



Louis N. Smith  
Charles B. Holtman  
Michael J. Welch  
Elizabeth A. Henley

Office Manager  
Toni L. Green

400 Second Avenue South  
Suite 1200  
Minneapolis, MN 55401  
(612) 344-1400

[www.smithpartners.com](http://www.smithpartners.com)

September 25, 2018

VIA E-Filing

Hon. Darci J. Bentz  
Judge of District Court  
Jackson County  
405 Fourth Street  
Jackson, MN 56143

Re: Appeal from Final Order on Jackson County Ditch No. 3  
Court File No. 32-CV-18-146

Dear Judge Bentz:

We represent the respondent drainage authority, Heron Lake Watershed District in this matter. I am writing to request permission to appear at the scheduling conference by telephone on October 2, 2018 at 2:00 p.m. It would be helpful to facilitate a phone conference, we can offer the following conference line:

1. Dial 612-351-3093
2. Enter the conference code 242787

Please do not hesitate to let me know if you need further information, and thank you for considering this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis N. Smith", written in a cursive style.

Louis N. Smith

Cc: Jeff Braegelmann (via e-service)

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF JACKSON

FIFTH JUDICIAL DISTRICT

Case Type: Other Civil

Court File No. 32-CV-18-146

Hon. Darci J. Bentz

In re the Appeal from the Final Order  
of the Heron Lake Watershed District, Acting as  
Drainage Authority for County Ditch No. 3  
Establishing Drainage Project, Adopting and Confirming  
Viewers' Report of Improvement Benefits and Damages,  
Authorizing the Application of Separable Maintenance,  
and Directing Construction of the Project

---

**RESPONDENT'S INFORMATIONAL STATEMENT**

---

1. All parties have been served with process.
2. All parties have not joined in the filing of this form.
3. Brief description of the case: Appeal from order of drainage authority for improvement of public drainage system. Appeal is bifurcated to first address appeal of establishment/improvement order, then to address benefits/damages.
4. It is estimated that the discovery specified below can be completed within two (2) months from the date of this form.
  - a. Factual Depositions No  Yes , est. no. 4
  - b. Medical Evaluations No N/A Yes , est. no.
  - c. Experts Subject to Discovery No  Yes , est. no. 3
5. Assignment as an expedited case is requested. Note provision for accelerated trial in Minn. Stat. Sec. 103E.095, subd. 1. Appeal takes precedence over other civil matters, Sec. 103E.091, subd. 4.
6. The dates and deadlines specified below are suggested.
  - a. N/A Deadline for joining additional parties, whether by amendment or third party practice.
  - b. 11/1/18 Deadline for bringing non-dispositive motions

- c. 11/15/18 Deadline for bringing dispositive motions.
- d. N/A Deadline for submitting S11 to the court.
- e. N/A Deadline for completing independent physical examination pursuant to Minn. R. Civ. P. 35.
- f. 11/23/18 Date for formal discovery conference pursuant to Minn. R. Civ. P. 26.06.
- g. 30 days before trial Date for pretrial conference pursuant to Minn. R. Civ. P. 16.
- h. At pretrial Date for scheduling conference.
- i. At pretrial Date for submission of a Joint Statement of the Case pursuant to Minn. Gen. R. Prac. 112.
- j. 1/14/19 Trial Date.
- k. 2 weeks before trial Deadline for filing proposed instructions, verdicts, findings of fact, witness list and exhibit list.
- l. N/A Deadline for \_\_\_\_\_

7. Estimated trial time: Respondent concerns with Appellant's estimation of trial time; two (2) days for Phase I (establishment/improvement order); and two (2) days for Phase II (benefits/damages).

8. Respondent would waive jury trial for Phase II.

9.

- a. Meeting: Counsel for the parties met on N/A to discuss case management issues.

b. ADR Process: Counsel for Respondent concurs that ADR is appropriate and that mediation or a moderated settlement conference should be used. Respondent suggests a deadline of October 15, 2018 to select a mediator and a deadline of December 14, 2018 to complete mediation.

10. Please list any additional information which might be helpful to the court when scheduling this matter.

Dated: September 25, 2018.



---

Louis N. Smith #152493  
Smith Partners PLLP  
Attorneys for Respondent  
400 Second Avenue South  
Suite 1200  
Minneapolis, MN 55401  
Phone: 612-344-1400

## Jan Voit

---

**From:** Louis Smith <Smith@smithpartners.com>  
**Sent:** Wednesday, September 26, 2018 1:56 PM  
**To:** sharon.tellinghuisen@courts.state.mn.us  
**Cc:** Sherry Haley; Jan Voit  
**Subject:** Court File No. 32-CV-18-146 Jackson Co D. Ct. Fifth Jud. Dist.

Dear Ms. Tellinghuisen:

I am writing to confirm our telephone conversation today. We represent the Heron Lake Watershed District which is the drainage authority that issued the order that is appealed in this matter. The procedure for appeal of an order of a drainage authority is a bit cumbersome and it does not truly reflect the fact that watershed districts may legally serve as drainage authorities. Accordingly an appeal is filed with the county auditor, and then the county auditor files the notice of appeal with the district court. See Minnesota Statutes Section 103E.091, subdivision 2.

In this case, again, Heron Lake Watershed District is the drainage authority issuing the order appealed from, and from here forward will serve as the real respondent party, rather than Jackson County. Given this situation, you indicated that a separate filing fee on behalf of Heron Lake Watershed District may not be necessary, but of course we would be pleased to respond to any further questions you may have.

Sincerely,

**Louis N. Smith**  
smith  
partners

PLLP

400 Second Avenue South  
Suite 1200  
Minneapolis, MN 55401  
(612) 344-1400 Office  
[www.smithpartners.com](http://www.smithpartners.com)

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information and must be protected in accordance with those provisions. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.