

**STATE OF MINNESOTA**

**FREEBORN COUNTY BOARD OF COMMISSIONERS  
DRAINAGE AUTHORITY FOR COUNTY DITCH 54**

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**In the Matter of:**

**the Petition of the Federal Government  
acting through the United States Fish  
and Wildlife Service, and the Shell  
Rock River Watershed District, to  
Impound, Reroute, and Partially  
Abandon Drainage on Freeborn  
County Ditch No. 54**

**PETITION TO IMPOUND, REROUTE,  
AND ABANDON PORTIONS OF  
FREEBORN COUNTY DITCH NO. 54  
DRAINAGE SYSTEM WATERS**

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Pursuant to Minn. Stat. § 103E.227, Petitioners seek approval to impound, reroute, and abandon drainage system waters on Freeborn County Ditch No. 54 for wetland restorations, habitat creation, and flood storage. For their Petition, the undersigned Petitioners state and allege the following:

**Part 1: General Statement of Facts and Conditions:**

1. The Shell Rock River Watershed District and the United States Fish and Wildlife Service (Petitioners) are owners of the property in portions of Section 6, Pickerel Lake Township and Section 1 of Alden Township respectively, all in Freeborn County, Minnesota. The fiscal agent for the project, hereafter referred to as Project Sponsor, is the Shell Rock River Watershed District.
2. Petitioners Property is within the benefitted area of Freeborn County Ditch No. 54.
3. Petitioners seek approval to impound, reroute, and abandon drainage system waters on Freeborn County Ditch No. 54 located in Alden and Pickerel Lake Townships for beneficial use.
4. Petitioners are proposing a wetland restoration on this property which will be protected by permanent federal ownership. This will require permanent modification to the CD 54 public drainage system which has eliminated wetland

hydrology by draining the property. Beneficial use includes wetland restoration, habitat creation and to provide flood mitigation.

5. Mark Origer of I & S Group, Inc. (ISG), a licensed engineer, has investigated the potential and feasibility of impounding, rerouting, and abandoning portions of CD 54 and has found that a feasible impound, reroute, and abandoned drainage system alternative will restore multiple wetland basins without reducing drainage efficiency to properties benefited by the drainage system. The impoundment, reroute, and abandonment will also serve to impound more surface water on the drainage system, thereby reducing the amount of surface water currently draining through the CD 54 public system.
6. The proposed project would relieve the amount of water entering the Freeborn County Ditch No. 54 system.
7. The location and map of the modifications, concept plans, and specifications for the proposed impoundment, reroute and abandonment of CD 54 are included in **Exhibit A**, Abandonment & Impoundment Report, developed by Mr. Origer (ISG), which is attached hereto and incorporated herein by reference.
8. The modification will include daylighting Branch H located on the Petitioners property in order to restore hydrology to support wetland restorations and provide a free-flowing public tile outlet.
9. As part of the project, the Petitioners request that the drainage authority abandon 10,107 feet of tile located on County Ditch No 54, which will consist of the following locations and included in Exhibit B:

<b>Area</b>	<b>Abandoned Stations</b>	<b>Length (ft.)</b>
Main	184+46 – 224 + 85	4039
Branch E	7+99 – 15 + 62	763
Branch F	0+00 – 8+24	824
Branch F-1	0+00 – 9+56	956
Branch F-1 Aux	0+00 –9+44	944
Branch G	0+00 –11+99	1199
Branch G-1	0+00 –8+34	834
Branch H	7+00 –12+48	548

10. The portion of County Ditch No. 54 sought to be abandoned will not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not a substantial public benefit and utility after the project.

11. To facilitate implementation of the proposed wetland restorations, Petitioners must impound, reroute, and abandon portions of CD 54 located on or across the following properties:

<b>Property Description</b>	<b>Property Owners</b>	<b>Address</b>
1. Parcel ID 090060013 Section 6 Pickerel Lake Twp.	Shell Rock River Watershed District	214 West Main St. Albert Lea, MN 56007
2. Parcel ID 09.006.0021 and Parcel ID 09.006.0021 Section 6 Pickerel Lake Twp.	U.S. Fish and Wildlife Service, Windom Wetland Management District	49663 County Road 17 Windom, MN 56101
3. Parcel ID 10.001.0013 and Parcel ID 10.001.0014 Section 1 Alden Twp.	U.S. Fish and Wildlife Service, Windom Wetland Management District	49663 County Road 17 Windom, MN 56101
4. Parcel 10.001.0041 Section 1 Alden Twp.	Phyllis Acklie Revoc Trust	4400 80 <sup>th</sup> St S #318 Lincoln, NE 68516
5. Parcel 10.001.0051 Section 1, Alden Twp.	Cynthia Carlson and Lori Fenny	1111 Lake Shore Dr. Altoona, IA 50009
6. Parcel 09.006.0051 Section 6, Pickerel Lake Twp.	Robert Wittmer	18933 670 <sup>th</sup> Ave Alden, MN 56009
7. Parcel 09.006.0040 Section 6, Pickerel Lake Twp.	James Wittmer	67280 Co. Rd 46 Alden, MN 56009

12. The rerouting of Ditch No. 54 in Section 1 Alden Township and Section 6 Pickerel Lake Township will include the following:

Branch F will be rerouted east and north of the existing Branch F, Branch F-1, and Branch F-1 Aux. It will be rerouted starting at Station 0+00 of existing Branch F and will be connected to Branch F-1 and Branch F-1 Aux at Station 9+44 of Branch 1 Aux.

Branch H will be rerouted slightly north of the existing line from Station 12+48 of the existing branch and will be delighted into the restored wetland 18.

The Main will be rerouted south of the existing line, and remain entirely south of Interstate 90 from Station 225+00 and connect into the existing Main near Station 163+00.

13. Project Sponsor has consulted with the Division of Waters, Department of Natural Resources, and determined that a public waters permit is not required for this impoundment, reroute, and abandonment.
14. Project Sponsor recognizes and agrees to be responsible and shall acquire all property rights, rights of way, or flowage easements necessary before construction.
15. Petitioners own the property to be affected by the abandonments for wetland restoration. The Project Sponsor agrees to be responsible for the cost of the wetland restoration, proper outlets for any private line lines and the overflow structures and does not request any funds from the public drainage system for this project.

**Part 2: Petition for Impoundment and Diversion of Drainage System Waters:**

16. Minnesota Statutes Section 103E.227 allows any person, public or municipal corporation, governmental subdivision, the state or a department or agency of the state or federal government to petition to impound or divert drainage system waters for beneficial use. Beneficial uses can include wetland preservation or restoration or creation of water quality improvements or flood control.
17. The project does not impact public waters and neither a public waters work permit nor a water use permit is required from the commissioner of natural resources. The Project Sponsor is securing all required local, state and federal permits for its project and evidence of such permits may be made a condition of approval for the action requested by this petition.
18. A bond is not required if the petition is filed by the state, a state agency or department, the United States or any of its agencies, a soil and water conservation district, a watershed district, or a municipality. The Petitioners are requesting the drainage authority waive this bond.
19. Project Sponsor understand that they must pay the costs incurred if the proceeds are dismissed.
20. Project Sponsor understand that they must pay the costs incurred as a result of this petition.
21. Project Sponsor performed a technical analysis of the proposed modifications of the drainage system to ensure that the drainage system modifications will not impair the utility of the drainage system or deprive affected landowners of its benefit. The technical analysis is found in **Exhibit A**.


22. Granting of the petition to impound or divert drainage system waters will give the Petitioners authority to permanently modify the drainage system in the manner detailed in Exhibit A. The permanent modification will be reflected in the drainage system record as the only authorized configuration of the drainage system on the property.
23. The Petitioners acknowledges that they are solely responsible for construction, operation, and maintenance of the wetland restoration and overflow structure.

### **Part 3: Petition for Partial Abandonment of Drainage System**

24. Minnesota Statutes Section 103E.806 allows an owner of a benefited property to petition the drainage authority to abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system.
25. The benefitted properties lying upstream of the Petitioners property will continue to discharge beneficial drainage onto the Petitioners property and the Petitioners modifications of the drainage system will continue to carry those waters through the Petitioners property and return them to a downstream portion of the drainage system.
26. The construction plan for the Petitioners property provides for the passage of drainage system waters through the Petitioners property along the general route of CD 54.
27. When a portion of a drainage system is abandoned, the responsibility of the drainage authority for that part of the drainage system ends. When authority is granted to modify a drainage system, the drainage authority retains jurisdiction over the modification.
28. This Petition may be signed in counterparts.

NOW THEREFORE, Petitioners request the Freeborn County Auditor to present this Petition to the Freeborn County Board of Commissioners, active as the drainage authority in relation to Freeborn County Ditch No. 54, to set the matter on for further consideration of this Petition and for the appointment of an engineer skilled in drainage matters to examine the proposed project outlined herein. Petitioners further request the Drainage Authority to waive the requirement for bond.

Respectfully submitted this 22nd day of June, 2022 by:

Petitioners/Signature	Property Owned	Mailing Address
 Andy Henschel Shell Rock River Watershed	Parcel ID 090060013 Section 6 Pickerel Lake Twp.	214 West Main St. Albert Lea, MN 56007
<small>JONATHAN BEYER Digitally signed by JONATHAN BEYER Date: 2022.06.21 16:44:31 -05'00</small> Jonathan Beyer U.S Fish and Wildlife	Parcel ID 09.006.0021 and Parcel ID 09.006.0021 Section 6 Pickerel Lake Twp.	49663 County Road 17 Windom, MN 56101