

STATE OF MINNESOTA
BUFFALO CREEK WATERSHED DISTRICT
DRAINAGE AUTHORITY FOR THE IMPROVEMENT OF BRANCH 56 OF RENVILLE/SIBLEY/MCLEOD
COUNTIES JUDICIAL DITCH 15

The matter of the petition of Donn
Cunningham, et al., for the
improvement of portions of Judicial
Ditch 15, Branch 56

**FINDINGS AND FINAL ORDER
ESTABLISHING DRAINAGE PROJECT,
ADOPTING AND CONFIRMING THE
VIEWERS' REPORT OF IMPROVEMENT
BENEFITS AND DAMAGES,
AUTHORIZING APPLICATION OF
SEPARABLE MAINTENANCE, AND
DIRECTING CONSTRUCTION OF THE
PROJECT**

The Board of Managers of the Buffalo Creek Watershed District, sitting as Drainage Authority for the improvement of Branch 56 of Renville/Sibley/McLeod Judicial Ditch 15, held a Final Hearing on August 27, 2025, continued to September 23, 2025 in the matter of the Petition of Cunningham, et al., for the improvement of portions of Judicial Ditch 15, Branch 56. Upon consideration of the petition, the engineer's report, the viewer's report, the DNR's advisory report, public comment and the record proceedings as a whole, Manager Meiberg moved, seconded by Manager Kramer for adoption of the following Findings and Order:

Findings:

1. On May 28, 2024, the Board of Managers of the Buffalo Creek Watershed District ("Board") accepted the Petition of Cunningham, et al., for the improvement of Branch (Br.) 56 of Renville/Sibley/McLeod Judicial Ditch (JD) 15 ("Petition").
2. The Petition included a request that the Board consider separable maintenance as part of the proposed improvement.
3. The Petition and Bond were properly filed with the Board pursuant to statutes section 103D.625, subd. 4.
4. The Petition did not request that jurisdiction over the improvement remain with the Watershed District following completion.
5. The Board and its Attorney reviewed the Petition and Bond to verify compliance with statutes chapter 103E. The Board found that the Petition met the requirements of section 103E.215 and that the Bond met the requirements of section 103E.202.

6. The Board appointed the engineering firm of ISG, Inc. (Engineer Bailey Bocchino), pursuant to section 103E.241, to perform the duties required of the project engineer. The Engineer executed an Oath and Bond, dated June 3, 2024.
7. The Engineer prepared and filed a Preliminary Survey Report, dated October 1, 2024, with the Board.
8. Concurrent with its filing, the Engineer provided copies of the report to the Petitioners, the Commissioner of Natural Resources, the local Department of Natural Resources (DNR) hydrologist, and the Renville County Auditor-Treasurer (in his capacity as Secretary to the Joint Drainage Authority for JD 15).
9. The Board noticed and held a Preliminary Hearing on January 28, 2025, at which hearing the Board received public comment, including the DNR Preliminary Advisory Report on the Preliminary Survey Report.
10. By Findings and Order dated January 28, 2025, the Board accepted the Preliminary Survey Report; directed the Engineer to address comments of the DNR and continue to coordinate with government authorities regarding external funding sources and technical assistance; directed the preparation of a Detailed Survey Report (aka Final Engineer's Report) of the proposed improvement; and appointed James (Jim) Weidemann, Dave Schmidt, Steve Johnson, Ron Ringquist, and John Dotolo as Viewers to determine improvement benefits and damages to all property affected by the drainage project.
11. Ultimately, viewers Weidemann, Schmidt and Johnson performed the viewing and filed reports in the proceedings.
12. The Engineer prepared and filed its Final Engineer's Report, dated June 17, 2025, with the Board.
13. The Engineer provided the final report to the DNR for review.
14. The Viewers completed and filed their Viewers' Report of improvement benefits along with a benefits and damages statement (improvement reports) on June 19, 2025.
15. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports.
16. Notice of the final hearing on the improvement was provided by publication, posting, and mail as required by statute – to include notice to landowners on the system affected by the application of separable maintenance.
17. In addition to the notice described above, the Joint Drainage Authority provided separate notice to all owners of property within the JD 15 system that would be affected by the application of separable maintenance. The separate notice included the amount of

assessment to individual properties for repair components of the Br. 56 improvement, if ordered by the Board.

18. The DNR provided its Final Advisory Report on July 10, 2025. The DNR's comments provided no substantive guidance regarding the proposed improvement but urged consistency with the South Fork Crow River Comprehensive Watershed Management Plan and continued pursuit of storage within the JD 15 watershed.
19. The Board has a current project to identify locations for and implement landscape storage within the JD 15 watershed and is actively implementing storage practices.
20. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication and posting as well as hearing agendas and presentation materials are present in the record of proceedings, on file with the Board and incorporated herein by reference.
21. The Final Hearing was held at 5:30 p.m. on Wednesday, August 26, 2025, in Room 116 at the Renville County Government Services Center, Olivia, Minnesota.
22. At the Hearing, the Engineer presented the Final Engineer's Report and details of the project, including its analysis of the necessity and feasibility of the proposed improvement in light of the environmental and land use criteria contained in statute. The Engineer further provided an explanation of the need for repair on portions of the system proposed to be improved and the allocation of separable maintenance costs on the system.
23. The Engineer's evidence of the drainage system's need for repair included inspection and maintenance history, visual observation, landowner statements and consideration of the age and service life of the system.
24. The Engineer identified the improvements to the public drainage system, which include replacement of portions of existing branch tiles with new tiles sized to provide a 3/8-inch drainage coefficient and the deepening of tile to protect the tile and accommodate modern farming practices and equipment.
25. The Viewers appeared and presented their report of improvement benefits and damages based on their viewing and landowner meetings. The Viewers further provided detail of the viewing process and the information used by the Viewers to: (1) verify the boundary of the watershed of the improved area; (2) verify and confirm the existence of drainage benefit; and (3) determine the economic benefit to lands deriving a drainage benefit from construction of the proposed improvement (determination of improvement benefits and damages).
26. Members of the public attended the hearing but none offered comments in the proceedings.

27. After multiple calls for additional public comment, and hearing none, the Board closed the public comment portion of the Hearing.
28. During deliberations after the presentations and public comment portion of the Hearing, the Board made preliminary findings related to the improvement. The Board adopted a motion directing staff to prepare findings and an order consistent with the proceedings; that the draft findings and order be written to affect adoption and confirmation of the Viewers' and Engineer's Reports; and that the Hearing be recessed to the Board's regular meeting on September 23, 2025, at 7:00 p.m., at the Glencoe City Center, Suite 103, Glencoe City Center, 1107 11th Street E., Glencoe, MN or by adjournment to an appropriate time on the Board's agenda, at which meeting the Board would consider findings and an order as discussed.

Findings Specific to the Determination of Improvement Benefits and Damages:

29. At the continued Hearing, the Board reviewed the findings and order herein.
30. The Viewers reviewed all property within the drainage area of the proposed improvement to determine the improvement benefits and damages.
31. To determine the economic benefit to lands deriving a drainage benefit from the proposed improvement, the Viewers conducted a condition comparison comparing the current efficiency of the drainage system with the improvement efficiency. The Viewers used this comparison in determining the increased market value of the properties receiving a direct drainage benefit.
32. Based on their detailed observations, the Viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
33. The Viewers determined that some acres within the watershed of the proposed improvement, i.e. existing wetlands and non-contributing basins, received no benefit from the proposed improvement.
34. The Viewers accounted for the efficiency of the drainage system, as designed, and the proximity of lands to and the elevations of lands above the ditch.
35. The Viewers determined the amount of economic benefit to property benefited immediately by the proposed improvement, or for property for which the proposed improvement can become an outlet for drainage, make an outlet more accessible, or otherwise benefit the property.
36. The Viewers determined economic benefits based on: (1) an increase in the current market value of the property as a result of constructing the project; (2) an increase in the

potential for agricultural production as a result of constructing the project; or (3) an increased value of the property as a result of a potential different land use.

37. The Viewers determined road benefits based on accelerated drainage from road surfaces and based on the reduced cost of road maintenance and construction because the ditch provides an outlet for drainage from the road and adjacent road ditches.
38. Additional right of way damages were determined and are herein awarded for the slight increase in the original footprint of construction of the drainage system.
39. The Viewers prepared a report which describes how the improvement benefits and damages were determined ("Benefits and Damages Statement") which is attached and included as part of **Exhibit B** of these findings.

Total Benefits and Damages for the Improvement:

40. The Viewers determined improvement benefits of \$243,001.05 and damages of \$19,150.50. The benefits for the project are included in **Exhibit A** of these findings.

Improvement Costs and Separable Maintenance:

41. The Engineer's estimate of the cost of construction of the improvement is \$763,418.00, including damages.
42. The Engineer's estimate of the portion of the cost of improvement attributable to separable maintenance is \$580,030.00 (76% of total project costs). Taking the separable maintenance cost out of the total cost of improvement yields a cost of 183,388.00 (24% of total project costs) to be assessed against improvement beneficiaries. This amount is less than the improvement benefits determined by the Viewers.

Costs of Proceedings:

43. The Viewers kept an accurate account of all time engaged in viewing and examination; the nature and kind of work performed; the days each Viewer was engaged in said work; the amount charged per day by each Viewer; and every item of expense incurred by the Viewers in said work.
44. The Engineer kept an accurate account of all time engaged in analysis and preparation of reports and every item of expense incurred by the Engineer in said work.
45. The Board's Attorney and the Petitioners' Attorney kept accurate accounts of all time engaged in assisting the Board and Petitioners in the proceedings and every item of expense incurred by the Attorneys in said work.

46. The Viewers', Engineer's, and Attorneys' accounts of work have been filed with the Board.

General Findings:

47. The Detailed Survey Report and Viewers' Report have been made and other proceedings have been completed as required by Minnesota Statutes, chapter 103E.
48. All reports made or amended in these proceedings are complete and correct.
49. The damages and benefits for the improvement of JD 15, Br. 56 have been properly determined.
50. Br. 56 of JD 15, as proposed to be improved, is in need of repair. The Engineer has included in the Detailed Survey Report a statement showing the proportionate estimated cost of the proposed improvement required to repair the separable part of the existing system and the estimated proportionate cost of the added work required for the improvement. The notice of hearing on the Detailed Survey Report was given by publication and mailing to all persons owning property affected by the existing drainage system.
51. The improvement benefits (\$243,001.05) are greater than the total estimated improvement cost (\$183,388.00), including damages, after applying a separable maintenance value of \$580,030.00.
52. The proposed improvement of Br. 56 of JD 15 will be of public utility and benefit, and will promote the public health and welfare.
53. The proposed improvement of Br. 56 of JD 15 is practicable.
54. As part of its review, the Engineer presented alternatives to the improvement requested in the Petition. The Board, having considered those alternatives as well as the County's Water Plan, finds that the proposed project is consistent with each of the plans and presents the best alternative considering private and public benefits; the costs of the proposed project; conservation, allocation, and use of drainage waters for agriculture, stream flow augmentation, or other beneficial uses; reduction of downstream peak flows and flooding; drainage system capacity requirements; reduction of erosion and sedimentation; and protection or improvement of water quality.
55. As part of the evaluation of alternatives, the Board considered whether any external programs or resources could be applied to an alternative in order to achieve additional benefits within the proposed improvement. After consideration, the Board finds, because of the nature of the proposed improvement and resources within the project area, that such alternatives are not feasible and that no external sources of funding or technical assistance are available to implement such alternatives if feasible.

56. The proposed improvement is consistent with the present and anticipated land use within the project area and is consistent with the County's land use ordinance.
57. The proposed improvement is consistent with the South Fork Crow River Comprehensive Watershed Management Plan – the management collaborative for the Plan has awarded the project a \$35,000 cost share for implementation of best management practices, water and sediment control basins, as part of the project and has deemed the project consistent with the Plan.
58. The Board finds, just as the original establishment of Br. 56 of JD 15 promoted the public health by removing deleterious accumulations of water from the landscape, the proposed improvement will, similarly, promote the public health.
59. The Engineer evaluated the current and potential flooding characteristics of property within project area and evaluated the downstream outlet of the proposed improvement. The evaluation included consideration of 5-, 10-, 25-, and 50-year run-off events. Based on the Engineer's analysis, the Board finds that the proposed improvement will not increase flood potential and will provide relief from flood conditions within the project area. The Board further finds that the outlet is adequate for the proposed improvement.
60. The Engineer considered the effects of the proposed improvement on water quality; the effects of the proposed improvement on fish and wildlife resources; the effects of the proposed improvement on shallow groundwater availability, distribution, and use; and the overall environmental impact of the proposed improvement. Based on the Engineer's analysis, the Board finds that the proposed improvement will not create any negative impact on water quality; fish and wildlife; or shallow groundwater.
61. Based on the record and findings herein, the Board finds that proper consideration of conservation of soil, water, wetlands, forests, wild animals, and related natural resources, and to other public interests affected, together with other material matters as provided by law has been made in determining that the proposed improvement will be of public utility, benefit and welfare.

Based on the foregoing findings, the Board makes the following:

Order:

- A. The Buffalo Creek Watershed District Board of Managers, Drainage Authority for the improvement of Branch 56 of Renville/Sibley/McLeod Judicial Ditch 15, hereby establishes and orders said improvement according to the project as described in the Detailed Survey Report (a.k.a., Final Engineer's Report).
- B. Further, the Board directs the Engineer to prepare detailed plans and specifications and other necessary documents to allow for bidding on the project.

- C. Further, the Board directs its Secretary to provide notice of the filing of this order to the Renville, Sibley and McLeod County Auditor-Treasurers or their designees.
- D. Further, the Board directs its Secretary, in conjunction with the Renville County Auditor-Treasurer, to take all necessary actions for the construction of said improvement and authorizes the Secretary to proceed as necessary, reserving to itself only those matters that the Board, by vote, must authorize.
- E. Upon completion of the project, the drainage system record shall be updated with the as-built alignment and conditions of Branch 56 of Renville/Sibley/McLeod Judicial Ditch 15 replaced by the improvement. The prior alignment and any remnants thereof, included those portions of the existing Branch 56 alignments determined by the Engineer as no longer providing or required to provide any public benefit to the lands affected by those portions of the public drainage system, shall be abandoned from the drainage system.
- F. The Viewers' determination of improvement benefits and damages contained in the Viewers' Report (See **Exhibit A** of these findings) and the Benefits and Damages Statement are hereby confirmed and adopted by the Board.
- G. The Viewers, Engineer, and Attorneys are allowed payment of their accounts of work.
- H. The Secretary shall work with the County Auditor-Treasurers to ensure that the benefits roll is updated to reflect the improvement benefits.
- I. The Petitioners' Bond herein may be discharged upon the award of a contract for construction of the improvement and the costs of the proceedings herein shall be carried and assessed as part of the costs of the improvement.
- J. Because the Board has found application of separable maintenance is appropriate in this case, the Board orders that the cost of the improvement be allocated as follows: that the separable maintenance cost of \$580,030.00, or 76% of total project costs after a contract is let, be assessed to all benefited properties on JD 15 according to the current benefits roll of the whole system; that the improvement cost, less the cost of the separable maintenance, as determined by the final contract for the improvement, be assessed to properties benefited by the improvement according to the Viewers' Report of improvement benefits and damages approved herein; that the Board reserves the right to amend this distribution based on total cost of the improvement determined after a contract is awarded for the improvement.
- K. The Board shall coordinate with the Renville, McLeod and Sibley County Auditors and the Joint Drainage Authority for JD 15 regarding bonding for the proposed improvement and determining the term and other conditions of assessment for the proposed improvement and the separable maintenance portion of costs.

- L. The proceedings herein have been conducted pursuant to statutes section 103D.625, subd. 4 and chapter 103E. No formal transfer of any portion of JD 15 has been made by the Joint Drainage Authority pursuant to statutes section 103E.625, subd's 1-3. With the concurrence of the Joint Drainage Authority of JD 15, upon completion of the improvements established herein, future authority over the improvements pursuant to statutes chapter 103E, shall revert to the Joint Drainage Authority.

After discussion, the Board President called the question. The question was on the adoption of the foregoing findings and order and there were 5 yeas and 0 nays as follows:

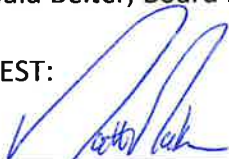
	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Belter	☒	☐	☐	☐
Kramer	☒	☐	☐	☐
Lindeman	☒	☐	☐	☐
Melberg	☒	☐	☐	☐
Stuewe	☒	☐	☐	☐

Upon vote, the President declared the motion passed and the Findings and Order adopted.


Donald Belter, Board President

Dated: September 23 2025

ATTEST:


Matt Melberg, Secretary

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I, Matt Melberg, Secretary of the Buffalo Creek Watershed District, do hereby certify that I have compared the above Findings and Order 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 hereunto set my hand this 23rd day of September, 2025.



Matt Melberg, Secretary