

STATE OF MINNESOTA  
RENVILLE COUNTY BOARD OF COMMISSIONERS  
SITTING AS THE DRAINAGE AUTHORITY FOR  
RENVILLE COUNTY DITCH 59

In the Matter of the Obstruction of Renville County Ditch 59	<b>FINDINGS &amp; ORDER</b>
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The Renville County Board of Commissioners, sitting as the drainage authority for Renville County Ditch 59, convened on March 5, 2024, at a duly noticed and public meeting. Based on the record of proceedings, Commissioner Erickson moved, seconded by Commissioner Humre to adopt the following Findings and Order:

**Findings:**

1. The Renville County Board of Commissioners is the drainage authority (the "Drainage Authority") for Renville County Ditch 59 ("CD 59") pursuant to Minnesota Statutes, chapter 103E.
2. In January 2017, the Drainage Authority approved a Petition to improve the main open ditch, Branch 309 & Branch C of CD 59. The Drainage Authority appointed Bolton and Menk, Inc. as the drainage engineer for the project.
3. A Preliminary Hearing was held on February 27, 2018. At that time the Drainage Authority found that the proposed project meets the requirements for an Improvement and ordered the preparation of this Final Engineer's Report and appointed Viewers to determine the benefits and damages for the system.
4. The improvement will consist of widening and lowering the Main Open Ditch from the downstream side of County Road 59 to the downstream side of the southerly U.S. Highway 71 ("TH 71") crossing. The remaining open ditch upstream of the Southerly TH 71 crossing will be cleaned. For Branch C of CD 59, the improvement will consist of new tiles to replace the existing system, including the TH 71 crossing. The drainage engineer's proposed final plans and specifications include crossing TH 71 twice.
5. CD 59 was established via order in 1916.
6. TH 71 was established overtop of CD 59 in 1926. At the time of establishment, there is no record the State of Minnesota or its agents paid to usurp CD 59's priority.
7. As part of the lawfully petitioned for improvement, the Drainage Authority requires access to portions of CD 59 that are underneath TH 71.

8. Due to the location of TH 71 overtop of CD 59, the Drainage Authority and its agents cannot freely access portions of CD 59. TH 71 is an obstruction to CD 59.
9. At a duly noticed and public meeting, the Drainage Authority convened on February 6, 2024, adopted findings determining that the portion of TH 71 overtop of CD 59 has obstructed CD 59, and directed its staff to send an obstruction notice to the Minnesota Department of Transportation (“MNDOT”) regarding TH 71’s obstruction.
10. An obstruction notice was sent to the MNDOT consistent with the Drainage Authority’s February 6, 2024 Order. The Notice stated that that TH 71 obstructed the Drainage Authority’s access to improve CD 59 pursuant to Minnesota Statutes, chapter 103E, and directed the MNDOT to allow the Drainage Authority and its agents to access the CD 59 right-of-way and drain tile, and conduct the work as specified in the final plans and specifications for the improvement of CD 59. The Notice stated that the Drainage Authority requires the ability to open-cut TH 71 to improve the crossings beneath TH 71; that the Drainage Authority is willing to work with the MNDOT on how to address the obstruction to the improvement; and that if MNDOT elects not to allow the Drainage Authority and its agents to open cut TH 71 to conduct the improvement, MNDOT will be assessed for the increased costs to jack and bore tile beneath TH 71.
11. Consistent with the requirements of Minnesota Statutes, section 103E.075, the Notice allowed MNDOT the opportunity to appear before the Drainage Authority Board of Commissioners during its regularly scheduled meeting on March 5, 2024, at 8:30 a.m. in the Renville County Government Services Center, 105 South 5th Street, Suite 313, Olivia, Minnesota 56277.
12. An obstruction hearing consistent with Minnesota Statutes, section 103E.075, subdivision 3 was held on March 5, 2024. A record of all comments was made and is incorporated into these Findings & Order. No evidence or information was made to show that TH 71 is not obstructing the Drainage Authority’s access to the portion of CD 59 that needs to be improved.
13. The Drainage Authority finds that MNDOT has obstructed the Drainage Authority’s access to the portions of CD 59 required to be improved.
14. The Drainage Authority finds that such obstruction causes the Renville CD 59 drainage system to incur additional costs for the proposed improvement to CD 59 by the requirement to jack and bore the improved tile beneath CD 59.

**Order:**

The Renville County Board of Commissioners, in its capacity as the Drainage Authority for Renville County 59, hereby directs the Auditor-Treasurer, with the assistance of the CD 59 Improvement Project Engineer and Drainage Authority Staff, to make a statement of the additional costs incurred by the CD 59 drainage system to jack and bore tile beneath the portion of TH 71 that is obstructing the Drainage Authority access to CD 59, and to charge said costs to the Minnesota Department of Transportation for collection consistent with other assessments and liens.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were 4 yeas, 0 nays, 1 absent, and 0 abstentions as follows:

	Yea	Nay	Absent	Abstain
ERICKSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HAMRE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KRAMER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBINSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SNOW	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Based upon the roll call vote, the Chair declared the motion to approve the Findings & Order passed.

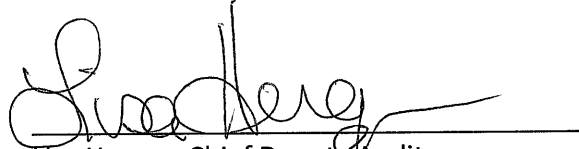
  
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Randy Kramer, Chairperson  
Renville County Board of Commissioners

Dated: March 5, 2024

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I, Lisa Herges, Chief Deputy Renville County Auditor-Treasurer, do hereby certify that I have compared the above motion and findings and order with the original thereof as the same appears of record and on file with the Renville County Drainage Authority and find the same to be a true and correct transcript thereof. The above order was filed with me, Renville County Auditor-Treasurer, on March 5, 2024.

IN TESTIMONY WHEREOF, I hereunto set my hand this 5th day of March, 2024.



Lisa Herges, Chief Deputy Auditor-Treasurer Renville County, Minnesota