

Minnesota Board of Water and Soil Resources
90 West Plato Boulevard
First Floor
St. Paul, Minnesota 55107

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 23 1989

James Andrew Howe

Secretary of State

ORDER
AMENDING THE BOUNDARY
OF THE
LOWER MINNESOTA RIVER
WATERSHED DISTRICT

In the Matter of the Petition to Add Certain
Land to the Lower Minnesota River Watershed
District filed August 17, 1988 by the County
of Dakota (Minn. Stat. 1986, sec. 112.761)

A sufficient petition having been filed with the Minnesota Board of Water and Soil Resources (BWSR) seeking the addition of certain land to the Lower Minnesota River Watershed District (District); proper legal notice of hearing having been given by the BWSR; and a public hearing having been conducted on the petition; the BWSR, having fully considered the record, makes the following:

FINDINGS OF FACT

1. On August 17, 1988 the County of Dakota filed a petition requesting that certain land within the cities of Lilydale, Mendota, and Mendota Heights, located west of Lexington Avenue in sections 22, 27, and 28 of Township 28 North, Range 23 West, be included within the legal boundary of the District.
2. On August 23, 1988 the BWSR issued a Notice of Hearing calling for a public hearing on the petition to be held on September 19, 1988 beginning at 7:00 p.m. in Conference Room A of the state Agriculture Building at 90 West Plato Boulevard, St. Paul, Minnesota 55107. Copies of the Notice of Hearing were mailed to Dakota County, the affected municipalities, the District, the Lower Mississippi River Watershed Management Organization (LMRWMO), the Department of Natural Resources, and other interested

persons. The Notice of Hearing was also published in the West St. Paul/Mendota Heights Sun-Current newspaper on August 31 and September 7, 1988.

3. A public hearing was conducted on September 19, 1988 by Don Ogaard, BWSR Chair. Appearing with Don Ogaard on behalf of the BWSR were BWSR members Douglas Bade, James Hoese, Howard Peterson, and Natalie Haas Steffen; and staff member Mel Sinn. Appearing on behalf of the petitioner were Dakota County Assistant County Attorney Jay Stassen, and John Forrest, Program Manager with the Dakota County Planning Department. Also present were Bob Bruestle, Mayor of Mendota; Jim Danielson, Mendota Heights Public Works Director; Larry Samstad, District engineer; Russell Sorenson, District President; and Bernie Weitzmann, Secretary-Treasurer of the LMRWMO.
4. John Forrest spoke on behalf of Dakota County in support of the petition. He provided background information on past efforts to have the City of Mendota participate in a joint powers WMO. He said Dakota County favored adding the area to the District, rather than leaving it separate from adjoining WMOs.
5. Bernie Weitzmann testified that approval of the proposed boundary change would facilitate proposed water management improvements in the Lilydale area.
6. Russell Sorenson said that the area does drain into the District, and that the District's board of managers supports the petition.
7. Jim Danielson explained how the boundary of the petitioned area was delineated. He said he used the "50% rule" in determining whether to include or exclude specific parcels from the area proposed to be added to the District. If over 50% of a particular parcel drained into the area, the entire parcel was included.

8. Larry Samstad testified that he had worked closely with the City of Mendota Heights in delineating the proposed boundary. He emphasized that the District has had many prior adjustments made to its boundary and the one now proposed by Dakota County is consistent with the actual hydrologic boundary.
9. Bob Bruestle discussed the history of serious surface water runoff problems that have occurred in the City of Mendota. He believed that urban development occurring along the bluff area upstream of Mendota has significantly increased runoff and caused flooding problems in Mendota. He supported adding the area north of State Highway 110 to the District, but opposed adding the area south of 110. He said the southern area did not contribute to the water problems in Mendota because it did not drain through the City of Mendota, and would just "cloud" the issue.
10. Jim Danielson said he could submit additional topographic and drainage information on the affected area in order to answer some of the boundary concerns raised by Bob Bruestle. Chairman Ogaard agreed to hold the record open until September 29, 1988 for receipt of this additional data.
11. On September 23, 1988 the BWSR received additional information from the City of Mendota regarding the topography and stormwater drainage facilities in the vicinity of Lexington Avenue and State Highway 110. The topographic information shows the lowest natural outlet elevation to the west of the large wetland area in the northwest quadrant as being between elevations 898' and 900'. According to the information provided, at elevation 900.0' the wetland would reach the lowest window of the nearest residential structure. The wetland is drained to the south under the adjoining frontage road and the westbound lanes of Highway 110

through a 42" reinforced concrete pipe, then under the eastbound lanes of 110 through a 33" x 39" concrete box culvert, and then into the storm-sewer system serving Yorkton Centre Pointe South, which discharges to Lake Augusta. Based on the evidence presented, the large wetland area would cause flood damage to adjoining buildings before discharging any water west along the north side of Highway 110 and into the City of Mendota. The ordinary and principal outlet of the wetland area is clearly to the south into Lake Augusta.

12. The majority of the area proposed to be added to the District drains directly into the District and then into the Minnesota River. A small portion of the area drains into Lake Augusta, which is land-locked at ordinary water elevations.
13. Approval of the petition would result in the entire City of Mendota being included in the District.
14. The area proposed to be added to the District is contiguous to the District and can be feasibly administered by the District.

CONCLUSIONS OF LAW

1. The BWSR has proper jurisdiction in this matter.
2. All relevant, substantive, and procedural requirements of law have been fulfilled.
3. Granting of the petition will aid interlocal cooperative efforts in planning for the management of surface waters in the affected area under the Metropolitan Water Management Act.
4. It would be in the public welfare and public interest, and further the purposes of the Minnesota Watershed Act, to amend the legal boundary of the District as requested in the petition.

IT IS THEREFORE ORDERED

1. That the area proposed to be added to the District is hereby included within the legal boundary of the District.
2. That the Order dated April 12, 1985, which redefined the boundary of the Lower Minnesota River Watershed District, is hereby amended as follows:

Strike lines 6 through 18 on page 4, and insert in lieu thereof the following description:

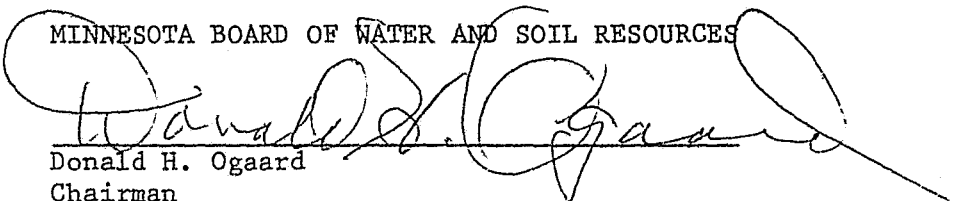
"State Trunk Highway 13; and continuing south on the east line of Sections 22 and 27, Township 28 North, Range 23 West, in the City of Mendota Heights, along the boundary between the Cities of Lilydale and Mendota Heights, and again in the City of Mendota Heights, to the intersection of said east line with the south line of Orchard Road; thence westerly on the south line of Orchard Road to the intersection of said south line with the east line of the plat of Sun View Hills projected northerly; thence southerly on the east line of the plat of Sun View Hills projected northerly and on the east line of Sun View Hills to the south line of Lot 2, Sun View Hills; thence westerly on the south line of Lot 2 Sun View Hills and on the south line of said Lot 2 projected westerly to the intersection of said south line with the east line of the plat of Oak Point projected northerly; thence southerly on the east line of the plat of Oak Point to the south line of the plat of Oak Point which is also the north line of the plat of Tuminelly's Hunter Lane Addition; thence westerly along the north line of Tuminelly's Hunter Lane Addition to the west line of the plat of Tuminelly's Hunter Lane Addition; thence southerly on the west line of the plat of Tuminelly's Hunter Lane Addition to the southwest corner of said plat which is also the northwest corner of the plat of Leone Re-Ar to the northwest corner of Lot 6, Leone Re-Ar; thence easterly on the north line of said Lot 6 to the northeast corner of said Lot 6; thence southerly along the east line of said Lot 6 to the southeast corner of said Lot 6; thence westerly on the south line of said Lot 6 to the southwest corner of said Lot 6 which is on the north line of the plat of Burn's Heights; thence westerly on the north line of Burn's Heights to the northwest corner of Lot 2, plat of Burn's Heights; thence southerly on the west line of said Lot 2 to the southwest corner of said Lot 2; thence easterly on the south line of said Lot 2 and the south line of Burn's Heights to the southeast corner of Lot 5 Burn's Heights; thence south to the east-west centerline of Section 27, Township 28, Range 23; thence westerly on the east-west centerline of said Section 27 to the north-south centerline of said Section 27; thence southerly on the north-south centerline of said Section 27, along what may be a boundary between the City of Mendota and the City of Mendota Heights, to the south line of the north half of the southwest 1/4 of said Section 27; thence westerly on the south line of the north half of said southwest 1/4, along what may be a boundary between the City of Mendota

and the City of Mendota Heights, and again within the City of Mendota Heights, to the intersection of said south line with the east line of the Acacia Park East Addition; thence southerly on the east line of the plat of Acacia Park East Addition to the north right-of-way of Acacia Boulevard extended; thence westerly on the north right-of-way of Acacia Boulevard extended to the west line of said Section 27; thence southerly on said west line to the southeast corner of Section 28, Township 28, Range 23; thence westerly on the south line of said Section 28 to the intersection of said south line with the westerly right-of-way of State Trunk Highway 13; thence southerly and southwesterly on the westerly right-of-way line".

3. That the legal boundary of the Lower Minnesota River Watershed District is defined by the Order dated April 12, 1985; as modified by the boundary change Order dated December 13, 1985; and as further modified by this Order.

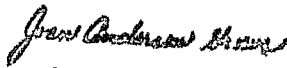
Dated at Saint Paul, Minnesota 55107, this 26th day of October 1988.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES


Donald H. Ogaard
Chairman

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DEPARTMENT OF STATE
FILED

JAN 28 1989


Secretary of State