

Minnesota Water Resources Board
555 Wabasha Street
Room 206
St. Paul, Minnesota
55102

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss

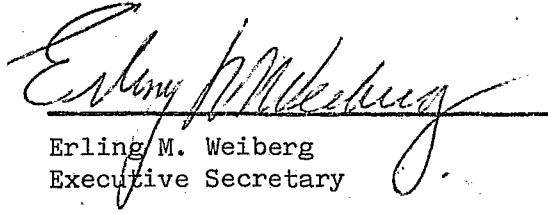
AFFIDAVIT

ERLING M. WEIBERG, being first duly sworn on
oath, deposes and says:

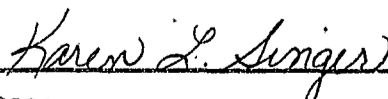
THAT HE IS the Executive Secretary for the Minnesota
Water Resources Board; that he has compared the attached
copy of an Order relating to the Buffalo Creek
Watershed District

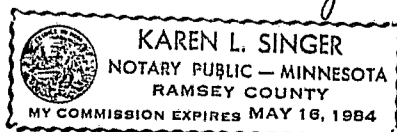
dated at Saint Paul, Minnesota, on the 7th day of
November, 1980, with the original thereof on file in his
official custody; and

THAT SAID COPY is a true and correct copy of said
original and the whole thereof.

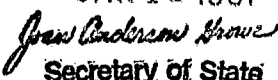

Erling M. Weiberg
Executive Secretary

Subscribed and sworn to before me
this 12th day of January 1981


Karen L. Singer



STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 12 1981


Joan Anderson Howe
Secretary of State

#33172

Minnesota Water Resources Board
555 Wabasha Street
Room 206
St. Paul, Minnesota
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In the Matter of the Petition Dated
July 22, 1980, for Change in the
Boundary Line Common to the Buffalo
Creek Watershed District and the High
Island Watershed District (Minn.
Stat. Section 112.39, Subd. 4).

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
ORDER

A petition having been filed with the Minnesota Water Resources Board (Board) asking for the transfer of certain parcels of land from the High Island Watershed District to the Buffalo Creek Watershed District; a report having been filed by the Director of the Division of Waters, Department of Natural Resources, on said petition; and proper Notice having been given by the Board; the Board held a hearing on the above matter at 9:30 a.m. on September 23, 1980, in the Assembly Room of the McLeod County Courthouse in Glencoe, Minnesota. The hearing was conducted by Kent Roberts, a state hearing examiner.

Benjamin Harriman, Board Secretary, served as the Board's Referee at the hearing; and Mel Sinn, Board engineer, also appeared for the Board. John Keefe, Attorney, appeared for the Buffalo Creek Watershed District; and James Malecki, Attorney, appeared for the High Island Watershed District. Dave Meppen, hydrologist, appeared for the Department of Natural Resources. A total of 20 people attended the hearing.

The Referee having reported to the Board; the hearing examiner having submitted his report and recommendations; the Board, having considered the record, makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER:

FINDINGS OF FACT

- I. The Buffalo Creek Watershed District was established on January 30, 1969, and the High Island Watershed District was established on June 14, 1957.
- II. A sufficient petition for a change of boundary of the Buffalo Creek and High Island Watershed Districts was filed with the Board on August 5, 1980.
- III. A Director's Report on the petition was filed with the Board on September 18, 1980.
- IV. All the parcels of land listed in the petition were included in the Board's Notice of Hearing, which was properly published in legal newspapers.
- V. The Board held a hearing on the petition on September 23, 1980.
- VI. The following described lands, presently in the High Island Watershed District, are adjacent to the Buffalo Creek Watershed District, and the majority of their runoff waters drain into the Buffalo Creek. None of the following described lands are subject to any benefits or damages for any improvement established by the managers of the High Island Watershed District.

McLeod County, Minnesota

Township 114 North, Range 29 West (Penn)

East 740' of SW $\frac{1}{4}$ of NE $\frac{1}{4}$	Section 4
W $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	" 4
SW $\frac{1}{4}$ of SE $\frac{1}{4}$	" 6
NE $\frac{1}{4}$ of NE $\frac{1}{4}$	" 7
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	" 8
N $\frac{1}{2}$ of NW $\frac{1}{4}$	" 8.

- VII. The following described parcel is presently in the High Island Watershed District and the majority of its runoff waters drain into the High Island Creek.

McLeod County, Minnesota

Township 114 North, Range 29 West (Penn)

N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 7.

CONCLUSIONS OF LAW

- VIII. The Board has jurisdiction over watershed district boundary changes and the authority to include or exclude lands according to Minn. Stat. Section 112.39, Subd. 4.
- IX. It would serve the purpose of Minn. Stat. Chapter 112 and be for the public welfare and public interest to transfer the lands listed in Paragraph VI from the High Island Watershed District to the Buffalo Creek Watershed District. These lands will not receive any benefits from the operation of the High Island Watershed District; the High Island Watershed District can perform the functions for which it was established without the inclusion of said lands; the majority of said lands are not, in fact, part of the High Island Watershed; and said lands can be feasibly administered by the Managers of the Buffalo Creek Watershed District.
- X. It would not serve the purpose of Minn. Stat. Chapter 112 and would not be for the public welfare and public interest to transfer the parcel of land listed in Paragraph VII, from the High Island Watershed District to the Buffalo Creek Watershed District. The majority of said parcel is not, in fact, a part of the Buffalo Creek Watershed District.

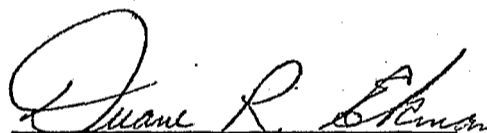
IT IS THEREFORE ORDERED

- XI. That the lands listed in Paragraph VI above, are hereby excluded from the High Island Watershed District and included in, and made part of, the Buffalo Creek Watershed District; subject to the requirements of law concerning current indebtedness and levies.
- XII. That the new boundary of the Buffalo Creek Watershed District is hereby declared to be determined by the Board's Order of January 30, 1969, which established the District; as modified by the Board's boundary change Orders of November 6, 1970; March 24, 1971 and June 27, 1977; and as modified by this Order.

XIII. That the new boundary of the High Island Watershed District is hereby declared to be determined by the Board's Order of March 31, 1966, which defined the initial boundary of the District; as modified by the Board's boundary change Orders of November 6, 1970 and March 24, 1971; and as modified by this Order.

Dated at Saint Paul, Minnesota 55102, this 7th day of November 1980.

MINNESOTA WATER RESOURCES BOARD



Duane R. Ekman
Chairman

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 12 1981
James Anderson Howe
Secretary of State

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MEMORANDUM

Water Resources Board policies on two questions involved in this proceeding should be explained.

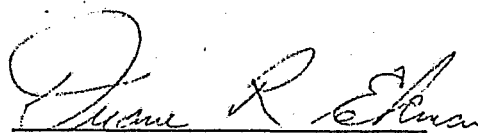
The first is that a parcel of land situated along a watershed district boundary line should be included within that district only if a majority of its area drains into that district. In this proceeding, the Buffalo Creek Watershed District requested the transfer of a 20-acre parcel owned by Alma E. Todd, from the High Island Watershed District to the Buffalo Creek Watershed District. The testimony indicated that half of the parcel drains to the Buffalo Creek Watershed District. Upon close examination of Petitioner's Exhibit No. 1, the Board found that a majority of the Todd parcel drains into the High Island Watershed District. The Board, therefore, did not transfer this parcel into the Buffalo Creek Watershed District.

The second is that boundary change Orders should not be "conditioned" upon the establishment and construction of a proposed project, unless absolutely necessary. The reasons are that proposed projects may never be constructed; that conditional Orders would cause persistent administrative problems for county auditors; and that a district's boundary can always be changed after a project altering the drainage divide has been constructed. In this proceeding the High Island Watershed District requested that the Board's Order be conditioned upon the

establishment and construction of Buffalo Creek Watershed District Project 79-2. The Board found that a majority of each of the petitioned parcels, except the Alma E. Todd parcel, presently drains into the Buffalo Creek Watershed District, without the aid of Project 79-2. The Board, therefore, unconditionally transferred all the petitioned parcels, except the Alma E. Todd property, from the High Island Watershed District to the Buffalo Creek Watershed District.

Dated at Saint Paul, Minnesota, 55102, this 7th day of November 1980.

MINNESOTA WATER RESOURCES BOARD



Duane R. Ekman
Chairman