**STATE OF MINNESOTA**

***Before the*  
<DRAINAGE AUTHORITY NAME>  
SITTING AS THE DRAINAGE AUTHORITY FOR   
<NAME OF DRAINAGE SYSTEM>**

|  |  |
| --- | --- |
| **In the Matter of:**  **the Petition to <Name of Project> to <Name of Drainage System>** | **FINDINGS AND ORDER  DISMISSING PETITION** |

The <name of drainage authority> Board of <Commissioners/Managers>, sitting as the drainage authority for <name of drainage system>, having received a Petition to <name of project> to <name of drainage system> pursuant to Minnesota Statutes, section <section> by <Petitioners>, having noticed and conducted a public hearing on the preliminary survey report, and based on the record and proceedings, <Commissioner/Manager> \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ moved, seconded by <Commissioner/Manager> \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to adopt the following Findings and Order:

**Findings:**

1. A Petition dated <date> <and bond> was received by the <Auditor/Secretary> of the <drainage authority> requesting to <name of drainage project> to <name of drainage system>, located in Sections <#>, Township <#>, Range <#>, <Township Name>, <County>, Minnesota pursuant to Minn. Stat. § <citation>.
2. The drainage authority met on <date> and accepted the Petition. The drainage authority also appointed <name of engineer> of <name of engineering firm> to make a preliminary survey pursuant to Minn. Stat. § 103E.245.
3. Engineer <name> filed a preliminary survey report with the drainage authority on <date>. A copy of the preliminary survey report was mailed to the Director of the Division of Ecological and Water Resources in the Department of Natural Resources on <date>.
4. The drainage authority, by order, set a public hearing for review of the engineer’s preliminary survey report on <date of order setting hearing> and directed the <Auditor/Secretary> to provide at least 10 days advance notice, by mail, of the time and location of the hearing to the petitioners, political subdivisions, and owners of property likely to be affected by the proposed project.
5. Notice of the public hearing was properly provided as required by law.
6. At the public hearing, the engineer presented the preliminary survey report. <Provide further details about the engineer’s presentation of the preliminary survey report>.
7. <The commissioner’s advisory report on the preliminary plan was publicly read and included in the record of proceedings/The commissioner did not provide an advisory report on the preliminary plan within the timeframes required under Minn. Stat. ch. 103E>.
8. Comments were received at the public hearing and incorporated into the preliminary order.
9. At to the conclusion of the preliminary hearing, the drainage authority adopted findings and an order accepting the preliminary survey report, ordering the engineer to proceed with the detailed survey, and appointing three viewers to determine benefits and damages.
10. On <date>, the engineer filed the detailed survey report with the <auditor/secretary>. A copy of the detailed survey report was mailed to the commissioner of natural resources for review.
11. On <date>, the viewers filed the viewers’ report with the <auditor of each affected county/secretary> along with a detailed statement showing the actual time the viewers were engaged and the costs incurred.
12. Within 30 days after the viewers’ report was filed, the <auditor/secretary> made a property owners’ report from the information in the viewers’ report in conformance with the requirements of Minn. Stat. § 103E.323, subd. 1. A copy of the property owners’ report was mailed to each owner of property affected by the proposed drainage project and an affidavit of mailing is on file with the drainage authority.
13. <A commissioner’s final advisory report was filed with the drainage authority on <date>. / No commissioner’s final advisory report was filed.>
14. The drainage authority, by order, set a final hearing for review of the engineer’s detailed survey report and the viewers’ report on <date of order setting hearing> and directed the <Auditor/Secretary> to provide notice of the final haring by publication, by posting, and by mail to the petitioners, political subdivisions, and owners of property likely to be affected by the proposed project.
15. Notice of the public hearing was properly provided as required by law.
16. At the final hearing, the engineer presented the detailed survey report. <Provide further details about the engineer’s presentation of the detailed survey report>.
17. <The commissioner’s final advisory report was publicly read and included in the record of proceedings/The commissioner did not provide an final advisory report within the timeframes required under Minn. Stat. ch. 103E>.
18. During the public hearing portion of the proceedings, the following persons appeared and provided comment (the Board’s response is indicated in italics following each comment):
    1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

* 1. <Commenter Name>, <Property Description/Political Subdivision> <Street Address>, <City>, <State> <Zip>:

<summary of comment>

<*Board’s response to comment*>

1. <If the drainage authority determines that the general plan reported by the engineer may be improved by changes, or that the viewers have made an inequitable assessment of benefits or damages to any property, the drainage authority may amend the detailed survey report or the viewers’ report, and make necessary and proper findings in relation to the reports>.

[Note: Any one of the following findings alone is basis for dismissing a petition. Not all of the following findings are required in order to dismiss the petition.]

1. The viewers found that the benefits of the proposed drainage project are <benefits amount>. The engineer estimated that the cost of the proposed drainage project, including damages awarded is <estimated cost>. The benefits of the proposed drainage project are less than the total cost, including damages awarded.
2. The proposed drainage project is not of public benefit or utility. <Include further details to support this conclusion>.
3. The adverse environmental impact of the proposed project is greater than the public benefit and utility after considering the environmental, land use, and multipurpose water management criteria in Minn. Stat. § 103E.015, subd. 1, and the engineer has not reported a plan to make the proposed drainage project feasible and acceptable. <Include further details to support this conclusion>.

**Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for <name of drainage system>, hereby orders as follows:

1. That the Petition of <name of petitioners> to <name of project> to <name of drainage system> is hereby dismissed.
2. The auditor shall proceed to collect on the petitioners’ bond in the amount of the total expenses and costs incurred in these proceedings as allowed by law.

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:

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| --- | --- | --- | --- | --- |
|  | Yea | Nay | Absent | Abstain |
| <LAST NAME> | 🞏 | 🞏 | 🞏 | 🞏 |
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Upon vote, the Chair declared the motion passed and the Findings and Order adopted.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<Full Name>, Chairperson

\* \* \* \* \* \* \* \* \* \* \*

I, <Full Name>, <Name of County or Watershed District> <Auditor/Secretary>, do hereby certify that I have compared the above motion; findings and order with the original thereof as the same appears of record and on file with the <name of drainage authority> and find the same to be a true and correct transcript thereof. The above order was filed with me, <name of county of watershed district> <Auditor/Secretary>, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN TESTIMONY WHEREOF, I hereunto set my hand this   
\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<Full Name>