

MINUTES OF THE MEETING OF THE BOARD OF MANAGERS SEATED AS THE DRAINAGE  
AUTHORITY UNDER STATUTES CHAPTER 103E FOR THE IMPROVEMENT OF BRANCH M OF  
RENVILLE COUNTY JUDICIAL DITCH 15

The Managers of the Buffalo Creek Watershed District met on the 15<sup>th</sup> day of November, 2016, at 1:00 P.M. at the Olivia Courthouse in Olivia, MN, in rooms 116 and 117, for the Final Hearing of Branch M of Renville County Judicial Ditch 15.

The following managers were present:

Donald Belter  
Larry Phillips  
Matt Melberg  
Corey Henke  
Larry Kramer

Also attending:

Charles Eberhard, Engineer  
Jeff C. Braegelmann, Attorney  
Randy Kramer, County Commissioner  
Chris Otterness, Houston Engineering  
Garrett Monson, Houston Engineering  
Bill Moldestad, Viewer  
Jim Weidemann, Viewer  
Duane Bendixen, Viewer  
Orvis Baumgardt  
Dale Moritz  
Sheldon Melberg  
Charles Melberg  
Jan Melberg  
Tom Novotny  
Neal Johnson  
Brent Wertish  
Loren Walter  
Allen Walter  
Willard Fluck  
Clifford Fischer  
Larry Zupke, Renville County

President Belter called the meeting to order and opened the final hearing and introduced the Managers and persons of authority. He went over the agenda of the meeting. The meeting then was turned over to John Kolb of Rinke Noonan.

John Kolb, attorney, discussed the purpose of the final hearing. He went over several points pertaining to the project and how the project timeline has moved along. The managers were advised to consider evidence of two things. The first was regarding the public benefit with considerations to drainage code, environmental, and costs. The second was to consider the practicability of the project.

Charles Eberhard spoke on how the notice requirements were met. Notices were posted at the courthouse, the BCWC door, and mailed to property owners affected in the proposed tiling project.

Chris Otterness, Huston Engineering, gave the final engineer's report. Huston was appointed engineer of the project. Chris noted that because this was an improvement project, the Buffalo Creek Watershed is the drainage authority. Chris talked on several topics which include:

- Location of project
- Branch M is 1330 acres
- Mostly drain tile, outlets in ditch
- M, M1, M13, M19, M20 are branches being replaced
- More branches in watershed, but not petitioned or replaced now
- Current system does not have enough capacity
- Parts have failed and is very old
- Inspections have been done Renville County
- Repairs need to be done regardless of improvement
- 5" to 36" tile now, new 10" to 48"
- Tile is now less than ¼" IF was fully functional, but now will now allow 3/8" coefficient
- Project will decrease flooding
- Outlet is adequate into JD 15, looked downstream and open channel, and Buffalo Creek. Culverts exceed outlet flow downstream.
- Environment – no wetland impacts
- Minimal change in downstream water quality
- No fish and wildlife issues downstream
- No effect with shallow groundwater availability
- Adequate outlet all the way to Buffalo Creek
- Separable maintenance can be used
- Costs of project -- Repair \$773,000, Improvement \$258,000
- Total 1,032,000 million
- Future steps
  - BCWS will consider findings
  - finalize bid and construction of project

There was three written comments received from 3 different agencies/individuals with concerns on the proposed project.

The first comments read were from the DNR. There concerns were the following:

- Intakes in wetland area
- Wanted to look at several inlet options and engineer will specify at each location
- 2 year peak flow but design was changed from preliminary to final engineer report
- Address increase flow
- Amend final report – DNR said not needed if DNR comments will be read at final hearing

Don Belter asked to get comment for DNR, no one was there

The second set of concerns were from Clifford Fischer's and his attorney Bruce Sellers. He had concerns that included

- Pipe being removed, not crushed
- Adequacy of outlet
- 2 year rain event and increase of peak flows
- The use Lidar on the survey
- 2 of the culverts are too small and need to be double the tile flow
- Storage areas need to be required
- Pipe type used

The last letter was from Leland Fischer of Buffalo Lake, MN. He had concerns on if the increased drainage and of JD 15 could handle the peak flows with the increase in tile size.

After deliberation on each concern, Chris Oterness deemed appropriate measures had been taken by Huston Engineering and the BCWS to sufficiently satisfy the concerns and he recommended that this project is of public benefit and practicable and should be ordered.

Jim Weidemann, viewer, was on hand to go through on viewers report. It was explained that every area is accounted for using a grading system to define how much the land is benefited. Here are some of the highlights:

- JD 15 has 50,00 acres
- 1.6 million benefits
- 26,000 benefited acres
- Rest of land has been ordered to be viewed
- Roads will be benefitted

- Some non-benefited land
- Construction Damages will be paid at \$600 per acre
- More damages can be added if they go through crops
- Net benefits 1,270,499.34
- Improvement Cost is \$258,307.57
- Repair costs of \$774508
- No amendments to landowner benefits were made at meeting

After the viewers report, the meeting was open for public comment. Clifford Fischer addressed the crowd. He had concerns on the outlet and flooding on his land. He wanted a separate system dedicated for the land on the north side of the watershed.

Jeff Bragelmann, attorney for the petitioners, spoke on the cost estimates of the project. He had some ideas of eliminating or reducing some unwarranted cost. The first was removing redetermination costs to the cost of the improvement since the rest of JD 15 is being redetermined. The second was eliminating the costs of digging out the old main and simply crushing the tile. These can both be looked at the board for consideration.

Jeff Bragelmann also spoke on separable maintenance and the petitioners have suggested a reduced separable maintenance of a 60/40 split. 60% would be a repair cost and 40% would be an improvement cost.

Brent Wertish, Bird Island, raised a question on separable maintenance and how it will be paid. John Kolb, attorney, explained how the repair costs would be paid by the benefitted acres of JD 15 while the separable maintenance would be paid by the land in the sub-watershed. The board will make a responsible decision on the length of time the project will need to be paid, up to 20 years.

Randy Kramer, county commissioner, raised a point on redetermination of benefits. In this watershed, only 26,000 have benefits in JD 15 but there are around 50,000 in the watershed. This means that around ½ of the land is not benefitted to the land and is not paying. The county is started a redetermination of benefits but this project will go on the old roll.

Don Belter turned the meeting over to John Kolb to close the public comment period. Larry Phillips made a motion to close the meeting, Larry Kramer seconded. Motion carried.

John Kolb led the board deliberations. John asked to recess the meeting and open it back up on November 22, 2016 at 1:00 in Glencoe at the regular monthly meeting to finish the findings. We had a motion by Manager Kramer as follows:

1. That we establish and order the improvement of Branch M of Renville County Judicial Ditch 15 as set forth in the detailed survey report;
2. That we confirm and adopt the viewers' determination of improvement benefits and damages for the established improvement;
3. That we continue this hearing to the Board's Regular Meeting on November 22, 2016, at the Glencoe City Center at 1:00p.m., or by adjournment on the Board's agenda, to consider an order at the continued hearing that is consistent with the proceedings, the evidence presented and the actions previously stated.

The motion was seconded by Manager Henke. The motion was voted unanimously with Manger Melberg abstaining.

The meeting was recessed at 2:59 p.m.

Matt Melberg  
Secretary, BCWS