

RESOLUTION 2005-03

**RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

**FINDINGS and ORDER DIRECTING PARTIAL ABANDONMENT
OF BRANCH 3, ANOKA/RAMSEY JUDICIAL DITCH 1,
WITHIN the CITY of BLAINE**

Manager Haake offered the following Resolution and moved its adoption,
seconded by Manager Leroux

FINDINGS

1 The Rice Creek Watershed District is the drainage authority for Anoka/Ramsey County Judicial Ditch 1 (A/R JD 1) and its established branches.

2. On February 3, 2005, a petition (dated February 3, 2004) was filed with the District under Minnesota Statutes §103E.805 by Oakwood Land Development ("petitioner") requesting abandonment of a segment of Branch 3, A/R JD 1, pursuant to proceedings under Permit No. 04-158. The segment for which abandonment is requested is described on Attachment A to this Resolution. The segment is to be replaced by a section of reinforced concrete pipe in a new alignment.

3 On March 23, 2005, after due notice, a public hearing was held and all interested parties were heard.

4 The District engineer prepared and submitted a memorandum, dated March 18, 2005, finding that the segment of Branch 3, A/R JD 1, described in Attachment A no longer will serve a substantial useful purpose for any property in the system and will not provide any substantial public benefit, provided that: (a) the new buried segment is constructed per plans previously submitted, and (b) a flowage and maintenance easement over the new segment is conveyed to the District as drainage authority

5. The petition does not request the removal of any of petitioner's property from the drainage system. The memorandum of the District engineer finds that petitioner's property should not be removed from the A/R JD 1 system because it will continue to drain to and benefit from the system.

6. The Board of Managers adopts the findings of the District engineer's memorandum, which is incorporated as Attachment B to this Resolution.

ORDER

A. The segment of Branch 3, A/R JD 1, that the petition requests to be abandoned no longer serves a substantial useful purpose to any property remaining in the system and is not of a

substantial public benefit or utility, provided that a new ditch segment is constructed per plans submitted by petitioner and an acceptable flowage and maintenance easement over the new segment is conveyed to the District as drainage authority

B. Pursuant to Minnesota Statutes section 103E.805, subdivision 3(c), on construction of the new ditch segment per the referenced plans; the redirection of Branch 3, A/R JD 1, into the new segment; and the execution and recordation by petitioner of an easement approved by District counsel, the section of Branch 3, A/R JD 1, proposed to be abandoned shall be deemed abandoned. The flowage and maintenance easement shall ensure that the District's access and maintenance rights are adequately established as against both the fee owner and any other party possessing right-of-way that overlaps the easement.

C. On abandonment, any rights or easements possessed by the District as ditch authority with respect to the abandoned segment shall be deemed vacated.

D Staff is authorized to take all steps necessary to effect this order.

E. Petitioner's property shall not be removed from the A/R JD 1 system.

The question was on the adoption of the Resolution and there were 5 yeas and 0 nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>
CARDINAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AIKEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HAAKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LEROUX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STEINKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chair declared the Resolution adopted.

Roger K Aiken
Roger Aiken, Secretary

Dated. 4-13, 2005

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I, Roger Aiken, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 4 day of April, 2005

Roger K Aiken
Roger Aiken, Secretary