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# **Le Sueur County, MN**

**Thursday, November 29, 2018**

**Board Meeting**

## **Item 1**

**9:00 a.m. CD70 Partial Abandonment Public Hearing**

**Staff Contact:**

STATE OF MINNESOTA  
LE SUEUR COUNTY DRAINAGE AUTHORITY  
FOR LE SUEUR COUNTY DITCH 70

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The matter of the Petition of Loewe to  
Abandon a Portion of Le Sueur County Ditch  
70

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**Final Hearing Agenda**

Opening of Hearing and Introductions – *Board Chair*

Purpose of Hearing and Procedural History – *Attorney*

Confirmation of Notices – *Staff*

Engineer's Presentation – *Engineer*

Public Comment and Questions – *Board Chair*

Board Deliberations – *Board Chair*

- a. At the hearing, the drainage authority shall make findings and direct, by order, that part of the drainage system be abandoned, if the drainage authority determines that part of the drainage system does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.
- b. After partial abandonment of a drainage system, a repair petition may not be accepted for the abandoned part of the drainage system and the responsibility of the drainage authority for that part of the drainage system ends.
- c. Partial abandonment does not remove property from the benefits roll, nor does not release the property from a drainage lien filed for costs or for costs incurred on the abandoned portion before the date of the order.

[15741-0040/3215958/1]

# County Ditch 70 Spur 1 Partial Abandonment

Le Sueur County  
Tyrone Township

November 21, 2018

I hereby certify that this report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.



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Darrell Pettis P.E.,  
Le Sueur County Administrator  
Reg. No. 23428

Dated this 28<sup>th</sup> day of November 2018

### Petitioners Goals

The goal of the Le Sueur County Ditch 70 (CD70) petition is to abandon a portion of Spur 1 which is located in Sections 9 and 10 of Tyrone Township, Le Sueur County, Minnesota. The petition calls for approximately 350 linear feet of open ditch to be abandoned and therefore no longer be a part of the CD 70 system. The open ditch abandonment will start 376 feet north of the South East corner of the North 60 acres of the East ½ of the NE ¼ of Section 9 Tyrone Township and end approximately 350 feet south of there. The proposed open ditch abandonment drains approximately 115 acres of land from portions of Sections 3, 4, 9 and 10; based off of existing LIDAR contour lines.

### History

County Ditch 70 was established in 1965. The ditch consists of a Main ditch, Spurs 1, 3, 4, and 5 and Branch 1 to Spur 1. The ditch contains both open ditch and tile. The ditch was cleaned in 1985 and has been maintained since then.

Spur 1 was constructed from station 51+60 of the Main Ditch and runs northerly and westerly across Section 10 a distance of 4,000 feet and terminates 256 feet south of the NE ¼ of the SE ¼ of Section 9. The purpose of Spur 1 was to drain low lands in Section 9 and 10.

Branch 1 to Spur 1 was constructed from station 34+77 of Spur 1 and runs northerly and easterly across Section 10 and 3. Branch 1 to Spur 1 runs just about parallel to the north 350 feet of Spur 1.

### Proposed Conditions

Minnesota Statue, M.S. 103E.806, allows for the abandonment of a portion of a drainage system if the drainage authority determines that part of the system does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.

The proposed abandonment will abandon approximately 350 feet of public open ditch, turning it into private open ditch. The new terminus of Spur 1 open ditch will be 26 feet north of the South East corner of the North 60 acres of the East ½ of the NE ¼ of Section 9. The landowner, upon completion of the abandonment, proposes to fill this portion of the open ditch.

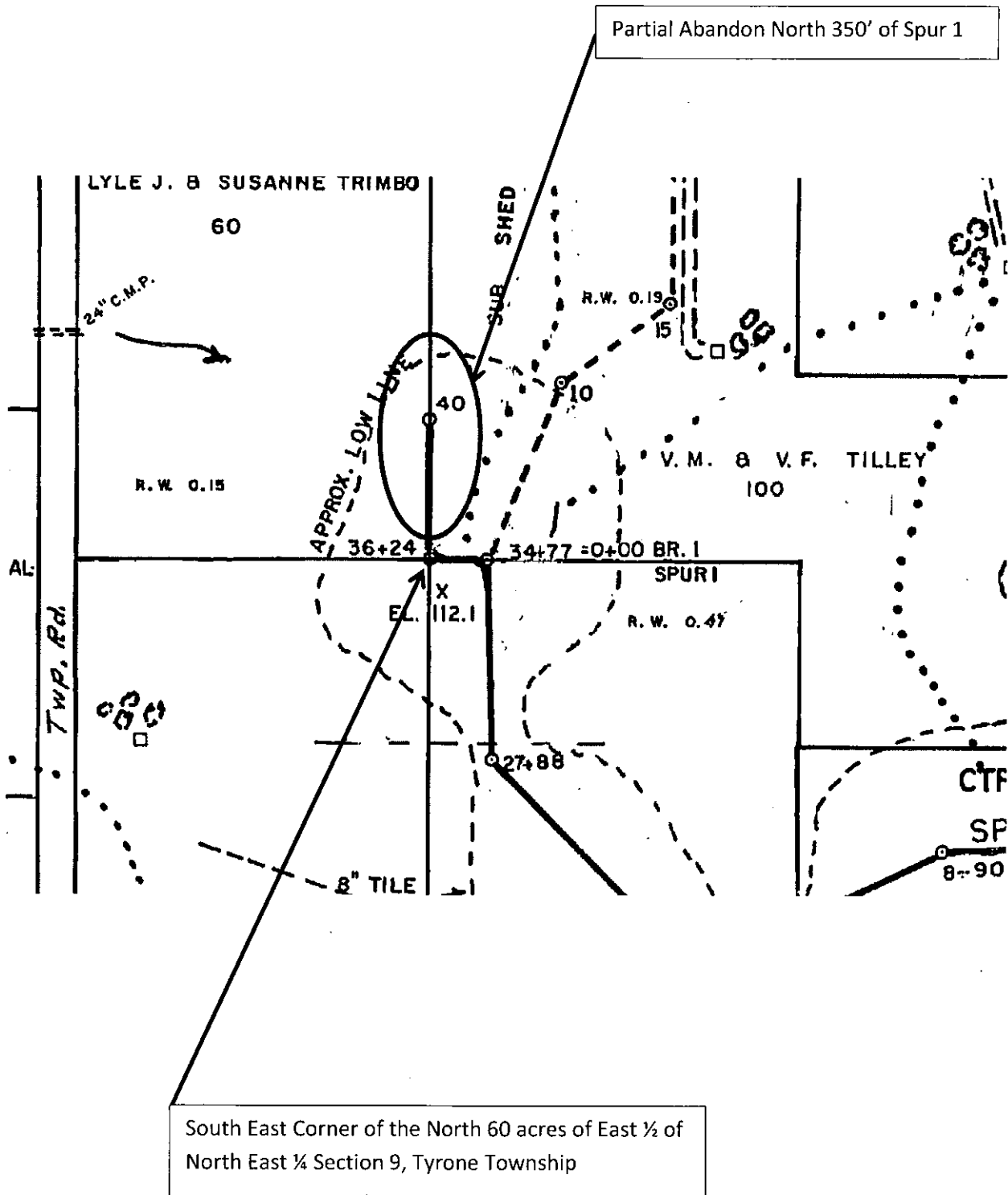
The petitioner has shown that private tile lines have been constructed in Section 9 and 10. These private tile lines drain the low areas and outlet into Spur 1 downstream of the section of ditch that is to be abandoned. During the field review, it was noted that the elevation of the ground at the north end of the open ditch is lower than the surrounding ground at the south end of the proposed abandonment. If the open ditch is just filled in, water may pond at the north end of the abandoned ditch, however this area has been privately tiled so it may not be an issue. The petitioner may want to consider placing a private tile line in the open ditch before it is closed..

### Recommendations

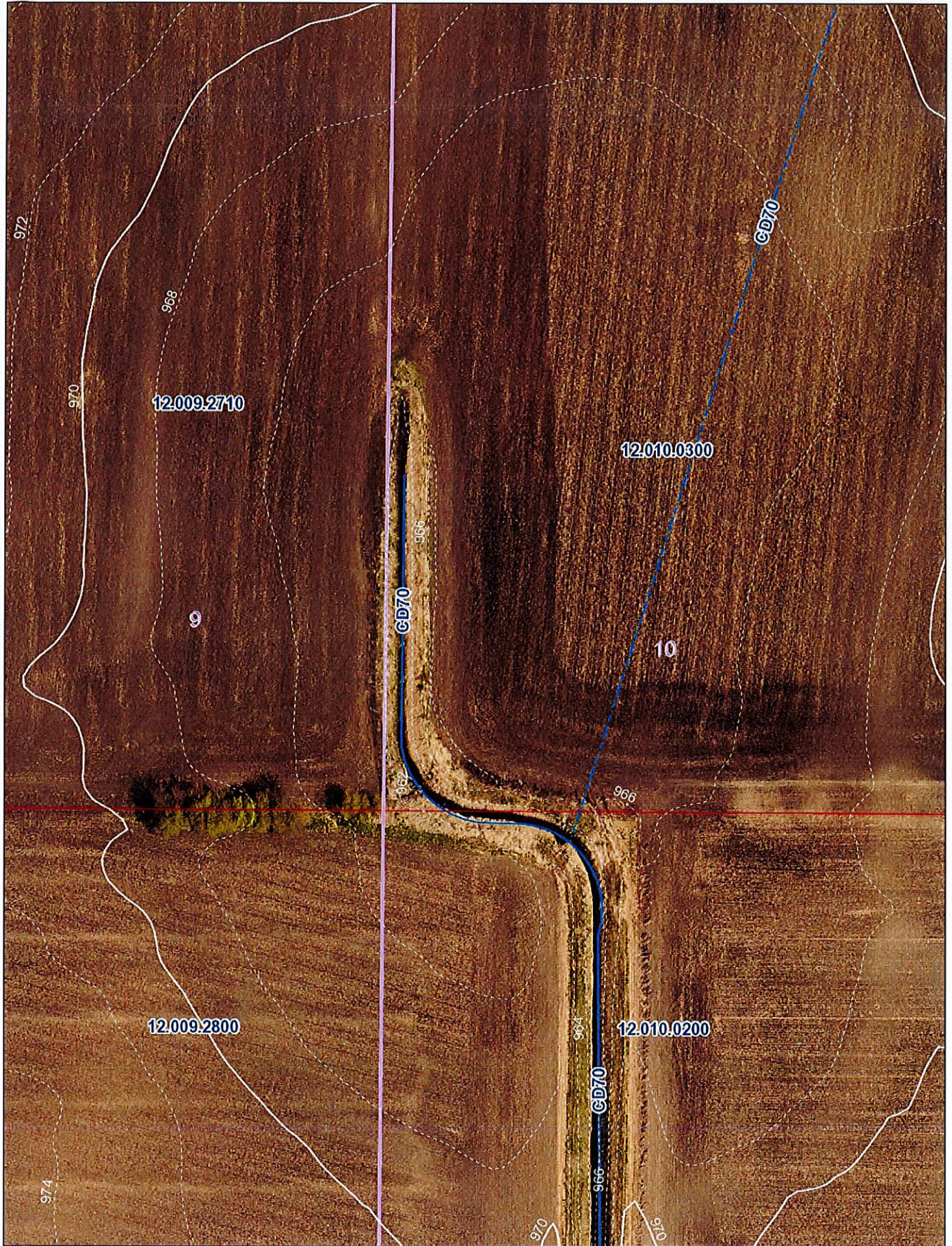
It is recommended that the Ditch Authority call an Abandonment Hearing for this ditch and submit this report for abandonment approval. The proposed abandonment of the portion of Spur 1 will affect 7 parcels with 6 different landowners. Due to the elevation of the adjacent land, only two of the parcels are directly

impacted by the proposed abandonment. Both of those landowners have indicated that they are in favor of the abandonment. If all landowners are in favor and this project is received favorably at the Abandonment Hearing, then the portion of Spur 1 requesting to be filled should be abandoned and removed from the CD 70 system.

# Le Sueur County Ditch 70









**STATE OF MINNESOTA**  
**Before the**  
**Le Sueur County Board of Commissioners**  
**SITTING AS THE DRAINAGE AUTHORITY FOR**  
**Le Sueur County Ditch No. 70.**

**In the Matter of:**

**the Partial Abandonment of Le Sueur  
County Ditch No. 70**

**PETITION FOR PARTIAL  
ABANDONMENT OF LE SUEUR  
COUNTY DITCH No. 70.**

Pursuant to Minn. Stat. § 103E.806, Petitioners seek to abandon a portion of Le Sueur County Ditch No. 70 drainage system. For their Petition, the undersigned Petitioners state and allege the following:

1. Petitioner is the owner of the following described real property currently within the benefitted area of County Ditch No. 70:

<b>Property Description</b>	<b>Property Owners</b>	<b>Address</b>
1. Section 10 of Tyrone Township, Le Sueur County	Adam R. Loewe	28199 290 <sup>th</sup> St. Henderson, MN 56044

2. Petitioners request that the drainage authority abandon a portion of Le Sueur County Ditch No. 70 as described herein:

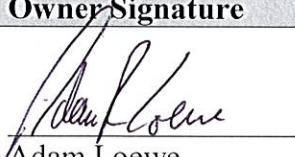
The North 350 feet of Spur No. 1 of Le Sueur County Ditch No. 70.

3. Petitioner seeks partial abandonment of this portion of Le Sueur County Ditch No. 70 pursuant to Minnesota Statute § 103E.806. The portion of Le Sueur County Ditch No. 70 sought to be abandoned does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of public benefit and utility.
  - a. In the Fall of 2016 and the Fall of 2017 drain tile was installed on the property benefitted by the portion of the ditch subject to this petition. The drain tile systems do not empty into the section of Ditch No. 70 subject to this petition. The drain tiling system drains into a lower portion of Ditch No. 70, making the North 350 feet of Spur 1 unnecessary. At present the amount of water entering the portion of the ditch subject to this petition has dramatically decreased. See Exhibit 1.
  - b. The neighboring property owner, whose drain tile system does not drain into the ditch section at issue, has no objection to the abandonment of the North 350 feet of Ditch No. 70, Spur No. 1. See Exhibit 2.



- c. The costs of maintaining this portion of Le Sueur County Ditch No. 70 exceeds any benefits this portion of the system provides as the portion at issue no longer provides a benefit. The drain tile system greatly reduces the amount of runoff sediment entering the drain system as the drain tile drains water through the subsurface of the soil. The portion at issue is not fed by any drain tile systems on the benefitted property. The portion no longer provides a public benefit and utility as it is currently very shallow and is increasing the amount of soil and sediment entering the ditch system as a whole. By abandoning this portion of the ditch, the costs related to the upkeep of the drainage system as a whole will be reduced by the decrease in sediment entering Ditch No. 70.
  - d. This portion of the drainage system does not serve a substantial useful purpose as part of the draining system to any property remaining in the system. This system benefits over 20 properties.
4. Petitioners request a public hearing, pursuant to Minn. Stat. § 103E.806, subd. 3(b), be held and to proceed to the partial abandonment of the above described portion of Le Sueur County Ditch No. 70.
  5. Petitioner acknowledges responsibility for the cost of these proceedings, including the cost of notice to the other owners benefitted by this drainage system and the costs of the hearing.
  6. To the best of Petitioners' knowledge, there are no outstanding drainage liens or assessments on the property related to the drainage system.

Respectfully submitted this \_\_\_\_ day of August, 2018 by:

Owner Signature	Property Owned	Mailing Address	Dated
 Adam Loewe	Section 10 of Tyrone Township, Le Sueur County	28199 290 <sup>th</sup> St. Henderson, MN 56044	8-24-18

Subscribed and sworn to before me

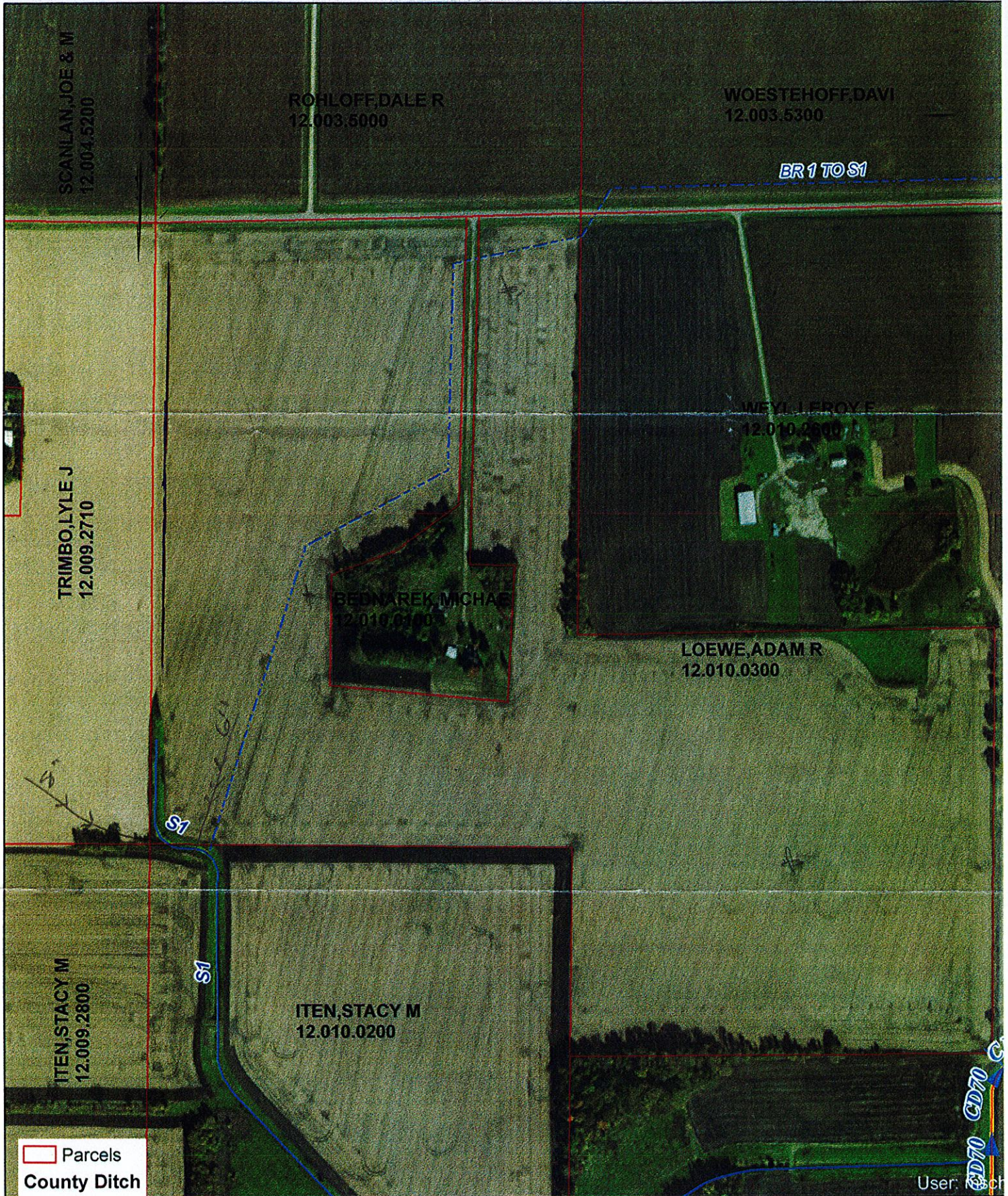
this 24<sup>th</sup> day of August, 2018.



Notary Public

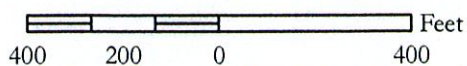






- Parcels  
**County Ditch**  
**Type**  
—▶ MAIN  
— SPUR  
- - - TILE

1:4,800 1 inch = 400 feet



Maps are for graphical purposes only. They do not represent a legal survey.



User: [Name]  
 Le Sueur SWC  
 181 W. Minnes  
 Le Center, MN  
 (507) 357-4879 Ext. 3  
 Fax: (507) 357-6982



Braith  
Excavating  
2017

P.L. Trimbo

5" LOEWE

Ditch No 70 Spr 1

110'

5' 11" 21  
Syst. 11.1.9  
Comp. File

April 9, 2018

To: Le Sueur County Drainage Authority  
88 S. Park Avenue  
Le Center, MN 56057


Re: Partial Abandonment of County Ditch No. 70

Dear Members of the Le Sueur County Drainage Authority:

I am the owner of the property in the Northeast quarter of Section 9 of Tyrone Township which borders the west of Adam and Jason Loewe's property in Tyrone Township of Le Sueur County. My property currently benefits from the same portion of Le Sueur County Ditch No. 70, which the Loewe's would like to be abandoned.

I write this letter to say I have no objection to the abandonment of this portion of the ditch. To my knowledge there are no drain tile systems that currently empty into this portion of the ditch and the ditch is now quite shallow. I believe abandoning this portion of Ditch No. 70 will save the ditch system money as there will be less to maintain and will make farming the land easier and more convenient.

Very truly yours,

  
Susan Trimbo,