

**STATE OF MINNESOTA
BUFFALO CREEK WATERSHED DISTRICT BOARD OF MANAGERS
SEATED AS DRAINAGE AUTHORITY UNDER STATUTES CHAPTER 103E
FOR THE IMPROVEMENT OF LATERALS 12 AND 13 OF McLEOD /SIBLEY JOINT DITCH 8**

The matter of the petition of Four Brothers, LLC, et al., for the improvement of Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8

**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 Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8, held a Final Hearing on November 22, 2022, continued to December 27, 2022, and further continued to January 24, 2023 in the matter of the petition of Four Brothers, LLC, et al., for the improvement of Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8, at which hearing Manager Melberg moved, seconded by Manager Kramer for adoption of the following Findings and Order:

Findings:

1. In October 2021, the Board of Managers of the Buffalo Creek Watershed District ("Board") accepted the petition of Four Brothers, LLC, et al., for the improvement of Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8 (JD 8) ("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 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.
5. The Board appointed the engineering firm of Houston Engineering, Inc., (Engineer Chris Otterness), pursuant to section 103E.241, to perform the duties required of the project engineer. The Engineer executed an oath and bond, dated November 2, 2021.

6. The Engineer prepared and filed a Preliminary Survey Report, dated January 12, 2022, with the Board.
7. 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 McLeod and Sibley County Auditor-Treasurers.
8. The Board noticed and held a Preliminary Hearing on March 22, 2022, at which hearing the Board received public comment, including the DNR Preliminary Advisory Report on the Preliminary Survey Report.
9. By Findings and Order dated April 26, 2022, 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, Ron Ringquist and John Dotolo as Viewers to determine improvement benefits and damages to all property affected by the drainage project.
10. The Engineer prepared and filed its Final Engineer's Report, dated August 16, 2022, with the Board.
11. By transmittal dated August 16, 2022, the Engineer provided the final report to the DNR for review.
12. The Viewers completed and filed their Viewers' Report of improvement benefits along with a benefits and damages statement (improvement reports) on September 9, 2022.
13. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports.
14. 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.
15. In addition to the notice described above, the Joint Drainage Authority provided notice and an owner report to all owners of property within the JD 8 system that would be affected by the application of separable maintenance. The owner report included the amount of assessment to individual properties for repair components of the improvement, if ordered by the Board, based on the engineer's estimate of cost.
16. The DNR provided its Final Advisory Report on September 12, 2022. The DNR's report was read at the final hearing and was considered by the Board of Managers. The substance of DNR's comments were as follows:

DNR encourages the continued exploration of alternative practices and BMPs in the JD8 Laterals 12 and 13 watersheds that could be implemented to help offset these increases. The report says Water and Sediment Control Basins (WASCOBs) may be constructed over the improved tile in one or more locations to provide a trap for sediment, reduce surface erosion, and provide additional storage. The report says the tile improvement project does not need to be modified to support the construction of these practices, so the WASCOBs can and should be completed outside of the improvement process.

Minnesota Statutes §103E.015 involves identifying alternative measures in locally adopted water management plans, stating, “This investigation shall include early coordination with applicable soil and water conservation district [SWCD] and county and watershed district water planning authorities about potential external sources of funding and technical assistance for these purposes and alternative measures.” DNR acknowledges the drainage authority’s outreach for this project and recognizes the importance of early coordination. Please consider working with the SWCD to install one or more WASCOBs, as described, or implement other alternative measures to help reduce downstream peak flows and velocities associated with this project.

17. 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.
18. The initial Final Hearing was held on November 22, 2022 at 2:30 pm in the Glencoe City Center, 1107 11th Street E., Glencoe, MN.
19. 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.
20. 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.
21. 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.

22. 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 Ditch; (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).
23. The right of way acquired in the original proceedings to establish Laterals 12 and 13 was mostly for tile alignment. Because the improvement will follow the existing alignment, temporary damages within the drainage system right of way were determined by the Viewers.
24. Members of the public attended the hearing and offered comments as follows:
 - a. Bill Mackenthun commented that the cost of the improvement was outrageous.
 - b. Ralph Domras commented regarding the costs as well indicating that the benefits to his @54 acres are not worth the cost.
 - c. Joel Corhs commented and inquired regarding the depth and size of the lateral 13 improvement.
 - d. Kevin Beerman appeared on behalf of Green Isle Township and inquired about who pays for culverts on the drainage system. The drainage authority's attorney responded by referencing section 103E.525 which states that bridges and culverts on public roads required by the construction or improvement of a drainage project or system must be constructed and maintained by the road authority responsible for keeping the road in repair. The engineer also responded that there are no public road culverts implicated in the proposed improvement.
 - e. Bert Templin commented on the cost of the project.
 - f. Wayne Doney commented on the cost of the project.
 - g. James Meyer commented and inquired regarding the capacity of JD 8 open channel downstream of the improvement. The engineer responded by reviewing its analysis of the outlet adequacy in various storm models.
 - h. Marilee Peterson, Sibley County Auditor-Treasurer, commented regarding the notices.
 - i. Larry Litzau appeared and commented regarding his writing comments to the Board and drainage of property out of the project watershed. The viewers responded by indicating their report was amended to remove portions of Mr. Litzau's property.
25. The Board notes and has considered the comments received during the hearing. The comments both of concern and significance to the Board as related to this project and as related to its role as a water management authority within the Buffalo Creek Watershed. Notwithstanding, the comments, evidence, modeling and analysis of the

Engineer appointed in these proceedings demonstrate that the proposed improvement will not be of any significant impact to downstream reaches of JD 8.

26. The Board supports the acquisition and implementation of storage projects within the JD 8 watershed in order to reduce peak flows downstream and is committed to working with the Sibley and McLeod County Boards and SWCDs to identify locations and sources of funding for storage projects. The Board notes that all seven entities, including the Board, have recently entered into a cooperative agreement to initiate comprehensive watershed planning within the South Fork of the Crow River (which includes the Buffalo Creek Watershed), which will, as part of the effort, address water quantity and quality issues related to both public and private drainage within the watershed.
27. As related to this improvement project, the evidence does not support the need for project-specific storage or rate/volume controls beyond the reduced drainage coefficient (3/8-inch) required by the Board's rules.
28. During deliberations after the presentations and public comment portion of the Hearing, the Board made preliminary findings related to the improvement. The Board found, initially, that the costs of the project exceeded the project benefits. However, the Board later learned that it had mis-applied the viewers' damage recommendation to the improvement portion of the project rather than the separable maintenance portion of the project. That Board, after considering an engineer's report addendum, corrected its error and revised its initial findings.
29. At the first continued hearing on December 27, 2022, the Board considered the engineer's report addendum, rescinded its initial finding regarding cost benefit and adopted an amended finding, finding that the benefits of the improvement exceeded the costs, after applying separable maintenance costs to off-set the cost of the improvement.
30. The Board adopted a motion directing staff to prepare findings and an order consistent with the proceedings, including responses to all comments received through the public comment process; 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 January 24, at 1:00 p.m., at the Glencoe City Center, Suite 103, 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:

31. At the continued Hearing, the Board reviewed the findings and order herein.
32. The Viewers reviewed all property within the drainage area of the proposed improvement to determine the improvement benefits and damages.

33. 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.
34. Based on their detailed observations, the Viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
35. 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.
36. 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.
37. 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.
38. 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.
39. 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.
40. Temporary damages within the existing right of way during construction were determined and are herein awarded as recommended by the viewers.
41. 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:

42. The Viewers determined improvement benefits of \$88,203 and damages of \$0 related to the improvement. The benefits for the project are included in **Exhibit A** of these findings (Viewers’ Report September 9, 2022).

Improvement Costs and Separable Maintenance:

43. The Engineer's estimate of the cost of construction of the improvement is \$646,800.
44. The Engineer's estimate of the portion of the cost of improvement attributable to separable maintenance is \$564,800 plus temporary damages of \$10,380, totaling \$575,180. Taking the separable maintenance cost out of the total cost of improvement yields a cost of \$71,620 to be assessed against improvement beneficiaries. This amount is less than the improvement benefits determined by the Viewers.

Costs of Proceedings:

45. 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.
46. 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.
47. 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.
48. The Viewers', Engineer's, and Attorneys' accounts of work have been filed with the Board.

General Findings:

49. The Detailed Survey Report and Viewers' Report have been made and other proceedings have been completed as required by Minnesota Statutes, chapter 103E.
50. All reports made or amended in these proceedings are complete and correct.
51. The damages and benefits for the improvement of Laterals 12 and 13 of JD 8 have been properly determined.
52. Laterals 12 and 13 of JD 8 as proposed to be improved are 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.

53. The improvement benefits (\$88,203) are greater than the total estimated improvement cost (\$71,620), including damages, after applying a separable maintenance value of \$575,180.
54. The proposed improvement of Laterals 12 and 13 of JD 8 will be of public utility and benefit, and will promote the public health and welfare.
55. The proposed improvement of Laterals 12 and 13 of JD 8 is practicable.
56. 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.
57. 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.
58. 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.
59. The Board finds, just as the original establishment of Laterals 12 and 13 of JD 8 promoted the public health by removing deleterious accumulations of water from the landscape, the proposed improvement will, similarly, promote the public health.
60. 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.
61. 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.

62. 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 Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8, 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 Sibley and McLeod County Auditor-Treasurers or their designees and to begin coordination for the financing of the improvement project.
- D. Further, the Board directs its Secretary, in conjunction with the McLeod and Sibley County Auditor-Treasurers, 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 Laterals 12 and 13 of McLeod/Sibley Joint Ditch 8 replaced by the improvement. The prior alignment and any remnants thereof, included those portions of the existing 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 dated September 9, 2022 (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, based on the percent totals of each component as estimated and contained in the engineer’s report. This method will account for changes in costs reflected in final bids for the work. Separable maintenance of 89% of the total project costs be assessed to all benefited properties on JD 8 according to the current benefits roll of the whole system; that the improvement cost of 11% of the total project costs 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 reserves to itself, by future order, the decision to work with McLeod or Sibley Counties to bond for the proposed improvement and to determine 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 8 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 8, 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 ___ yeas and ___ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Belter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lindeman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Melberg	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stuewe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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



Donald Belter, Board President

Dated: January 24, 2023

ATTEST:

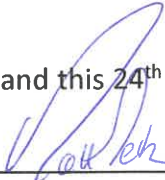


Matt Melberg, Secretary

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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 24th day of January, 2023.



Matt Melberg, Secretary

September 9, 2022

BUFFALO CREEK WATERSHED DISTRICT
 MCLEOD - SIBBLEY COUNTIES, MINNESOTA
 JUDICIAL DITCH NO. 8 LATERAL 12 & 13 IMPROVEMENT
 2022 DETERMINATION OF BENEFITS

DRAFT

PARCEL NUMBER	NAME	DESCRIPTION	SEC	T	N	R	W	TRACT	IN	POTENTIAL BENEFITS	GROSS BENEFIT	PROXIMITY RATE	NET BENEFIT	MAINT COST	PROJECT COST	"A"		"B"		"C"		"D"		"D-"		TILE FEET	TILE VALUE	BUFFER STRIP	EASEMENT VALUE	NONBENEFITED OR RESTRICTED WETLAND ACRES		
																ACRES	VALUE	BENEFIT	ACRES	VALUE	BENEFIT	ACRES	VALUE	BENEFIT	ACRES						VALUE	BENEFIT
07020800	GARTH J ALBERS ETAL 30233 CD RD 73 DEER CREEK MN 56327	SWSW	20	115	27	40.00			100						64873.00	\$4,740.00 35%	\$1,659.00 20%	\$4,000.00 20%	\$800.00	\$1,500.00 10%	\$150.00	\$570.00 5%	\$28.50	\$178.50		200		0.46	276.00	3.00		
070280825	SHANE LUTHEMS ETAL 18503 NICKEL AVE HUTCHINSON MN 55350	NWSW	28	115	27	38.00			100	67990.00	9399.50	100	9399.50	8733.18		\$1,659.00 35%	\$1,659.00 20%	\$3,600.00 20%	\$720.00	\$5,600.00 10%	\$560.00	\$28.50	\$199.50		400		0.92	552.00				
070280850	SHANE LUTHEMS ETAL 18503 NICKEL AVE HUTCHINSON MN 55350	NWSW	28	115	27	1.28			100	1500.00	150.00	100	150.00	139.37		\$1,659.00 35%	\$1,659.00 20%	\$150.00 20%	\$30.00	\$150.00 10%	\$15.00	\$7.50	\$28.50									
070280900	LARRY R LITZAU 8252 DAIRY AVE GLENCOE MN 55336	NWSW	28	115	27	8.60			100	2070.00	178.50	100	178.50	165.85		\$1,659.00 35%	\$1,659.00 20%	\$150.00 20%	\$30.00	\$150.00 10%	\$15.00	\$7.50	\$28.50								1.00	
070280925	SHANE LUTHEMS ETAL 18503 NICKEL AVE HUTCHINSON MN 55350	NESW	28	115	27	8.56			90	14785.00	1864.25	90	1677.83	1558.89		\$1,659.00 35%	\$1,659.00 20%	\$1050.00 20%	\$210.00	\$800.00 10%	\$80.00	\$40.00	\$14.25									
070281000	LARRY R LITZAU 8252 DAIRY AVE GLENCOE MN 55336	SWSW	28	115	27	40.00			90	22570.00	2628.50	90	2365.65	2187.95		\$1,659.00 35%	\$1,659.00 20%	\$1800.00 20%	\$360.00	\$800.00 10%	\$80.00	\$40.00	\$28.50									
070290100	EARL LANGE 5927 80TH ST GLENCOE MN 55336	NWNE " " SWNE	29	115	27	40.00			90 90 100	44800.00	7037.00	100	7037.00	6538.16		\$1,659.00 35%	\$1,659.00 20%	\$1950.00 20%	\$390.00	\$3200.00 10%	\$320.00	\$160.00	\$53.50		810		1.86	1116.00				
070290225	JUSTIN LUTHEMS 16583 NATURE AVE HUTCHINSON MN 55350	E2NE	29	115	27	5.07			90	535.50	535.50	90	481.95	447.79		\$1,659.00 35%	\$1,659.00 20%	\$-3 -	\$-3	\$400.00 10%	\$40.00	\$-3	\$-3									
070290250	BRANDON LUTHEMS 18503 NICKEL AVE HUTCHINSON MN 55350	SENE " "	29	115	27	24.84			90 90	20950.00 1710.00	3501.50 535.50	90 90	3151.35 481.95	2927.95 447.79		\$1,659.00 35%	\$1,659.00 20%	\$900.00 20%	\$180.00	\$800.00 10%	\$80.00	\$40.00	\$142.50 53.50									3.00
070290285	BRANDON LUTHEMS 18503 NICKEL AVE HUTCHINSON MN 55350	SENE	29	115	27	2.39			90	5870.00	1379.50	90	1241.55	1153.54		\$1,659.00 35%	\$1,659.00 20%	\$150.00 20%	\$30.00	\$400.00 10%	\$40.00	\$20.00	\$15.00									

September 9, 2022

BUFFALO CREEK WATERSHED DISTRICT
 MCLEOD - SIBBLEY COUNTIES, MINNESOTA
 JUDICIAL DITCH NO. 8 LATERAL 12 & 13 IMPROVEMENT
 2022 DETERMINATION OF BENEFITS

DRAFT

PARCEL NUMBER	NAME	DESCRIPTION	SEC	T.N	R.W	TRACT	IN	POTENTIAL BENEFITS	GROSS BENEFIT	PROXIMITY RATE	SEPARABLE MAINTENANCE IMPROVEMENT COST	NET BENEFIT	MAINT COST	"A"		"B"		"C"		"D"		"D-"		TILE FEET	TILE VALUE	BUFFER STRIP	EASEMENT VALUE	NONBENEFITED OR RESTRICTED WETLAND ACRES	
														ACRES	VALUE	BENEFIT	ACRES	VALUE	BENEFIT	ACRES	VALUE	BENEFIT	ACRES						VALUE
070290290	SHANE LUTHERS ETAL 18503 NICKEL AVE HUTCHINSON MN 55350	NESE	29	115	27	37.96	88100.00	16693.00	100	16693.00	1509.65	64873.00 564822.00 8195.00	1509.65	4	6636.00	8	6400.00	24	3600.00	2	57.00	1340	3.08	1848.00					
070290300	WAYNE E & RHONDA DONNAY 8202 DOVE AVE GLENCOE MN 55336	SWSE	29	115	27	20.00	4570.00	828.50	100	828.50	769.77	828.50	1	800.00	1	800.00					28.50							2.00	
070290400	MEULENERS FARM PARTNERSHIP 17850 110TH ST NYA MN 55397	SWSE	29	115	27	35.00	71830.00	12210.50	100	12210.50	11344.91	12210.50	2	3318.00	7	5600.00	21	3150.00	5	142.50	630	1.45	870.00						
070290500	MEULENERS FARM PARTNERSHIP 17850 110TH ST NYA MN 55397	SESE	29	115	27	40.00	50900.00	6851.50	90	6166.35	5729.22	6166.35	1	1659.00	2	1600.00	23	3450.00	5	142.50									
070290650	WILLIAM B BRADY 8299 DOVE AVE GLENCOE MN 55336	PS2	29	115	27	38.00	59050.00	9246.50	100	9246.50	6591.03	9246.50	2	3318.00	4	3200.00	18	2700.00	1	28.50	210	0.48	288.00						
070290675	JANET L BRADY REV LIVING TRUST 9027 HEREFORD RD E HEREFORD AZ 85615	NE5W SE5W SW5E	29	115	27	18.00 35.00 7.00	16000.00	2000.00	90 95 95	1800.00	1672.40	1800.00	1	800.00	8	1200.00													
070290750	ERNIELANGE 6072 80TH ST GLENCOE MN 55336	NWSW SWSW	29	115	27	28.08	35700.00	328.50	100 95	328.50	305.21	328.50	2	300.00	1	28.50													1.00 2.00
070290800	SHANE LUTHERS ETAL 18503 NICKEL AVE HUTCHINSON MN 55350	NEWW SEWW	29	115	27	40.00 40.00	14710.00 56130.00	1785.50 6556.50	100 100	1785.50 6556.50	1658.83 6091.72	1785.50 6556.50	1 3	800.00 2400.00	6 26	900.00 3900.00	3 9	85.50 256.50	20 210							0.05 4.84	30.00 2904.00		
070290900	GARTH J ALBERS ETAL 30233 CO RD 73 DEER CREEK MN 56227	NWNW SWNW	29	115	27	40.00 40.00	49490.00 10350.00	5549.50 892.50	100 95	5549.50 892.50	5156.10 707.77	5549.50 847.88	2 5	1600.00 750.00	25 5	3750.00 199.50	7 5	199.50 142.50	1810										1.00
070660020	VERNON R VONBERGE 8508 DAIRY AVE GLENCOE MN 55336	SWNW	28	115	27	LOT	570.00	28.50	90	25.65	23.83	25.65	1	28.50															0.90

McLeod-Sibley Df# 8
 McLeod Street 2

September 9, 2022

BUFFALO CREEK WATERSHED DISTRICT
 MCLEOD - SIBLEY COUNTIES, MINNESOTA
 JUDICIAL DITCH NO. 8 LATERAL 12 & 13 IMPROVEMENT
 2022 DETERMINATION OF BENEFITS

DRAFT

PARCEL NUMBER	NAME	DESCRIPTION	SEC.	T-N	R-W	TRACT	IN	POTENTIAL BENEFITS	GROSS BENEFIT	PROXIMITY RATE	SEPARABLE MAINTENANCE IMPROVEMENT COST	PROJECT COST	"A"		"B"		"C"		"D"		"D-1"		TILE FEET	TILE VALUE	BUFFER STRIP VALUE	EASEMENT VALUE	NONBENEFITED OR RESTRICTED WETLAND ACRES	
													BENEFIT ACRES	VALUE	BENEFIT ACRES	VALUE	BENEFIT ACRES	VALUE	BENEFIT ACRES	VALUE	BENEFIT ACRES	VALUE						BENEFIT ACRES
											648773.00	648773.00	35%	\$4,740.00	20%	\$4,000.00	10%	\$1,500.00	5%	\$570.00	COMMERCIAL							
											81951.00	81951.00	30%	\$1,659.00	20%	\$800.00	10%	\$150.00	5%	\$28.50								
														11.5	43.5	223	346.5	68.5	7530	17.30	10380.00							

September 9, 2022

BUFFALO CREEK WATERSHED DISTRICT
 MCLEOD - SIBLEY COUNTIES, MINNESOTA
 JUDICIAL DITCH NO. 8 LATERAL 12 & 13 IMPROVEMENT
 2022 DETERMINATION OF BENEFITS

ROAD AUTHORITY	LOCATION	SEC.	T-N	R-W	LENGTH (FEET)	POTENTIAL BENEFITS	EFFICIENCY RATE	NET BENEFITS	MAINT COST	"A"		"B"		"C"		"D"		SOILS		SOILS	
										BENEFIT %	VALUE	BENEFIT %	VALUE	BENEFIT %	VALUE	BENEFIT %	VALUE	BENEFIT %	VALUE	BENEFIT %	VALUE
MCLEOD COUNTY HIGHWAY DEPARTMENT Hutchinson, Mn 55350	CSAH No. 1 East of Sp. 29	29	115	27	3040	9,804.00				56.80	22.80	45	5.70	7797.60	55	1.20	2006.40				
	CSAH No. 10 North of .32 North of .33	32	115	27	400	2,528.00				10	912.00	70	1596.00	10	20.00						
		33	115	27	460	1,587.00						50	1311.00	50	276.00						
Helen Township	90th Street North of .29	29	115	27	930	2,687.70				28.40	11.40	55	2.80	1432.20	35	195.30					
Hutchinson, Mn 55350																					
	TOTAL LAND BENEFITS					600880.50		88203.65	81951.00												
	TOTAL ROAD BENEFITS					16606.70															
	TOTAL BENEFITS					106787.45		88203.65	81951.00												

BUFFALO CREEK WATERSHED DISTRICT:

RE: McLeod- Sibley Judicial Ditch No. 8
Lateral 12 and 13
Determination of Improvement Benefits

September 8, 2022

In accordance with the Minnesota Statute 103E.315 law, we herewith submit the following Viewers' Report:

Benefits and Damages Statement

This report covers the determination of benefits for the improvement of a separable portion of a previously constructed drainage system. The basis for determining benefits and damages is, therefore, based upon a comparison of the conditions that would exist with the current drainage system in a reasonable state of repair with those that will exist after the drainage system improvement.

McLeod-Sibley Counties Judicial Ditch No. 8 was originally established around 1910. The drainage system consisted of an open ditch and several laterals and branches. Laterals were added to the system in 1912. An improvement of Lateral 23 was completed in 1990. The system serves as an outlet of properties in sections 23, 24, 25, 26 and 36 of Glencoe Township: Sections 15, 16, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, and 33 of Hellen Township: in McLeod County: Sections 4, 5, 6, and 7 and in Green Isle Township; and Section 1 of New Auburn Township in Sibley County. The outlet of Judicial Ditch 8 is into Buffalo Creek. Other repair and maintenance has been completed on the drainage system.

A petition has been filed with the Buffalo Creek Watershed for the Improvement of Laterals 12 and 13 of Judicial Ditch no. 8. This Viewers Report addresses the value considerations of this improvement. The Engineer has limited the increased capacity to a 3/8th inch drainage co-efficiency.

Supporting documentation for the analysis and conclusions of the report are contained in our files.

The figures stated herein are based on a full and fair consideration of all pertinent facts and information that we were aware of at the time of this appraisal. The following aids were used during the viewing process.

1. Soil Survey Manuals and Maps of McLeod and Sibley County
2. GIS Aerial Photos and Data
3. USGS Topographical Maps
4. Yield averages and production costs taken from Minnesota State College and University Farm Management Records
5. Sales data from the McLeod and Sibley County Assessors' offices, (MN ECRVs)
6. Visual inspection of each 40-acre tract
7. The Final Engineers Report from Houston Engineering.

Land classification benefit values are based upon an increase in the potential for agricultural production as a result of constructing the drainage project and reconciled with sales value increases. Existing individual land management practices were not considered. All present land use was evaluated under estimated best land management practice. Special consideration was given to areas

[18010-0028/4824534/1]

Exhibit B

which were considered to be in a native/non-converted condition or identified as wetlands under wetlands inventory and restricted from drainage by state or federal regulations.

Benefits for lands used for industrial agricultural purposes, such as large bin sites or hog production facilities, have been determined with consideration of the drainage system providing an outlet for the accelerated runoff and for a different land use.

Valuation Prior To Drainage

Beginning land use, property value, and economic productivity have been determined with the consideration that the benefited properties within the watershed currently do not have an adequate outlet for artificial drainage.

_ "A" -- Standing water or cattails, wetland classification with a market value for agricultural purposes of \$0.00 per acre, economic productivity of \$0.00.

"B" -- Seasonally flooded/pasture ground. Pasture classification with a market value of \$1500.00 to \$2000.00 per acre, economic productivity of \$75.00 based on grazing days and/or hay values.

"C" -- Wet subsoil -- Marginal crop land, low to medium crop land classification with a market value of \$6000.00 to \$7000.00 per acre, annual economic productivity of \$692.76, based upon average annual yield of 85 % of optimum with \$441.61 production costs.

"D" --Upland areas not needing artificial drainage but irregular in shape and intermixed with wetter soils. Medium to high cropland classification with a market value of \$6000.00 to \$8000.00 per acre, annual economic productivity of \$774.25 based upon average annual yield of 95 % of optimum with \$441.61 production costs.

Valuation with NRCS Guideline Drainage

Potential land use, property value, and economic productivity, after public and private drainage have been installed and with the restrictive existing tile drainage system in a reasonable state of repair, using current crop rotation, income, and expense:

"A" -- Seasonally ponded agricultural ground. Low cropland classification with a market value of range of \$ 6000.00 to \$7000.00 per acre, annual economic productivity of \$749.80 based upon average annual yield of 92 % of optimum with \$441.61 production costs.

"B" -- Occasionally flooded agricultural ground. Medium cropland classification with a market value range of \$7000.00 to \$8000.00 per acre, economic productivity of \$782.40 based upon average annual yield of 96 % of optimum with \$441.61 production costs.

"C" -- Wet subsoil. Medium high cropland classification with a market value range of \$8000.00 to \$9000.00 per acre, annual economic productivity of \$815.00 based upon average annual yield of 100 % of optimum with \$441.61 production costs.

"D" --Upland areas not needing artificial drainage but irregular in shape and intermixed with wetter soils. Medium to high cropland classification with a market value range of \$ 7000.00 to \$9000.00 per acre, annual economic productivity of \$806.85 based upon average annual yield of 99 % of optimum with \$441.61 production costs.

Special consideration was given to areas where the ditch system has only provided an outlet adequate to convert the lands to pasture or hay land and are restricted from further individual improvements by regulatory restrictions.

Road benefits were determined with consideration of the reduced maintenance costs that should be

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realized after construction of the drainage system improvement. Tile benefits were given to reflect the additional value added as the ditch system tile provides one of the normal lines of tile for subsurface drainage.

Utilizing these productive values, potential benefit values were determined for the system based upon a 25-year effective life with proper maintenance, private improvement cost depreciated over the same 25-year period, and an allowance of 3.0 % return on the system investment. Adjustment was made to each land class based upon consideration of the change in hydraulic capacity and the subsequent increased productivity that the construction of the drainage system improvement provides. Benefit values were rounded off to an even percentage benefit increase for ease of computation.

Example: "B" Benefits per Acre

Potential productivity Value	\$ 815.00
Adjustment for 96% economic efficiency	\$ 782.40
Production Cost	- 441.61
Beginning Productivity Value	<u>- 75.00</u>
Change in Productivity Value	265.79
Private Improvement (\$850/25) (Waterway or tile)	<u>-36.00</u>
Annual Benefit Value	\$ 229.79

\$229.79 for 25 years, discounted @ 3.0 % = \$4001.32
Rounded to \$4000.00

The existing drainage system has various tile capacities that do not have adequate size and capacity to meet the NRCS recommended drainage capacities for tile outlets for agricultural drainage. The proposed improvement will replace some of the existing tile with a tile of recommended capacity. An efficiency rate has been applied to the potential benefit value to reflect the increase in benefit provided through the proposed improvement efficiency rate. This rate reflects the viewer's determination of that portion of the potential benefit being provided by the improvement of the county ditch system with consideration of the increased capacity and a parcel's proximity to the improved outlet.

The net benefit provided by the ditch system is determined by the adjusted potential benefit value being applied to the number of acres determined to be in each class per tract, accumulating the sum of these benefit values, and then applying the proximity rate percentage.

Improvement damages have been given for the acquisition of the land rights for the construction of the storage ponds, new open ditch channel, buffer area, and a temporary easement required for the construction of the proposed improvement.

Respectfully submitted,

Ron Ringquist

Jim Weidemann

John Dotolo

BUFFALO CREEK WATERSHED DISTRICT
 McLEOD-SIBLEY COUNTIES JUDICIAL DITCH NO. 8
 2022 IMPROVEMENT DETERMINATION OF BENEFITS

INCOME APPROACH TO VALUE WORKSHEET
 With NRCS Guideline drainage

PRODUCTION INCOME

CROP PLANTED	AVERAGE YIELD	SALES VALUE	GROSS INCOME	ROTATION PERCENTAGE	ADJUSTED INCOME
CORN	190 BU	5.00	950.00	55	522.50
SOYBEANS	50 BU	13.00	650.00	45	292.50
					\$815.00

DIRECT PRODUCTION EXPENSE

CROP PLANTED	PRODUCTION COST	ROTATION PERCENTAGE	ADJUSTED EXPENSE
CORN	592.25	55	325.73
SOYBEANS	257.50	45	115.88
			\$441.61

BENEFIT VALUE CALCULATION

PRODUCTION CAPABILITY BASED UPON CONSTRUCTED DRAINAGE SYSTEM
 MEETING N.R.C.S. RECOMMENDED DESIGN STANDARDS

LAND CLASS	"A"	"B"	"C"	"D"
% PRODUCTION	92.0%	96.0%	100.0%	99.0%
GROSS INCOME	749.80	782.40	815.00	806.85
PRODUCTION COST (-)	441.61	441.61	441.61	441.61
NET INCOME	308.19	340.79	373.39	364.24
PREVIOUS INCOME (-)	0.00	75.00	251.14	365.64
INCREASED INCOME	308.19	265.79	122.25	32.60
PVT TILE COST (-)	36.00	36.00	36.00	0.00
NET ANNUAL INCREASE	272.19	229.79	86.25	32.60
CAPITALIZED FOR 25 YEARS @ 3.0 %	4739.64	4001.32	1501.88	567.67
BENEFIT VALUE	\$4740.00	\$4000.00	\$1500.00	\$570.00

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