



February 23, 2021

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Nobles County Board of Commissioners
c/o Ms. Joyce Jacobs, Auditor-Treasurer
315 10th Street
Worthington, MN 56187

SENT VIA EMAIL: jcjacobs@co.nobles.mn.us & U.S. MAIL

**Re: Noble-Murray-Jackson-Cottonwood Counties Judicial Ditch #17 Improvement
Our File No. 23867-0002**

Dear County Commissioners and Joyce:

I have reviewed the Petition for the Improvement of Nobles-Murray-Jackson-Cottonwood County Judicial Ditch #17, along with the signature pages, maps and spreadsheet provided by petitioners' attorney. At this point, I am assuming Cottonwood County is somehow involved in the joint system, so feel free to forward this letter to Cottonwood County as we try and figure out their status in this matter. Since this system is being redetermined, I assume the Joint Board has met sometime in the recent past to order the Redetermination. I have also reviewed the \$50,000 Bond in favor of the Nobles-Murray-Jackson-Cottonwood County Judicial Ditch #17 Drainage Authority. I would make the following comments:

1. The Petition contains the six items to be alleged under Minnesota Statutes 103E.215, Subd. 4(c). Specifically, the area to be improved has been properly described, the 40-acre tracts have been listed, names and addresses of tract owners have been provided, and an acknowledgment has been made by petitioners that they will pay all costs and expenses if the proceedings are dismissed.
2. There are four methods under Minnesota Statutes 103E.215, Subd. 4(a) in which the Petition can meet the statutory jurisdictional requirements based on signatures. The statute requires that all owners sign a Petition to be counted as a signature toward the jurisdictional requirements. The petitioners have represented and I have reviewed the signatures and maps and make the following comments concerning the four methods of acquiring jurisdiction. It is only necessary to meet one of the jurisdictional requirements. They are as follows:

- a. *At least 26% of the owners of property affected by the proposed drainage Improvement.*

The Petition alleges there are 32 landowners affected by the proposed Improvement, based on information provided by ISG and the review by petitioners' attorney. The Petition is signed by four owners of property affected by the project, which is 12.50% of the property affected by the proposed Improvement.

- b. *At least 26% of the owners of property that the proposed Improvement passes over.*

A review of the map and spreadsheet indicates there are two owners of property that the Improvement will pass over. A review of the Petition and spreadsheet and representation by petitioners is that of those owners none have signed the Petition so for this method, the percentage is 0%.

- c. *The owners of at least 26% of the property area affected by the proposed Improvement.*

A review of the watershed area and the information provided by ISG and petitioners' attorney indicate there are 1,533.48 acres affected by this proposed Improvement. The petitioners and a review by ISG and my review of the information indicates that petitioners own 582.23 acres of the property affected by the proposed improvement. This would be 37.97%, which meets the 26% of property area affected by the proposed Improvement.

- d. *The owners of at least 26% of the property area that the proposed Improvement passes over.*

The information provided indicates that tracts totaling 17.33 acres are passed over and there are no signatures covering that area. Therefore, again, the percentage would be 0%.

Based on my review and the representation by petitioners, petitioners' attorney and review by an engineer, I believe the Petition satisfies the requirements of Minnesota Statutes 103E.215, Subd. 4(a) by containing the signatures of the owners of at least 26% of the property area affected by the proposed Improvement. This would meet the requirements of Minnesota Statutes 103E.215, Subd. 4(a)(3). As I indicated, the Petition only needs to meet one of the four jurisdictional requirements and this Petition does meet one of the requirements.

I have not made an independent review of all deeds, trust agreements, etc., but petitioners, and through petitioners' attorney, have represented that the correct owners have signed for the parcels.

I have also reviewed the Bond and under the statute, at least a \$10,000 Bond is required. The petitioners have posted a \$50,000 Bond and, therefore, more than exceeds the requirements of the statute. The Bond is in favor of the Nobles-Murray-Jackson-Cottonwood County Judicial Ditch #17 Drainage Authority to cover any costs should the Petition be dismissed or a contract not be awarded.

Based on my review of the Petition and Bond, it is my opinion that the Petition and Bond meet the requirements for an Improvement Petition under Minnesota Statutes 103E.215. The Petition should be referred to the Joint Board as Drainage Authority, at which time they should accept the Petition. The petitioners have requested that Jacob Rischmiller of ISG be appointed the engineer and to my knowledge there would be no reason not to appoint Mr. Rischmiller as he is familiar with the area.

If you have any questions, please contact me.

Very Truly Yours,



Kurt A. Deter

KAD/cmt

cc: Heidi Winter (via email)
Kevin Nordquist (via email)
Travis Radke (via email)
Dave Macek (via email)
Kelly Rasche (via email)
Zach Reker (via email)
Steve Schnieder (via email)
Bruce Sellers (via email)
Jacob Rischmiller (via email)