viewers' Report have been made and other proceedings have been completed under Minnesota Statutes 103E.
2. The reports made or amended are complete and correct.
3. The damages and benefits have been properly determined and are attached as **Exhibit A**.
4. The estimated benefits are greater than the total estimated costs, including damages.
5. The proposed drainage project will be of public utility and benefit and will promote the public health.
6. The proposed drainage project is practicable.
7. The recommended percentages to be attributed to separable maintenance and to Improvement costs as recommended by the engineer is approved.

ORDER

NOW, THEREFORE, it is hereby ordered that the Improvement, as recommended in the Amended Engineer's Report and Amended Viewers' Report, is hereby established, and the engineer is directed to move forward with plans and specifications toward the awarding of a contract.

Dated this 31 day of March, 2022.

JACKSON COUNTY BOARD OF
COMMISSIONERS, ACTING AS DRAINAGE
AUTHORITY FOR JACKSON COUNTY
JUDICIAL DITCH #42

By Catherine Hohenstein
Its Chairperson