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# YOUR ROLE AS DRAINAGE AUTHORITY

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# Our Premise

- Preserving drainage infrastructure is essential to sustaining economic activity including agriculture and municipal development. The economic objective is influenced by policies that seek balance between the need for effective water management practices and ecological, conservation, and land use regulatory requirements.



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# Drainage Authority

- “Drainage authority” means the board or joint county drainage authority having jurisdiction over a drainage system or project [or proceeding]. Minn. Stat. § 103E.005, subd. 9.
- “Board” means the board of commissioners of the county, a joint county board, the board of managers of the watershed district, or a metropolitan watershed management organization that serves as the drainage authority where the drainage system or project is located. Minn. Stat. § 103E.005, subd. 4.
- Where it serves the purpose of watershed law, promotes the public welfare and is in the public interest, a watershed district shall take over a drainage system within the watershed district if directed by a county or joint county drainage authority. Minn. Stat. § 103D.625.



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# Watershed District as Drainage Authority

## **103D.625 DRAINAGE SYSTEMS IN WATERSHED DISTRICT.**

### **Subdivision 1. Duty to assume drainage systems.**

(a) The managers shall take over a joint county or county drainage system within the watershed district and the right to repair and maintain the drainage system if directed by a joint county drainage authority or a county board. The transfer may be initiated by:

- (1) the joint county drainage authority or county board;
- (2) a petition from a person interested in the drainage system; or
- (3) the managers.

(b) The transfer may not be made until the joint county drainage authority or county board has held a hearing on the transfer. Notice of the proposed transfer with the time and place of hearing must be given by two weeks' published notice in a legal newspaper of general circulation in the area where the transfer is to occur. All interested persons may appear and be heard.

(c) After the hearing, the joint county drainage authority or county board shall order the watershed district to take over the joint county or county drainage system, unless it appears that the takeover would not serve the purpose of this chapter and would not be for the public welfare or be in the public interest.



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# Watershed District as Drainage Authority

## **103D.625 DRAINAGE SYSTEMS IN WATERSHED DISTRICT.**

### **Subd. 2. Status of assumed drainage systems.**

A joint county or county drainage system that is taken over in whole or in part is part of the works of the watershed district to the extent taken over.

### **Subd. 3. Procedure for repair or improvement.**

After the transfer is ordered, all proceedings for repair and maintenance must conform to chapter 103E.

### **Subd. 4. Construction or improvement.**

Construction of new drainage systems or improvements of existing drainage systems in the watershed district must be initiated by filing a petition with the managers. The proceedings for the construction or improvement of drainage systems in the watershed district must conform to chapter 103E, except for repairs and maintenance done pursuant to section 103D.621, subdivision 4.



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# Watershed District as Drainage Authority

- Where a county ditch is entirely within a watershed district, jurisdiction over a petition for construction or improvement lies with the district, and jurisdiction remains with the district when the construction or improvement is completed, even if the ditch has not been formally taken over by the district. Op.Atty.Gen. 206a (Feb. 5, 1988) 1988 WL 483422.
- A petition for a lateral to a joint county ditch lying entirely within a watershed district lies within the jurisdiction of the watershed district rather than the county boards originally establishing the joint ditch even though the ditch had not formally been taken over by the watershed district. Op.Atty.Gen. 206a (Aug. 4, 1983) 1983 WL 180934.



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# Drainage Authority's Role

- The drainage authority “is in an appropriate position to assert the property owners’ drainage rights, since it is the only entity authorized to conduct work in the ditch.” McLeod County v. MDNR, 549 N.W.2d 630 (Minn. Ct. App. 1996).
- When a drainage system is established, the drainage authority acquires jurisdiction over its constituent property, and landowners recovering damages or incurring assessments acquire property rights in the ditch system. Fischer v. Town of Albin, 258 Minn. 154, 156, 104 N.W.2d 32, 34 (Minn. 1960)



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# Jurisdiction

## **Initiating Acts**

- Petitions
- Resolutions
- Findings & Orders

## **Procedural Acts**

- Notices
- Reports

## **Establishing Acts**

- Findings & Orders
- Record of Decision



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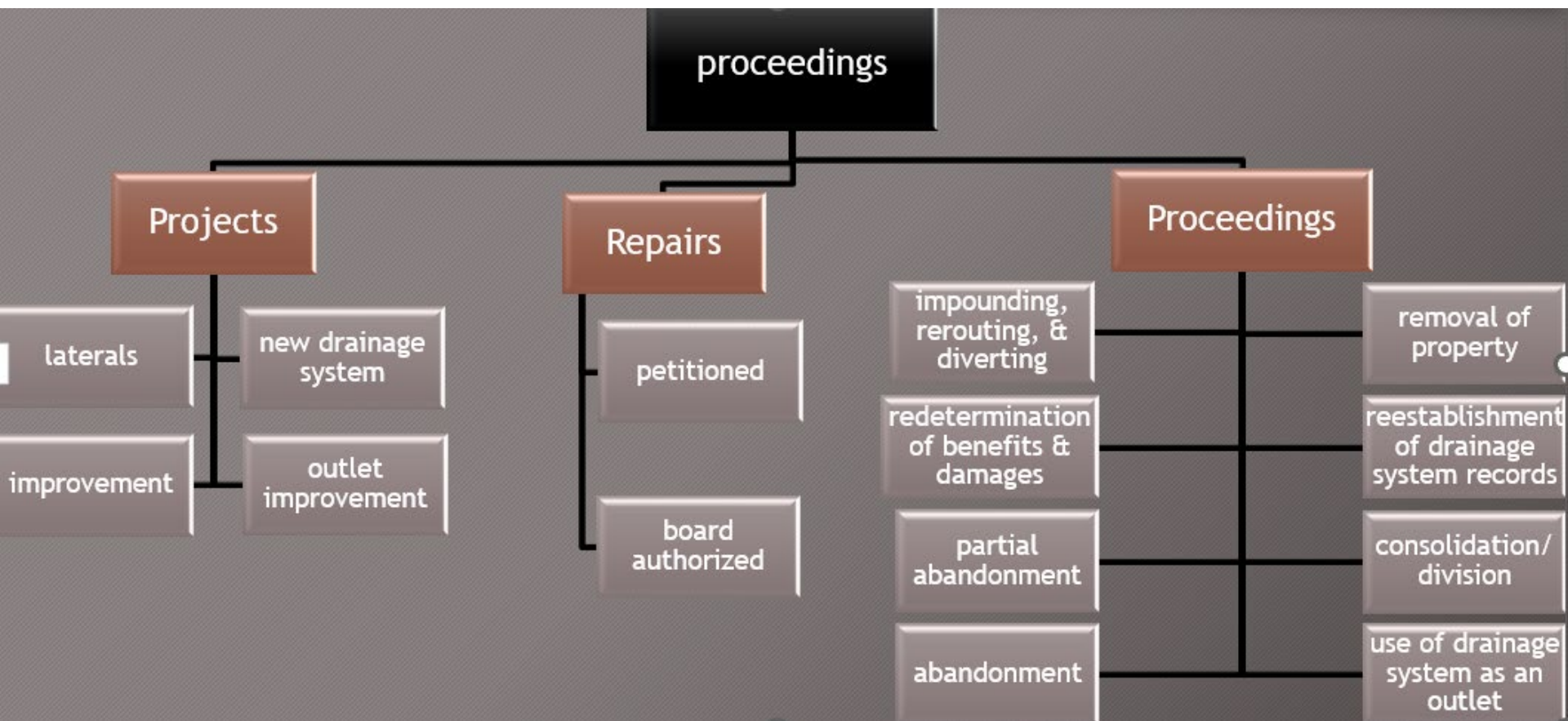
# Petitioners & Drainage Authorities

- Drainage authority's powers are strictly derived from the legislature, and involve elements of eminent domain, the power to tax, and police powers.
- Drainage proceedings determine the **legal rights of land**, not the legal rights of people.
- Drainage authorities acquire jurisdiction over the land through the method expressly authorized by the legislature:
  - Jurisdiction over a drainage project begins with a petition.
  - Repairs may be initiated by petition of landowners or initiated by the drainage authority.
  - Some drainage proceedings require a petition; some may be initiated by a finding or resolution of the drainage authority.



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# Jurisdictional Example

- “If the drainage authority determines that the original benefits or damages determined in a drainage proceeding do not reflect reasonable present day land values or that the benefited or damaged areas have changed . . . the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.” Minn. Stat. § 103E.351.
- The drainage code does not expressly direct the drainage authority to adopt these determinations as findings; however, where findings are not specifically adopted, proof that these determinations have been made must exist for the drainage authority to acquire jurisdiction over the lands subject to redetermination proceedings – In re Bd. of Mgrs. of Bois de Sioux Watershed Dist. (Minn. Ct. App. 2012).



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# Cost of Mistakes

For a project, a bond is required.

- One or more petitioners must file a bond with the petition for at least \$10,000. The bond must be conditioned to pay the costs incurred if the proceedings are dismissed or a contract is not awarded to construct the drainage system.
- The costs incurred before the proposed drainage project is established may not exceed the amount of the petitioners' bond. A claim for expenses greater than the amount of the bond may not be paid unless an additional bond is filed. The drainage authority must require an additional bond to cover all costs. The proceeding must be stopped until the additional bond is filed. If the additional bond is not filed within the time prescribed, the proceeding must be dismissed.



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# Cost of Mistakes

For other proceedings, no bond is required.

While the watershed district acted without jurisdiction and therefore could not bind landowners to the result of the redetermination, costs nevertheless were incurred in the failed redetermination. Again, the landowners do not explain how these costs will be paid if they cannot be assessed against the drainage system's account. Because the failed redetermination was intended to benefit JD 14 specifically, the costs can be charged to its account under Minn. Stat. § 103E.651, subd. 2, even though the redetermination of benefits was ultimately declared to be void.

In re Appeal from Final Order of Board of Managers of Bois de Sioux Watershed District, 889 N.W.2d 575 (Minn. Ct. App. 2016).



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# Property Owners' Rights

A landowner assessed for benefits in a public drainage system has a vested property right in the maintenance of the ditch in the same condition as it was then originally established.

The landowner is entitled to have all of the conditions upon which a drainage system is based, as well as the ditch itself, maintained so that the system will function substantially as established.

Fischer v. Town of Albin, 104 N.W.2d 32, 33 (Minn. 1960).



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# Drainage Authority Responsibilities

## Protect Drainage Right

- Keep system repaired.
- Prevent damage.
- Prevent unauthorized use.
- Ensure “fair share.”

## Balance Interests

- economic interests
- environmental interests



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# Inspect, Maintain, & Repair

After the construction of a drainage system has been completed, the drainage authority shall inspect and shall maintain the drainage system that is located in its jurisdiction and provide the repairs necessary to make the drainage system efficient. Minn. Stat. § 103E.701.

Repair means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including:

- re-sloping of ditches and leveling of waste banks to stabilize
- realignment to original construction to restore the effectiveness
- routine operations that may be required to remove obstructions
- incidental straightening and replacement of tiles

Minn. Stat. § 103E.701, subd. 1.



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# What does “repair” allow?

Repair of a drainage system may include the preservation, restoration, or enhancement of wetlands; wetland replacement under section 103G.222; the realignment of a drainage system to prevent drainage of a wetland; and the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality.

Minn. Stat. § 103E.701, subd. 6.



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# Inspect and Maintain/Repair

- Inspection and maintenance requirements are mandatory with little room for the exercise of discretion. (compare Blaine v. City of Sartell, 865 N.W.2d 723 (Minn. Ct. App. 2015) with Slama v. Pine County, No. A07-1091, 2008 WL 1972914 (Minn. Ct. App. May 6, 2008))
- Repair of a drainage system may include the preservation, restoration, or enhancement of wetlands; wetland replacement under section 103G.222; the realignment of a drainage system to prevent drainage of a wetland; and the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality.



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# Drainage Inspector

- In counties or watershed districts having public drainage systems, the drainage authority shall appoint a competent person as drainage inspector.
- The inspector must not be a county commissioner.
- The inspector may be the county highway engineer.
- The inspector shall examine the drainage systems designated by the drainage authority.
- The drainage authority shall specify the appointment period and compensation.



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# Inspections

- Periodic/systematic
  - On a set schedule
  - Budgeted
  - Specified criteria
  - Allows for proactive maintenance
- Reactive (not preferred)
  - Complaint driven
  - Compromises rights



# Balancing Obligations

- As a political subdivision of the state, the drainage authority has a greater duty than does a private individual to see that the legislative policy is carried out.
- Drainage authorities have an obligation to maintain drainage systems in a manner consistent with the policies established by the legislature in the Wetland Conservation Act and other environmental laws.

McLeod Cnty. Bd. of Comm'rs as Drainage Authority for McLeod CD 8 v. MN DNR, (549 N.W.2d 630) (Minn. Ct. App. 1996).

- Before performing any work, a drainage authority must give proper consideration to the conservation of natural resources. Minn. Stat. § 103E.015.



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# Inspections & Repairs (Minn. Stat. § 103E.705)

- The drainage authority shall have the drainage system inspected on a regular basis by an inspection committee or a drainage inspector (minimum once every five years).
- Drainage inspector shall make a drainage inspection report to the board, designating portions that need repair.
- The board shall consider the inspection report at its next meeting and repair all or any part of the drainage system.
- In one year, the drainage authority may not levy an assessment for repairs or maintenance on one drainage system for more than 20% of the benefits of a drainage system, \$1,000 per mile of open ditch in the system, or \$175,000, whichever is greater, except for a repair made under the petition procedure [in Minn. Stat. § 103E.715].



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# Repair Standard of Decision (Petition Procedures: 103E.715)

## Repair/Maintenance:

The drainage authority determines from the repair report and the evidence presented that the repairs recommended are necessary for the best interests of the affected property owners. Minn. Stat. § 103E.715, subd. 4(a)(1).



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# Project Standards of Decision

- Drainage Authority must dismiss proceedings & petition if it determines:
  - the benefits of the proposed project are less than the total cost, including damages awarded;
  - the proposed drainage project will not be of public benefit and utility; or
  - the proposed drainage project is not practicable after considering the environmental, land use, and multipurpose water management criteria in Minn. Stat. § 103E.015, subd. 1.
- Drainage Authority must establish project if it determines:
  - reports have been made and proceedings completed;
  - reports made or amended are complete and correct;
  - estimated benefits are greater than total estimated costs, including damages;
  - proposed project will be of public utility and benefit, and will promote the public health; and
  - the proposed project is practicable.



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# Drainage Code Definitions

- “Public Health” includes an act or thing that tends to improve the general sanitary condition of the community by drainage, relieving low wetland or stagnant and unhealthful conditions, or preventing the overflow of any property that produces or tends to produce unhealthful conditions. Minn. Stat. § 103E.005, subd. 25
- "Public welfare" or "public benefit" includes an act or thing that tends to improve or benefit the general public, either as a whole or as to any particular community or part, including works contemplated by this chapter, that drain or protect roads from overflow, protect property from overflow, or reclaim and render property suitable for cultivation that is normally wet and needing drainage or subject to overflow. Minn. Stat. § 103E.005, subd. 27.



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# Proposed Finding

“The proposed improvement will be of public utility and benefit, and will promote the public health and welfare.

Public utility and benefit is achieved by providing more efficient drainage to agricultural properties and public roads within the drainage area. The improvement will protect property values and improve the economy of agricultural production.

Public health and welfare is achieved by reducing the frequency of wet and overflowed land which will improve the general sanitary condition of the community, relieve low wet or stagnant and unhealthful conditions, and protect the overflowed property – just as was sought to be achieved in the original proceedings to establish CD ##.”



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# Prevent Damage & Unauthorized Use

- If a drainage system has been obstructed, including by the installation of bridges or culverts of insufficient hydraulic capacity, the board shall direct the responsible party to remove the obstruction or show why the obstruction should not be removed. Minn. Stat. § 103E.075.
- Express authority is needed from the drainage authority having jurisdiction over a system before a private or public drainage system draining lands not assessed can be constructed.
- The drainage authority considers capacity of the receiving drainage system and, if permission is granted, must state the terms and conditions, including benefits & an outlet fee, by order.

Minn. Stat. § 103E.401.



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# Right-of-Way (Easement)

- The Establishment Order carries with it certain secondary rights needed to enable the Drainage Authority to carry out its statutory functions. In Minnesota, these rights are be described as secondary easements
- Every easement includes the implied right to do whatever is reasonably necessary in order to fully enjoy the easement itself. This implicit right is termed a secondary easement
- Secondary easements are so necessary to the exercise of other interests in the property as to constitute an essential part or element of those other interests
- The scope of a secondary easement is limited by reasonableness. Reasonableness has been interpreted to include ingress and egress and the maintenance of vegetation outside the physical footprint of the ditch or easement area



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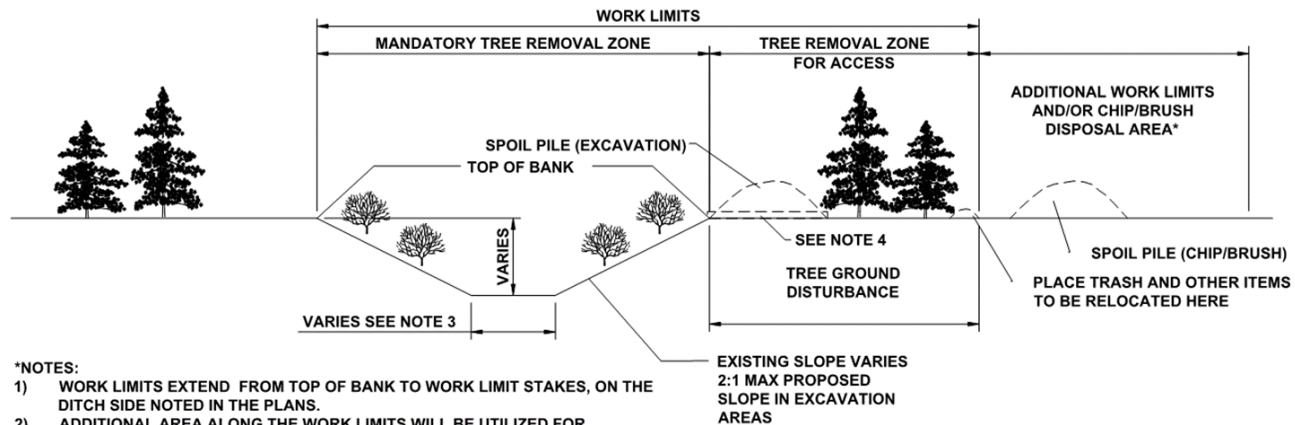
# Right-of-Way (Easement)

- Maintenance or repair of a drainage system does not usually involve an award of damages since a repair will not affect the land through which the ditch flows other than the damage occasioned by the original establishment of the ditch for which the landowners presumably were fully compensated at the time of establishment. Johnson v. Steele Cty., 240 Minn. 154, 158, 60 N.W.2d 32, 36 (1953).
- Repair may include resloping ditches, incorporating multistage ditch cross-section, leveling spoil banks, installing erosion control, or removing trees. The drainage authority must appoint viewers to assess and report on damages and benefits if it determines that the resloping, incorporation of a multistage ditch cross-section, spoil bank leveling, installation of erosion control measures, or tree removal **will require the taking of any property not contemplated and included in the proceeding for the establishment or subsequent improvement of the drainage system**



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**\*NOTES:**

- 1) WORK LIMITS EXTEND FROM TOP OF BANK TO WORK LIMIT STAKES, ON THE DITCH SIDE NOTED IN THE PLANS.
- 2) ADDITIONAL AREA ALONG THE WORK LIMITS WILL BE UTILIZED FOR ADDITIONAL WORK LIMITS AND DISPOSAL OF CHIPS AND BRUSH WHERE APPROVED BY ENGINEER.
- 3) MATCH EXISTING OR EXCAVATE ACCORDING TO BOTTOM WIDTH TABLES
- 4) LEAVE SIDE INLET SWALE OR INSTALL SIDE INLET PIPE IN LOW AREAS TO PROVIDE DRAINAGE AND AS DIRECTED BY ENGINEER

EXISTING SLOPE VARIES  
2:1 MAX PROPOSED  
SLOPE IN EXCAVATION  
AREAS

**DITCH CORRIDOR "WORK LIMITS"**  
NOT TO SCALE

# Manage Records (103E.101)

- All maps, plats, charts, drawings, plans, specifications, and other documents that have been filed, received in evidence, or used in connection with a drainage proceeding or construction are subject to the provisions on public records in section [15.17](#).
- The auditor or secretary shall keep all orders, exhibits, maps, charts, profiles, plats, plans, specifications, and records of the proceedings. These records may not be removed except when the board makes a written order to remove them. The auditor or secretary shall keep an accurate index of the proceedings and related documents in a readily usable, resilient, and secure manner.
- All original plats, profiles, records, and field books made by the engineer during the proceedings or the construction of a drainage project are public records and the property of the drainage authority. These public records must be filed with the auditor or secretary under the direction of the drainage authority when construction is completed or when the engineer stops acting for the drainage project, whichever is earlier.



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# Reestablishing Records (103E.101, subd. 4a)

- If, after thorough investigation of drainage system records, a drainage authority finds that records establishing the alignment, cross-section, profile, or right-of-way of a drainage system that it administers are lost, destroyed, or otherwise incomplete, it may, by order, reestablish records defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; or right-of-way of the drainage system as originally constructed or subsequently improved in accordance with this chapter.



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# Reestablishing Records

- Record reestablishment was added to the drainage code to resolve problems created by gaps of information ordinarily maintained in the drainage system record.
- These gaps might include lost, missing or destroyed records, or required records that were never created in the establishment or subsequent improvement of a drainage system.
- Most valuable of drainage system record information is the as-built profile or configuration of the drainage system.
- In In re Petition of Zimmer, 359 N.W.2d 266, the Supreme Court ruled that repair must rest on the as-built profile rather than a design plan. This decision, interpreting the drainage code's definition of repair, resulted in the inclusion of the repair grade confirmation process for repairs affecting public waters currently found in § 103E.701, subd. 2 (see § 106A.701, subd. 1a (laws 1987, c. 239, sec. 123 (HF 1078))).



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# Enabling Environmental Sustainability

- Notwithstanding other provisions of this chapter, a drainage authority may accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purposes of wetland preservation or restoration or creation of water quality improvements or flood control. The sources of funding authorized under this subdivision may also be used outside the benefited area but must be within the watershed of the drainage system. (103E.011, subd. 4)
- Repair of a drainage system may include the preservation, restoration, or enhancement of wetlands; wetland replacement under section 103G.222; the realignment of a drainage system to prevent drainage of a wetland; and the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality. (103E.701, subd. 6)



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# State Water Policy (M.S. ch. 103A)

- Subject to existing rights, public waters are subject to the control of the state.
- The state shall control and supervise activity that changes or will change the course, current, or cross section of public waters. Minn. Stat. § 103A.201.
- It is in the public interest to preserve the wetlands of the state to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, enhance the natural beauty of the landscape, and promote comprehensive and total water management planning. Minn. Stat. § 103A.202.



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# State Water Policy (M.S. ch. 103A)

The water law of this state is contained in many statutes that must be considered as a whole to systematically administer water policy for the public welfare. Water law that seems contradictory as applied to a specific proceeding creates a need for a forum where the public interest conflicts involved can be presented and, by consideration of the whole body of water law, the controlling policy can be determined and apparent inconsistencies resolved. Minn. Stat. § 103A.211.



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# Drainage Code Requirements

In any proceeding to establish a drainage project, or in the construction or repair of or other work affecting a public drainage system under any law, the drainage authority or other authority having jurisdiction over the proceeding must give proper consideration to 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** in determining whether the project will be of public utility, benefit, or welfare. Minn. Stat. § 103E.015, subd. 2.



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# Environmental Considerations

Before establishing a drainage project, the drainage authority must consider each of the following criteria:

- private and public benefits and costs of the proposed drainage project;
- alternative measures, including measures identified in applicable state-approved and locally adopted water management plans, to:
  - conserve, allocate, and use drainage waters for agriculture, stream flow augmentation, or other beneficial uses;
  - reduce downstream peak flows and flooding;
  - provide adequate drainage system capacity;
  - reduce erosion and sedimentation; and
  - protect or improve water quality.



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# Environmental Considerations

- the present and anticipated land use within the drainage project or system, including compatibility of the project with local land use plans;
- current and potential flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events, including adequacy of the outlet for the drainage project;
- the effects of the proposed drainage project on wetlands; water quality; fish and wildlife resources; shallow groundwater availability, distribution, and use; and
- the overall environmental impact of all the above criteria.



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# Environmental Policy: M.S. ch. 116D

- Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. Minnesota Ctr. for Env'tl. Advocacy v. Big Stone Cty. Bd. of Comm'rs, 638 N.W.2d 198, 203 (Minn. Ct. App. 2002) (affirming district court reversal of MEPA negative declaration).
- Coon Creek Watershed Dist. v. State Env'tl. Quality Bd., 315 N.W.2d 604, 605 (Minn. 1982) (while the [drainage authority] is required to make necessary repairs, we disagree that the repair project is thereby exempt from the EPA. The requirement of an EIS does not preclude the repair but merely ensures that the environmental effects will be considered and that the repair will be done in the least harmful way”).



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# Environmental Policy: M.S. ch. 116D

MEPA least impact requirements (Minn. Stat. § 116D.04, subd. 6)

- No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction.
- Economic considerations alone shall not justify such conduct.
- The least impact requirement directly connects to the alternative consideration requirements described above.



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# Court Perspectives

Generally “the question of the necessity and propriety of proceedings of this character, including the necessity and propriety of draining particular tracts of land, is one that is addressed to the judgment and discretion of the tribunal having jurisdiction of the matter, whose conclusions will be disturbed by the courts only when the evidence, taken as a whole, furnishes no legal basis for the decision of such tribunal.” In re Judicial Ditch No. 10, 156 Minn. 392, 394, 194 N.W. 875, 875 (1923).

“[I]n matters involving construction and improvement of drainage facilities a substantial amount of discretion must of necessity remain with the county board or other governmental entity having jurisdiction over the matter.” In re County Ditch No. 13, 289 Minn. 108, 110, 182 N.W.2d 715, 716 (Minn. 1971), *overruled in part by* Schwarzman v. Reinhart, 296 Minn. 340, 345, 210 N.W.2d 33, 36 (1973).



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# Court Perspectives

“[N]othing in the statutory scheme governing ditch maintenance limits the county’s discretion to the outset of a repair project.” Slama v. Pine County, A07-1091, 2008 WL 1972914, at \*4 (Minn. Ct. App. May 6, 2008) (unpublished opinion).

The Drainage Authority has a wide discretion when deciding whether to order repairs. Minn. Stat. § 103E.705, subd. 3 (“The board shall consider the drainage inspection report at its next meeting and may repair all or any part of the drainage system as provided under this chapter.”), *See also* In re County Ditch No. 13, Pope Cty., 308 Minn. 138, 142 (1976) (“the county board must have discretion to authorize abandonment of a ditch where it has ceased to function as intended and restoration is not practical.”).



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# Environmental Review

- Minnesota Rules 4410.4300 (Mandatory EAWs)
  - An EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 37, unless the project meets or exceeds any thresholds of part 4410.4400, in which case an EIS must be prepared.
- Subp. 27. Wetlands and public waters.
  - For projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland **except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G**, the local government unit shall be the RGU.



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# Environmental Review

- Minnesota Rules 4410.4400 (Mandatory EISs)
  - An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25
- Subp. 20. Wetlands and public waters.
  - For projects that will **eliminate** a public water or public waters wetland, the local government unit shall be the RGU



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# Environmental Review Exemptions

- Minnesota Rules 4410.4600 (Exemptions)
  - Projects within subparts 2 and 26 are exempt from parts 4410.0200 to 4410.6500. Projects within subparts 3 to 25 and 27 are exempt from parts 4410.0200 to 4410.6500, unless they have characteristics which meet or exceed any of the thresholds specified in part 4410.4300 or 4410.4400.
- Subp. 17. Ditch maintenance or repair.
  - Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed within 20 years of construction or major repair, is exempt.



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# Environmental Policy: M.S. ch. 116B

## Minnesota Environmental Rights Act (MERA) Intervention

In any administrative, licensing, or other similar proceeding, and in any action for judicial review thereof which is made available by law, any natural person residing within the state, the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, or any partnership, corporation, association, organization or other legal entity having shareholders, members, partners, or employees residing within the state shall be permitted to intervene as a party upon the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct that has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.

Minn. Stat. § 116B.09, subd. 1



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# Environmental Policy: M.S. ch. 116B

## Minnesota Environmental Rights Act (MERA) Grounds

- The agency shall consider the alleged impairment, pollution, or destruction of the air, water, land, or other natural resources located within the state and no conduct shall be authorized or approved which does, or is likely to have such effect so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

Minn. Stat. § 116B.09, subd. 2.



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# QUESTIONS

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