

**NOTICE OF HEARING ON
PROPOSED REPAIRS AND/OR IMPROVEMENTS**

**DRAINAGE DISTRICT NO. 61 MAIN OPEN DITCH
PALO ALTO COUNTY, IOWA**

TO: ABCD3J Living Trust, Leonard E. & Helen C. Anliker, Archstone Farms, LLC Darin K. & Amanda Banwart, J & K Banwart Corp., John & Kimberly Banwart, Marc D. & Jami G. Banwart, Jay & Julie Bargman, Melva M. Bargman Revocable Trust, Jay Bargman, Tara Thompson & Luan Montag, Patricia Ann Baumann, Behr Farms LC, Bellco Farms, LLC, Jeffrey L. Berkland, Jodi M. & Cory Berkland, Jacob Berte, Mary Ann Berte, Theodore Besch, Ted A Besch Trust, Robert & Ruby L. Besch, Douglas A. Bleckwenn, Beverly A. Bonnstetter LE, John Bonnstetter, Greg & Gail Bonnstetter, Karen Wetkowski, Bruce B. Bonnstetter, Harold P. & Carol A. Bonnstetter Revocable Trust, Harold R. Bormann & Brian W. Bormann, James V. & Marguerite Bramley, Verda M. Bruellman LE, Mark Donald Bruellman, Shon Arthur Bruellman, Mona Christine Haverman, Lori Jean Skoglund, Joan Marie Wirtz & Lisa Gayle Banwart, James W. & Mary R. Chambers Family Trust, Cinbur Properties LLC, Compass Farms LLC, Country Nest Corporation, Daniel James & Wendi Janelle Crawford, Jim B. & Judy D. Crawford, Mark B. Crawford, Jon B. Crawford, Jim B. Crawford & Jayne S. Shaffer, Crippen Corner Farms LP, Linda Dawson, W H Daubendiek Trust, Georgia Elbert, Barry L. & Molly Fehr, Charlie Roger Fehr, Cory D. & Jennifer Fehr, Daniel & Eunice Fehr, Greg D. & Denise Fehr, James A. & Sharon A. Fehr, Jack D & Lauren Fehr, Janet J. Fehr Living Trust, Larry L. Fehr, Mark A. & Karl D. Fehr, Robert & Barbara J. Fehr, Fern Valley Feeders, David P. & Janet S. Fickbohm, Clayton H Fish, Catherine Fish-Hayes, Samantha & Sarah Hayes, Anita D. Fisher & Carrie S. Fisher, Terry Lynn Firkins, Estaleen G. Fogarty LE, Lawrence & Karen Ann Fogarty, Patrick J. & Christine M. Fogarty, Lester L. & Esther L. Frieden, Robert & Gladys Fuerstenau, Wayne & Martha Fuerstenau, Funk Family Farm Trust, FKF Farms LLC, James W. Gaylen B-1 Trust, John W. & C. Virginia Geelan, General Development L C, Anthony C. & Annette Kathryn Girres, David Eli & Robin Kay Girres, Ronald Cornelius & Judith Ann Girres, Grey Owl Farms III, LLC, Jordon Wayne & Ann Marie Grimm, Nolan Ryan Grimm, Jay Gunderson, Mark Gunderson, Dean Gunderson, Jacalyn S. Haaland & Allan L. Dandy, Troy M. & Melissa A. Hall, Steven L. & Martha A. Hoffman, Betty C. Hoskins LE, James A. Hoskins, Craig S. Hoskins, Mary McDade, Thomas Hoskins, & Williams Hoskins, I & M Rail Link, Iowa Select Farms L P, Viola Ann Jackson Trust, Gary L. & Madonna J. Johnson, Jurgens Inc., Robin, Kent, Kristi, Amber & Ryen Kellenberger, Mitchell L. Kern, Cameron M. & Tamara Knobloch, Elizabeth Ann Kollasch, Marjorie L. Kramer LE, Karen A. Hoskins, Brian J. Gambell & Thomas J. Gambell, Thomas James Kuecker, LB Family Properties LLC, LS AT Farms LLC, John Laubenthal, Maurice Laubenthal, Maxine Laubenthal, Todd & Emily Laubenthal, Mary K. & Eugene G Marti Living Trust, Market Farms LLC, Henry Mason & Sharon Cribb, Maurania Corp, Mersch Farms Inc, John B. Mertz III Trust, Linda Diane D. Mertz Trust, David J & Carolyn N Metzger, Derek Elmer Metzger, Duane D. & Ruth I. Metzger Revocable Trust, Rodney Meyer, David L. Meyer, Debra S. Meyer Revocable Trust & Terry L. Meyer Revocable Trust, Midwest Acres LLP, Milachi Revocable Trust, Douglas J & Allison B Miller, James L. & Linda R. Miller, Peter Montag, William Montag, Jean Hollander & LouAnn Fink, Palo Alto County Secondary Roads, Timothy R. & Cynthia R. Peters, Colleen Quast, Georgia Elbert, Kim J. Elbert, Reding Family Farm Trust, Ben Rittgers, James Salz, Michael Salz, Richard Salz, Sauder Farms, LLC, Seth Schlenger & Amie Allen, Robert P. & Amanda J. Schmidt, Susan A. Wardell, Jean Soper Cater Revocable Trust, Harland R. & Billie K. Soper Testamentary Trust, State of Iowa, John L. Thatcher Revocable Trust, Gerald G. & Rita L.

Thatcher, Michael S. & Diane L. Thatcher, Caroline M. Thatcher LE, Joan E. Tunnicliff, Patrick D. & Sandra Ann Ulrich, Union Pacific Railroad, Joyce Van Horn, Richard Walter Van Horn, John H. Van Zanten Revocable Trust, Michael & Amy Van Wyhe, Verdon Acres LLLP, Shirley A. Wagner LE, Rodney Wagner, Kerry Wagner & Vonnie Struecker, Linda Devin, The Donald H. Weishaar Living Trust, Elizabeth A. Wilt-Cable Revocable Trust, F & H Wirtz Family Farms LLC, Wirtz Farm Partnership LP, James, Charles, & Douglas Wirtz d/b/a WINC, Derek Wirtz, Fred R. Wirtz Jr. & Eli J. Wirtz, Hulda Marie Wirtz, James & Joan Wirtz, Michael V. & Lila J. Wirtz Patricia Ann Wirtz Testamentary Trust, Darrell Zaugg, Dorothy Zaugg LE, Ellen J. Strahm, Thomas D. Zaugg, Jeffrey J. Zaugg, Michael L. Zaugg & Jerald G. Zaugg, Martin Zaugg, Norman Zaugg, 4th Street Health Holdings LLC, property owners as shown above, encumbrancers, lienholders, unknown heirs and claimants by will, to all whom it may concern, including the actual occupants of the land, or tract of land, described in and including Drainage District No. 61 Main Open Ditch, Palo Alto County, Iowa.

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the Board of Supervisors of Palo Alto County, Iowa, acting as trustees on behalf of Drainage District No. 61 Main Open Ditch in said county has employed Jonathan P. Rosengren, P.E. from Bolton & Menk, Inc. as an engineer to determine the feasibility or the necessity of having repairs and/or improvements, all concerning the drainage facilities of Drainage District No. 61 Main Open Ditch in order to provide adequate drainage and relief for the lands included in said Drainage District No. 61 Main Open Ditch.

YOU ARE FURTHER NOTIFIED that the Board of Supervisors of Palo Alto County requested that said engineer make a preliminary survey and investigation of the possible repairs, and/or improvements of Drainage District No. 61 Main Open Ditch.

YOU ARE FURTHER NOTIFIED that drainage engineer Jonathan P. Rosengren, P.E. has filed his report with the Auditor of Palo Alto County in which he recommends certain repairs, and/or improvements. That the engineer's estimate for the costs of the proposed repairs are as follows:

- Proposed Improvements - Total Estimated Assessable Project Cost: \$ 1,668,000.00

YOU ARE FURTHER NOTIFIED that this report and recommendations in full are on file in the office of the Palo Alto County Auditor at the Courthouse in Emmetsburg, Iowa, for your information and you are encouraged to obtain a copy and review the same prior to the date set for hearing in this notice. Said reports have been reviewed and considered by the Board of Supervisors and they have been tentatively approved as the board has determined that the repairs, improvements, and are necessary and feasible. The engineer reports also contained the following recommendations and proposals:

1. **Right of Way.** The report recommends the consideration by the board of the acquisition of additional right of way for this project which will be considered at this hearing or a continuation thereof.

2. **Annexation.** That at a later date an annexation of additional lands will be considered by the board.

3. **Reclassification.** That at a later date the board will consider reclassification with appropriate adjustment of assessments.

. **Interest Rate and Waivers.** The board will also consider the appropriate interest to charge on stamped warrants and determine the length of time that assessments may be paid of not less than ten (10) nor more than twenty (20) years.

For further particulars you are referred to the engineer's reports for DD 61 Main Open Ditch now on file in the office of the Palo Alto County Auditor.

YOU ARE FURTHER NOTIFIED that the Board of Supervisors of Palo Alto County, acting on behalf of DD 61 Main Open Ditch has fixed a time and place of hearing on said report and proposed repairs, for **March 23, 2021 at 10:00 AM** at the Election Center at 1302 Broadway in Emmetsburg, IA 50536. At said hearing the Board of Supervisors shall hear objections to the feasibility of such repairs, and/or improvements, of the drainage district as may be presented by and for any landowner in the district. The report of the engineer as filed herein may be amended before final action is taken thereon by this Board of Supervisors. This hearing may be continued from time to time without further notice as determined by this Board of Supervisors.

YOU ARE FURTHER NOTIFIED THAT ALL OBJECTIONS TO THE ENGINEER'S REPORT OR TO ANY MATTER CONNECTED WITH THIS HEARING MUST BE IN WRITING AND FILED WITH THE PALO ALTO COUNTY AUDITOR AT OR BEFORE THE TIME FIXED FOR HEARING. Any interested party may be heard in an argument by himself or by counsel. Anyone who fails to object shall be held to have waived all objections and claims for damages.

YOU ARE FURTHER NOTIFIED that if you fail to object, the Board of Supervisors can make a final decision to make repairs, improvements, of DD No. 61 Main Open Ditch, acquire additional right of way, annex additional lands and reclassify. **As a consequence of your failure to object you lose your right to appeal the final decision within twenty (20) days to the Iowa District Court.**

This notice is published and mailed as provided by law at the direction of the Board of Supervisors of Palo Alto County, Iowa, acting on behalf of Drainage District No. 61 Main Open Ditch

Carmen Moser
Palo Alto County Auditor



**BOLTON
& MENK**

Real People. Real Solutions.

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Spencer, IA 51301

Ph: (712) 580-5075
Bolton-Menk.com

February 4, 2021

Board of Supervisors
Palo Alto County Courthouse
1010 Broadway Street
Emmetsburg, IA 50536

RE: Amendment No. 4 to Engineer's Report
Proposed Lower Main Open Ditch Improvements
Drainage District No. 61
Project No.: P12.112073

Dear Board Members:

At the continued hearing on February 27, 2018, Bolton & Menk was directed to obtain the permits necessary to construct the project as proposed and modified at the hearings. The necessary permits have now been received from both the US Army Corps (USACE) and the Iowa DNR Floodplain Section (IDNR). This amendment will provide an update of those permits and subsequent modifications to the project resulting from that process.

Background

We first wish to give a brief review of the previous reports, amendments and hearings held regarding the project.

January 2016 – First Engineer's Report – This report recommended cleanout of the upper 5,000 LF of the channel which had been plugged by silt, repair of flood damages resulting from 2014 flooding and also provided a review of the capacity of the entire ditch. The report found that siltation of the upper end of the ditch is exacerbated by the undersized ditch downstream of station 285+00. The report recommended that increasing the capacity of the channel downstream of this location would reduce siltation and allow an extended repair interval for the entire ditch.

March 2016 – Amendment 1 to First Report – This amendment provided a corrected Opinion of Probable Cost, but no significant changes to the repair plan.

March 2016 – Hearing on Report – The board approved the repair of the upper 5,000 LF and FEMA repairs described in the report. The improvements were tabled at the hearing.

March 2017 – Second Engineer's Report – This report was ordered in response to the request of a landowner at the lower end of the district desiring the improvement discussed in the first report be constructed, without levees, from 460th St south to 475th St. At the time this report was prepared, the Waters of the US (WOTUS) rule was still in effect, and the report therefore included anticipated costs for stream mitigation required by the rules at that time.

Total estimated project cost: \$850,000

June 2017 – Amendment 1 to Second Report – After filing the report, additional information regarding channel improvements to the natural creek downstream of 475th St was provided. This plan would relieve backwater on the improved channel, providing a fully relieved outlet for the district. The amendment also discusses the effects of the county bridge located in 475th St which is somewhat undersized for the design flow of the ditch and could be relieved by the addition of culverts east of the structure. The amendment further describes that the design capacity of the bridge is adequate for protection of the roadway, which comes from a different design standard than the DD 61 ditch capacity. The amendment does note that the relief of the crossing would primarily benefit only the lower 0.5 miles of the ditch, which is currently not farmed.

July 2017 – Amendment 2 to Second Report – At the informational meeting held on July 11, several landowners requested the improvements proposed in the First Report be added to the current study. The recommended improvement of the entire ditch was added to the Second Report and the cost estimates updated to reflect the additional work. A summary of the recommended improvement widths for the full length of the ditch is shown on the table below:

Proposed Channel Cross Section Improvement		
Reach	Existing Cross Section	Proposed Cross Section
-17+60 – 74+00	20' Base; 2:1 Slopes	50' Base; 2:1 Slopes
74+00 – 101+00	16' Base; 2:1 Slopes	30' Base; 2:1 Slopes
101+00 – 121+00	14' Base; 2:1 Slopes	30' Base; 2:1 Slopes
121+00 – 198+00	14' Base; 2:1 Slopes	20' Base; 2:1 Slopes
198+00 – 285+00	8' Base; 2:1 Slopes	12' Base; 2:1 Slopes

Total estimated project cost: \$2,494,500

February 2018 – Amendment 3 to Second Report – At the August 1, 2017 hearing, it was directed that further study of the impacts of the improvements downstream of 475th St be conducted. After review, it was found that the proposed relief would materially reduce backwater on the bridge at 475th St and have no impact on the water elevation below 485th St. This study found that an additional 1,908 acres downstream of the district would benefit from this improvement and should be annexed, bringing the total benefited area to 37,372 acres. This amendment also reduced the anticipated stream mitigation costs associated with the Section 404 permit based on similar projects in Clay County. An updated project cost estimate and summary was also provided.

Total estimated project cost: \$2,256,000

February 2018 – Continued Hearing on Second Report – The many unknown costs associated with acquiring the necessary permits led the board to continue the hearing until such time that the necessary permits could be obtained, and the costs more accurately reported. The board, with input from the landowners eliminated the proposed channel improvements downstream of 475th St from the project.

USACE Section 404 and State Section 401 Clean Water Act Permits

Drainage District No. 61 has been issued Nationwide Permit No. 41 for the work north of 475th St by the USACE, which by agreement includes the necessary Section 401 state authorizations. This permit authorizes the reshaping of existing drainage ditches, specifically for the flattening of the slopes and reduction of erosion.

The permit does require efforts to minimize impacts to potential wetland areas. The excavation of the channel in these areas will occur from the opposite bank only and will be marked in the field during construction.

Compensatory mitigation required under the WOTUS rules in effect at that time was the primary concern with obtaining a Section 404 permit and the initial report and amendments included substantial dollars to cover the anticipated (though not known) required mitigation. These dollars would have paid for permanent buffers and other stream channel enhancements anticipated as requirements under those rules. During the permitting period for this project, the WOTUS rules were revised. No compensatory mitigation for stream channel or wetlands is required under the Section 404 and Section 401 permits. We have updated the cost estimate to reflect these cost savings.

This permit expires on March 18, 2022.

State of Iowa Floodplain Permit

The district has been issued the necessary Floodplain Permit from the State of Iowa for the channel work north of 475th St. This permit required significant effort to obtain due to the requirements of the floodplain section. In the end, the only significant requirement placed on the project was maintaining several low bank overflow elevations.

These low bank locations are located at the existing low bank locations along the channel, and the permit requires that the existing elevation of these locations must be maintained following construction. These low bank locations were required by the permit in order to demonstrate that the spoil banks do not function as confining levees for the channel.

We do wish to make it clear to landowners that although these locations will remain lower than the adjacent spoil banks, they will be no lower than the existing spoil banks, and the improved channel will carry approximately 30% more water at the overflow elevation than the existing channel.

These overflow locations will require some additional effort to construct and verify compared to a standard project, though it will not materially impact the cost of the work.

This permit expires on July 2, 2022.

Annexation Area

During the continued hearing in 2018, Jay Elbert, landowner in the proposed annexation area provided tile maps showing that his ground has been drained east to PAK 1. We therefore wish to reduce the proposed annexation area by 186 acres. The total benefited acres from Amendment 2 will then be reduced to 35,278 acres.

We wish to point out that the final acres of benefited lands have not been determined. If annexation is ordered, further review of the boundary will be required. Additionally, anyone owning lands in the annexation area are invited to provide tile maps showing their lands do not drain to Prairie Creek.

Right-of-Way Acquisition

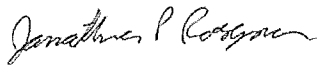
The report recommends acquisition of approximately 30.5 acres within which to maintain the widened channel. The lower 1,800 LF of channel improvement lies on land which currently does not contain DD

61 right-of-way in any width. Before work is begun on this property, the district should acquire the ROW necessary for the project including where the ROW will be expanded. Because of the late timing of the hearing, we recommend that 2021 crop damages still be paid on these newly acquired ROW acres. The table below summarizes the major project components as shown in Amendment 3. A detailed cost estimate is included with this amendment

Total Estimated Project Costs of all Recommended Improvements for DD No. 61		
Item Description	Through Amendment #3	Amendment #4
Estimated Project Cost of Improvement – 475 th St to 460 th St from original Engineer’s Report (less ROW costs)	\$786,000	\$837,000
Estimated Project Cost of Downstream Improvement from Amendment 3 (Includes ROW) (Replaces dollars from Amendment 1)	\$429,767	\$0
Additional Administration, Engineering and Legal fees from Amendments 1 & 3	\$80,000	\$80,000
Stream Channel Mitigation (buffer land retirement and seeding costs)	\$58,000	\$0
Estimated Project Cost of Improvement – 74+00 to 285+00 from Amendment 2	\$591,000	\$660,000
Additional ROW, Original Report and Amendment 2	\$281,500	\$61,000
Additional Administration, Engineering and Legal fees from Amendment 2	\$30,000	\$30,000
Total Estimated Project Cost Assessable to Landowners	\$2,256,267	\$1,668,000
Average Cost/Acre for Land Now in District (14,804 acres)	\$152	\$113
Average Cost/Acre for Watershed (37,372 acres)	\$60	
Average Cost/Acre for Watershed (35,278 acres)		\$47

Sincerely,

Bolton & Menk, Inc.



Jonathan P. Rosengren, P.E.

Project Manager

Encl: Engineer’s Opinion of Probable Cost – Amendment 4

Drainage District No. 61

Proposed Lower Main

Open Ditch Improvements

Palo Alto County, Iowa

OPINION OF PROBABLE COSTS

Friday, February 5, 2021



Real People. Real Solutions.

Construction Division 1: Open Ditch Improvements - 475th to 460th St

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total</u>
101	Excavation - Open Ditch	CY	105,035	\$3.00	\$315,105
102	Spoil Bank Leveling	STA	92	\$200	\$18,300
103	Bank Seeding & Fertilizing	STA	92	\$150	\$13,725
104	Topsoil Strip, Stockpile & Respread	CY	20,000	\$5.00	\$100,000
105	Tile Extension, 12" Dia. CMP	LF	160	\$27	\$4,320
106	Tile Extension, 15" Dia. CMP	LF	40	\$30	\$1,200
107	Tile Extension, 18" Dia. CMP	LF	20	\$35	\$700
108	Tile Extension, 24" Dia. CMP	LF	60	\$40	\$2,400
109	Surface Drain, 15" Dia CMP	LF	120	\$30	\$3,600
110	Surface Drain, 18" Dia CMP	LF	180	\$35	\$6,300
111	Surface Drain, 24" Dia CMP	LF	60	\$40	\$2,400
112	Surface Drain, 30" Dia CMP	LF	180	\$50	\$9,000
113	Class D Riprap	TN	500	\$50	\$25,000
114	Mobilization	LS	1	\$25,000	\$25,000
Estimated Division 1 Subtotal					\$527,000

Construction Division 2: Open Ditch Improvements - North of 460th St

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total</u>
301	Excavation - Open Ditch	CY	101,027	\$3.00	\$303,081
302	Spoil Bank Leveling	STA	211	\$200	\$42,200
303	Bank Seeding & Fertilizing	STA	211	\$150	\$31,650
304	Topsoil Strip, Stockpile & Respread	CY	19,200	\$5.00	\$96,000
305	Tile Extension, 12" Dia. CMP	LF	260	\$27	\$7,020
306	Tile Extension, 15" Dia. CMP	LF	220	\$30	\$6,600
307	Tile Extension, 18" Dia. CMP	LF	80	\$35	\$2,800
308	Tile Extension, 24" Dia. CMP	LF	80	\$40	\$3,200
309	Tile Extension, 30" Dia. CMP	LF	20	\$45	\$900
310	Surface Drain, 15" Dia. CMP	LF	792	\$30	\$23,760
311	Surface Drain, 18" Dia. CMP	LF	420	\$35	\$14,700
312	Surface Drain, 24" Dia. CMP	LF	252	\$40	\$10,080
313	Surface Drain, 30" Dia. CMP	LF	96	\$50	\$4,800
314	Remove, Salvage & Replace Tile Extension, 12" Dia. CMP	LF	60	\$22	\$1,320
315	Remove, Salvage & Replace Surface Drain, 15" Dia. CMP	LF	48	\$25	\$1,200

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total</u>
316	Remove, Salvage & Replace Surface Drain, 18" Dia. CMP	LF	184	\$28	\$5,152
317	Remove, Salvage & Replace Surface Drain, 24" Dia. CMP	LF	120	\$30	\$3,600
318	Remove, Salvage & Replace Surface Drain,	LF	72	\$35	\$2,520
319	Salvage and Re-install Class E Riprap	TN	350	\$30	\$10,500
320	Mobilization	LS	1	\$29,000	\$29,000

Estimated Division 2 Subtotal \$600,000

Subtotal of Construction Divisions 1 - 2 \$1,127,000

Construction Contingency

Division 1 (5%) \$26,000

Division 2 (5%) \$60,000

Total \$86,000

Total Estimated Assessable Construction Cost \$1,213,000

Construction Related Damages

Right-of-Way Acquisition

Division 1 (15.95 acres) \$32,000.00

Division 2 (14.53 acres) \$29,000.00

Work Area Rental

Division 1 (21.1 ac) \$5,000

Division 2 (48.4 ac) \$12,000

Other Damages \$30,000

Basic Engineering Services

Survey, Study & Report, Meetings & Hearing \$105,000

Permitting \$55,000

Construction Plans, Specifications, & Bid Letting \$30,000

Construction Engineering Services \$50,000

Legal Services, Publications, Mailings, Etc. \$16,000

Finance, Interest & Contingency \$79,000

Accrued Interest on Existing Debt \$12,000

Total Estimated Assessable Project Cost \$1,668,000

Estimated Average Cost Per Acre Now in District (14,804 ac) \$113

Estimated Average Cost Per Acre Per Year at 5% interest (20 years) \$9

Estimated Average Cost Per Benefited Acre (35,278 ac) \$47

Estimated Average Cost Per Acre Per Year at 5% interest (20 years) \$4