

STATE OF MINNESOTA
LE SUEUR COUNTY BOARD OF COMMISSIONERS
DRAINAGE AUTHORITY FOR THE IMPROVEMENT OF COUNTY DITCH 61

The matter of the petition for the improvement of Le Sueur County Ditch 61

**FINDINGS AND FINAL ORDER:
ESTABLISHING DRAINAGE PROJECT;
ADOPTING AND CONFIRMING THE
VIEWERS' REPORT OF
IMPROVEMENT BENEFITS AND
DAMAGES; AND DIRECTING
CONSTRUCTION OF THE PROJECT**

The Board of Commissioners of Le Sueur County, sitting as Drainage Authority for the improvement of Le Sueur County Ditch 61 met at 10:30 a.m. on February 4, 2021, for Final Hearing on the proposed improvement. The hearing was held according to Minnesota Statutes, section 103E.335. Due to the COVID 19 pandemic and the emergency declaration and associated executive orders of the Governor of the State of Minnesota, the final hearing was to be held by alternative means. The hearing was continued to the Board's regular meetings on March 23, 2021, at which meeting Commissioner _____ moved, seconded by Commissioner _____, for adoption of the following:

Findings:

1. In September, 2018, the Board of Commissioners (Board) of Le Sueur County accepted the petition for the improvement of Le Sueur County Ditch 61 (CD 61).
2. The petition was properly filed with the Board pursuant to Minnesota Statutes, section 103E.215.
3. The petition included a request that the Board consider separable maintenance as part of the proposed improvement.
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 ISG, Inc., (engineer Chuck Brandel, P.E.), pursuant to section 103E.241, to perform the duties required of the project engineer.
6. After filing its oath and bond, the engineer prepared and filed a preliminary survey report (preliminary engineer's report) with the Board.

7. The Board noticed and held a preliminary hearing on November 7, 2019, at which hearing the Board reviewed a DNR preliminary advisory report, received public comment on the preliminary survey report, adopted findings and issued a Preliminary Hearing Order.
8. In its Preliminary Hearing Order, the Board:
 - a. Directed the engineer to make a detailed survey with plans and specifications for the proposed drainage project and submit a detailed survey report (final engineer's report (FER)).
 - b. Directed the engineer to address comments of the DNR commissioner, and evaluate whether changes to the proposed project are feasible to address concerns raised by the commissioner. If feasible, the engineer was directed to include changes in the final project plans.
 - c. Directed the engineer to continue to work through the processes contained in statutes section 103E.015 to ensure that environmental, land use, and multipurpose water management criteria are considered for inclusion in final project plans.
 - d. Directed the engineer to continue to coordinate with the soil and water conservation district, county and USDA planning authorities about potential external sources of funding and technical assistance for environmental, land use, and multipurpose water management features or alternatives.
 - e. Directed the engineer to request additional information about potential funding or technical assistance for environmental, land use, and multipurpose water management features or alternatives from the executive director of the Board of Water and Soil Resources.
9. On January 21, 2020, the Board appointed Bryan Murphy, Shantel Hecht, Larry Murphy, and Robert Conely (alternate) as viewers to perform the determination of improvement benefits and damages as well as an update to the benefits roll to reflect the improvement and other changes to drainage benefits within the watershed of the drainage system.
10. During preparation of the final engineer's report, the engineer and Drainage Authority staff investigated whether any wetlands in the watershed would be impacted by the proposed improvement. The engineer completed a level 1 wetland delineation in areas where improvements to CD 41 are proposed. The delineation included identifying potential wetland characteristics using LiDAR, soil data, historical aerials, and drone photos that showed open water areas, perennially flooded areas, wetland grasses, or other indicators of wetland hydrology. The potential wetland areas are identified on the improvement plans. Spoils will not be placed in wetland areas from open ditch excavation or side slope flattening on the open ditch. Existing wetland vegetation in the identified potential wetland areas will also remain in place. Spoils from these areas will be disposed of in upland areas.

11. The engineer filed its final engineer's report with the Board. Concurrent with the filing, on or about December 15, 2020, the engineer provided a copy of the final engineer's report to the Commissioner of Natural Resources, through her designated hydrologist and regional environmental assessment ecologist by electronic correspondence, and by email to the designated email address for the DNR related to Region 4.
12. 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 comments presented at the final hearing and the Board's own judgment, the Board finds that the proposed improvement will not create any negative impact on water quality; fish and wildlife; or shallow groundwater.
13. The Commissioner of Natural Resources, through her designee, Jim Sehl, DNR Southern Region, EWR North District Manager, provided the DNR's final advisory report dated January 15, 2021. The final advisory report and the comments therein were read during the final hearing. The comment, and the Board's responses (in italics) are listed below and are incorporated into these findings:

Alternative Measures: The recommended option includes a 30.8 acre Reinvest in Minnesota (RIM) easement wetland restoration that was funded under a \$215,000 Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) Multi-purpose Drainage Management (MDM) grant. This acreage will contain 1.8 acres of continually wet area with a two foot depth (for 3.6 ac-ft of long-term/wet storage), 13.6 acres of dry storage (referred to as shallow marsh in the FER), and 15.4 acres of upland buffer. This option represents a step in the right direction for drainage improvement projects, as storage is integrated into the system. However, the wetland restoration could better meet the environmental considerations. Specifically, can branches 2 and 4 be routed into the wetland – they currently enter the open ditch just downstream from the wetland? How many acres of the wetland area will be improved over current conditions? How could the wetland areas be designed to add habitat? Could more continually wet area be added to increase the long term-storage and evapotranspiration? Can other BMPs (e.g. cover crops) be integrated into the system to offset the improved drainage capacity?

While it would be beneficial to outlet tile branches to proposed water storage/wetland restoration area, it is not feasible due to elevations and lay of the land. In order to reroute the additional public branch, significant earthwork would be needed that would disturb natural basin characteristics desired in a wetland restoration. The primary goal of the CWF MDM grant is to improve water quality with secondary benefits of habitat. The area already has perennial cover, and the land is currently enrolled in the temporary program in CRP. The wetland restoration will provide long-term benefit with entering into a perpetual easement. Permanent pooled area will provide habitat value primarily

to migratory birds. Expanding the permanent pool would require additional earthwork and would disturb natural basin characteristic desired in a wetland restoration or deepen the permeant pool depth, reducing active storage volume. Additional BMPs such as cover crops, crop rotations, residue management, and other soil health practices are encouraged through local water plans and supported by Le Sueur County SWCD, although are outside the jurisdiction of the Drainage Authority. If landowners wish to implement soil health practices, please contact Mike Shultz, Le Sueur County SWCD District Manager, for additional information and cost share opportunities.

Adequacy of Outlet, Flooding, and Hydraulics: In order to comment on the adequacy of the outlet, we request the estimated pre- and post-project drainage coefficient and total flow volumes at the outlet. Downstream flooding can occur despite a reduction in peak flow if the total flow volume is increased. If the outlet drainage coefficient increases, then we would need to review modeling information (not included in the FER) to comment.

We note that only two of the four branches are routed into the wetland. Furthermore, the reported flows in Appendix D (Drainage Calculations) at the outlet are greater than the sum of flows for the four branches. So additional inputs from private tile also presumably enter the system downstream from the wetland. Based on Appendix D data, only a fraction of the peak flow at the outlet enters the wetland (e.g. 41% of the 2-year, 26% on the 5-year, 31% of the 10-year, 17% of the 25-year). So with only a fraction of the flow being treated and without more modeling data being submitted to review, it's unclear how an improved drainage system, with a fraction of the peak flow intercepted by the wetland, can have such large post-project flow reductions (18%, 21%, 26%, and 14%, respectively).

If the Drainage Authority Orders an option is approved that does not include a flow mitigating storage option, we request additional time be provided to assess that option.

The CD 61 system is controlled by the culvert under County Road 128 (CR 128). The improvement plans to replace the existing culvert under CR 128 with the same size, a 48-inch pipe. While drainage coefficient provides a general overview of the pipes ability to drain runoff, many other factors contribute to final design and hydraulics including, timing of flow, structures controlling the flow of water (culvert, weirs, etc.), storage implementation, water elevation, topography of the land, infiltration, floodplain connectivity, overland flow, and temporary ponding. 420-acres are planned to be treated by the wetland restoration or approximately 46% of the watershed area. While it would be beneficial for all of the watershed to be treated in the wetland basin, this is not feasible due to the location of the natural basin. It is assumed that there are additional inputs into the ditch downstream of the wetland that include private tiles and overland flow from contributing hydrology from area downstream.

Wetlands and Shallow Groundwater: Saturated soil conditions and shallow groundwater are often synonymous. Shallow ground water is therefore removed when a project improves drainage to reduce saturated soil. The FER also identifies several delineated wetlands. Other than stating no fill will be placed in these wetlands, no information is provided to explain how saturated soil will be drained but not the wetlands. WCA TEP should be consulted if any wetland impacts could occur.

Drainage tile that is proposed throughout this improvement is specified to be non-perforated tile with watertight connections. The installation of the county tile branches will only serve as a conduit for drainage. The county tile branches will not directly drain saturated soils or effect shallow groundwater. The addition of perforated private tiles by private landowners that would reduce saturated soils are to follow the Wetland Conservation Act (WCA) and review by the Technical Evaluation Panel (TEP).

Water Quality, Fish and Wildlife: While the project does include a wetland restoration, the specific benefits from this wetland restoration cannot be evaluated without more project information. As already discussed, only a fraction of the flow is intercepted by the wetland, so only that water would receive any water quality benefit. No information on the residence time or estimated water quality improvement is provided. The FER indicates that only disturbed areas will be revegetated. How much of the area will this be disturbed and revegetated? How will the disturbance and revegetation be used to improve habitat? If the majority of the area remains the same pre-project versus post-project, than the created benefits from this wetland restoration could be marginal.

Other aspects of the project will have a negative impact to water quality and fish and wildlife habitat. Photos of the main ditch show a well-vegetated flow path. Flow paths such as these or grassed waterways are known to improve water quality and reduce water quantity. Losing this vegetation, coupled with a bare, erosive ditch banks, will result in at least temporary, if not permanent, water quality and habitat impacts. Furthermore, tree removal associated with the project reduces habitat.

The Board asked its engineer to evaluate the merits of this comment, based on the engineer's analysis and report, the Board finds that the project will not result in the deleterious affects referenced in the DNR report. Rather, the project, as designed and proposed for construction, will improve ecological conditions within the CD 61 watershed and in receiving waters. The conditions anticipated and modeled to occur as a result of the project are an improvement as compared with current conditions or conditions anticipated by a mere repair of the system. Water quality improvements are estimated to have reductions of 77 tons per year of sediment and 170 pounds per year of phosphorus from the wetland restoration. The wetland restoration is located in the upland watershed of Scotch Lake, a public water basin which currently does not meet water quality standards. The CD 61 watershed is also a part of the greater Minnesota River Basin Watershed. The Minnesota River TMDL and WRAPS report outlines main issues surrounding water flow and sediment loading. The wetland restoration outlined in

the improvement implements upland storage, reduces sediment, and reduces phosphorus exports from the CD 61 system. In following local and state water plans, the wetland restoration benefits public water basins and watercourses, and in turn, is a benefit to public resources. It is estimated that there will be approximately 4.6 acres disturbed within the wetland boundary. Disturbed areas will be seeded with seed mixes that coordinate with anticipated hydrologic conditions such as MnDOT seed mixes 34-181: emergent wetland, 34-271: wet meadow south and west, and 35-541: mesic prairie southwest to coordinate respectively with the permanent pooled area, shallow marsh wetland, and upland buffer. The plan to only re-seed disturbed areas was approved by the BWSR in order to provide economic approach for implementing the use of CWF grant. Stormwater Pollution Prevention (SWPP) Plan will be developed upon project approval and will include temporary erosion control measures to mitigate temporary erosion impacts. Construction will follow MPCA procedures outlined in the NPDES general construction permit upon award. Minimal impacts to water quality and habitat impacts are expected. Trees along ditch banks provide shade and cover that prevents growth of grasses and other native plants. Native grasses and perennial cover are the preferred vegetation along the ditch banks providing deep, extensive root system for bank stabilization and provides filtering of overland flow. Additionally, access to the ditch with construction equipment is needed in order to maintain the ditches.

14. The engineer addressed the DNR comments during the final hearing and has provided a revised plan for the improvement that incorporates all feasible recommendations of the DNR within the Board's authority. At the hearing, the Board and engineer encouraged individual landowner practices consistent with the DNR comments.
15. The findings herein, as well as the responses found above (in italics) shall serve as the Drainage Authority's response to the DNR comments.
16. The viewers completed and filed their Viewers' Reports of improvement benefits along with a benefits and damages statement (improvement reports).
17. The Drainage Authority prepared Property Owners' Reports and mailed them to the owners of property identified in the Viewers' Reports.
18. Notice of the final hearing on the improvement was provided by publication, posting, and mail as required by statute.
19. 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 and are incorporated herein by reference.
20. The viewers were made available to meet with individual property owners for the purpose of addressing individual concerns and to gain better information regarding the unique

features, if any, of an individual property. The viewers' availability for individual meetings was contained in the notice of informal meeting mailed by the Drainage Authority staff.

21. The Drainage Authority met at 10:30 a.m. on February 4, 2021, for Final Hearing on the petition for improvement of CD 61.
22. The hearing was conducted according to Minnesota Statutes, section 103E.335.
23. In order to allow for maximum public participation in light of the COVID 19 pandemic, the Board provided and authorized expanded and alternative means of participation as reflected in the hearing notice:

Please Take Notice: The Board of Commissioners of Le Sueur County, Minnesota, Drainage Authority for Le Sueur County Ditch (CD) 61 will hold a final hearing on the petitioned improvement of CD 61 and the redetermination of benefits for CD 61. The detailed survey report for the petitioned improvement was filed with the Drainage Authority on December 29th, 2020. The viewers' reports of improvement benefits and damages and for the redetermination of benefits were filed with the Drainage Authority on December 22nd, 2020. The reports, along with amendments, if any, are available for inspection at Le Sueur County by contacting Dani Blaschko, Le Sueur County Ditch Manager, by email or phone (drainage@co.le-sueur.mn.us or (507) 357-8285). The hearings on the redetermined benefits and in the improvement proceedings will be held on February 4, 2021, at 10:30 a.m. or immediately following the hearings related to CD 41 (which commence at 9:30), whichever is later.

Due to the COVID 19 pandemic and the emergency declaration and associated executive orders of the Governor of the State of Minnesota, the final hearing will be held by alternative means. The viewers' reports, presentation materials and other information to be considered at the hearing are available by contacting Dani Blaschko by email or phone (drainage@co.le-sueur.mn.us or (507) 357-8285). Written comments may be directed to Dani Blaschko by email (drainage@co.le-sueur.mn.us) or by U.S. Mail to Le Sueur County, Attn: Dani Blaschko, 88 S Park Avenue, Le Center, MN 56057.

Members of the public interested in presenting comment by telephone or video conference at the public hearing, or otherwise attending the meeting virtually, are asked to contact Dani Blaschko by email or phone (drainage@co.le-sueur.mn.us or (507) 357-8285) by 4:30 p.m. on or before February 3, 2021, to be placed on the participation list and to receive required access codes and instructions for the hearing.

At the final hearing, the drainage authority will accept public comment regarding the viewers' reports. Any party having an interest in the proceedings may appear and provide comment per the instructions above. Written comments will be accepted through close of business on February 3, 2021, by email or by U.S. Mail to the Le Sueur County Auditor's

office (drainage@co.le-sueur.mn.us or Le Sueur County, Attn: Dani Blaschko, 88 S Park Avenue, Le Center, MN 56057).

24. The Drainage Authority's attorney presented the history of the proceedings through the final hearing and summarized the requirements of the drainage code and the decision standard for the Board.
25. At the final 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.
26. The engineer discussed the portion of its final report addressing the incorporation of water quality, rate and volume control features to be incorporated into the project.
27. The engineer concluded, and the Board agrees, that additional wetland restorations and enhancement within the watershed of the improvement would require voluntary participation of landowners and substantial financial assistance to be practicable for the project.
28. The engineer performed hydraulic modeling of the drainage system watershed and outlet downstream of the drainage system to determine the impact of the project on the outlet of the system. Based on the modeling, the engineer concluded that the outlet was adequate to handle the proposed improvement.
29. The engineer evaluated the portion of CD 61 proposed to be improved in order to determine whether the application of separable maintenance was appropriate for the project. The engineer reviewed past maintenance records on the system, notes from the system survey and technical information related to the cost of repairing the in-place system. The engineer noted an increase in maintenance and repair requests on the system in recent years. Based on the engineer's review of the system, it prepared a list of maintenance requirements that will be avoided by the proposed improvement and estimated the costs of the avoided repairs for the Board's consideration. Based on the engineer's review and opinion of the need to repair portions of the existing system, the engineer recommended application of separable maintenance to the project.
30. The viewers appeared and presented amended improvement reports based on 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; (3) determine the economic benefit to lands deriving a drainage benefit from the proposed improvement; and (4) determine the value of damages for the grass buffer areas required in these proceedings. (determination of improvement benefits and damages).

31. Several members of the public attended the hearing, either virtually or by submitting written comments, and asked questions or made comments regarding the project or determination of improvement benefits as outlined below. The comments have been noted and preserved in the record of proceedings. The comments were not substantive in nature and were addressed during the proceedings as reflected in the minutes.
32. At the conclusion of public comment, the Drainage Authority: closed the hearing to public comment; continued the hearing to the regular meeting of the Board of Managers on March 23, 2021 at 11:00 a.m. at the Le Sueur County Courthouse in order to consider and adopt findings and a final order in the proceedings.

Findings Specific to the Determination of Improvement Benefits and Damages:

33. The viewers reviewed all property within the drainage area of the proposed improvement to determine the improvement benefits and damages.
34. 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.
35. Based on their detailed observations, the viewers determined benefit classifications, classified acres and assigned economic benefit on a per acre basis.
36. 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.
37. 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.
38. 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 directly benefit the property.
39. 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.

40. Within the watershed of the drainage system, the viewers determined outlet benefits on property that is responsible for increased drainage system maintenance, or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.
41. Among other considerations, the viewers considered yield, crop prices, rental rates, land sales and conservation program payment rates in making their determination of value.
42. 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.
43. Temporary damages will be awarded for reduced crop productivity in the areas disturbed by the improvement.
44. The viewers prepared three reports, as amended, which (1) describe how improvement benefits and damages were determined (“Benefits and Damages Statement”); identify and list the lands, land classes and value of benefits and damages by parcel and owner (“Viewers’ Report”), and depict the distribution of benefitted land classes. All of which are attached and included as part of **Exhibit A** of these findings.

Total Benefits and Damages for the Improvement:

45. The viewers determined improvement benefits of \$593,745.55.
46. The viewers determined the total damages attributable to the improvement as temporary damages totaling \$9,361.56.

Additional Benefit and Damage Considerations:

47. The State of Minnesota, in authorizing a Clean Water Fund Grant to fund the creation of a water storage/wetland restoration area as part of the improvement, recognizes additional benefits of the project in the amount of \$209,041.00.
48. In consideration of the acquisition of property interests on the McGillen Property in the Southeast Quarter of the Northwest Quarter of Section 23, Township 110 North, Range 24 West, Le Sueur County, Minnesota (Parcel Number: 02.023.0200), the viewers determined special damages in the amount of \$161,154.70. However, the Board, under the terms of the state grant, is required to value the property using Reinvest in Minnesota (RIM) contract rates. Using the RIM contract rates results in an additional damage award to the McGillens of \$67,597.74. Therefore, the Board finds the damages owed to the McGillens for the acquisition of property interests over parcel 02.023.0200 for the establishment of the grant-funded water storage/wetland restoration area to be

\$228,734.44 to be paid according to the purchase agreement for the same as authorized by the Board.

49. Based on these special considerations, the Board finds total benefits for the project to be \$802,786.55 and total damages to be \$238,096.00.

Improvement Costs and Separable Maintenance:

50. The engineer's estimate of the cost of construction of the improvement is \$818,371.00.
51. The engineer's estimate of the portion of the cost of improvement attributable to separable maintenance is \$446,927.00.
52. The separable maintenance cost is less than the current total benefits on CD 61 based on the most recent redetermined benefits. Therefore, separable maintenance may be applied to this project because the separable maintenance cost is less than the redetermined benefits of the system.
53. Subtracting separable maintenance costs (\$446,927) from the engineer's estimated cost of improvement (\$818,371) yields a total improvement cost of \$ 371,444.00.
54. The total improvement benefits less damages ($\$802,786.55 - \$238,096.00 = \$564,690.55$) exceed the net improvement cost (\$371,444.00).

Costs of Proceedings:

55. 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.
56. 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.
57. The Board's attorney kept an accurate account of all time engaged in assisting the Board in the proceedings and every item of expense incurred by the county attorney in said work. The petitioners' attorney has kept an accurate account of his assistance to the petitioners in these proceedings.
58. The viewers', engineer's, and attorneys' accounts of work have been filed with the Board.

General Findings:

59. The detailed survey report and Viewers' Reports have been made and other proceedings have been completed as required by Minnesota Statutes, chapter 103E.
60. All reports made or amended in these proceedings are complete and correct as revised herein as to damages to be paid to McGillens.
61. The damages and benefits for the improvement of CD 61 have been properly determined and correct as revised herein as to damages to be paid to McGillens.
62. The improvement benefits are greater than the total, estimated improvement cost, including damages after applying separable maintenance.
63. The proposed improvement of CD 61 will be of public utility and benefit, and will promote the public health and welfare.
64. The proposed improvement of CD 61 is practicable.
65. 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 and other, relevant documents, 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.
66. 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 as part of this project. The Board notes, however, that technical assistance funds and cost share funds are available to private landowners to implement many of the suggestions and alternatives identified by the engineer and commented on by the DNR in its advisory report. The Board encourages private landowners to consider implementing such practices.
67. The proposed improvement is consistent with the present and anticipated land use within project area and is consistent with the County's land use ordinance.

68. The proposed improvement will further the public health benefits created by the original ditch establishment and will improve the public health by reducing flood and other deleterious conditions within the drainage area of the project.
69. The engineer evaluated the current and potential flooding characteristics of property within the project area and evaluated the downstream outlet of the proposed improvement. The evaluation included consideration of 2-, 5-, 10-, 25-, 50-, and 100-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.
70. 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.
71. Based on the foregoing findings, the Board enters the following:

Order:

- A. The Le Sueur County Board of Commissioners, Drainage Authority for the improvement of Le Sueur County Ditch 61, hereby establishes and orders said improvement according to the 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 staff, in conjunction with the Le Sueur County Auditor, to take all necessary actions for the construction of said improvement and authorizes staff to proceed as necessary, reserving to itself only those matters that the Board, by vote, must authorize.
- D. Upon completion of the project, the drainage system record shall be updated with the as-built alignment and conditions of the improvement.
- E. The viewers' determination of improvement benefits and damages contained in the Viewers' Report, as amended, and the benefits and damages statement, (See **Exhibit A** of these findings) are hereby confirmed and adopted by the Drainage Authority.
- F. The additional damages to McGillens, as determined herein are awarded and to be paid in a manner consistent with the purchase agreement for the property interests indicated.

- G. The viewers, engineer, and attorneys are allowed payment of their accounts of work.
- H. County staff is directed to provide a copy of these findings to the DNR in response to the comments contained in the DNR's final advisory report and as requested by the DNR.
- I. The Board reserves to itself, by future order, the decision 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.

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>
GLISZINSKI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
O'KEEFE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROHLFING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WETZEL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chairman declared the motion Passed.

Steve Rohlifing, Chairman

Dated: _____, 2021

* * * * *

I, Pam Simonette, the Le Sueur County Auditor-Treasurer, 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. The above Findings and Order was filed with me, Le Sueur County Auditor-Treasurer, on _____, 2021.

IN TESTIMONY WHEREOF, I have hereunto set my hand this ____day of _____, 2021.

Pam Simonette, County Auditor-Treasurer