



Drainage System Repair and Maintenance Policy

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The purpose of this policy is to clarify the procedures for repair, maintenance and the determination of benefits and damages related to public drainage. Benefitted owners that own the ditch systems have the lawful right to have these drainage systems maintained. These benefitted lands and their owners have paid for the construction and maintenance of the system without public funds. State statute allows some outside funds to be used for flood control and environmental purposes only, as provided in 103E.011

This policy will be reviewed on a regular basis and the most current document will be posted on our county website at : www.wasecacounty.gov/500/public-drainage-ditches-buffers

This policy is intended to supplement Minn. Stat. Ch. 103E to streamline the administrative processes within Waseca County regarding inspections, maintenance, repairs, and operation of public drainage systems in Waseca County. This policy shall not apply to any “Joint Drainage System” (i.e., multi-county drainage system), unless specifically adopted by the applicable Joint Drainage Authority. If there are any discrepancies between this policy and Minn. Stat. Ch. 103E, the statutes shall govern.

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General Information:

Minn. Stat. ch. 103E regulates the repair of drainage systems. Repair is defined in Minn. Stat. § 103E.701 subd. 1:

[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 resloping of ditches and leveling of spoil banks if necessary to prevent further deterioration, realignment to original construction if necessary to restore the effectiveness of the drainage system, and routine operation that may be required to remove obstruction and maintain the efficiency of the drainage system.

'Repair' also includes:

- (1) Incidental straightening of a tile system resulting from the tile-laying technology used to replace tiles; and
- (2) Replacement of tiles with the next larger size that is readily available, if the original size is not readily available.
- (3) Subsidence of peat ground or erosion may expose tile lines or reduce the cover to the point where tile lines are being damaged by normal agricultural activities. Replacing tile deeper than originally installed is considered an improvement and will rarely be done and then only under specific conditions. If more cover is necessary to protect the tile it is preferable, when practicable, to realign the tile short distances into side hills nearly as practicable to the original alignment. The following conditions must be met before the Waseca County Drainage Authority will allow a tile line to be realigned or replaced at a lower depth than originally constructed:

A. The tile must be in a state of disrepair to the point a Drainage Inspector appointed by the Drainage Authority or Certified Engineer appointed by the Drainage Authority for the purpose of examining the drainage system in question, files a written report to the Drainage Authority stating the tile line must be replaced to maintain the efficiency of the drainage system.

B. Subsidence or erosion must have occurred during normal agricultural practices.

C. Replacing the tile at its original location and depth will result in a situation where damage by normal agricultural practices is likely to occur.

D. The realignment or replacement of the tile at a lower depth will not result in additional lands being drained.

E. The realignment or replacement of the tile at a lower depth should not give landowners the ability to increase the efficiency of their private tile beyond the tile's original construction.

F. The Drainage Authority must consider the total cost of the repair and whether or not the repair is in the best interest of the drainage system.

All decisions regarding repairs to the public drainage systems are the responsibility of the Drainage Authority and shall only be delegated as consistent with this policy. In Waseca County, the Drainage Authority consists of all five county commissioners serving on the Board of Commissioners (“Board”). Once a drainage system is established, the Drainage Authority has an affirmative duty to maintain the system and any required permanent strips of perennial vegetation acquired under ch. 103E. The drainage systems are to be inspected on a regular basis.

Definitions:

Drainage System: A public drainage system managed by the County or a Joint County Drainage Authority including County, Judicial and Joint Ditches.

Drainage Authority: The Waseca County Board of Commissioners.

Drainage Authority on Joint Drainage Ditches: Five (5) members chosen from a joint meeting of the counties involved in the drainage system will meet annually. This authority cannot delegate its statutory responsibilities to landowners and shall not approve any action in violation of Minnesota law regardless of the percentage of landowners requesting a particular action.

Drainage Inspector: A person, other than a County Commissioner, appointed by the Drainage Authority to examine drainage systems pursuant to Minnesota Statute 130E.065

County Administrator: The County Administrator has oversight of all financial books and records of County Ditches. The Administrator becomes an informational resource for the ditch authority, engineers and others who have an interest in county ditches. The Administrator’s office is responsible for all drainage records and for the preservation of all drainage records.

Repair: Any activity that maintains a ditch in, or restores a ditch to, the state it was constructed. All decisions regarding repairs to public drainage systems are the responsibility of the entire Drainage Authority.

Improvement: Any work on or within a drainage system that lowers the original ditch or drain tile elevation or increases the original capacity of a ditch or drain tile.

Drainage Records Modernization:

The conversion of paper, Mylar and other types of hard copy documents and maps to digital format greatly reduces the need for handling of the originals, and potentially the need to retain them.

The digitization of drainage records provides an archived copy of all original documents and maps, preventing the loss of these historical legal documents (with proper electronic backup)

The ability to share greater amounts of information more readily and efficiently with landowners, auditors, engineers, viewers and others involved in drainage system administration.

The accessibility and ease of printing of electronic documents enables more efficient information sharing among the county staff involved in drainage administration.

Digitized layers can readily be loaded onto laptops or handheld GPS equipment with mapping capability, and taken into the field.

A website format where drainage records will be available to the public could be a valuable tool for benefits discussions, government transparency, public relations and accountability.

The need to gather and modernize these records is important in order to preserve historical legal documents and enable more efficient drainage system administration. Some documents and maps are more than 100 years old and are falling apart. The material they were printed on can crack, break or tear after many years of being rolled up or stored. The need to convert these paper and Mylar maps to a digital format is the first step in an important process of preserving these documents and making them easily accessible.

1). Inspection Policy

The Drainage Inspector will be responsible for ensuring drainage systems are inspected on a regular basis, at least once every five years. If a violation of the permanent strip of perennial vegetation requirement in § 103E.021 is found, the drainage system will be inspected annually at the location where the violation occurred until one year after the violation is corrected. As used in this section, a violation occurs if there is less permanent growth of perennial vegetation at the time of inspection than the width lawfully acquired and established consistent with ch. 103E.

Given the nature of the inspection duties and emergency responses outside of normal business hours of the County, the Drainage Inspector will be allowed to take a County vehicle and equipment home to better respond to issues that arise outside of normal business hours. The vehicle and equipment shall be kept in a secure location that is authorized by the Drainage Authority and the County Administrator.

Open ditches shall be inspected for obstructions that impede water, such as trees, beaver dams, and other foreign or natural debris. Inspection under this section does not require, nor rely upon, any hydrologic or hydraulic engineering.

Covered drainage systems shall be visually inspected at the outlet and each inlet point for clogs or obstructions. The surface path of the covered drainage system shall also be visually inspected for blow-out points. An inspection pass does not require, nor rely upon, televising the pipe unless deemed necessary by the Drainage Inspector

Inspection Reports

A written report of each drainage system inspection shall be created by the Drainage Inspector and become part of the drainage system record. The report shall list the location and nature of any necessary maintenance, repairs, and violations of the permanent strip of perennial vegetation requirement in Minn. Stat. § 103E.021 found at the time of inspection. The Drainage Inspector shall include an estimated cost of the necessary repairs or maintenance on the report. When maintenance or repairs are warranted and authorized pursuant to this policy, the Drainage Inspector shall make inspections of the work in progress and a final inspection after the work has been completed to ensure the maintenance and repairs have been made in a satisfactory manner. The Drainage Inspector shall submit the written inspection reports to the Board to be reviewed and ratified annually.

Procedures to Initiate Repairs

There are two methods used to initiate a repair to a drainage system and grass strip:

- (1) Repairs based on inspection.
- (2) Repairs by petition.

2.) Private Crossing Repair, Improvement, Installation & Removal

Private crossings currently existing on drainage systems may or may not have been constructed as part of the drainage system. Upon a request to repair or improve an existing crossing, the Drainage Inspector shall first determine:

- (1) Whether the crossing was established as part of the drainage system;
- (2) Whether the crossing constitutes an obstruction of the drainage system; and
- (3) Whether the crossing could be eliminated by consolidation.

Crossings Established as Part of the Drainage System

If the Drainage Inspector determines the crossing was established as part of the drainage system, the Drainage Inspector shall investigate the request to repair, replace, or improve the crossing. There are many areas in the county where tracts of land would be land-locked if not for the installation of culvert crossings over open drainage ditch. Existing crossings may be too narrow to accommodate modern farm equipment or have deteriorated pipe materials. Older crossings with reinforced concrete pipe (RCP) may consist of multiple sections of pipe, which were not tied together. This leads to separation over time and, potentially, failure of the crossing. In relation to these issues, the following policies pertain:

- (a) It is at the discretion of the drainage inspector to utilize the existing culvert or replace with material of the same or better quality than the original.
- (b) The standard length culvert supplied by the drainage system shall be 50 feet of pipe. If additional pipe is required for the purpose of construction or safety, the landowner shall be responsible for all related costs.
- (c) Each crossing shall be allowed 24 cubic yards of rip rap for armoring the ends of the pipe and driveway embankment.
- (d) On RCP crossings that require only that sections be tied and/or relayed to grade to make the crossing useable, the drainage system will pay for labor to perform such work. The Drainage Inspector will arrange for and observe this work to ensure the crossing does not present an obstruction to the hydraulic capacity of the drainage system.
- (e) Where landowners/operators wish to add sections of RCP and widen the crossing, the landowner/operator may be responsible for all related costs. The work must be coordinated through the Drainage Inspector so that the Drainage Inspector may observe the work. The Drainage Inspector will inspect the work post-installation to ensure the crossing does not present an obstruction to the hydraulic capacity of the drainage system.

Increasing the width or capacity of an existing crossing or culvert that is part of the drainage system may be an improvement, and not a repair, and must only be approved under the procedures for an improvement in Minnesota Statutes, ch. 103E.

The Drainage Authority reserves the right to use alternative measures to maintain a landowner's right of access, including but not limited to, replacement of a bridge or culvert with another suitable material, or obtaining an alternative legal right-of-way.

A landowner wishing to remove a private field crossing constructed as part of the drainage system must submit a written request and receive permission from the Drainage Inspector prior to removal. As a condition to the permission authorizing removal of the crossing or culvert, the landowner must execute and record a Field Crossing Removal Agreement on the property to acknowledge that the crossing or culvert shall no longer be part of the drainage system and releasing the Drainage Authority of any obligation to maintain or reconstruct the private crossing.

A sample of the Field Crossing Removal Agreement is attached to this policy as APPENDIX A.

Crossings Not Constructed as Part of the Drainage System

If the Drainage Inspector determines the crossing is not part of the drainage system and constitutes an obstruction, the Drainage Inspector shall make a report and present such findings to the Board. If the Board determines that the drainage system has been obstructed, including by the installation of bridges or culverts of insufficient capacity, the Board shall notify the person or public authority responsible for the obstruction as soon as possible and direct the responsible party to remove the obstruction or show the Board why the obstruction should not be removed. The Board shall set a time and location in the notice for the responsible person to appear before the Board.

A landowner wishing to repair, construct, or modify a private crossing or culvert over a drainage system must submit a written request and receive permission from the Drainage Inspector prior to repair, construction, or modification in accordance with the terms of this section. The Drainage Inspector shall set the width, depth, and size of the crossing or culvert and shall inspect the crossing or culvert after construction. The Drainage Inspector may seek the advice of a licensed engineer to determine if the proposed crossing or culvert will impair the hydraulic capacity of drainage system. The landowner shall be responsible for the costs of design, including engineers' costs, if necessary, and all other costs incurred by the Drainage Authority as a result of the private crossing request. Private crossings not built as part of the drainage system are the responsibility of the landowner. If a private crossing not built as part of the drainage system must be removed or repaired by the Drainage Authority, the costs may be charged to the landowner.

In addition, the landowner must observe the following requirements:

- (a) All costs incurred by the Drainage Authority in repairing an existing culvert or crossing, installing an additional culvert, or in widening or extending the crossing or culvert must be paid by the landowners requesting the repair or improvement.
- (b) Any new culvert must be bedded properly and installed at the as constructed and subsequently improved elevation of the drainage system.
- (c) All materials used in the installation must be of the same or better quality than the original construction.
- (d) The flow under the crossing or through the culvert, to the extent practicable, must remain the same as the original flow characteristics.
- (e) The landowner responsible for constructing the crossing or culvert shall be responsible for all repairs or maintenance caused by improper installation.

- (f) If at some future date an extended crossing or culvert is replaced as a repair, the landowners shall be responsible for replacement of the extended portion of the crossing or culvert.
- (g) As a condition to the permission authorizing installation of the crossing or culvert, the landowner must execute and record a restriction on the property to acknowledge that the crossing or culvert shall not be part of the drainage system and subjecting the property, and any additional real estate added thereto, to ongoing operations and maintenance of the culvert.

A sample of the restriction is attached to this policy as APPENDIX B.

The Drainage Authority reserves the right to remove, at the landowner's expense, any improperly constructed crossing or culvert, extension of a crossing or culvert, or any crossing or culvert installed without prior approval from the Drainage Inspector. The Drainage Authority has no obligation to grant permission for installing or modifying a crossing or culvert. To the extent possible, the Drainage Authority will require the consolidation of crossings and culverts.

3.) Highway Bridges and Culverts

Pursuant to Minn. Stat. § 103E.701, subd. 4(a) & 103E.525, subd. 2, highway bridges and culverts constructed on a drainage system established on or after March 25, 1947 must be maintained by the road authority charged with the duty of maintenance.

4.) Drop Inlet Structures

The Drainage Authority desires to promote erosion control measures within the drainage system to reduce the frequency and cost of ditch repairs. At the discretion of the Drainage Authority, the Drainage Authority will provide a drop inlet structure, 40 feet of plastic dual wall pipe, through the open channel bank wall at locations where preexisting erosion problems are present and have been documented. Equipment, any other required materials, and labor expenses will also be paid by the Drainage System. Any additional materials requested by the landowner shall be the responsibility of the landowner. The Drainage Authority will work with local agencies to use available cost share programs.

5.) Private Outlet Pipe

A property owner who has a private tile system that brings sub-surface water drainage into the Drainage System shall be solely responsible for the installation of, and the payment for, an adequate outlet into the Public Drainage System. Tile System Inlet/Outlet: All tile system outlets entering the open ditch must require a connection notification and must be dual wall non-perforated plastic pipe.

The owner of the failed outlet pipe shall be responsible for all installation cost of the new pipe. Owners of private tile outlets that fail to repair within 90 days of notification will pay all costs of repairs if the drainage authority makes the repair on behalf of the owner/operator.

6.) Field (tile) Intakes

Public drainage system funds will not be used to install or make repairs to field tile intakes.

7.) Repair Projects

Maintenance and repair costs may be paid for with the maintenance funds established by the Board for the drainage system. If a maintenance or repair cost exceeds the allocated fund amount, the outstanding balance may be assessed the following year. The assessed amounts will be in addition to any assessments that are necessary to replace the maintenance fund.

Tile repairs consist of repairing washouts, outlet pipes, and segments of tile which have been plugged or have collapsed. Generally, the replacement of tile segments should parallel the original alignment of the tile system. Tile should be replaced with regard to existing hydraulic capacity, as significant increases in capacity are considered an improvement of the original drainage system. However, Minn. Stat. § 103E.701 does allow replacement of obsolete tile sizes with the next largest (available) size. The type of tile material used should also be considered with regard to depth of cover available, grade, location of trees, and soil type.

Repair Authorization

Maintenance and repairs may be requested by benefited landowners of the drainage system to the Drainage Inspector. The Drainage Inspector shall inspect the area where maintenance or repair is requested, shall document the inspection by creating an Inspection Report conforming to the requirements in Section 1.) of this policy, and shall categorize the request as “minor maintenance” or “major repairs.” “Minor maintenance” is any repair estimated to cost less than \$40,000. “Major repair” is any repair estimated to cost \$40,000 or more.”

Minor maintenance will be done on a request basis at the discretion of the Drainage Inspector. When minor maintenance is warranted and authorized pursuant to this policy, the Drainage Inspector shall make inspections of the work in progress and a final inspection after the work has been completed to ensure the maintenance has been made in a satisfactory manner. The Drainage Inspector shall submit all final Inspection Reports to the Board to be reviewed and ratified annually.

Repairs costing \$40,000 or more shall be brought to the full Drainage Authority for approval before any work is done. In the case of an emergency maintenance or repair costing \$40,000 or more, the Drainage Inspector may seek approval from the commissioner of the district where the work is being done to proceed, and later seek Drainage Authority ratification of the repair.

Notwithstanding the foregoing, maintenance or repairs that cost more than the greater of:

- (a) 20 percent of the benefits of the drainage system;
- (b) \$1,000 per mile of open ditch in the ditch system; or
- (c) The dollar amount requiring the solicitation of sealed bids under Mnn. Stat. § 471.345, subd. 3 must be submitted to the Drainage Authority by petition under the procedures laid out in Minn. Stat. § 103E.715.

A sample petition for repair is attached to this policy as APPENDIX C.

Scope of Work

All maintenance and repair requests will be reviewed to determine the appropriate limits of work that will return the drainage system to proper operating condition. Accordingly, work may extend downstream and upstream of an area that a request for repair occurs.

For maintenance or repairs initiated by the public, by the Drainage Inspector through an Inspection Report, or the Drainage Authority, the following rules will apply:

- (a) Maintenance or Repairs costing less than \$40,000. Maintenance or repairs which are estimated to cost less than \$40,000 may be completed by hiring labor through direct negotiation.
- (b) Maintenance or Repairs costing more than \$40,000 but less than \$175,000. For maintenance or repairs which are estimated to cost more than \$40,000 but less than the amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, the Drainage Authority may give notice of and hold a hearing on the repair levy before ordering the levy of an assessment for repairs. At its discretion, the Drainage Authority may provide formal notice to all benefited landowners and hold a public hearing, or the Drainage Authority may elect to direct the Drainage Inspector to organize an informal gathering of landowners to explain the details of the proposed maintenance or repair. After the hearing or informal meeting, the Drainage Inspector will prepare a proposal describing the work proposed and will solicit price quotes for the work from two or more contractors deemed capable of performing the work (based on past performance, familiarity, and judgement). Quotes will be reviewed at and considered for approval by the Drainage Authority at its next Meeting.
- (c) Sealed bids shall be solicited by public notice for repairs estimated to cost more than the dollar amount requiring the solicitation of sealed bids under Minn. Stat. § 471.345, subd.3. The opened bids will be reviewed and a successful bidder selected at a Drainage Authority meeting.

Informational/Policy Letter

To provide the public with information regarding ongoing construction in their area, an informational letter may be sent to landowners on a particular drainage system by the Drainage Inspector. This letter is usually specific to the ditch being repaired, which explains the estimated starting date, name of contractor, and description of the work being performed.

8.) Vegetation Control

The intent of vegetation control is primarily to prevent growth of any type of tree, brush, non-herbaceous vegetation or noxious weed within the ditch or its right-of-way as a method to reduce the frequency and cost of future maintenance and repairs. The Drainage Inspector may conduct an annual review of County Ditch Systems and after review will present a spraying program to the Drainage Authority for approval if the cost of spraying is greater than \$40,000.

Approved Chemicals

Any application of pesticide to a drainage system must be performed by a person certified by the Minnesota Department of Agriculture. This applies to contracted pesticide applicators, employees of the County, and landowners/operators spraying portions of the ditch adjacent to their property. The law requires that certified applicators are used anytime a “restricted use product” is applied, which encompasses most pesticides. Use of certified applicators also helps to ensure that the applicator is properly trained in selecting the appropriate pesticide, proper application of pesticides, and other protection measures. Certification also requires that the applicator be insured or bonded.

In addition to state certification, applicators should explicitly agree to comply with Minnesota Statutes, chapter 18B and all other laws and regulations. Specifically, an applicator should agree to apply the pesticide only in accordance with its label and in a manner that does not endanger the public, crops, livestock, or wildlife. The applicator should also agree not to fill containers directly from a public water or rinse containers in public water.

Only Minnesota Department of Ag approved chemicals will be applied to eliminate trees and brush within the ditch bank and within the 16.5 foot right-of-way. If a landowner sprays any of their own ditch with the drainage system, they also must use only approved chemicals for such an application.

Tree Growth

No person shall plant trees within the right-of-way of a drainage system or the permanent, perennial, vegetative buffer lawfully acquired and established through drainage proceedings.

No person shall plant trees within the easement area or right-of-way lawfully acquired and established on each side of the center line of a drainage tile line or open ditch.

Tree Removal

Trees that need to be removed from a drainage system will be removed in a manner that will reduce erosion. Trees will be piled, burned, and buried when dry.

The landowner may have the option to remove all trees and brush in a drainage system right-of-way, for wood, at the landowner's own expense and liability if the landowner notifies the Drainage Inspector of such request before maintenance or a repair contract is awarded. Landowners shall be liable for damage caused to the public drainage system by removal of trees and brush in the drainage system's right-of-way. If, upon inspection, the removal of the trees and brush is not performed to the Drainage Inspector's satisfaction, the Drainage Inspector may order the physical removal of trees or brush or that chemical applications be utilized.

Mowing

The Board or Drainage Inspector may, if cost effective, consider using a mower to control weeds along a drainage system to prevent possible contamination of the water from spray. Mechanical removal of vegetation within the ditch system shall be kept to a minimum amount of material to facilitate water movement.

9.) Beaver Dam Removal

When beaver dams are reported or discovered, a trapper will be retained to remove the problem beaver. In order to be compensated, trappers will be responsible for providing the Drainage Inspector with the number of beaver trapped, along with their tails and documented information about where they were trapped. It is the trapper's responsibility to contact the DNR for appropriate approval for trapping beavers out of season, and to retain a valid trapper's license. The Drainage Authority will annually set the rate of payment for the removal of beaver. After the beaver have been removed, the Drainage Inspector may hire a contractor to remove the beaver dam(s) by mechanical means, if possible.

10.) Additional Drainage by Using Ditches and New Tile

Adding Drainage within the Drainage System

Landowners on the benefited property list are allowed to add drainage to the system from any acres that have been assessed benefits. It is the landowner's responsibility to find out if there are other rules or permits needed in their watershed.

Adding Drainage from Outside the Drainage System

Minn. Stat. ch. 103E prohibits any person from using a public drainage system as an outlet to drain land that is outside of the benefited area without first obtaining expression permission from the Drainage Authority by filing a petition under Minn. Stat. § 103E.401. A municipality wishing to bring water into a drainage system can also petition for an outlet in accordance with Minn. Stat. § 103E.411.

11.) Drainage System Improvements

All improvements to a drainage system or drainage system outlet will follow Minn. Stat. §§ 103E.215 or 103E.221. Signed petitions and bonds will be required per Minn. Stat. § 103E.202. Petitioners will be required to pay all costs and expenses that may be incurred if the improvement proceedings are dismissed. Petitioners may be asked or directed by the Drainage Authority, to partake in early coordination with agencies that comment on the Preliminary and Final Engineers Report.

12.) Removal of Property or Abandonment

Removal of property from the benefited area of drainage system, partial abandonment, or abandonment a drainage system will follow Minn. Stat. §§ 103E.805, 103E.806, or 103E.811. If the property is removed from the system, it shall not be liable for future repairs or improvements of the drainage system. The order removing property from a drainage system does not discharge the property's liability for existing drainage liens or from costs incurred on account of the drainage system before the date of the order.

13.) Drainage System Repair Funds

Pursuant to Minn. Stat. § 103E.735, the Drainage Authority may establish a maintenance repair fund for each of the drainage systems. The repair fund for each of the drainage systems may not exceed 20% of the most recent benefit determination, or \$100,000, whichever is greater. The Drainage Authority will be responsible for maintaining a reasonable balance in each account to allow for the payment of most repairs without borrowing funds from another account. The Drainage Inspector, in consultation with Auditor-Treasurer, will recommend annual assessments to the Drainage Authority for each drainage system. If land has drainage system benefits when it is sold and is assessed into the drainage system, the purchaser, even if it is a government entity or State or Federal Government, will be responsible for paying future assessments to the extent allowed by law.

14.) Permanent Strips of Perennial Vegetation

The Drainage Authority will follow the guidelines laid out in Minn. Stat. § 103E.021 in regard to permanent grass strips. In cases where Minn. Stat. § 103E.021 does not apply, the County will follow the Waseca County Buffer Ordinance. The Drainage inspector will fulfill inspection and compliance duties under Minnesota Statutes, section 103F.48 every three years.

15.) Miscellaneous Drainage System Issues

Municipal use of a Public Drainage System

Municipalities are encouraged to request transfer of all or part of a Drainage System being used for municipal drainage to the Municipality. The laws regarding such transfers are found in Minnesota Statutes 103E.812. Municipalities using a Drainage System as an outlet must follow Minnesota Statutes found in 103E. No land within a municipality not already listed as benefiting from a drainage system may use a Drainage System without a petition under 103E.411.

Livestock

Livestock will not be allowed in a drainage ditch except to cross at approved locations. If livestock must cross a ditch, the preferred method is to have them cross at an installed crossing to prevent the livestock from entering the water. Livestock may be watered from a ditch but the access to the amount of ditch must be controlled. Livestock will be allowed to graze along the ditch banks for a short periods of time. Owners wishing to graze the spoils and slopes must contact the Drainage Inspector to work out a rotation for the livestock to be allowed to graze.

Manure and Feedlot Runoff

All manure and feedlot runoff will follow the regulations set in Waseca County Land Use Ordinance regarding Feedlot and Manure Management Regulations.

Fences

No permanent fence may be installed closer than 16.5 feet from the crown of the spoils. If a fence was installed prior to the adoption of this policy and that fence is within the right-of-way of the drainage system or within the permanent, perennial, vegetative buffer acquired by drainage proceedings, the Drainage Inspector may do one of the following:

- (a) Provide the contractor with authority to remove the fence during the next maintenance or repair in the area; or
- (b) Direct the landowner to install a gate that will provide contractors with access to the drainage system right-of-way, permanent strip of perennial vegetation, and adjacent parcels.
- (c) Fences that are constructed within the legal ditch right-of-way may be required, at times to be moved for maintenance operations.

Erosion-Pollution

If erosion areas are discovered, proper measures shall be taken to correct the problem. If erosion is discovered due to water entering the system over the spoil's bank, than a drop inlet pipe structure should be installed to drop water in the bottom of the ditch. See Drop Inlet Structures.

No Septic Systems will be allowed to discharge into a drainage system.

Rock and Debris

Rocks or debris will not be allowed to be dumped within the in-slope of a drainage ditch, or anywhere in the 16.5 foot buffer. Landowners will not be allowed to pile rock in the 16.5 foot buffer. The Drainage Authority shall have access to the entire system for repair and maintenance.

16.) Drainage System Finances

The drainage authority is responsible for establishing a ditch fund from which the payment of all costs and expenses in connection with a ditch are made. The County Auditor is required to maintain separate accounts for each ditch system within the county's financial system. The money from the collection of liens and assessments and interest thereon is deposited into each ditch's respective account.

Common Types of Costs:

- Routine Repairs – the drainage code makes repair of systems mandatory.
- Major Repairs – Normally, major repairs should be initiated by petition, should have an engineer report, and bids should be obtained.
- Flood Repair – Refer to Mn Statute 103E.011.
- Improvements – may include tiling, enlarging, expanding, straightening, or deepening of an established drainage system.
- Administrative Costs – legal fees, per diems, audit fees, inspection or engineering fees, and mileage.
- Interest – when funding is provided by an advance from the general fund (Interest rate to be set by the drainage authority)
- Allocated Costs – approximate the proportion of time or dollars spent by ditch that are not directly associated to any single ditch.
- Engineer and Viewers expenses.
- Board members may be paid a per diem incurred while employed in drainage proceedings or construction, or in the inspection of any drainage system if the board member is appointed to a committee for that purpose.
- The cost of the petitioner's bond.

Drainage System Assessments

The Drainage Authority shall meet annually to discuss future maintenance and repairs, and to evaluate any necessary assessments to be imposed. The Drainage Inspector, in coordination with the Auditor-Treasurer, will arrange the meeting and distribute any requisite notices.

The cost of any necessary large repairs will be evaluated and considered for purposes of determining the following year's assessment. Following the annual meeting and/or before the end of the current calendar year, the Drainage Inspector will work in coordination with the Auditor-Treasurer to prepare annual assessment recommendations for Drainage Authority approval, and work with the Finance Officer to schedule adoption of the following year's assessments.

The Auditor-Treasurer will assess all applicable parcels accordingly and post collected assessments to applicable parcels. The Auditor-Treasurer shall maintain all records of applicable parcels for each system, and balances in each account.

Insufficient Funds

Annually, Drainage staff will determine if any transfers are needed from the general fund to cover any negative drainage system fund balances and will provide the County Board with this information. The Board may transfer funds from the general fund to the applicable drainage system account(s). In

accordance with Minn. Stat. § 103E.655, the money transferred, plus interest, must be reimbursed from the proceeds of the drainage system account; the interest rate will be established by the Board. Following Board approval to transfer such funds, the Financial Officer will process the request. The motion shall include the full amount of the transfer requested, applicable interest rate, and term for repayment. These transfers should be processed and posted to ensure that drainage system accounts are not in a negative balance at year's end.

Drainage System Liens

If a loan made to a drainage system is expected to be paid back over the course of more than one year, or if bonds are issued for the payment of drainage system expenses, a lien may be considered. In such circumstances, the Auditor-Treasurer shall certify the drainage lien statement and record with the County Recorder on each tract of property. Before establishment and recording of the drainage lien statement, the Auditor-Treasurer shall provide notice to the affected landowners showing the total principal and interest due on each individual parcel, along with available options for pre-payment.

Each drainage lien shall include interest. The interest rate on a drainage lien must be set by the County Board, but may not exceed the rate determined by the state court administrator for judgments under Minn. Stat. § 549.09. The interest and installment due must be entered on the tax lists for the year.

After recording the drainage lien, the Auditor-Treasurer shall maintain a drainage lien record for each lien showing the amount of unpaid lien remaining on each parcel. Once a drainage lien with accumulated interest is paid, the Auditor-Treasurer shall issue a Certificate of Payment and record the certificate with the County Recorder. This may be done as a blanket drainage lien release for all parcels, or on an individual basis following a landowner request.

Reporting

The Finance Officer will send an Integrated Financial Systems (IFS) report of monthly activity on each drainage system account to the Drainage Inspector. The Auditor-Treasurer's Office shall maintain the ditch account balances and make account and loan balances available upon request.

17.) Apportioning Benefits after Subdivision of Land

Minn. Stat. § 103E.631 provides the process for a person who has an interest in property that has a drainage lien attached to petition the drainage authority to apportion the lien among specified portions of the tract when the principal and interest on the property is not in default. Occasionally, land benefited by a drainage system is proposed to be subdivided when no drainage lien is presently attached. Apportioning the benefits among specified portions of the tract concurrent with the tract being subdivided allows for the orderly and accurate levy of future maintenance and repair assessments. The following process will be utilized to apportion drainage liens and drainage benefits among specified portions of a tract.

- (1) When a tract of benefited land is proposed to be subdivided, the Auditor-Treasurer, with the assistance of the Drainage Inspector, and a third party of certified ditchviewers, will review the drainage system records and establish a new apportionment of benefits among specified portions of the tract that reasonably represents the benefits received by each portion of the

parcel. This apportionment of benefits will be based upon the most current benefit list for the drainage system in which the parcel is located.

Appendix A

FIELD CROSSING REMOVAL AGREEMENT

THIS AGREEMENT is made and entered into on this _____ day of _____, 20____, by _____, (the “Landowner”) and the Waseca County Board of Commissioners, acting as the drainage authority for Waseca County Ditch No. _____ (the “Drainage Authority”).

WHEREAS, Landowner is the owner of certain real property located in Waseca County, Minnesota, legally described in Exhibit A attached hereto together with all improvements thereon (collectively the “Property”); and

WHEREAS, Waseca County Ditch No. , a duly established and existing public drainage system established and operated under Minn. Stat. ch. 103E crosses the Property; and

WHEREAS, as part of the establishment of Waseca County Ditch No. , the Drainage Authority ordered construction of a crossing on the Property in the location generally depicted on Exhibit B attached hereto; and

WHEREAS, Landowner acknowledges the above described crossing no longer serves any useful purpose and is of no benefit to Landowner.

THEREFORE, the Landowner hereby authorizes the Drainage Authority to remove the crossing, at the Landowner’s expense. Landowner and their heirs, successors, or assigns furthermore agree to waive all future responsibility of the Drainage Authority to provide a crossing or alternative access to the Property. This Agreement shall become party of the Waseca County Ditch No. _____’s records and shall be filed with the Waseca County Recorder.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first set forth.

Appendix B

DECLARATION AND COVENANT

THIS DECLARATION is made in the County of Waseca, State of Minnesota, on this _____ day of _____, 20 _____, by _____, (the “Declarant”).

WHEREAS, Declarant is the owner of certain real property located in Waseca County, Minnesota, legally described in Exhibit A attached hereto together with all improvements thereon (collectively the “Property”); and

WHEREAS, Declarant has requested permission from the Waseca County Board of Commissioners, sitting as the drainage authority for _____ (the “ditch”), in Waseca County, in order to place a _____ culvert in the ditch to serve as a crossing point on the ditch; and

WHEREAS, the County has granted the permission requested conditioned upon and in consideration of the execution and recording of this Declaration and Covenant; and

WHEREAS, the culvert shall not become part of the ditch; and

WHEREAS, Declarant desires to acknowledge that the culvert shall not be part of the ditch by subjecting the Property, and any additional real estate added thereto to this Declaration to ensure that ongoing operations and maintenance of the culvert remain the responsibility of the Declarant, its successors in interest or assigns, and the Property.

THEREFORE, the Declarant undertakes and acknowledges the following restrictions to be placed upon and to run with the property:

- (1) The Declarant, its heirs, successors or assigns are responsible for maintenance of the culvert and keeping the culvert free from obstruction;
- (2) Should the Declarant, its heirs, successors or assigns fail to maintain or keep the culvert free from obstruction, the County may either remove the culvert and or repair or maintain the culvert, remove debris or obstruction from the culvert or perform other work necessary to ensure proper function of the ditch given the existence of the culvert;
- (3) The County may, in its discretion, abandon the crossing and consolidate it with another crossing on the ditch; and
- (4) The Property shall be subject to a tax lien for the cost of work undertaken by the County as described above.

Appendix C

STATE OF MINNESOTA
Before the
Waseca County Board of Commissioners
SITTING AS THE DRAINAGE AUTHORITY FOR
<NAME OF DRAINAGE SYSTEM>

In the Matter of:

Petition to Repair <Name of Drainage System>

PETITION

Pursuant to Minn. Stat. § 103E.715, Petitioners seek the repair of <Name of New Drainage System>. For their Petition, the undersigned Petitioners state and allege the following:

Findings:

1. Petitioners request repair of <name of drainage system> pursuant to Minn. Stat. § 103E.715.
2. <Name of drainage system> provides beneficial drainage to tracts, government lots and properties, township, county, and state roads and highways located in <Sections, Township, County, State>.
3. <Name of drainage system> is in need of repair. <Provide further comments about the need for repair to the drainage system>.
4. Repair of <name of drainage system> is necessary in order to restore the drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved and to maintain the efficiency of the drainage system.
5. <(1) The repair of <name of drainage system> is necessary for the best interests of the affected property owners; or (2)The repair petition is signed by the owners of at least 26 percent of the property area affected by and assessed for the original

construction of the drainage system. The repair of <name of drainage system> is needed because the drainage system no longer serves its original purpose. Petitioners request that the drainage authority investigate whether the current benefits or damages determined and on file for <name of drainage system> reflect reasonable present day land values or that the benefited or damaged areas have changed. If the drainage authority finds that the current benefits or damages determined and on file for <name of drainage system> do not reflect reasonable present day land values or that the benefited or damaged areas have changed, the Petitioners request that the drainage authority order a redetermination of benefits for <name of drainage system> concurrent with the repair.>

6. Petitioners request that the drainage authority appoint an engineer to examine the drainage system and make a repair report. The report must show the necessary repairs, the estimated cost of the repairs, and all details, plans, and specifications necessary to prepare and award a contract for the repairs.

7. This petition may be signed in counterparts.

Respectfully submitted this ____ day of _____, ____ by:

[Note: All signatories to the Petition must indicate the capacity in which they sign, i.e. owner, co-owner, corporate official, or government lot. In the case of a partnership, only one general partner needs sign. In the case of a corporation, only one corporate official need sign. In the case of co-ownership, all co-owners must sign. In the case of a trust, all trustees must sign. Be sure all signature blocks are fully completed. If you are unsure of whom must sign please contact the petitioner’s attorney.]

Owner Signature	Property Owned	Mailing Address	Dated
<p>_____</p> <p><Owner Name></p>	<p><Property Descriptions></p>	<p><Street Address></p> <p><City>, <State>, <Zip></p>	<p>_____</p>