

**Bois de Sioux Watershed District**  
**Expenses by Vendor Summary (No Employees)**  
April 17 through May 21, 2026

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	<u>Apr 17 - May 21, 26</u>
Bear Claw Farms, LLC	-240,691.20
Bennett Government Consulting, Inc.	2,000.00
BlueCross BlueShield MN	-0.01
BMO/Bank of the West	6.00
City of Wheaton	48.86
CliftonLarsonAllen LLP	2,835.00
Colin Kjesbo	-85,050.00
Grant County	-4,909.12
Greg Vold	-72,092.50
Homeland Security and Emergency Managemen	-29,128.01
HPS	122.22
Jon Duhme	-40,650.00
Larson Oil Company	217.00
MN PEIP	2,963.92
Northland Area Services	2,240.00
Old National	-1,257.76
Purchase Power	300.00
QuickBooks Payroll Service	20.00
RizzaMae Serino	209.33
Runestone Telecom Association	144.68
Spee Dee Delivery Service, Inc.	24.25
Star Bank	-217.76
Traverse County SWCD	384.75
Traverse Electric Cooperative Inc	71.61
Tri County Coop	159.72
Valley Office Products, Inc.	135.69
Veronica Touhey	26,095.08
Vestis	52.12
Willy's Super Valu	84.46
Xerox Corporation	310.19
<b>TOTAL</b>	<b>-435,571.48</b>

**Bois de Sioux Watershed District**  
**CHECKS TO APPROVE - VENDORS & EMPLOYEES**  
 April 17 through May 21, 2026

Date	Num	Type	Memo	Account	Class	Amount
<b>Bear Claw Farms, LLC</b>						
05/11/2026		Deposit	MOONSHINE #24-01	44000 · Land Rental Income	Construction Fund: Moonshine Project	36,051.60
05/11/2026		Deposit	REDPATH #26-03	44000 · Land Rental Income	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	94,009.60
05/11/2026		Deposit	REDPATH #26-04	44000 · Land Rental Income	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	110,630.00
Total Bear Claw Farms, LLC						240,691.20
<b>Bennett Government Consulting, Inc.</b>						
05/21/2026		Check	GOVERNMENT SERVICES CONTRACT-INV 1207	53200 · Miscellaneous Expenses	Administrative Fund: General Cash	-1,000.00
05/06/2026	3338	Check	GOVERNMENT SERVICES CONTRACT	53200 · Miscellaneous Expenses	Administrative Fund: General Cash	-1,000.00
Total Bennett Government Consulting, Inc.						-2,000.00
<b>BlueCross BlueShield MN</b>						
04/30/2026		Liability Check	2968870001	Health Insurance Expense	Administrative Fund: General Cash	7.67
05/18/2026		Liability Check	2968870001	Health Insurance Expense	Administrative Fund: General Cash	7.67
05/11/2026	3341	Check	2968870001	Health Insurance Expense	Administrative Fund: General Cash	-15.33
Total BlueCross BlueShield MN						0.01
<b>BMO/Bank of the West</b>						
04/30/2026		Check	Service Charge	53200 · Miscellaneous Expenses	Administrative Fund: General Cash	-6.00
Total BMO/Bank of the West						-6.00
<b>City of Wheaton</b>						
05/11/2026	3343	Check	W/S/G	53440 · Utility Expense	Administrative Fund: General Cash	-48.86
Total City of Wheaton						-48.86
<b>CliftonLarsonAllen LLP</b>						
05/21/2026		Check	AUDIT SERVICES-INV L261226652	51100 · Accounting Services	Administrative Fund: General Cash	-2,835.00
Total CliftonLarsonAllen LLP						-2,835.00
<b>Colin Kjesbo</b>						
04/29/2026		Deposit	REDPATH #24-07	44000 · Land Rental Income	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	62,190.00
04/29/2026		Deposit	REDPATH #24-08	44000 · Land Rental Income	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	22,860.00
Total Colin Kjesbo						85,050.00
<b>Grant County</b>						
04/29/2026		Deposit	RETURN PROPERTY TAX	53900 · Property Taxes	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	4,909.12
Total Grant County						4,909.12
<b>Greg Vold</b>						
04/20/2026		Deposit	LEASE #26-05 UNRESTRICTED	44000 · Land Rental Income	Construction Fund: North Ottawa Impoundment: Developm...	37,025.00
04/20/2026		Deposit	LEASE #26-05 RESTRICTED	44000 · Land Rental Income	Construction Fund: North Ottawa Impoundment: Developm...	23,579.00
04/20/2026		Deposit	LEASE #26-06 RESTRICTED	44000 · Land Rental Income	Construction Fund: North Ottawa Impoundment: Cell A3 Im...	11,488.50
Total Greg Vold						72,092.50
<b>Homeland Security and Emergency Managemen</b>						
04/29/2026		Deposit	REIMBURSEMENT REQUEST	44500 · Project Grant	Construction Fund: Twelvemile Creek: HSEM 75% (\$300,7...	29,128.00
04/29/2026		Deposit	REIMBURSEMENT REQUEST	44500 · Project Grant	Construction Fund: Twelvemile Creek: HSEM 75% (\$300,7...	0.01
Total Homeland Security and Emergency Managemen						29,128.01
<b>HPS</b>						
05/21/2026		Check	NORTH OTTAWA PORTA POTTY	53440 · Utility Expense	Construction Fund: North Ottawa Impoundment: Developm...	-122.22
Total HPS						-122.22
<b>Jon Duhme</b>						
04/20/2026		Deposit	LEASE #24-06	44000 · Land Rental Income	Construction Fund: Redpath Imp. & Mustinka Rehab.: Ag La...	40,650.00
Total Jon Duhme						40,650.00

**Bois de Sioux Watershed District**  
**CHECKS TO APPROVE - VENDORS & EMPLOYEES**  
 April 17 through May 21, 2026

Date	Num	Type	Memo	Account	Class	Amount
<b>Larson Oil Company</b>						
05/05/2026	3337	Check	FUEL	54400 · Vehicle Fuel	Administrative Fund:General Cash	-187.00
05/05/2026	3337	Check	TIRE REPAIR	54500 · Vehicle Maint & Repair	Administrative Fund:General Cash	-30.00
Total Larson Oil Company						-217.00
<b>MN PEIP</b>						
04/30/2026		Liability Check		Health Insurance Expense	Administrative Fund:General Cash	21.30
05/18/2026		Liability Check		Health Insurance Expense	Administrative Fund:General Cash	21.30
05/11/2026	3339	Check	HEALTH INSURANCE	Health Insurance Expense	Administrative Fund:General Cash	-3,006.52
Total MN PEIP						-2,963.92
<b>Northland Area Services</b>						
05/21/2026		Check	STREAM GAGE REPAIRS - 231	50100 · Stream Gaging Expense	Construction Fund	-1,425.00
05/21/2026		Check	STREAM GAGE REPAIRS - 230	50100 · Stream Gaging Expense	Construction Fund	-815.00
Total Northland Area Services						-2,240.00
<b>Old National</b>						
04/30/2026		Deposit	Interest	43000 · Interest Income	Construction Fund	1,257.76
Total Old National						1,257.76
<b>Purchase Power</b>						
05/21/2026		Check	POSTAGE-METER REFILL 4/16/26	53610 · Postage	Administrative Fund:General Cash	-300.00
Total Purchase Power						-300.00
<b>QuickBooks Payroll Service</b>						
04/29/2026		Liability Check	Fee for 2 direct deposit(s) at \$5.00 each	53700 · Payroll Expenses	Administrative Fund:General Cash	-10.00
05/15/2026		Liability Check	Fee for 2 direct deposit(s) at \$5.00 each	53700 · Payroll Expenses	Administrative Fund:General Cash	-10.00
Total QuickBooks Payroll Service						-20.00
<b>RizzaMae Serino</b>						
05/21/2026		Check	RIVERWATCH STUDENT MEAL	51400 · River Watch/Expense	Construction Fund	-209.33
Total RizzaMae Serino						-209.33
<b>Runestone Telecom Association</b>						
05/05/2026	3336	Check	INTERNET & EMAIL & PHONE	53440 · Utility Expense	Administrative Fund:General Cash	-144.68
Total Runestone Telecom Association						-144.68
<b>Spee Dee Delivery Service, Inc.</b>						
05/11/2026	3342	Check	SHIPPING- 1465866	51400 · River Watch/Expense	Construction Fund	-24.25
Total Spee Dee Delivery Service, Inc.						-24.25
<b>Star Bank</b>						
04/23/2026		Check	Service Charge	53200 · Miscellaneous Expenses	Ditch Fund:WCD #25:WCD #25 Improvement	-3.00
04/23/2026		Deposit	Interest	45000 · Miscellaneous Income	Ditch Fund:WCD #25:WCD #25 Improvement	7.16
04/24/2026		Check	Service Charge	53200 · Miscellaneous Expenses	Administrative Fund:General Cash	-15.00
04/24/2026		Deposit	Interest	43000 · Interest Income	Construction Fund	224.44
04/23/2026		Check	Service Charge	53200 · Miscellaneous Expenses	Ditch Fund:JCD #11:JCD #11 Lat 4 Improvement	-3.00
04/24/2026		Deposit	Interest	43000 · Interest Income	Ditch Fund:JCD #11:JCD #11 Lat 4 Improvement	7.16
Total Star Bank						217.76
<b>Traverse County SWCD</b>						
05/21/2026		Check	STABILIZE JD #14, TREES-INV 06-5394	51020 · Buffers	Construction Fund:Buffers/Riparian/Sediment Loss	-384.75
Total Traverse County SWCD						-384.75

**Bois de Sioux Watershed District**  
**CHECKS TO APPROVE - VENDORS & EMPLOYEES**  
 April 17 through May 21, 2026

Date	Num	Type	Memo	Account	Class	Amount
<b>Traverse Electric Cooperative Inc</b>						
05/05/2026	3335	Check	REDPATH SHED	53430 · Electricity	Construction Fund:Redpath Imp.& Mustinka Rehab.:Ag La...	-71.61
Total Traverse Electric Cooperative Inc						-71.61
<b>Tri County Coop</b>						
05/11/2026	3340	Check	FUEL	54400 · Vehicle Fuel	Administrative Fund:General Cash	-159.72
Total Tri County Coop						-159.72
<b>Valley Office Products, Inc.</b>						
05/21/2026		Check	ENVELOPES	53500 · Office Supplies	Administrative Fund:General Cash	-135.69
Total Valley Office Products, Inc.						-135.69
<b>Veronica Touhey</b>						
05/21/2026		Check	PERMANENT CHANNEL EASEMENT	52520 · ROW	Ditch Fund:GCD #21	-24,228.35
05/21/2026		Check	PERMANENT BACKSLOPE EASEMENT	52520 · ROW	Ditch Fund:GCD #21	-1,866.73
Total Veronica Touhey						-26,095.08
<b>Vestis</b>						
05/21/2026		Check	RUGS 2530531101	53420 · Maintenance	Administrative Fund:General Cash	-52.12
Total Vestis						-52.12
<b>Willy's Super Valu</b>						
05/21/2026		Check	MEETING MEAL	52800 · Meeting Expense	Administrative Fund:General Cash	-84.46
Total Willy's Super Valu						-84.46
<b>Xerox Corporation</b>						
05/05/2026	3334	Check	LEASE & COPIES	52100 · Equipment Lease & Rental	Administrative Fund:General Cash	-310.19
Total Xerox Corporation						-310.19
<b>Beyer, Jason W</b>						
04/21/2026	22101	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-625.00
04/21/2026	22101	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22101	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-127.60
04/21/2026	22101	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22101	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22101	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-1.38
04/21/2026	22101	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-38.75
04/21/2026	22101	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-9.06
Total Beyer, Jason W						-801.79
<b>Brutlag, Benjamin</b>						
04/21/2026	22102	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-250.00
04/21/2026	22102	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-96.86
04/21/2026	22102	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22102	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-0.55
04/21/2026	22102	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-15.50
04/21/2026	22102	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-3.63
Total Brutlag, Benjamin						-366.54

**Bois de Sioux Watershed District**  
**CHECKS TO APPROVE - VENDORS & EMPLOYEES**  
 April 17 through May 21, 2026

Date	Num	Type	Memo	Account	Class	Amount
<b>Dahlen, Douglas C</b>						
04/21/2026	22103	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-500.00
04/21/2026	22103	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-145.00
04/21/2026	22103	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22103	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22103	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22103	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-1.10
04/21/2026	22103	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-31.00
04/21/2026	22103	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-7.25
Total Dahlen, Douglas C						-684.35
<b>Deal, Steven</b>						
04/21/2026	22104	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-500.00
04/21/2026	22104	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-8.70
04/21/2026	22104	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-2.20
04/21/2026	22104	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-31.00
04/21/2026	22104	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-7.25
Total Deal, Steven						-549.15
<b>Fridgen, Troy J</b>						
04/30/2026		Paycheck	Direct Deposit	54700 · Wages and Salaries	Administrative Fund:General Cash	-4,109.81
04/30/2026		Paycheck	Direct Deposit	53710 · PERA Expense	Administrative Fund:General Cash	-308.24
04/30/2026		Paycheck	Direct Deposit	53700 · Payroll Expenses	Administrative Fund:General Cash	-9.04
04/30/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-245.03
04/30/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-57.31
05/21/2026		Check	DATA/CELL PLAN-APRIL	53400 · Office Operations	Administrative Fund:General Cash	-100.00
05/18/2026		Paycheck	Direct Deposit	54700 · Wages and Salaries	Administrative Fund:General Cash	-4,109.81
05/18/2026		Paycheck	Direct Deposit	53710 · PERA Expense	Administrative Fund:General Cash	-308.24
05/18/2026		Paycheck	Direct Deposit	53700 · Payroll Expenses	Administrative Fund:General Cash	-9.04
05/18/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-245.03
05/18/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-57.30
Total Fridgen, Troy J						-9,558.85
<b>Gillespie, Scott</b>						
04/21/2026	22105	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-625.00
04/21/2026	22105	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22105	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-166.03
04/21/2026	22105	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22105	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22105	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-1.38
04/21/2026	22105	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-38.75
04/21/2026	22105	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-9.06
Total Gillespie, Scott						-840.22
<b>Kapphahn, John M.</b>						
04/21/2026	22106	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-375.00
04/21/2026	22106	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22106	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-157.47
04/21/2026	22106	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22106	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-0.83
04/21/2026	22106	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-23.25
04/21/2026	22106	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-5.44
Total Kapphahn, John M.						-561.99

**Bois de Sioux Watershed District**  
**CHECKS TO APPROVE - VENDORS & EMPLOYEES**  
 April 17 through May 21, 2026

Date	Num	Type	Memo	Account	Class	Amount
<b>Schmidt, Steven</b>						
04/21/2026	22107	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-750.00
04/21/2026	22107	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-83.52
04/21/2026	22107	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22107	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22107	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-1.65
04/21/2026	22107	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-46.50
04/21/2026	22107	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-10.88
Total Schmidt, Steven						-892.55
<b>Sullivan, Wendy M</b>						
04/30/2026		Paycheck	Direct Deposit	54700 · Wages and Salaries	Administrative Fund:General Cash	-1,948.35
04/30/2026		Paycheck	Direct Deposit	53710 · PERA Expense	Administrative Fund:General Cash	-146.13
04/30/2026		Paycheck	Direct Deposit	53700 · Payroll Expenses	Administrative Fund:General Cash	-4.29
04/30/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-119.48
04/30/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-27.94
05/18/2026		Paycheck	Direct Deposit	54700 · Wages and Salaries	Administrative Fund:General Cash	-1,948.35
05/18/2026		Paycheck	Direct Deposit	53710 · PERA Expense	Administrative Fund:General Cash	-146.13
05/18/2026		Paycheck	Direct Deposit	53700 · Payroll Expenses	Administrative Fund:General Cash	-4.29
05/18/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-119.47
05/18/2026		Paycheck	Direct Deposit	53800 · Payroll Taxes	Administrative Fund:General Cash	-27.94
Total Sullivan, Wendy M						-4,492.37
<b>Vavra, Linda J</b>						
04/21/2026	22108	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-2,250.00
04/21/2026	22108	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22108	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-448.92
04/21/2026	22108	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22108	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22108	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-4.95
04/21/2026	22108	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-139.50
04/21/2026	22108	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-32.63
Total Vavra, Linda J						-2,876.00
<b>Wold, Allen L</b>						
04/21/2026	22109	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	-375.00
04/21/2026	22109	Paycheck		52700 · Manager Compensation	Administrative Fund:General Cash	0.00
04/21/2026	22109	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22109	Paycheck		52900 · Mileage Expense Board	Administrative Fund:General Cash	-312.48
04/21/2026	22109	Paycheck		52800 · Meeting Expense	Administrative Fund:General Cash	0.00
04/21/2026	22109	Paycheck		53200 · Miscellaneous Expenses	Administrative Fund:General Cash	0.00
04/21/2026	22109	Paycheck		53700 · Payroll Expenses	Administrative Fund:General Cash	-0.83
04/21/2026	22109	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-23.25
04/21/2026	22109	Paycheck		53800 · Payroll Taxes	Administrative Fund:General Cash	-5.44
Total Wold, Allen L						-717.00
<b>TOTAL</b>						<b>413,230.67</b>

**Bois de Sioux Watershed District**  
**2026 GENERAL FUND BUDGET**  
 January through December 2026

	<u>Jan - Dec 26</u>	<u>Budget</u>
<b>Income</b>		
Investment Income	0.00	16,000.00
42000 · General Property Taxes	5,543.46	180,000.00
45000 · Miscellaneous Income	385.95	5,000.00
49000 · Project Administration	0.00	240,000.00
49300 · State Credits & Ag M H Credits	0.00	1,300.00
<b>Total Income</b>	<u>5,929.41</u>	<u>442,300.00</u>
<b>Gross Profit</b>	5,929.41	442,300.00
<b>Expense</b>		
51000 · Annual Report	0.00	1,200.00
55130 · Website	354.44	1,000.00
55140 · Mileage Expense Advisory Com	0.00	50.00
59150 · Education	650.00	1,000.00
51100 · Accounting Services	19,380.00	20,000.00
51300 · Administration Expense	18,258.75	55,000.00
51500 · Advertising Expense	1,109.81	3,800.00
51600 · Building and Structures	0.00	0.00
51800 · District Insurance & Dues	3,276.00	56,000.00
51900 · Engineering Services	0.00	1,200.00
52100 · Equipment Lease & Rental	1,868.62	4,500.00
52200 · Fringe Benefits	14,854.93	28,700.00
52600 · Legal Fees	12,894.50	28,000.00
52700 · Manager Compensation	6,250.00	33,300.00
52800 · Meeting Expense	1,345.54	5,500.00
52900 · Mileage Expense Board	1,546.58	6,200.00
53100 · Mileage Expense Staff	99.33	150.00
53200 · Miscellaneous Expenses	5,852.56	14,100.00
53300 · Office Equip & Furniture	0.00	1,500.00
53400 · Office Operations	3,456.35	13,000.00
53500 · Office Supplies	1,016.93	5,000.00
53600 · Other Supplies	1,227.74	3,200.00
53700 · Payroll Expenses	4,327.46	11,200.00
53800 · Payroll Taxes	4,480.05	12,200.00
54100 · Repairs and Maintenance	426.38	2,000.00
54400 · Vehicle Fuel	925.64	4,100.00
54500 · Vehicle Maint & Repair	817.84	1,000.00
54700 · Wages and Salaries	54,523.44	147,500.00
<b>Total Expense</b>	<u>158,942.89</u>	<u>460,400.00</u>
<b>Net Income</b>	<u><b>-153,013.48</b></u>	<u><b>-18,100.00</b></u>

**Bois de Sioux Watershed District**  
**2026 DITCH FUND BUDGET**  
 January through December 2026

	Jan - Dec 26	Budget
<b>Income</b>		
<b>44500 · Project Grant</b>	305,281.00	
<b>20500 · Intergovernmental Revenue</b>	69,008.90	1,260,000.00
<b>Ditch Revenues</b>	16,184.99	432,230.00
<b>Investment Income</b>	29.37	200.00
<b>45000 · Miscellaneous Income</b>	3,369.07	125,000.00
<b>Total Income</b>	393,873.33	1,817,430.00
<b>Gross Profit</b>	393,873.33	1,817,430.00
<b>Expense</b>		
<b>51200 · Project Construction</b>	0.00	1,260,000.00
<b>51300 · Administration Expense</b>	0.00	75,000.00
<b>51500 · Advertising Expense</b>	732.15	
<b>51900 · Engineering Services</b>	110,447.10	147,430.00
<b>52500 · Land</b>	26,095.08	
<b>52600 · Legal Fees</b>	3,668.00	20,000.00
<b>53200 · Miscellaneous Expenses</b>	70.00	10,000.00
<b>54100 · Repairs and Maintenance</b>	13,236.03	300,000.00
<b>54500 · Vehicle Maint &amp; Repair</b>	0.00	5,000.00
<b>54600 · Viewers Expense</b>	9,384.19	
<b>Total Expense</b>	163,632.55	1,817,430.00
<b>Net Income</b>	<b>230,240.78</b>	<b>0.00</b>

**Bois de Sioux Watershed District**  
**2026 CONSTRUCTION FUND BUDGET**  
 January through December 2026

	<u>Jan - Dec 26</u>	<u>Budget</u>
<b>Income</b>		
41195 · Water Management District Levy	0.00	7,500.00
49455 · Internal Transfer Joint Grant	24,556.30	0.00
49450 · Internal Transfer In	0.00	0.00
44500 · Project Grant	29,128.01	470,000.00
20500 · Intergovernmental Revenue	43,560.00	
Ditch Revenues	6.25	0.00
41100 · Riparian Aid MN DOR	101,250.00	0.00
Investment Income	36,535.52	160,000.00
47100 · Storage Building Rental Income	0.00	800.00
42000 · General Property Taxes	33,843.49	1,225,000.00
44000 · Land Rental Income	521,536.66	900,000.00
45500 · Land Sale	0.00	0.00
45000 · Miscellaneous Income	0.00	20,000.00
48000 · Permit Fees	250.00	0.00
49100 · Project Team Income	819.03	15,000.00
49300 · State Credits & Ag M H Credits	0.00	8,000.00
49400 · Transfer In	0.00	0.00
<b>Total Income</b>	<u>791,485.26</u>	<u>2,806,300.00</u>
<b>Gross Profit</b>	791,485.26	2,806,300.00
<b>Expense</b>		
54956 · Intergovernmental Expense	0.00	190,000.00
54955 · Internal Transfer Out	0.00	0.00
60000 · State Grant Expense Activities	126,461.40	400,000.00
51675 · Clean Water Cost Share Policy	0.00	1,098,700.00
51670 · Culvert Szng Cost Share Policy	0.00	335,270.00
51020 · Buffers	5,838.31	107,000.00
50100 · Stream Gaging Expense	2,949.00	2,500.00
Permits	20,962.00	150,000.00
55110 · Programs with SWCDs	0.00	5,000.00
59150 · Education	0.00	0.00
51200 · Project Construction	79,306.56	0.00
51300 · Administration Expense	0.00	220,000.00
51400 · River Watch/Expense	233.58	6,000.00
51500 · Advertising Expense	604.80	6,000.00
51900 · Engineering Services	136,016.25	700,000.00
52600 · Legal Fees	30,365.00	85,000.00
52700 · Manager Compensation	0.00	10,000.00
52800 · Meeting Expense	0.00	1,500.00
52900 · Mileage Expense Board	0.00	5,000.00
53100 · Mileage Expense Staff	0.00	500.00
53200 · Miscellaneous Expenses	162.45	2,000.00
53300 · Office Equip & Furniture	0.00	1,000.00
53400 · Office Operations	472.79	2,500.00
53500 · Office Supplies	0.00	1,000.00
53600 · Other Supplies	465.00	0.00
53900 · Property Taxes	104,549.32	120,600.00
54100 · Repairs and Maintenance	5,370.71	120,000.00

10:25 AM  
05/15/26  
Cash Basis

**Bois de Sioux Watershed District**  
**2026 CONSTRUCTION FUND BUDGET**  
January through December 2026

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	<u>Jan - Dec 26</u>	<u>Budget</u>
54400 · Vehicle Fuel	0.00	1,000.00
<b>Total Expense</b>	<u>513,757.17</u>	<u>3,570,570.00</u>
<b>Net Income</b>	<u><b>277,728.09</b></u>	<u><b>-764,270.00</b></u>

**Bois de Sioux Watershed District**  
**CURRENT FUND BALANCES**  
 As of May 21, 2026

	May 21, 26
<b>Construction Fund</b>	
Doran Creek Stream Restoration	
RRWMB Base Grant 2025 (\$98,571)	-25,947.54
CLOSED-Doran Creek NWQI Grant	-8,989.00
<b>Total Doran Creek Stream Restoration</b>	<b>-34,936.54</b>
Fivemile Creek	
2024 Fivemile Cr Pilot Program	51,520.75
<b>Total Fivemile Creek</b>	<b>51,520.75</b>
Twelvemile Creek	
HSEM 75% (\$300,750)	0.01
<b>Total Twelvemile Creek</b>	<b>0.01</b>
JCWMP/1W1Plan Imp.	
BWSRWBIF3 C25-0156 (\$1,594,226)	728,597.19
BWSRWBIF2 C23-5729 (\$1,488,685)	210,849.65
<b>Total JCWMP/1W1Plan Imp.</b>	<b>939,446.84</b>
Redpath Imp.& Mustinka Rehab.	
Ph 3A Impoundment	
RRWMB FHM MATCH AHEAD	-52,410.95
<b>Total Ph 3A Impoundment</b>	<b>-52,410.95</b>
Ph 2B Impoundment	
RRWMB FHM Match AHEAD	-553,058.07
2B DNR FHM	
2B FHM Request 7 DO NOT SUBMIT	-465,451.68
<b>Total 2B DNR FHM</b>	<b>-465,451.68</b>
RRWMB2023FA-02(\$2.733x/\$2.8 M)	
Submit - 2B RRWMB Req 10	-315,797.65
<b>Total RRWMB2023FA-02(\$2.733x/\$2.8 M)</b>	<b>-315,797.65</b>
<b>Total Ph 2B Impoundment</b>	<b>-1,334,307.40</b>
Ph 2B Mustinka Rehab	
CLOSED - RRWMB Match BWSR	-66,700.00
<b>Total Ph 2B Mustinka Rehab</b>	<b>-66,700.00</b>
<b>Total Redpath Imp.&amp; Mustinka Rehab.</b>	<b>-1,453,418.35</b>
<b>Total Construction Fund</b>	<b>-497,387.29</b>
<b>Ditch Fund</b>	
JCD #11	
C26-0120 BWSR MDM (336,330)	168,165.00
<b>Total JCD #11</b>	<b>168,165.00</b>
WCD #25	
C26-0119 BWSR MDM (274,232)	137,116.00
<b>Total WCD #25</b>	<b>137,116.00</b>
<b>Total Ditch Fund</b>	<b>305,281.00</b>
<b>TOTAL</b>	<b>-192,106.29</b>

**TREASURER'S REPORT**  
**MARCH 2026**

**BANK ACCOUNT BALANCES FROM BANK STATEMENTS**

Bank - Checking, No Interest	\$ 1,367,263.41
JCD #11 Surety	\$ 60,062.77
WCD #25 Improvement Surety	\$ 60,054.03
Bank - Checking, Interest	\$ 1,793,434.49
Bank - Checking, No Interest	9,311.83
Bank - Money Market, Interest	\$ 1,594,047.14
Bank - CD's, Interest	\$ 2,900,000.00
Bank - CD's, Interest	\$ 1,540,387.63
<b>END OF MONTH AMOUNT IN BANK ACCOUNTS:</b>	<b>\$ 9,324,561.30</b>

**ACCOUNTING FUND BALANCES FROM QUICKBOOKS**

	Beginning Balance from Quickbooks 12/31/2025	2026 Revenue 3/31/2026	2026 Expenses 3/31/2026	Current Fund Balance 3/31/2026
<b>Payroll Liabilities</b>	0.00	0.00	(942.83)	(942.83)
<b>General Fund(*)</b>	432,956.60	5,929.41	(96,323.87)	342,562.14
<b>Ditch Fund</b>				
Total BdSWD #3	57,876.78	0.00	0.00	57,876.78
Total BdSWD #5	0.00	0.00	0.00	0.00
Total GCD #3	87,713.94	0.00	(5,156.50)	82,557.44
Total GCD #5	8,024.56	0.00	0.00	8,024.56
Total GCD #6	2,928.08	0.00	0.00	2,928.08
Total GCD #8	24,210.00	0.00	0.00	24,210.00
Total GCD #9	17,214.85	303.14	0.00	17,517.99
Total GCD #11	161.88	0.00	0.00	161.88
Total GCD #15	4,590.11	0.00	(3,855.00)	735.11
Total GCD #21	(52,024.48)	1.25	(7,031.50)	(59,054.73)
Total GCD #22	12,927.07	496.18	0.00	13,423.25
Total GCD #29	7,307.36	0.00	0.00	7,307.36
Total GCD #32	7,866.50	0.00	(78.75)	7,787.75
Total GCD #33	(6,098.54)	272.04	0.00	(5,826.50)
Total GC CONS JD #2	37,359.66	0.00	(7,667.00)	29,692.66
Total JCD #2	107,777.61	0.00	(1,546.87)	106,230.74
Total JCD #3	6,124.23	204.09	(1,306.87)	5,021.45
Total JCD #4	2.32	0.00	0.00	2.32
Total JCD #6	147,678.17	0.00	(1,306.87)	146,371.30
Total JCD #7	(983.98)	474.08	0.00	(509.90)
Total JCD #11	7,649.52	168,188.21	(1,757.50)	174,080.23
Total JCD #12	(140,775.30)	846.76	0.00	(139,928.54)
Total JCD #14	36,723.75	4.68	(713.50)	36,014.93
Total TCD #1E	23,556.28	270.08	0.00	23,826.36
Total TCD #1W	25,273.51	92.84	0.00	25,366.35
Total TCD #2	38,998.80	0.00	0.00	38,998.80
Total TCD #4	40,794.84	0.00	0.00	40,794.84
Total TCD #7	25,406.23	360.43	0.00	25,766.66
Total TCD #8	24,580.83	33.38	0.00	24,614.21
Total TCD #9	15,839.21	14.17	0.00	15,853.38
Total TCD #10	19,365.08	0.00	0.00	19,365.08
Total TCD #11	40,558.29	0.00	(1,306.88)	39,251.41
Total TCD #13	12,244.91	8.79	(1,306.88)	10,946.82
Total TCD #15	(4,698.91)	0.00	(426.70)	(5,125.61)
Total TCD #16	(7,803.70)	159.82	3,317.10	(4,326.78)
Total TCD #17	(29,914.72)	224.65	0.00	(29,690.07)
Total TCD #18	13,986.29	320.52	0.00	14,306.81
Total TCD #19	(7,800.37)	29.91	0.00	(7,770.46)
Total TCD #20	1,591.41	401.74	0.00	1,993.15
Total TCD #22	3,009.43	158.62	(2,450.00)	718.05
Total TCD #23	(39,397.04)	35.74	0.00	(39,361.30)
Total TCD #24	(10,096.24)	20.36	0.00	(10,075.88)
Total TCD #26	19,067.49	34.32	0.00	19,101.81
Total TCD #27	(82,234.12)	1,991.59	0.00	(80,242.53)

If nothing else  
was done this year...

	57,876.78
	0.00
	82,557.44
	8,024.56
	3,928.08
	32,210.00
	24,714.85
	761.88
	735.11
	(59,055.98)
	17,927.07
	12,307.36
	7,787.75
	(5,826.50)
	29,692.66
	106,230.74
	18,817.36
	5,302.32
	146,371.30
	(983.98)
	5,892.02
	(65,775.30)
	46,010.25
	28,556.28
	28,273.51
	38,998.80
	40,794.84
	29,806.23
	31,080.83
	19,239.21
	19,365.08
	39,251.41
	11,738.03
	(625.61)
	2,813.40
	(21,664.72)
	16,486.29
	(4,400.37)
	4,591.41
	3,059.43
	(29,147.04)
	(3,596.24)
	21,467.49
	(31,234.12)

Total TCD #28	(4,075.48)	854.63	0.00	(3,220.85)	2,624.52
Total TCD #29	(109.00)	4.31	0.00	(104.69)	1,391.00
Total TCD #30	16,828.24	3,032.40	0.00	19,860.64	21,828.24
Total TCD #31	20,325.50	290.04	0.00	20,615.54	23,325.50
Total TCD #32	7,998.67	181.83	0.00	8,180.50	8,298.67
Total TCD #33	15,042.98	92.91	0.00	15,135.89	17,542.98
Total TCD #35	17,272.53	0.00	0.00	17,272.53	17,272.53
Total TCD #36	582.56	839.29	0.00	1,421.85	10,832.56
Total TCD #37	(242,923.71)	1,143.11	(600.00)	(242,380.60)	(203,143.71)
Total TCD #38	12,806.06	112.88	0.00	12,918.94	15,306.06
Total TCD #39	1,648.23	80.05	0.00	1,728.28	3,748.23
Total TCD #40	11,585.61	644.23	0.00	12,229.84	18,085.61
Total TCD #41	(744.65)	497.38	0.00	(247.27)	15,255.35
Total TCD #42	19,828.09	332.68	0.00	20,160.77	26,628.09
Total TCD #43	15,352.88	7.90	(1,306.88)	14,053.90	16,846.00
Total TCD #44	5,903.20	139.52	0.00	6,042.72	11,603.20
Total TCD #46	(2,324.22)	5.00	0.00	(2,319.22)	(224.22)
Total TCD #48	(85.68)	42.15	(687.20)	(730.73)	927.12
Total TCD #50	3,884.25	0.00	0.00	3,884.25	3,884.25
Total TCD #51	22,072.20	617.48	0.00	22,689.68	24,072.20
Total TCD #52	(33,316.59)	7.35	(258.00)	(33,567.24)	1,925.41
Total TCD #53	57,205.90	0.00	(1,306.88)	55,899.02	55,899.02
Total TCD #55	9,758.45	0.17	0.00	9,758.62	10,758.45
Total WCD #Sub-1	72,096.14	0.00	(46.00)	72,050.14	72,050.14
Total WCD #8	94,687.47	0.00	0.00	94,687.47	94,687.47
Total WCD #9	298,574.92	5.45	0.00	298,580.37	298,574.92
Total WCD #18	20,325.32	173.73	0.00	20,499.05	25,325.32
Total WCD #20	61,477.59	0.00	0.00	61,477.59	61,477.59
Total WCD #25	32,890.02	137,138.21	(35,608.26)	134,419.97	(2,718.24)
Total WCD #35	(4,789.45)	395.45	0.00	(4,394.00)	2,210.55
Total WCD #39	4,219.42	53.62	0.00	4,273.04	7,519.42
Total Ditch Fund - Other	0.00	0.00	(5,477.25)	(5,477.25)	(5,477.25)
<b>Total Ditch Fund</b>	<b>1,030,579.04</b>	<b>321,639.16</b>	<b>(77,884.19)</b>	<b>1,274,334.01</b>	
<hr/>					
Construction Fund	7,550,198.31	320,123.39	(329,226.98)	7,541,094.72	
<hr/>					
RRWMB Fund	0.00	33,843.49	(33,843.49)	0.00	
<hr/>					
<b>TOTAL Funds</b>	<b>9,013,733.95</b>	<b>681,535.45</b>	<b>(538,221.36)</b>	<b>9,157,048.04</b>	

## RECONCILE BANK STATEMENTS TO QUICKBOOKS

Bank Statement Total From Top:	9,324,561.30
Enter Quickbooks Bank Account Balance Total Assets:	9,157,048.04
+ Enter Uncleared Transactions BMO:	166,611.97
+ Enter Uncleared Transactions Star Bank:	901.29
+ Enter Star Bank checks written 03/27/26 - 03/31/26	0.00
- Enter Star Bank Deposits received 03/27/26 - 03/31/26	0.00
<b>Quickbooks Total:</b>	<b>9,324,561.30</b>
<hr/>	
Enter Quickbooks Total from Fund Balances Income/Expense Report:	9,157,990.87
Enter Quickbooks Total from Balance Sheet Current Liabilities:	(942.83)
<b>Total:</b>	<b>9,157,048.04</b>
<hr/>	
Enter Quickbooks Total Assets from Bank Balances Report:	9,157,048.04
<hr/>	

# TREASURER'S REPORT

APRIL 2026

## BANK ACCOUNT BALANCES FROM BANK STATEMENTS

Bank - Checking, No Interest	\$ 1,378,948.34
JCD #11 Surety	\$ 60,066.93
WCD #25 Improvement Surety	\$ 60,058.19
Bank - Checking, Interest	\$ 1,646,954.83
Bank - Checking, No Interest	9,311.83
Bank - Money Market, Interest	\$ 1,595,304.90
Bank - CD's, Interest	\$ 4,440,387.63
<b>END OF MONTH AMOUNT IN BANK ACCOUNTS:</b>	<b><u>\$ 9,191,032.65</u></b>

## ACCOUNTING FUND BALANCES FROM QUICKBOOKS

	Beginning Balance from Quickbooks 12/31/2025	2026 Revenue 4/30/2026	2026 Expenses 4/30/2026	Current Fund Balance 4/30/2026
Payroll Liabilities	0.00	0.00	(170.73)	(170.73)
General Fund(*)	432,956.60	5,929.41	(142,576.69)	296,309.32

### Ditch Fund

	Beginning Balance from Quickbooks 12/31/2025	2026 Revenue 4/30/2026	2026 Expenses 4/30/2026	Current Fund Balance 4/30/2026	If nothing else was done this year....
Total BdSWD #3	57,876.78	0.00	0.00	57,876.78	57,876.78
Total BdSWD #5	0.00	0.00	0.00	0.00	0.00
Total GCD #3	87,713.94	0.00	(5,897.00)	81,816.94	81,816.94
Total GCD #5	8,024.56	0.00	0.00	8,024.56	8,024.56
Total GCD #6	2,928.08	0.00	0.00	2,928.08	3,928.08
Total GCD #8	24,210.00	0.00	0.00	24,210.00	32,210.00
Total GCD #9	17,214.85	303.14	0.00	17,517.99	24,714.85
Total GCD #11	161.88	0.00	0.00	161.88	761.88
Total GCD #15	4,590.11	0.00	(3,855.00)	735.11	735.11
Total GCD #21	(52,024.48)	69,010.15	(8,474.50)	8,511.17	(60,498.98)
Total GCD #22	12,927.07	496.18	0.00	13,423.25	17,927.07
Total GCD #29	7,307.36	0.00	0.00	7,307.36	12,307.36
Total GCD #32	7,866.50	0.00	(78.75)	7,787.75	7,787.75
Total GCD #33	(6,098.54)	272.04	0.00	(5,826.50)	(5,826.50)
Total GC CONS JD #2	37,359.66	0.00	(18,072.00)	19,287.66	19,287.66
Total JCD #2	107,777.61	0.00	(1,546.87)	106,230.74	106,230.74
Total JCD #3	6,124.23	204.09	(1,306.87)	5,021.45	18,817.36
Total JCD #4	2.32	0.00	0.00	2.32	5,302.32
Total JCD #6	147,678.17	0.00	(1,306.87)	146,371.30	146,371.30
Total JCD #7	(983.98)	474.08	0.00	(509.90)	(983.98)
Total JCD #11	7,649.52	168,195.37	(18,007.50)	157,837.39	(10,357.98)
Total JCD #12	(140,775.30)	846.76	0.00	(139,928.54)	(65,775.30)
Total JCD #14	36,723.75	4.68	(1,357.50)	35,370.93	45,366.25
Total TCD #1E	23,556.28	270.08	0.00	23,826.36	28,556.28
Total TCD #1W	25,273.51	92.84	0.00	25,366.35	28,273.51
Total TCD #2	38,998.80	0.00	0.00	38,998.80	38,998.80
Total TCD #4	40,794.84	0.00	0.00	40,794.84	40,794.84
Total TCD #7	25,406.23	360.43	0.00	25,766.66	29,806.23
Total TCD #8	24,580.83	33.38	0.00	24,614.21	31,080.83
Total TCD #9	15,839.21	14.17	0.00	15,853.38	19,239.21
Total TCD #10	19,365.08	0.00	0.00	19,365.08	19,365.08
Total TCD #11	40,558.29	0.00	(1,306.88)	39,251.41	39,251.41
Total TCD #13	12,244.91	8.79	(1,306.88)	10,946.82	11,738.03
Total TCD #15	(4,698.91)	3,210.95	(426.70)	(1,914.66)	(625.61)
Total TCD #16	(7,803.70)	159.82	3,317.10	(4,326.78)	2,813.40
Total TCD #17	(29,914.72)	224.65	0.00	(29,690.07)	(21,664.72)
Total TCD #18	13,986.29	320.52	0.00	14,306.81	16,486.29
Total TCD #19	(7,800.37)	29.91	0.00	(7,770.46)	(4,400.37)
Total TCD #20	1,591.41	401.74	0.00	1,993.15	4,591.41
Total TCD #22	3,009.43	158.62	(2,450.00)	718.05	3,059.43
Total TCD #23	(39,397.04)	35.74	0.00	(39,361.30)	(29,147.04)
Total TCD #24	(10,096.24)	20.36	0.00	(10,075.88)	(3,596.24)
Total TCD #26	19,067.49	34.32	0.00	19,101.81	21,467.49
Total TCD #27	(82,234.12)	1,991.59	0.00	(80,242.53)	(31,234.12)
Total TCD #28	(4,075.48)	854.63	0.00	(3,220.85)	2,624.52

Total TCD #29	(109.00)	4.31	0.00	(104.69)	1,391.00
Total TCD #30	16,828.24	3,032.40	0.00	19,860.64	21,828.24
Total TCD #31	20,325.50	290.04	0.00	20,615.54	23,325.50
Total TCD #32	7,998.67	181.83	0.00	8,180.50	8,298.67
Total TCD #33	15,042.98	92.91	0.00	15,135.89	17,542.98
Total TCD #35	17,272.53	0.00	0.00	17,272.53	17,272.53
Total TCD #36	582.56	839.29	0.00	1,421.85	10,832.56
Total TCD #37	(242,923.71)	1,143.11	(600.00)	(242,380.60)	(203,143.71)
Total TCD #38	12,806.06	112.88	0.00	12,918.94	15,306.06
Total TCD #39	1,648.23	80.05	0.00	1,728.28	3,748.23
Total TCD #40	11,585.61	644.23	0.00	12,229.84	18,085.61
Total TCD #41	(744.65)	497.38	0.00	(247.27)	15,255.35
Total TCD #42	19,828.09	332.68	0.00	20,160.77	26,628.09
Total TCD #43	15,352.88	7.90	(1,306.88)	14,053.90	16,846.00
Total TCD #44	5,903.20	139.52	0.00	6,042.72	11,603.20
Total TCD #46	(2,324.22)	5.00	0.00	(2,319.22)	(224.22)
Total TCD #48	(85.68)	42.15	(687.20)	(730.73)	927.12
Total TCD #50	3,884.25	0.00	0.00	3,884.25	3,884.25
Total TCD #51	22,072.20	617.48	(36.50)	22,653.18	24,035.70
Total TCD #52	(33,316.59)	7.35	(258.00)	(33,567.24)	1,925.41
Total TCD #53	57,205.90	0.00	(1,343.38)	55,862.52	55,862.52
Total TCD #55	9,758.45	0.17	0.00	9,758.62	10,758.45
Total WCD #Sub-1	72,096.14	0.00	(46.00)	72,050.14	72,050.14
Total WCD #8	94,687.47	0.00	0.00	94,687.47	94,687.47
Total WCD #9	298,574.92	5.45	0.00	298,580.37	298,574.92
Total WCD #18	20,325.32	173.73	0.00	20,499.05	25,325.32
Total WCD #20	61,477.59	0.00	0.00	61,477.59	61,477.59
Total WCD #25	32,890.02	137,145.37	(65,008.54)	105,026.85	(32,118.52)
Total WCD #35	(4,789.45)	395.45	0.00	(4,394.00)	2,210.55
Total WCD #39	4,219.42	53.62	0.00	4,273.04	7,519.42
Total Ditch Fund - Other	0.00	0.00	(6,174.75)	(6,174.75)	(6,174.75)
<b>Total Ditch Fund</b>	<b>1,030,579.04</b>	<b>393,873.33</b>	<b>(137,537.47)</b>	<b>1,286,914.90</b>	
<hr/>					
<b>Construction Fund</b>	<b>7,550,198.31</b>	<b>550,794.06</b>	<b>(510,705.01)</b>	<b>7,590,287.36</b>	
<hr/>					
<b>RRWMB Fund</b>	<b>0.00</b>	<b>33,843.49</b>	<b>(33,843.49)</b>	<b>0.00</b>	
<hr/>					
<b>TOTAL Funds</b>	<b>9,013,733.95</b>	<b>984,440.29</b>	<b>(824,833.39)</b>	<b>9,173,340.85</b>	

## RECONCILE BANK STATEMENTS TO QUICKBOOKS

Bank Statement Total From Top:	9,191,032.65
<u>Enter</u> Quickbooks Bank Account Balance Total Assets:	9,173,340.85
+ <u>Enter</u> Uncleared Transactions BMO:	4,828.37
+ <u>Enter</u> Uncleared Transactions Star Bank:	102,822.55
+ <u>Enter</u> Star Bank checks written 04/27/26 - 04/30/26	0.00
- <u>Enter</u> Star Bank Deposits received 04/27/26 - 04/30/26	(89,959.12)
Quickbooks Total:	9,191,032.65
<hr/>	
<u>Enter</u> Quickbooks Total from Fund Balances Income/Expense Report:	9,173,511.58
<u>Enter</u> Quickbooks Total from Balance Sheet Current Liabilities:	(170.73)
Total:	9,173,340.85
<hr/>	
<u>Enter</u> Quickbooks Total Assets from Bank Balances Report:	9,173,340.85

# Bois de Sioux Watershed District

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## *Wilkin County Ditch No. 25 Improvement*

**EXCERPTS - FULL REPORT  
AVAILABLE FROM BDSWD**

### *Detailed Survey and Engineer's Report*

I hereby certify that this report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.



James Guler, PE  
License Number: 52466  
Date: 4/2/2026



**moore**  
engineering, inc.

[mooreengineeringinc.com](http://mooreengineeringinc.com)

Date: 4/2/2026  
Project No. 30449

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## 1. INTRODUCTION

The proposed project is an improvement of Wilkin County Ditch No. 25 (WCD 25). Any repair portion of the work shall be separated from the improvement, and benefits and damages will be redetermined prior to the determination of benefits and damages related to the improvement.

WCD 25 is in East Campbell Township, four miles west of Campbell, MN. Overall WCD 25 flows north and is approximately 11 miles long. The ditch starts at 500th St and flows north along 240th Ave before jogging west along 490th St to meet up with US Hwy 75. It follows US 75 north, crosses to the west side of US 75 in the middle of Section 6, and meanders into the Rabbit River. This project will add a one-mile lateral section, WCD 25 Lateral 1 (L1) that crosses 240<sup>th</sup> Ave and follows the south side of 490<sup>th</sup> St until 250<sup>th</sup> Ave. The proposed project and its drainage area are shown in Appendix A – Overall Ditch Alignment and Watershed.

The proposed project is a result of two petitions received by the Bois de Sioux Watershed District (BdSWD). The first petition is for an improvement to WCD 25. The section petition is to add a lateral to WCD 25. Copies of the petitions for improvement are included in Appendix B of this report.

## 2. LEGAL DESCRIPTIONS AND SCOPE OF IMPROVEMENT

The Petition for Improvement and Redetermination of Benefits and Damages of Wilkin County Ditch No. 25 states: “The improvement of WCD #25 will consist of the reconstruction and enlargement of the ditch. The purpose of this improvement is to reconstruct the facility, where feasible, to the 10-year design standard according to the *Red River of the North Technical and Scientific Advisory Committee briefing Paper #3 Water Management Options for Surface Drainage* published September 15, 2014. The reconstruction and enlargement will potentially result in a new channel bottom profile, new channel cross-sections, new road crossings, side inlet culverts and trap gates, grassed buffers, and grade stabilization features (collectively, the ‘Improvement Project’).”

Per the Petition for Improvement, the general description is as follows:

***Commencing at a point about 80 rods north of the southeast corner of Section 20, Township 130 North, Range 46 West, Wilkin County, Minnesota, thence running along the following route; north along the East edge of said Section 20 to the Northeast Corner of said Section 20, thence west, along the North edge of Said Section 20, about 240 rods to a culvert under 490<sup>th</sup> Street, thence northwesterly to a point about 80 rods north of the Southwest corner of Section 17, Township 130 North, Range 46 West, thence north, along the West edge of Sections 17, 8, and 5, Township 130 North, Range 46 West to the West Quarter corner of Said Section 5, thence westerly about 120 rods to a small ravine in Section 6, Township 130 North, Range 46 West, thence northwesterly down the channel of said ravine terminating at the Rabbit River in Said Section 6.***

The Petition for Lateral to Wilkin County Ditch No. 25 states: “The construction of the lateral is necessary to effectively manage drainage on Petitioners’ land and contribute to the overall functioning of WCD #25 by directing the flow of water away from property, preventing waterlogging, flooding, and other drainage issues.”

Per the Petition for Lateral, the general description is as follows:

***Commencing at Northwest corner of Section 22, Township 130 North, Range 46 West, Wilkin County, Minnesota, thence running Westerly along the North edge of Section 21, terminating at the Wilkin County Ditch 25 Channel in the Northeast Corner of Section 20.***

### 3. EXISTING DITCH SYSTEM

#### *3.1. History*

The following is a summary of the documents on record pertaining to WCD 25. The intent of this summary is to provide the known historical timeline regarding the ditch's construction, improvements, and maintenance. This information may be carried forward, and updated as necessary, from previous reports.

1. The petition for construction of WCD 25 was filed on May 18, 1916, by B. N. Dawson and others.
2. The general description of the ditch was as follows: Commencing at a point about 80 rods north of southwest corner of Section Twenty one, Township one hundred thirty, Range Forty six, Thence running along the following route: north on west side of section line to Northeast corner of section Twenty, Township one hundred thirty, Range forty six: Thence west about 240 rods to culvert under Great Northern Railway; Thence northwesterly to a point about 80 rods north of Southwest corner of Section Seventeen, Township one hundred thirty, Range Forty six: Thence North of the east side of the section line between Section Seventeen and eighteen; Sections Seven and Eight; and Section Five and Six to the Northwest corner of the Southwest Quarter of said Section Five, all in Township one hundred thirty, Range forty six; Thence west about 120 rods to a small ravine; Thence northwesterly down the channel of said ravine and terminating at the Rabbit River as its outlet.
3. The engineers report by A.M. Hopemann was filed on July 24, 1916. The report includes plan, profiles, bridge plans and two cost estimates, a "smaller" and a "larger" estimate. The larger estimate was the plan the board decided to build.

The upstream end of the ditch was shown at 1030 feet north of the SW1/4 of Section 21. Ditch length was 26,000 feet, bottom width varied from 6 feet to 8 to 10 feet. Ditch side slopes were 1½:1 and total excavation was 87, 517 cubic yards. Some of the excavated material was used for road construction. A six (6") berm was to be left between the ditch and the leveled spoil.

4. The viewers report was filed on July 29, 1916. There is a total of 6281 acres found to be benefited. The total estimated benefits were \$23,331 including \$3900 in road benefits. The total estimated costs were \$18,227.95 including \$5916.00 for bridge construction. The major portion of the ditch was constructed along roads.

5. A special meeting was held on August 29, 1916 at the Wilkin County Auditors office, Wilkin County Courthouse, Breckenridge, Minnesota. The Wilkin County Board ordered the project to be constructed.

6. A contract was awarded to C.W. Road construction Company of Grand Rapids, Wisconsin for the amount of \$11,333.41 to perform the work except the bridges and culverts. A contract was awarded to Great Northern Bridge Company of Minneapolis, Minnesota for \$5916.00 to construct seven steel bridges and six steel culverts as part of the project.

7. A ditch clean out and repairs was ordered 31, August 1942. Lium and Burdick served as engineers on the project. Cost for the project was \$3,936.20 with "benefits" indicated at \$19,682.04.

8. A petition from the State of Minnesota Commissioner of Highways for the right to make minor changes in W.C.D. #25 was received on June 4, 1957. A copy of the altered alignment and grade for the highway portion of the ditch was received by the Wilkin County Auditor. The typical section for County Ditch 25 on the plan indicates a 10' bottom width with 4 to 1 side slopes on the foreslope and backslope.

9. There were three petitions to add lands to drain into W.C.D. #25 filed in 1986. On August 14th, Loy Berg petitioned to add 130-46-22 NW1/4, and the NW1/4 of the SW1/4 and the NW1/4 of the NE1/4. On November 7th the Namtvedts petitioned to add 130-46-9 SE1/4. Loy Berg petitioned again on November 18th to add 130-46-22 W1/2.

10. At the February 24, 1987, Wilkin County Commissioners meeting Loy Berg withdrew his petition for 130-46-22 W1/2 and the Commissioners voted to allow the Namtvedts to add 130-46-9 SE1/4 with an entrance fee of \$800.00.

11. Ditch maintenance was completed in 1994 for the portion of the ditch along the east side of 130-46-20. The recommended maintenance gradient in this 4000' reach was increased to 0.08% from the original 0.05% resulting in the maintenance grade being 1.2 feet above the original ditch grade at the upstream end of the ditch. The recommended maintenance cross-section had a 4' bottom width (instead of the original 6' bottom), 3:1 side slope on the road side and 2:1 side slope on the field side (instead of the original 1.5:1 side slopes).

12. Loy Berg petitioned to add 130-46-22 W1/2 and NE1/4 on November 9, 1994. The Bois de Sioux Watershed District held a public hearing on May 18, 1995 that was continued on July 20, 1995, at which time the Board voted to allow the addition of 130-46-22 W1/2 and NE1/4 with an entrance fee of \$5535.74.

13. Wilma Richardson petitioned to add 130-46-27 NW 1/4 of the NW 1/4 on July 25, 2005. The Bois de Sioux Watershed District held a public hearing on November 17, 2005, approving the addition of the Richardson's land. The entrance fee was established on December 15, 2005, at \$521.42.

14. Austin Culp submitted a request for ditch maintenance on August 4, 2006, stating that the ditch was out of repair. JOR Engineering surveyed the entire ditch except for the downstream 356' and determined the ditch was substantially out of repair on December 16, 2008. They recommended cleaning of approximately 16,500 cubic yards of material to restore design capacity equivalent to the original constructed ditch. The survey also noted portions of Sections 21, 28, and 29 drain to WCD 25 but are not within the benefited area. Steps should be taken to either add these lands or restrict their use in the ditch system.

15. On July 15, 2009, Section 20E and 20N, Sections 17 across country and 17W, 8, 5, and 6 were all scheduled for maintenance in the Fall of 2009.

16. On December 14, 2009, BdSWD committed to maintaining the integrity of the CRP Buffer Strips installed adjacent to WCD 25 during Fall 2009 maintenance.

### ***3.2. Current Condition / Inadequacy / Improvement Discussion***

A survey was completed by Moore Engineering, Inc. in 2025. This survey found WCD 25 to be mostly in repair but has experienced downcutting and erosion in the downstream mile. This area, along with frequent and prolonged flooding of agricultural lands is the landowners' main concern. Through meetings with the landowners, it was determined that returning the ditch to the original condition would not sufficiently meet their drainage needs, nor the typical criteria of established design standards. A preferred path forward would be to improve the ditch and the crossings to meet current design standards and stabilize the erosion occurring in the downstream mile.

### ***3.3. Input from Preliminary Hearing***

A public hearing was held on the Preliminary Survey and Engineer's Report on 12/18/2025. At this hearing, the MN DNR Advisory was read (Appendix E). The requests and questions of this letter are included below, along with responses.

Comment 1) Practices such as filtration and storage treatments, buffer strips, riparian herbaceous cover, grassed waterways and swales, alternative tile intakes, wetland restoration, constructed wetlands, water and sediment control basins, and drainage water management within the watershed could be explored to reduce effects of changed hydrology at the WCD 25 outlet and downstream in the Rabbit and Bois de Sioux rivers.

Comment 2) Water quality impacts of the proposed project could be further addressed by incorporating BMPs in the final design.

Comment 3) A comprehensive multipurpose drainage management (MDM) plan could incorporate BMPs from the 1W1P report and BWSR MDM fact sheet into the project.

Response 1, 2, 3)

The BdSWD continues to encourage water storage and off channel multi drainage management on a voluntary basis. As the downstream discharge was determined to be on order of one tenth or

less of the Rabbit River flow at the corresponding storm event, additional storage was not determined for this project. If volunteers are interested, their efforts would be supported. This project includes BMPs of additional grass buffering, continuous berms and side inlet culverts to reduce head cutting from the field into the ditch. While the locations of the proposed side inlet culverts are not currently shown on the plans, during construction these BMPs are field placed with landowner input.

Comment 4) Update Highway 75 Culvert Analysis table to evaluate discharge under existing and proposed conditions for 10, 20, 30, and 40 cfs. Also assess the need and feasibility of a two-stage channel design.

Response 4)

Due to the small watershed area, the flow in this channel is ephemeral. While the BdSWD is supportive of two-stage ditches, it was decided to not pursue one due to the additional cost and right of way it would require. **Table 2** has been updated with existing and proposed discharge for requested events.

Comment 5) Coordinate with Low Plains Drifters snowmobile club if impacts to the trail route are likely at 480<sup>th</sup> St and Hwy 75.

Response 5)

A courtesy phone call was made to the Low Plains Drifters Snowmobile Club contact regarding this project. The trail crosses Hwy 75 east to west. The proposed work is expected to have minimal to no effect on the trail.

Comment 6) Incorporate native seed mixes to benefit pollinators into drainage buffers.

Response 6) The BdSWD is partnering with the local County SWCD who completes the seeding of the grass buffers. Native seeding will be used on the buffers.

Landowner comments were received during this hearing that alter the design of this project. The comments and responses are included below and in the updated plan sheets.

Comment 1) Add Crossing 9, the field approach culvert East of Crossing 8 in Section 22 to be replaced in kind.

Response 1) Crossing has been added to the project. See attached plans.

Comment 2) Note 6:1 ditch side slope is required within the Clear Zone. Side inlet culverts must be installed outside of the Clear Zone.

Response 2) Addressed on sheet C-401 of plans.

Comment 3) Show minimum berm in profile sheets.

Response 3) Incorporated in project, shown on sheets C-401 through C-406.

Comment 4) Request proposed culvert at 490<sup>th</sup> St crossing, next to Highway 75, to be installed deeper.

Response 4) Incorporated in project, culvert and elevations shown on sheet C-403.

Comment 5) Relocate Section 17 field approach currently North of 490<sup>th</sup> St to 490<sup>th</sup> St, East of Crossing 5.

Response 5) Incorporated in project, shown on sheet C-403 and C-404.

Comment 6) Create a slight skew in culvert alignment at Crossing 5.

Response 6) Since Crossing 5 is oversized, adding a skew to the alignment would be superfluous. Shown on sheet C-404.

Comment 7) Deepen Lateral profile.

Response 7) Incorporated in project, shown on sheet C-405 and C-406.

Comment 8) Remove and do not replace Section 21 field approach.

Response 8) Incorporated in project, shown on sheet 406.

Comment 9) County requests to perform the project work on 250<sup>th</sup> Ave.

Response 9) Incorporated in project, shown on sheet C-406.

Comment 10) Proposed culvert at Crossing 8 must be RCP.

Response 10) Incorporated in project, shown in plans.

Comment 11) Add diagonal culvert under 250<sup>th</sup> Ave to direct flow from Section 15 to the proposed Lateral.

Response 11) Culvert N1 connecting Section 15 to Section 22 has been incorporated in the project. When discussed with the County, a North-South culvert was determined to be a more cost-effective method of directing flow from Section 15 to the proposed Lateral. Shown on sheet C-406.

### ***3.4. Grade line***

The original grade line for WCD 25 was estimated from the historical repair plans and recent survey information. The difference between the original grade line and the proposed improvement grade line can be seen on the attached plans (Appendix D). The goal of the improvement grade line is to match the original outlet elevation and several existing culverts. Overall the deviation from the original grade to the improvement grade is minimal. The overall goal of the project is to stabilize the outlet and have consistent design capacity of the channel along the entire length of the ditch so

that the entire drainage system performs equally from the headwater to the outlet. Therefore, when flows exceed the capacity of the ditch system, water will naturally breakout out of the channel into floodplain storage in the fields. The goal is to have this occur equally along the entire length of the ditch system.

### 3.5. Hydrology and Hydraulics

As described in the petition “the purpose of the improvement is to reconstruct the facility, where feasible, to the 10-year design standard” as prescribed in the 1998 Red River Basin Mediation Agreement. With this improvement, the channel will be sized nearly to a 10-year 24-hour rain event. The design goal for this improvement is to stabilize the erosion in the channel and provide the capacity needed for frequent summer rainfall events. However, large rainfall events and spring snowmelt runoff events will be limited by the culvert capacity. The adjacent spoil bank will be set at an elevation so that during larger flood events, excess flows will break out of the channel into the adjacent field. This design will restore or maintain the floodplain by utilizing adjacent fields for floodwater storage and therefore reduce the downstream flood burden.

WCD #25 Culvert Notes / Project Recommendations						
Channel	ID	Street Name	Existing Culverts		Cross-Sectional Area (sq-ft)	Project Recommendations
Main	E1	460th Street	168"x106"	CSPA	96.6	Leave in-place Arch Pipe
	E2	US Hwy 75	(2) 120"x96"	RCB	160.0	Leave in-place dual RCB
	E3	CSAH 4	144"x84"	RCB	84.0	Leave in-place RCB
	E4	480th Street	137"x87"	CSPA	67.4	Leave in-place CSPA
	E5	490th Street	137"x87"	CSPA	67.4	Salvage and Reset
Lateral 1	E6	240th Ave	24", 48"	CSP	15.7	Replace w/ 73"x55" CSPA
	E7	Field Approach	48"	CSP	12.6	Remove
	D1	490th Street	36"	CSP	7.1	Replace w/ 36" CSP
	E8	250th Ave	30"	CSP	4.9	Replace w/ 59" X 36" RCPA
	E9	Field Approach	24"	CSP	3.1	Replace w/ 36" CSP
	N1	250th Ave	N/A	N/A	N/A	Install 36" CSP from Section 15 to 22

Table 1: WCD #25 Culvert Notes / Future Size Recommendations

There are five separate crossings along WCD #25 up for improvement. Table 1 above references the culverts as named in the plan set. The existing culverts are close to grade, the correct size, and the majority will stay in place.

### 3.6. Capacity of the Outlet

A goal of the WCD 25 improvement projects is to support beneficial drainage for current farming practices and reduce erosion. The difference in capacity will be most evident at the very frequent rain events however the culverts at every road crossing have been sized to provide consistent capacity relative their respective watershed areas.

For this improvement the original grade and proposed improvement grade have minimal differences, however, the improved cross section of the ditch system for the outlet mile has the same bottom width but adjusts the side slopes from 2.5 on 1 to 3 on 1. This results in larger cross-sectional area of the channel and will result in reduced velocities. These reduce velocities, along with some targeted channel armoring, result in less chance for in-channel erosion.

Ultimately, the majority of the existing road crossings are to remain in place and one will be downsized. While the flattening of the channel slope for stability has an inherent increase in channel capacity, the existing road crossings will limit the change in hydraulic capacity for larger events.

For evaluating and reporting the expected change in hydraulic capacity a steady state analysis was used for the Highway 75 culvert. This culvert was chosen for the reporting point instead of the most outlet culvert to better represent the effects of the project. The outlet culvert on 460<sup>th</sup> Street is heavily influenced by the receiving Rabbit River tailwater.

<b>Highway 75 Culvert Analysis - (2) 10'x8' RCBs</b>			
<b>Synthetic Event</b>	<b>Flow (cfs)</b>	<b>Existing Headwater Elevation</b>	<b>Proposed Headwater Elevation</b>
10 cfs	10	966.1	965.9
20 cfs	20	966.3	966.1
30 cfs	30	966.5	966.3
40 cfs	40	966.7	966.5
2 - Year	54	966.9	966.6
5 - Year	106	967.4	967.2
10 - Year	150	967.8	967.7
25 - Year	213	968.3	968.2
50 - Year	267	968.7	968.6
100 - Year	323	969.1	969.0
500 - Year	471	970.1	970.0

Table 2: Highway 75 Culvert Analysis

Table 2 Notes –

- 1) These elevations assume no tailwater impacts from the Rabbit River. The tailwater in this area can effect final headwater elevation for this culvert.
- 2) Overtopping elevation of Highway 75 is 977.6.

#### 4. LEGAL PROCESS

The Bois de Sioux Watershed District acting as the drainage authority, having been petitioned by resident landowners in the district for an improvement of WCD 25 and addition of L1, are given the authority to order a Preliminary Survey Report by Minnesota Statutes 103E.241 and 103E.245.

Following the filing of the Preliminary Survey Report, the District will hold a preliminary hearing in accordance with MS 103E.261. At the close of this hearing the District must either:

- 1) adjourn the hearing to a later date.
- 2) dismiss the improvement proceedings; or
- 3) state by order its findings and changes, if any.

If the proceedings are not dismissed and after the preliminary hearing order is filed, the District, following MS 103E.265, shall order the Engineer to make a detailed survey with plans and specifications.

When this order is made, the District shall, by order, appoint viewers to assess benefits and damages in accordance with MS 103E.321. The District shall hold a hearing in accordance with MS 103E.325. At this hearing, the District has the authority under MS 103E.335 to:

- 1) adjourn and reconvene the hearing, as necessary.
- 2) may amend the Engineer's Detailed Survey Report or the Viewers' Report or resubmit matters to the Engineer or to the Viewers for immediate consideration; or
- 3) resubmit the reports to the Engineer and Viewers for reexamination.

Following these proceedings, MS 103E.341 gives the District the authority to either dismiss the proceedings or order the improvement project.

#### ***4.1. Content of the Survey Reports***

Minnesota Statutes 103E.245 requires the designated Engineer, if finding the improvement feasible, and compliant with the environmental and land use criteria in MS 103E.015 to include in the Preliminary Survey Report a preliminary plan of the drainage project showing the proposed ditches, tile, laterals, and other improvements, the outlet of the project, the watershed of the drainage project or system, and the property likely to be affected and its known users.

The plan must show:

1. The elevation of the outlet and the controlling elevations of the property likely to be affected referenced to standard sea level datum, if practical;
2. The probable size and character of the ditch necessary to make the plan practicable and feasible;
3. The character of the outlet and whether it is sufficient;
4. The probable cost of the drains and improvements shown on the plan;
5. All other information and data necessary to disclose the practicability, necessity, and feasibility of the proposed drainage project;
6. Consideration of the drainage project under the environmental and land use, and multipurpose water management criteria in Section 103E.015; and
7. Other information as ordered by the drainage authority.

Minnesota Statute 103.265 requires the Engineer, if ordered by the drainage authority and following the filing of the preliminary hearing order, to make a detailed survey and submit a Detailed Survey Report. Minnesota Statute 103E.285 requires that the Detailed Survey Report include the following data and information:

1. Map. A complete map of the proposed drainage project and drainage system must be drawn to scale, showing:

- a. The terminus and course of each drain and whether it is ditch or tile, and the location of other proposed drainage works;
  - b. The location and situation of the outlet;
  - c. The watershed of the proposed drainage project and the sub watershed of main branches, if any, with the location of existing highway bridges and culverts;
  - d. All property affected, with the names of the known owners;
  - e. Public roads and railways affected;
  - f. The outline of any lake basin, wetland, or public water body affected;
  - g. Other physical characteristics of the watershed necessary to understand the proposed drainage project and the affected drainage system; and
  - h. The area to be acquired to maintain a grass strip under Section 103E.021.
2. Profile of drainage lines.
  3. Bridge and culvert plans.
  4. Tabular statement of excavation, construction, and cost. A tabular statement must be prepared showing:
    - a. The number of cubic yards of excavation, linear feet of tile, and average depth of each tile line;
    - b. The bridges, culverts, and works to be constructed under the plans for the drainage project; and
    - c. The estimated unit cost of each item, a summary of the total cost, and an estimate of the total cost of completing the proposed drainage project that includes engineering and other costs.
  5. Right-of-way acreage. The acreage must be shown that will be taken for ditch right-of-way on each government lot, 40-acre tract, or fraction of a lot or tract under separate ownership. The ditch right-of-way must include the area to be taken to maintain a grass strip under Section 103E.021.
  6. Drain tile specifications (if applicable).
  7. Soil survey report (if required).
  8. Recommendation for division of work.
  9. Other information on practicability and necessity of drainage project. Other data and information to inform the drainage authority of the practicability and necessity of the proposed drainage project must be made available including a comprehensive examination and the recommendation by the Engineer regarding the environmental and land use criteria in Section 103E.015.

## 5. PERMITS REQUIRED

### *5.1. Local*

1. A permit will be obtained from the Wilkin County Highway Dept. for working within their right of way.

### *5.2. State*

1. This project is proceeding as a 103E ditch improvement and requires that the MnDNR and Minnesota Board of Water and Soil Resources have the responsibility to review the Engineer's Report and provide an Advisory Report to the Watershed District.
2. This channel project itself does not alter any public water. The project does outlet into the Rabbit River which is a public water. It's anticipated that the proposed activities of this project will not require a public water permit.
3. A permit will be obtained from the MNDOT to work within their right of way.
4. A Stormwater Pollution Prevention Plan (SWPPP) will be developed, and a permit will be required from the Minnesota Pollution Control Agency, since construction activities will disturb more than one acre of land. Additionally, as this project is a phase of the larger Redpath Impoundment project, a mandatory review of the SWPPP will be required.

### ***5.3.Federal***

1. For the WCD 25 improvement; a permit may be required under Section 404 of the Clean Water act if discharge of dredged or fill material will be placed within waters of the United States.
2. The Swampbuster provision of the 1985 Farm Bill was aimed at reducing the conversion of wetlands for agricultural purposes. Farmers who drain, fill, level, clear stumps or otherwise alter a wetland may lose eligibility for U.S. Department of Agriculture (USDA) program benefits. According to the National Wetlands Inventory of Minnesota there are almost no wetlands within one mile of this ditch system. It is not anticipated this improvement will result in any alteration of a wetland. If any landowner has concerns about compliance with the 1985 farm bill, they should contact their local FSA office and complete Form AD-1026.

## **6. PROJECT BENEFIT**

### ***6.1.Private Benefits***

The private benefits to be expected from the project are mainly to agricultural lands. Private benefits would be experienced through a reduction in the frequency of flooding within the watershed, an outlet for field drainage within the watershed, reduced sediment transport, reduced erosion, and reduced flooding of approximately two field approaches. A secondary benefit is reduced maintenance cost, as the project will incorporate best management practices to reduce sediment transport from the field to the ditch.

### ***6.2.Public Benefits***

Public transportation systems that will be benefited by the proposed project include 240<sup>th</sup> and 250<sup>th</sup> Avenues, 470<sup>th</sup>, 480<sup>th</sup>, 490<sup>th</sup>, and 500<sup>th</sup> St, and US Hwy 75. The proposed project will reduce the frequency of standing water adjacent to these roads and provide new CSPA and RCB culverts. The project will also result in water quality benefits by reducing erosion and reducing sediment transport.

## **7. PROJECT COST**

The Engineer's Opinion of Probable Cost for the improvement of WCD 25 as currently proposed is approximately \$ 2,100,000. This opinion of cost includes expected construction costs, design and construction administration fees, and utility relocations. The opinion of cost also includes an estimated right-of-way cost necessary for the project and 103E grass buffers. However, the final right-of-way cost, which includes "damages," will be determined by the viewers. A detailed opinion of cost can be seen in Appendix C.

## 8. ALTERNATIVES TO PROJECT

MN Statutes 103E.015 requires the consideration of alternative measures for the problem being addressed by the project. Alternative measures identified in state and locally adopted water management plans would include changing land use by restoring wetlands, enrolling the effected land in a permanent easement program through the state of MN (Reinvest in Minnesota) or the federal government (i.e., Conservation Reserve Program, Wetland Reserve Easement, etc.), or flood storage easements throughout the watershed. All these alternative measures involve landowner participation on a voluntary basis. Land within the project area are utilized almost exclusively for agricultural production and, from conversations with local landowners, it would be unlikely that they would participate in these programs voluntarily.

## 9. ENVIRONMENTAL IMPACT

### *9.1. Water Quality*

Due to the installation of side inlet culverts, grassed buffers, and grade stabilization features, an improvement in water quality is anticipated because of this project. An MPCA construction erosion control permit is required for this project. This permit requires the establishment of an erosion control plan. This plan will incorporate temporary rock checks, straw wattles, and establish permanent grass as soon as possible once construction is complete. These features help to reduce erosion that may occur during construction.

### *9.2. Fish and Wildlife*

The watershed of WCD 25 contains minimal wildlife habitat areas. What area that is available for wildlife use consists of some wetlands, farmstead tree groves, fence lines, and road ditches. These areas, outside of the construction limits, are not proposed to be impacted. From this improvement project negligible impact on fish and wildlife is expected. The land use within the watershed is well defined and extensively agricultural. According to the National Wetland Inventory minimal wetland area is within the watershed and is located at the very upstream extents. Little to no land use change is expected to occur from this improvement. Therefore, this improvement project will have little adverse effect on the wildlife in the watershed. Alternatively, widening the ditch system and installing the 103E grass buffer will add additional acres of grassed habitat to the watershed.

### *9.3. Ground Water*

Open channels influence shallow groundwater elevations adjacent to the channel. Because a significant channel already exists, and because the change in depth is minor, the change in lateral

effect is anticipated to be minimal. In addition, most existing adjacent private tile lines have been constructed at about 4 feet below the ground surface and utilize pump systems to lift the water into the current ditch. Therefore, no change in the availability, distribution, or use of the ground water beyond that necessary to provide for the efficient production of crops within the watershed is anticipated by this improvement.

#### ***9.4. Other Environmental Effects***

Tree removal along right of way will cause localized damage. Soil erosion will increase in these areas due to loss of root system, increased runoff, and soil degradation.

The temporary environmental impacts are as follows:

Temporary noise and dust generation can be expected from the construction operations. These impacts are not viewed as significant since there are very few residences near the proposed construction route.

Temporary erosion of soil is likely to occur in the construction area until permanent ground cover is established along the top and banks of the ditch. Although these effects need to be considered, they are probably not significantly different than the current topsoil loss that occurs annually from the erosion of topsoil due to overland flow in the watershed. This construction erosion will be minimized using temporary ditch blocks, inlet protection, and rapid establishment of permanent grass cover.

## **10. INVESTIGATING POTENTIAL EXTERNAL SOURCES OF FUNDING AND TECHNICAL ASSISTANCE**

In accordance with MN Statutes 103E.015, the Engineer on behalf of the Bois de Sioux Watershed District investigated the potential use of external sources of funding to facilitate the purposes of MN Statutes 103E.011, subd. 5. The BdSWD partnered with the Wilkin SWCD and will apply for a competitive clean water fund grant administered by BWSR. This grant would fund specific portions of the project that contribute to a reduction in sediment from the field to the ditch. Additionally, the BdSWD have developed an internal funding source for clean water elements and inline culvert crossings to aid the landowners in financing these projects.

## **11. RECOMMENDATION**

The proposed improvement to Wilkin County Ditch No. 25 as described is practical and feasible. It is proposed to be completed in a manner that includes responsible culvert sizing to provide benefit to agricultural land within the watershed while limiting efficiency during large events. Given the hydraulic benefits, infrastructure benefits, water quality benefits, and habitat benefits anticipated by this project, it is recommended that this project proceed.

## 12.APPENDIX A – OVERALL DITCH ALIGNMENT, WATERSHED, AND EASEMENT

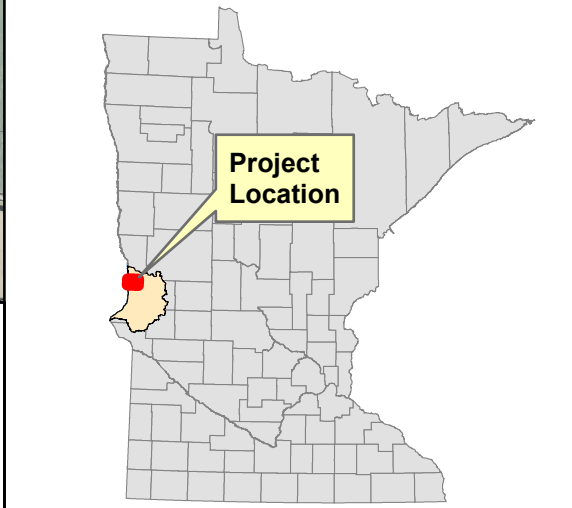
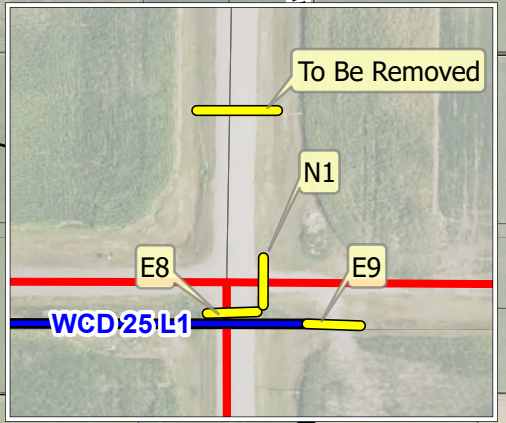
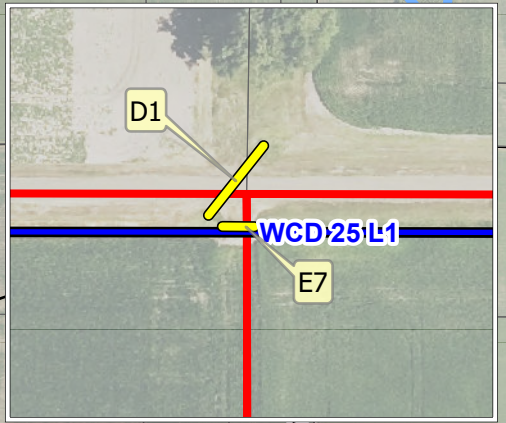
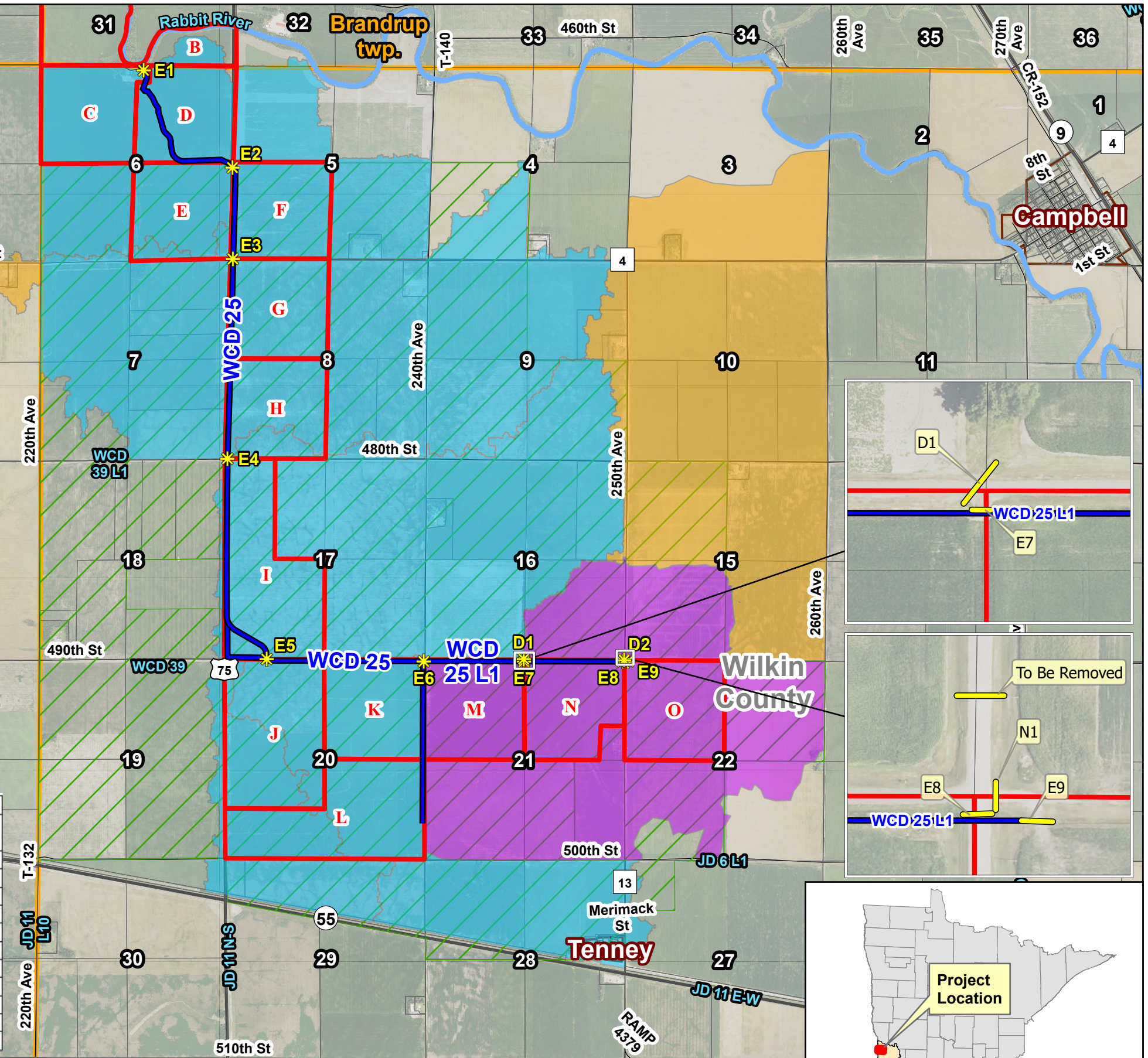
Includes Effected Landowners

**Legend**

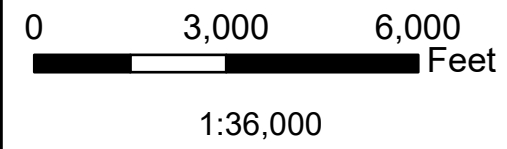
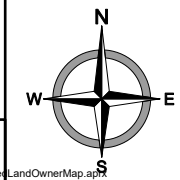
- Culvert Sites
- Project Area
- WCD 25 Benefit Area
- WCD 25 Main Watershed
- WCD 25 L1 Watershed
- Effected Parcels
- Partial Flow To Ditch

Effected Landowners				
ID	Parcel ID	Tax Name	Channel Easement [ac]	Backslope Easement [ac]
A	05-031-0100	CHRISTENSEN/DOUGLAS	0	0
B	05-031-0110	WIERTZEMA/LUKE L & MARGARET	0	0
C	07-006-0110	MILLER/DANIEL W	0	0.12
D	07-006-0100	MILLER/DANIEL W	2.49	15.94
E	07-006-0400	DOHMAN/TROY A	0.19	5.59
F	07-005-0500	VOSS/GILBERT & ARDELLA/TRUSTEE	0.71	5.58
G	07-008-0300	MILLER/CASEY	0.99	6.23
H	07-008-0400	MILLER/CASEY	0.83	6.24
I	07-017-0300	MILLER/DANIEL W	2.62	14.56
J	07-020-0200	ROACH/MAURICE & BETTY/TRUST	0.90	3.57
K	07-020-0100	MILLER/FR FRANKLIN D/TRUSTEE	3.09	10.89
L	07-020-0300	MILLER/FR FRANKLIN D/TRUSTEE	1.14	3.63
M	07-021-0200	CULP/A & E/LLP	3.72	5.01
N	07-021-0100	BEYER/RODD D & JAMIE V	2.89	4.59
O	07-022-0200	BERG/ERIC B/& CHRISTY DELANEY	0.20	0.07

WCD #25 Culvert Notes / Project Recommendations						
Channel	ID	Street Name	Existing Culverts		Cross-Sectional Area (sq-ft)	Project Recommendations
Main	E1	460th Street	168"x106"	CSPA	96.6	Leave in-place Arch Pipe
	E2	US Hwy 75	(2) 120"x96"	RCB	160.0	Leave in-place dual RCB
	E3	CSAH 4	144"x84"	RCB	84.0	Leave in-place RCB
	E4	480th Street	137"x87"	CSPA	67.4	Leave in-place CSPA
	E5	490th Street	137"x87"	CSPA	67.4	Salvage and Reset
Lateral 1	E6	240th Ave	24", 48"	CSP	15.7	Replace w/ 73"x55" CSPA
	E7	Field Approach	48"	CSP	12.6	Remove
	D1	490th Street	36"	CSP	7.1	Replace w/ 36" CSP
	E8	250th Ave	30"	CSP	4.9	Replace w/ 59" X 36" RCPA
	E9	Field Approach	24"	CSP	3.1	Replace w/ 36" CSP
	N1	250th Ave	N/A	N/A	N/A	Install 36" CSP from Section 15 to 22



**Wilkin County Ditch 25 Improvements  
Effected Landowner Map  
Bois de Sioux Watershed District**



Created By: TJS Date Created: 06/24/25 Date Saved: 03/23/26 Date Plotted: 10/09/25 Date Exported: 04/02/26  
 Plotted By: Parcel Date: 02/16/25 Aerial Image: 2024 FM Metro Elevation Data: Lidar  
 Horizontal Datum: NAD 1983 HARN Adj. MN Traverse Feet Vertical Datum: NAVD1988  
 \\EgnyteDrive\Project Files\Projects\30000\30400\30449 WilkinCountyDitch25Improvements\GIS\APRX\30449\_EffectedLandOwnerMap\30449\_EffectedLandOwnerMap.aprx



**Wilkin County Ditch 25 Improvement**

**Bois de Sioux Watershed District  
Wilkin County, MN**

Final Report Opinion of Cost

ITEM	UNIT	UNIT PRICE	Main Costs		Lateral 1 Costs		
			QUANTITY	TOTAL	QUANTITY	TOTAL	
<b>Section Line Crossings</b>							
1. 024200	Culvert - Remove (All Types & Sizes)	LF	\$ 30.00	95.0	\$ 2,850.00	126.0	\$ 3,780.00
2. 024200	Culvert - Salvage & Reinstall RCPA - 138" x 87"	LF	\$ 300.00	66.0	\$ 19,800.00	0.0	\$ -
3. 334213	RCPA - 58.5" x 36" - Class III	LF	\$ 700.00	0.0	\$ -	58.0	\$ 40,600.00
4. 334213	RCPA End Section - 58.5" x 36"	EA	\$ 6,000.00	0.0	\$ -	2.0	\$ 12,000.00
5. 334213	CSPA - 73" X 55"	LF	\$ 275.00	70.0	\$ 19,250.00		\$ -
6. 334213	CSP - 36"	LF	\$ 175.00	60.0	\$ 10,500.00	206.0	\$ 36,050.00
7. 310516	Select Backfill	CY	\$ 35.00	400.0	\$ 14,000.00	180.0	\$ 6,300.00
8. 313700	Riprap - Class IV	CY	\$ 95.00	300.0	\$ 28,500.00	150.0	\$ 14,250.00
9. 313700	Geotextile Fabric - Riprap Filter Blanket	SY	\$ 5.00	780.0	\$ 3,900.00	390.0	\$ 1,950.00
10. 321123	Aggregate - Road Surface	CY	\$ 50.00	50.0	\$ 2,500.00	30.0	\$ 1,500.00
<b>Remaining Construction Items</b>							
14. 012000	Mobilization	LS	\$ 62,000.00	0.8	\$ 49,600.00	0.2	\$ 12,400.00
15. 024200	Culvert - Remove (All Types & Sizes)	LF	\$ 15.00	437.0	\$ 6,555.00	92.0	\$ 1,380.00
16. 024200	Tile Outlet Modification	LS	\$ 10,000.00	1.0	\$ 10,000.00	0.0	\$ -
17. 312213	Excavation - Channel	CY	\$ 1.50	70,122.0	\$ 105,183.00	11,762.0	\$ 17,643.00
18. 312213	Spoil Bank Leveling	MILE	\$ 12,000.00	5.1	\$ 61,200.00	1.0	\$ 12,000.00
19. 312213	Topsoil - Stripping & Spreading	MILE	\$ 20,000.00	5.1	\$ 102,000.00	1.0	\$ 20,000.00
20. 334213	CSP - 18"	LF	\$ 65.00	620.0	\$ 40,300.00	120.0	\$ 7,800.00
21. 334213	CSP - 24"	LF	\$ 85.00	410.0	\$ 34,850.00	80.0	\$ 6,800.00
22. 334213	CSP - 30"	LF	\$ 110.00	205.0	\$ 22,550.00	0.0	\$ -
23. 334213	CSP - 36"	LF	\$ 200.00	205.0	\$ 41,000.00	88.0	\$ 17,600.00
24. 334213	CSP - 42"	LF	\$ 250.00	0.0	\$ -	0.0	\$ -
25. 334213	Adjustable Flap Gate - 18" Steel	EA	\$ 950.00	15.0	\$ 14,250.00	3.0	\$ 2,850.00
26. 334213	Adjustable Flap Gate - 24" Steel	EA	\$ 1,100.00	10.0	\$ 11,000.00	2.0	\$ 2,200.00
27. 334213	Adjustable Flap Gate - 30" Steel	EA	\$ 1,400.00	5.0	\$ 7,000.00	0.0	\$ -
28. 334213	Adjustable Flap Gate - 36" Steel	EA	\$ 1,850.00	5.0	\$ 9,250.00	0.0	\$ -
29. 334213	Adjustable Flap Gate - 42" Steel	EA	\$ 3,500.00	0.0	\$ -	0.0	\$ -
30. 024200	Flap Gates - Salvage (All Types & Sizes)	EA	\$ 300.00	3.0	\$ 900.00	0.0	\$ -
31. 334213	Flared End Section - 18" CSP	EA	\$ 450.00	15.0	\$ 6,750.00	3.0	\$ 1,350.00
32. 334213	Flared End Section - 24" CSP	EA	\$ 600.00	10.0	\$ 6,000.00	2.0	\$ 1,200.00
33. 334213	Flared End Section - 30" CSP	EA	\$ 840.00	5.0	\$ 4,200.00	0.0	\$ -
34. 334213	Flared End Section - 36" CSP	EA	\$ 1,200.00	5.0	\$ 6,000.00	0.0	\$ -
35. 334213	Flared End Section - 42" CSP	EA	\$ 1,500.00	0.0	\$ -	0.0	\$ -
36. 313700	Riprap Drop Structure	CY	\$ 100.00	600.0	\$ 60,000.00	0.0	\$ -
37. 313700	Riprap - Class III	CY	\$ 81.00	620.0	\$ 51,220.00	100.0	\$ 8,100.00
38. 313700	Geotextile Fabric - Riprap Filter Blanket	SY	\$ 5.00	980.0	\$ 4,900.00	200.0	\$ 1,000.00
39. 312500	Rock Check - Temporary	EA	\$ 650.00	5.0	\$ 3,250.00	1.0	\$ 650.00
40. 312500	Sedimentation Control Wattle - 9"	LF	\$ 2.75	6.0	\$ 16.50	100.0	\$ 275.00
41. 312500	Rolled Erosion Prevention Product	SY	\$ 2.25	500.0	\$ 1,125.00	20.0	\$ 45.00
42. 312500	Silt Fence	LF	\$ 1.50	80.0	\$ 120.00	20.0	\$ 30.00
43. 312500	Temporary Stabilized Construction Entrance	LS	\$ 2,500.00	0.8	\$ 2,000.00	0.2	\$ 500.00
44. 311000	Clearing & Grubbing	LS	\$ 20,000.00	1.0	\$ 20,000.00	0.0	\$ -
45. 312500	Storm Water Management	LS	\$ 6,000.00	0.8	\$ 4,800.00	0.2	\$ 1,200.00
46. 014000	Material Testing	Invoice	\$ 6,000.00	0.8	\$ 4,800.00	0.2	\$ 1,200.00
47. 015000	Traffic Control	LS	\$ 6,000.00	0.8	\$ 4,800.00	0.2	\$ 1,200.00
48. 329219	Seeding	AC	\$ 1,200.00	60.0	\$ 72,000.00	10.0	\$ 12,000.00
49. 329219	Mulching Only (16.5' Buffer)	AC	\$ 750.00	13.1	\$ 9,825.00	2.4	\$ 1,800.00
<b>Total Construction</b>					\$ 877,744.50	\$ 247,653.00	
Contingencies (20%)					\$ 176,274.42	\$ 50,007.88	
Engineering (Redetermination of Benefits/Project Development, 200 & 201)					\$ 60,000.00	\$ -	
Viewers (Redetermination of Benefits)					\$ 30,000.00	\$ -	
R/W Monumentation / Legal Descriptions					\$ 15,598.84	\$ 4,401.16	
Engineering (Final Design, 300)					\$ 79,554.06	\$ 22,445.94	
Engineering (Construction Staking, Construction Administration, 400)					\$ 79,554.06	\$ 22,445.94	
Legal Fees					\$ 15,000.00	\$ -	
Utilities - Construction and Coordination					\$ 40,000.00	\$ -	
BdSWD Staff Construction and Administration Services					\$ 7,500.00	\$ -	
Grant Application and Administration Assistance					\$ 7,500.00	\$ -	
Project Bonding / Fiscal					\$ 102,000.00	\$ -	
Right of Way Administration					\$ 15,598.84	\$ 4,401.16	
Land for Improvement - Permanent ROW (~22 Acres)					\$ 117,263.25	\$ 51,546.25	
Land for Improvement - Temporary Construction Easement (~ 97 Acres)					\$ 41,412.04	\$ 7,098.66	
Private Drain Tile Pump Alteration					\$ -	\$ -	
<b>TOTAL</b>					\$ 1,665,000.00	\$ 410,000.00	

**Total Project Cost \$ 2,075,000.00**

Potential Funding Sources		Potential Lateral 1 Funding	
Clean Water Funding (MDM/1W1P)	\$412,371.65		\$ 81,471.20
Bois de Sioux Watershed District Inline Culvert Grant	\$ 121,668.27		\$139,840.44
WCD 25 Benefit Area	\$ 1,130,960.08	Lateral WS	\$ 188,688.37
Existing Watershed Area (acres)	7,220		1,560
Average Cost/Acre (Assumes equal benefit for all lands)	\$ 156.64		\$ 120.95
Average Cost Per Acre Per Year Assuming 15 Years at 4%	\$ 14.09	Lateral WS	\$ 10.88

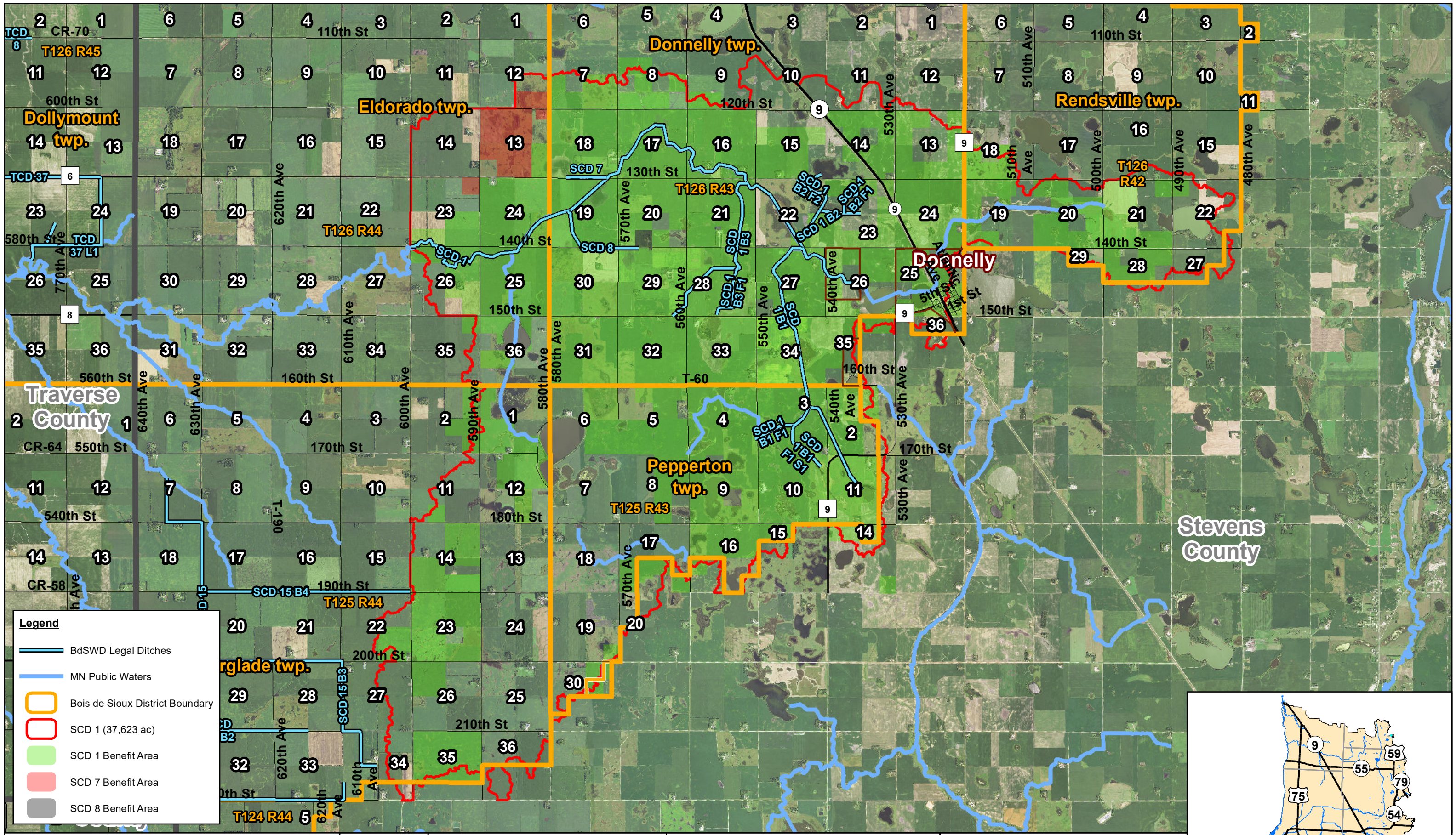
\*Note - Lateral Landowners Pay Lateral Cost Plus Main Cost

**SUPPLEMENT TO THE PROPERTY OWNERS REPORT**  
**Statement of Benefits and Damages by Property Owner Name**  
**Wilkin County Ditch #25 2026 Redetermination of Benefits**  
**04/16/26**

COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E	COLUMN F	COLUMN G	COLUMN H	COLUMN I	COLUMN J
			IMPROVEMENT ONLY		LATERAL ONLY		IMPROVEMENT + LATERAL	TOTAL DAMAGES	FUTURE MAINTENANCE
TOTAL POTENTIAL			TOTAL NET	ESTIMATED COST	TOTAL NET	ESTIMATED COST	ESTIMATED COST	(TOTAL PAID /	TOTAL NET
BENEFITS			BENEFITS	MAIN	BENEFITS	LATERAL	PROPOSED PROJECT	EASEMENT VALUE)	BENEFITS
Landowner	Parcel								
AYALA/KIANII	07-005-0600	\$ 5,647.34	\$ 3,910.03	\$ 1,317.80			\$ 1,317.80		\$ 3,910.03
BACKER/SANDRA K/TRUSTEE	07-007-0300	\$ 114,456.89	\$ 64,826.39	\$ 21,848.48			\$ 21,848.48		\$ 64,826.39
BACKER/SANDRA K/TRUSTEE	07-007-0400	\$ 40,068.51	\$ 22,956.94	\$ 7,737.21			\$ 7,737.21		\$ 22,956.94
BERG/ERIC B/& CHRISTY DELANEY	07-022-0200	\$ 129,231.00	\$ 39,696.76	\$ 13,379.04	\$ 63,044.53	\$ 20,426.37	\$ 33,805.41	\$ 1,515.85	\$ 102,741.30
BERG/ERIC B/& CHRISTY DELANEY	07-022-0300	\$ 90,535.19	\$ 13,186.41	\$ 4,444.24	\$ 41,540.15	\$ 13,458.98	\$ 17,903.22		\$ 54,726.55
BERNSTEIN/BRUCE WAYNE & PAMELA	07-022-0100	\$ 165,179.15	\$ 33,298.53	\$ 11,222.64	\$ 66,334.36	\$ 21,492.27	\$ 32,714.91		\$ 99,632.87
BERNSTEIN/BRUCE WAYNE & PAMELA	07-022-0400	\$ 30,387.21	\$ 4,526.92	\$ 1,525.72	\$ 9,692.54	\$ 3,140.39	\$ 4,666.11		\$ 14,219.46
BEYER/RODD D & JAMIE V	07-021-0100	\$ 104,840.88	\$ 56,368.20	\$ 18,997.82	\$ 33,442.22	\$ 10,835.26	\$ 29,833.08	\$ 27,126.57	\$ 89,810.40
BOMMERSBACH/JOEL & WENDY	07-009-0300	\$ 6,333.92	\$ 1,266.78	\$ 426.95			\$ 426.95		\$ 1,266.78
CAMPBELL TOWNSHIP	240th Ave / 480th St / 490th St		\$ 62,734.89	\$ 21,143.57	\$ 29,773.85	\$ 9,646.70	\$ 30,790.27	\$ 71,000.00	\$ 92,508.74
CULP/A & E/LLP	07-015-0400	\$ 107,334.23	\$ 32,673.24	\$ 11,011.90	\$ 41,657.93	\$ 13,497.14	\$ 24,509.04	\$ 60.28	\$ 74,331.19
CULP/A & E/LLP	07-021-0200	\$ 124,267.17	\$ 93,780.01	\$ 31,606.74	\$ 12,254.08	\$ 3,970.32	\$ 35,577.06	\$ 31,518.34	\$ 106,034.09
DAHL/ELIZABETH & JOHN/TRUSTEES	07-021-0400	\$ 51,277.51	\$ 12,934.56	\$ 4,359.35	\$ 20,511.01	\$ 6,645.56	\$ 11,004.91		\$ 33,445.57
DOHMAN/MARILYN	07-007-0100	\$ 79,518.05	\$ 58,953.83	\$ 19,869.25			\$ 19,869.25		\$ 58,953.83
DOHMAN/MARILYN	07-007-0200	\$ 31,080.59	\$ 22,966.74	\$ 7,740.51			\$ 7,740.51		\$ 22,966.74
DOHMAN/TROY A	07-006-0400	\$ 210,380.35	\$ 162,080.55	\$ 54,626.09			\$ 54,626.09	\$ 6,664.27	\$ 162,080.55
DOHMAN/TROY/ETAL,COTRUSTEES	07-007-0600	\$ 47,372.48	\$ 35,540.48	\$ 11,978.24			\$ 11,978.24		\$ 35,540.48
GRAN/DUANE & BONITA/TRSTEE,ETL	07-010-0100	\$ 133,233.49	\$ 6,661.67	\$ 2,245.20	\$ 6,661.67	\$ 2,158.39	\$ 4,403.59		\$ 13,323.35
GRAN/DUANE & BONITA/TRSTEE,ETL	07-010-0200	\$ 97,646.80	\$ 4,882.34	\$ 1,645.51	\$ 4,882.34	\$ 1,581.89	\$ 3,227.40		\$ 9,764.68
HAUGEN-GEBHARDT/BRENNNA/&	07-112-0200	\$ 2,735.00	\$ 136.75	\$ 46.10	\$ 136.75	\$ 44.31	\$ 90.41		\$ 273.50
HAUGEN-GEBHARDT/BRENNNA/&	07-112-0210	\$ 1,581.39	\$ 79.07	\$ 26.65	\$ 79.07	\$ 25.62	\$ 52.27		\$ 158.14
HEGEL/CHARLES & VALERIA/TRSTEE	07-101-0300	\$ 2,575.70	\$ 128.79	\$ 43.41	\$ 128.79	\$ 41.73	\$ 85.14		\$ 257.57
HEGEL/VALERIA & CHARLES/TRSTEE	07-101-0310	\$ 2,575.70	\$ 128.79	\$ 43.41	\$ 128.79	\$ 41.73	\$ 85.14		\$ 257.57
HOFF/DEBRA J	07-016-0110	\$ 80,382.00	\$ 16,076.40	\$ 5,418.25			\$ 5,418.25		\$ 16,076.40
JACKLITCH/LAURIE A/TRUSTEE	07-015-0500	\$ 112,270.60	\$ 21,255.20	\$ 7,163.67	\$ 39,395.50	\$ 12,764.12	\$ 19,927.79		\$ 60,650.71
KUTZER/C KEVIN	07-030-0200	\$ 6,149.87	\$ 2,459.95	\$ 829.08	\$ 614.99	\$ 199.26	\$ 1,028.34		\$ 3,074.94
STATE OF MN - LAND MANAGEMENT	MN HIGHWAY DEPT. HWY 75		\$ 196,246.26	\$ 66,140.97			\$ 66,140.97		\$ 196,246.26
LARSON/STEVEN	07-014-0400	\$ 35,583.00	\$ 1,779.15	\$ 599.65	\$ 2,412.46	\$ 781.65	\$ 1,381.30		\$ 4,191.60
LARSON/STEVEN	07-014-0500	\$ 142,945.66	\$ 14,487.69	\$ 4,882.81	\$ 28,782.26	\$ 9,325.44	\$ 14,208.25		\$ 43,269.95
M & M YAGGIE LAND, LLLP	07-009-0400	\$ 152,147.20	\$ 67,844.90	\$ 22,865.82			\$ 22,865.82		\$ 67,844.90
M T & S LUM FLEMING, TRUST	07-009-0500	\$ 127,090.21	\$ 57,947.58	\$ 19,530.12			\$ 19,530.12		\$ 57,947.58
MAACK/GREG W	07-007-0210	\$ 27,001.80	\$ 20,107.98	\$ 6,777.01			\$ 6,777.01		\$ 20,107.98
MAACK/GREG W	07-007-0500	\$ 48,014.60	\$ 36,012.79	\$ 12,137.42			\$ 12,137.42		\$ 36,012.79
MILLER/CASEY	07-008-0100	\$ 134,827.06	\$ 88,864.98	\$ 29,950.23			\$ 29,950.23		\$ 88,864.98
MILLER/CASEY	07-008-0200	\$ 8,979.65	\$ 5,387.79	\$ 1,815.85			\$ 1,815.85		\$ 5,387.79
MILLER/CASEY	07-008-0300	\$ 106,990.53	\$ 90,460.56	\$ 30,487.98			\$ 30,487.98	\$ 10,807.31	\$ 90,460.56
MILLER/CASEY	07-008-0400	\$ 116,842.89	\$ 99,311.06	\$ 33,470.88			\$ 33,470.88	\$ 9,612.25	\$ 99,311.06
MILLER/CASEY	07-008-0500	\$ 76,341.42	\$ 45,804.85	\$ 15,437.64			\$ 15,437.64		\$ 45,804.85
MILLER/CASEY	07-008-0600	\$ 69,898.52	\$ 48,928.97	\$ 16,490.56			\$ 16,490.56		\$ 48,928.97
MILLER/CASEY	07-021-0300	\$ 126,053.97	\$ 94,269.65	\$ 31,771.77	\$ 1,550.68	\$ 502.42	\$ 32,274.19		\$ 95,820.33
MILLER/CASEY	07-021-0500	\$ 59,561.27	\$ 35,736.77	\$ 12,044.39	\$ 4,232.54	\$ 1,371.35	\$ 13,415.74		\$ 39,969.31
MILLER/DALLAS	07-028-0100	\$ 104,852.21	\$ 43,270.22	\$ 14,583.41			\$ 14,583.41		\$ 43,270.22
MILLER/DANIEL W	07-006-0100	\$ 108,691.17	\$ 56,653.18	\$ 19,093.87			\$ 19,093.87	\$ 27,377.89	\$ 56,653.18
MILLER/DANIEL W	07-006-0110	\$ 112,073.80	\$ 37,619.82	\$ 12,679.05			\$ 12,679.05	\$ 59.43	\$ 37,619.82
MILLER/DANIEL W	07-006-0300	\$ 187,486.86	\$ 117,749.81	\$ 39,685.30			\$ 39,685.30		\$ 117,749.81
MILLER/DANIEL W	07-017-0100	\$ 127,372.20	\$ 83,066.02	\$ 27,995.81			\$ 27,995.81		\$ 83,066.02
MILLER/DANIEL W	07-017-0200	\$ 159,603.75	\$ 120,290.57	\$ 40,541.62			\$ 40,541.62		\$ 120,290.57

**SUPPLEMENT TO THE PROPERTY OWNERS REPORT**  
**Statement of Benefits and Damages by Property Owner Name**  
**Wilkin County Ditch #25 2026 Redetermination of Benefits**  
**04/16/26**

COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E	COLUMN F	COLUMN G	COLUMN H	COLUMN I	COLUMN J
Landowner	Parcel	TOTAL POTENTIAL BENEFITS	IMPROVEMENT ONLY		LATERAL ONLY		IMPROVEMENT + LATERAL	TOTAL DAMAGES	FUTURE MAINTENANCE
			TOTAL NET	ESTIMATED COST	TOTAL NET	ESTIMATED COST	ESTIMATED COST	(TOTAL PAID / EASEMENT VALUE)	TOTAL NET
			BENEFITS	MAIN	BENEFITS	LATERAL	PROPOSED PROJECT	BENEFITS	BENEFITS
MILLER/DANIEL W	07-017-0300	\$ 151,921.77	\$ 131,364.91	\$ 44,274.01			\$ 44,274.01	\$ 33,660.41	\$ 131,364.91
MILLER/FR FRANKLIN D/TRUSTEE	07-019-0100	\$ 21,151.86	\$ 10,575.93	\$ 3,564.43	\$ 2,115.19	\$ 685.34	\$ 4,249.77		\$ 12,691.12
MILLER/FR FRANKLIN D/TRUSTEE	07-020-0100	\$ 100,651.76	\$ 88,154.34	\$ 29,710.73			\$ 29,710.73	\$ 38,312.15	\$ 88,154.34
MILLER/FR FRANKLIN D/TRUSTEE	07-020-0300	\$ 193,360.66	\$ 149,992.33	\$ 50,552.01			\$ 50,552.01	\$ 10,745.32	\$ 149,992.33
MILLER/JON E	07-003-0100	\$ 164,221.31	\$ 8,211.07	\$ 2,767.42	\$ 8,211.07	\$ 2,660.43	\$ 5,427.85		\$ 16,422.12
OSCHWALD/RS & JS/REVOCABLE TRT	07-015-0100	\$ 105,861.75	\$ 10,586.17	\$ 3,567.88	\$ 30,970.25	\$ 10,034.34	\$ 13,602.22		\$ 41,556.43
OTTER TAIL POWER COMPANY	07-005-0700	\$ 397.77	\$ 238.66	\$ 80.44			\$ 80.44		\$ 238.66
RICHARDSON FAMILY LTD PTRSHP	07-027-0100	\$ 18,976.53	\$ 4,393.35	\$ 1,480.70			\$ 1,480.70		\$ 4,393.35
RICHARDSON FAMILY LTD PTRSHP	07-028-0200	\$ 97,443.53	\$ 60,421.01	\$ 20,363.75			\$ 20,363.75		\$ 60,421.01
RICHARDSON FAMILY LTD PTRSHP	07-029-0300	\$ 108,754.14	\$ 72,806.08	\$ 24,537.90	\$ 1,681.70	\$ 544.88	\$ 25,082.78		\$ 74,487.78
RICHARDSON FAMILY LTD PTRSHP	07-029-0400	\$ 6,997.75	\$ 3,498.88	\$ 1,179.23			\$ 1,179.23		\$ 3,498.88
ROACH/MAURICE & BETTY/TRUST	07-020-0200	\$ 147,132.86	\$ 117,578.33	\$ 39,627.50			\$ 39,627.50	\$ 8,785.83	\$ 117,578.33
ROGAHN/DUANE & DONNA	07-003-0200	\$ 2,985.92	\$ 149.29	\$ 50.33	\$ 149.29	\$ 48.38	\$ 98.71		\$ 298.59
SCHROEDER/RAYMOND J	07-015-0200	\$ 2,808.04	\$ 280.80	\$ 94.64	\$ 561.61	\$ 181.97	\$ 276.61		\$ 842.41
SMILLERMN LLLP	07-005-0100	\$ 4,780.18	\$ 2,835.37	\$ 955.61			\$ 955.61		\$ 2,835.37
SMILLERMN LLLP	07-005-0400	\$ 82,177.74	\$ 29,178.36	\$ 9,834.02			\$ 9,834.02		\$ 29,178.36
STEENBLOCK LAND LLP	07-009-0600	\$ 108,615.55	\$ 27,661.49	\$ 9,322.79			\$ 9,322.79		\$ 27,661.49
STEENBLOCK/DALE	07-010-0300	\$ 53,151.72	\$ 2,657.59	\$ 895.70	\$ 2,657.59	\$ 861.07	\$ 1,756.77		\$ 5,315.17
STEENBLOCK/DALE	07-010-0500	\$ 81,587.94	\$ 4,079.40	\$ 1,374.89	\$ 4,079.40	\$ 1,321.73	\$ 2,696.62		\$ 8,158.80
STEENBLOCK/KARRINE K	07-009-0100	\$ 103,497.20	\$ 28,113.15	\$ 9,475.00			\$ 9,475.00		\$ 28,113.15
STEENBLOCK/KARRINE K	07-009-0200	\$ 27,214.51	\$ 5,442.90	\$ 1,834.43			\$ 1,834.43		\$ 5,442.90
STEENBLOCK/LYNN R	07-010-0400	\$ 65,188.88	\$ 3,259.44	\$ 1,098.54	\$ 3,259.44	\$ 1,056.06	\$ 2,154.60		\$ 6,518.89
STEENBLOCK/LYNN R	07-010-0600	\$ 57,179.88	\$ 2,859.00	\$ 963.58	\$ 2,859.00	\$ 926.33	\$ 1,889.91		\$ 5,717.99
VAN HOVEL/KENTON H	07-016-0100	\$ 56,295.27	\$ 16,888.58	\$ 5,691.98			\$ 5,691.98		\$ 16,888.58
VAN HOVEL/KENTON H	07-016-0200	\$ 115,808.80	\$ 50,269.63	\$ 16,942.40			\$ 16,942.40		\$ 50,269.63
VAN HOVEL/KENTON H	07-016-0310	\$ 10,511.52	\$ 5,255.75	\$ 1,771.36			\$ 1,771.36		\$ 5,255.75
VAN HOVEL/KENTON H	07-016-0400	\$ 127,271.75	\$ 83,262.60	\$ 28,062.05	\$ 5,497.00	\$ 1,781.03	\$ 29,843.08		\$ 88,759.61
VANHOVEL/TROY	07-016-0300	\$ 4,129.14	\$ 2,064.57	\$ 695.83			\$ 695.83		\$ 2,064.57
WIERTZEMA/LUKE L & MARGARET	07-004-0300	\$ 50,082.81	\$ 20,204.71	\$ 6,809.62			\$ 6,809.62		\$ 20,204.71
WIERTZEMA/LUKE L & MARGARET	07-005-0500	\$ 95,239.71	\$ 79,882.04	\$ 26,922.69			\$ 26,922.69	\$ 11,074.28	\$ 79,882.04
WIERTZEMA/LUKE L & MARGARET	07-005-0610	\$ 93,400.71	\$ 57,612.86	\$ 19,417.30			\$ 19,417.30		\$ 57,612.86
WILKIN COUNTY	CR 13 (250th Ave) / CSAH 4 (470th St)		\$ 11,360.00	\$ 3,828.67			\$ 3,828.67	\$ 76,000.00	\$ 11,360.00
YAGGIE/JEFFREY & JANET	07-023-0200	\$ 88,889.05	\$ 10,491.12	\$ 3,535.85	\$ 19,380.03	\$ 6,279.12	\$ 9,814.97		\$ 29,871.15
YAGGIE/MICHAEL & JEFFREY	07-101-0400	\$ 13,685.89	\$ 684.29	\$ 230.64	\$ 684.29	\$ 221.72	\$ 452.36		\$ 1,368.59
YAGGIE/MICHAEL & MARY	07-016-0500	\$ 148,770.51	\$ 70,690.10	\$ 23,824.74	\$ 38,689.54	\$ 12,535.39	\$ 36,360.13		\$ 109,379.65
YAGGIE/MICHAEL & MARY	07-023-0300	\$ 90,369.03	\$ 4,518.45	\$ 1,522.87	\$ 11,159.61	\$ 3,615.71	\$ 5,138.58		\$ 15,678.06
YAGGIE/MICHAEL D	07-015-0300	\$ 161,057.51	\$ 28,531.57	\$ 9,616.02	\$ 34,678.49	\$ 11,235.82	\$ 20,851.84		\$ 63,210.07
YAGGIE/MICHAEL D	07-021-0110	\$ 13,195.40	\$ 5,278.16	\$ 1,778.91	\$ 5,278.16	\$ 1,710.12	\$ 3,489.03		\$ 10,556.32
YAGGIE/MICHAEL D	07-112-0100	\$ 22,868.72	\$ 1,143.43	\$ 385.39	\$ 1,143.43	\$ 370.48	\$ 755.87		\$ 2,286.87
YAGGIE/MICHAEL D	07-112-0300	\$ 18,149.64	\$ 907.48	\$ 305.86	\$ 907.48	\$ 294.03	\$ 599.89		\$ 1,814.97
YAGGIE/MICHAEL/ETAL	07-018-0100	\$ 4,934.87	\$ 2,960.92	\$ 997.93	\$ 493.49	\$ 159.90	\$ 1,157.83		\$ 3,454.40
YAGGIE/MICHAEL/ETAL	07-018-0900	\$ 6,610.67	\$ 3,966.40	\$ 1,336.81	\$ 661.07	\$ 214.19	\$ 1,551.00		\$ 4,627.47
<b>TOTAL</b>		<b>\$ 6,636,749.04</b>	<b>\$ 3,355,661.33</b>	<b>\$ 1,130,961.44</b>	<b>\$ 582,373.64</b>	<b>\$ 188,688.94</b>	<b>\$ 1,319,650.38</b>	<b>\$ 364,320.18</b>	<b>\$ 3,938,034.98</b>

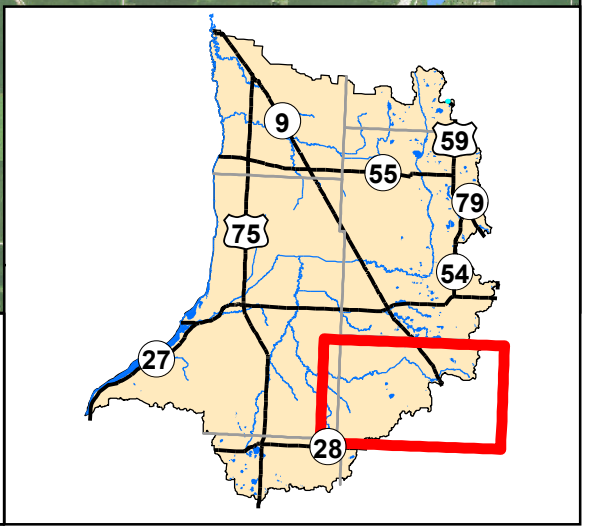
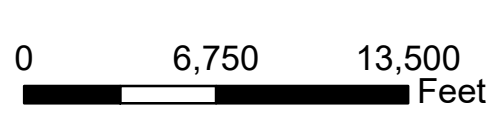
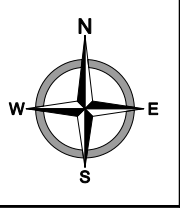


**Legend**

- BdSWD Legal Ditches
- MN Public Waters
- Bois de Sioux District Boundary
- SCD 1 (37,623 ac)
- SCD 1 Benefit Area
- SCD 7 Benefit Area
- SCD 8 Benefit Area

**Stevens County Ditch 1  
Benefit Map  
Bois De Sioux Watershed District**

Created By: CJH Date Created: 04/03/2025 Date Saved: 05/11/26 Date Plotted: 01/20/26 Date Exported: 05/11/26  
Plotted By: cole hendrickson Parcel Date: XXXXXX Aerial Image: 2019 SIDs Elevation Data: IWI Lidar  
Horizontal Datum: NAD 1983 HARN Adj MN Grant Feet Vertical Datum: NAVD 1988  
T:\projects\18100\18139\18139-800 - Miscellaneous\Stevens CO Ditch 1 Map\SCD1\Map.mxd





	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
1.	012000 Mobilization	LS	1.0		\$ 45,000.00
2.	312213 Excavation	LS	1.0		\$ 15,000.00
4.	313700 Riprap - Class IV	CY	162.0	150.00	\$ 24,300.00
5.	313700 Riprap Filter Blanket	SY	81.0	10.00	\$ 810.00
6.	Bore 36" Steel Pipe	LF	108.0	1350.00	\$ 145,800.00
8.	334213 Flared End Section - 36"	EA	2.0	3000.00	\$ 6000.00
9.	Topsoil Stripping and Spreading	LS	1.0	5000.00	\$ 5000.00
10.	329219 Seeding & Mulch	LS	1.0	11,000.00	\$ 11,000.00
	Erosion Control Blanket	SY	30.0	25.00	\$ 750.00
Total Construction					\$

\$ 253,660

Roger Halverson  
 INDUSTRIAL BUILDERS, INC  
 4-15-26



Ecological and Water Resources  
500 Lafayette Road  
St. Paul, MN 55155

May 04, 2026

Via Electronic and US Mail

Jamie Beyer, Administrator  
Bois de Sioux Watershed District  
704 Hwy 75 South  
Wheaton, MN 56296  
[bdswd@runestone.net](mailto:bdswd@runestone.net)

**RE: Public Waters Inventory Corrections Within Grant County**

Dear Jamie Beyer:

In 2024, the Minnesota Legislature enacted Minn. Stat. § 103G.201 (f) which directed the Department of Natural Resources (DNR) to update the state's Public Water Inventory (PWI) by correcting errors in the original inventory; adding or subtracting trout stream tributaries; adding depleted quarries, and sand and gravel pits; and adding or subtracting public waters that have been created or eliminated as a DNR permit requirement. The DNR will update the inventory on a county-by-county basis. We are now beginning this work in Grant County.

What are public waters and the PWI?

Public waters are defined by Minn. Stat. § 103G.005, subd. 15 and include meandered lakes, water basins, altered and unaltered water courses, and public waters wetlands. The state holds title to its public waters and lands thereunder as a trustee for the people for public use. The DNR is responsible for regulating activities in these waters to protect the public's interest.

Although the statutory definition of public waters controls a water's classification as public, the PWI is a tool used to help identify public waters in Minnesota. County PWI lists and maps (which together constitute the PWI) were first created by the DNR in the 1980s and the PWI remains a reliable and robust tool in protecting water resources across the state.

Summary of the original PWI stakeholder process

The creation of the PWI was a rigorous and robust process that involved the development of a preliminary list and map of all public waters in each county (preliminary PWI). This list was submitted to the county, after which the county held public informational meetings to elicit feedback on the proposed PWI. DNR reviewed all comments forwarded by the county on the draft PWI, adjusted the preliminary inventory, and published notice of the revised PWI list and maps in each county.

The notice invited anyone challenging a designation to “list the reason(s) why the particular public water or wetland does not meet the statutory definition” of a public water. These objections were heard in a hearing similar in nature to a contested-case hearing. The hearing panel was required to issue findings of fact and conclusions of law which were then used by the DNR to finalize the PWI for the county. The decisions issued by the three-judge panel were appealable to the Commissioner and ultimately to the appellate court. Given the rigors of this process, it is not DNR’s intent to reopen the PWI in each county.

#### The PWI Update stakeholder process

The DNR will use the original PWI stakeholder process to update and correct the original PWI as directed by the new legislation. DNR will undertake this work on a county-by-county basis. The process that the DNR will use is:

- Prepare a preliminary map reflecting the proposed corrections and any modifications and submit it to the county board. Potentially affected landowners will receive direct mail notice.
- Provide a 60-day public comment period and host a public meeting in the county to obtain feedback on the preliminary corrections. The comment period closes 45 days after the public meeting.
- Review the feedback received during the comment period and make necessary modification to the preliminary map. This revised map, now a provisional final map, will be submitted to the county and made available on the DNR’s project webpage.
- Provide 90 days for parties (including riparian landowners) or counties wishing to challenge a decision made by the DNR to request DNR Commissioner’s Review of the modified and updated PWI. This request must be accompanied by a submission form provided by DNR. The form requires a challenge to include technical rationale of statutory definition(s) not met; comprehensive supporting maps and imagery; and, if warranted, evidence from the original PWI review process. Commissioner’s Review requests that do not include a submission form and required materials will be denied.
- Issue the updated PWI list and map for the county, upon completion of Commissioner’s Review process.

Past decisions, including those tied to the original PWI effort and subsequent final agency actions, will remain in place and are not subject to challenge. The PWI Update Project is not a stakeholder opportunity to re-make past PWI decisions.

#### Examples of known PWI errors and corrections

The PWI Update Project addresses known errors identified by the DNR. The project is a targeted effort and is not a re-inventory of the state’s public waters. Examples of corrections and revisions the DNR has identified statewide include:

- Designated trout streams and trout stream tributaries that are not identified on the PWI.
- Watercourses that qualify as a public water but were removed from the PWI in 2017 by Commissioner’s Order due to errors found during the 2016 Buffer Protection Map initiative.
- Existing public water wetlands that clearly did not conform to statutory criteria for size (estimated area).
- County boundary corrections.

In addition to the example corrections above, DNR Area Hydrologists will inform the PWI Update Project of case-by-case potential corrections when their assigned county is under review.

The following is not considered to be an “error in the original inventory”:

- Areas initially proposed on the preliminary inventory that were subsequently removed by the DNR as part of the public information meeting process or dropped from or remained on the PWI as part of the petition, hearing, and appeal process.

How does this impact landowners in this county?

The updated PWI will provide a better tool for water resource protection, regulatory clarity and a shared understanding of where public waters are located on the landscape. The PWI Update Project will likely result in adding or removing some waters from the inventory. Landowners adjacent to added public waters will be subject to the State Buffer Law.

For more project information see the [Public Waters Inventory Update Project | Minnesota DNR](#). Additionally, the project webpage features a map tool showing the county update status statewide. Questions about the PWI Update Project can be sent to [pwi.update.dnr@state.mn.us](mailto:pwi.update.dnr@state.mn.us).

Our project team is available to meet with you, either individually or at a scheduled board meeting, to discuss any items as we begin work on the PWI Update. Please contact me directly by email at [wes.saunders-pearce@state.mn.us](mailto:wes.saunders-pearce@state.mn.us) or by phone at (651) 259-5416 if you would like to arrange an initial meeting.

Sincerely,



Wes Saunders-Pearce  
Lead Hydrologist, PWI Update Project

ec: Nathan Kestner, DNR Regional Manager  
Erik Anthonisen, DNR District Manager  
Emily Siira, DNR Area Hydrologist



Ecological and Water Resources  
23070 N. Lakeshore Drive  
Glenwood, MN 56334

May 7, 2026

Jamie Beyer  
BDSWD Administrator  
704 Hwy 75 South  
Wheaton, MN 56296

**RE: ELBOW LAKE (PW 26-140P) OUTLET, SECTION 6, TOWNSHIP 129, RANGE 42, GRANT COUNTY**

Dear Ms. Beyer,

Thank you for taking the time to meet with me on April 21<sup>st</sup>. The culvert installed between Elbow Lake and Samantha Lake is not exempt from permitting under Minnesota Statute 103G.245 Subp. 2(3) because it functions as a water level control structure for Elbow Lake. Minnesota Rule 6115.0170 Subp. 42 defines a water level control structure as any structure which impounds or regulates the water surface elevation or flow of public waters, including dams.

The culvert installed in 2023 is below the ordinary high water level and controls the level of Elbow Lake; a permit was required. All relevant Statutes and Rules need to be considered for projects that impact the course, current, or cross section of a public water and the most restrictive supersedes. Minnesota Statute 103G.405, along with Minnesota Rules 6115.0220 and 6115.0221 specify permit requirements for the construction of water level control structures on landlocked lakes.

We brought this regulatory issue to your attention in December 2023. In February 2024, we indicated that we may be able to address it as part of a larger-scale project. To date we have not received preliminary plans or a permit application for a project on Elbow and Samantha Lakes. I have reviewed several drafts of an EAW being prepared by Aaron Weinandt, the last time was May 2025. Any project that proposes to permanently or temporarily lower the level of a public water is complex and we encourage engagement with DNR throughout the planning process.

I am available for in-person meetings, field visits, by phone or video conference.

Sincerely,

A handwritten signature in black ink that reads 'Emily Siira'.

Emily Siira, Area Hydrologist

[emily.siira@state.mn.us](mailto:emily.siira@state.mn.us)

320-634-7345

Attachment: [Culvert Guidance](#)

**103G.245 WORK IN PUBLIC WATERS.**

Subdivision 1. **Permit requirement.** Except as provided in subdivisions 2, 11, and 12, the state, a political subdivision of the state, a public or private corporation, or a person must have a public-waters-work permit to:

(1) construct, reconstruct, remove, abandon, transfer ownership of, or make any change in a reservoir, dam, or waterway obstruction on public waters; or

(2) change or diminish the course, current, or cross section of public waters, entirely or partially within the state, by any means, including filling, excavating, or placing of materials in or on the beds of public waters.

Subd. 2. **Exceptions.** A public-waters-work permit is not required for:

(1) work in altered natural watercourses that are part of drainage systems established under chapter 103D or 103E if the work in the waters is undertaken according to chapter 103D or 103E;

(2) a drainage project for a drainage system established under chapter 103E that does not substantially affect public waters; or

(3) culvert restoration or replacement of the same size and elevation, if the restoration or replacement does not impact a designated trout stream.

Subd. 3. **Permit application.** Application for a public-waters-work permit must be in writing to the commissioner on forms prescribed by the commissioner. The commissioner may issue a state general permit to a governmental subdivision or to the general public under which more than one project may be conducted under a single permit.

Subd. 4. **Boathouses and boat storage structures.** (a) The following definitions apply to this subdivision:

(1) "boathouse" means a structure or watercraft that is moored by spuds, cables, ropes, anchors, or chains that may be intended for habitation and has walls, a roof, and either an open well for boats or a floor from wall to wall and does not include watercraft that are designed and operated as motorboats;

(2) "motorboat" means a watercraft that is designed for and is capable of navigation on the water and that has an adequately sized external or internal mechanical propulsion system for the type of watercraft; and

(3) "boat storage structure" means a structure that is used for storing boats or float planes.

(b) Boathouses and boat storage structures are prohibited on public waters of Minnesota, except as allowed by paragraphs (c) to (f).

(c) The commissioner may issue a public-waters-work permit for boathouses, when approved by the local governmental unit and:

(1) only in areas of historic use for the structures, as determined by the commissioner, and where the boathouse was in existence on public waters prior to January 1, 1997; or

(2) where the boathouse serves as a public service structure within a permitted commercial marina.

(d) A boathouse in existence on public waters prior to January 1, 1997, may be repaired or replaced, provided that the repairs or replacement are consistent with the permit issued by the commissioner under paragraph (c).

(e) The commissioner may issue a public-waters-work permit for the repair or replacement of boat storage structures when:

(1) approved by the local governmental unit;

(2) the boat storage structure was in existence prior to 1979 and is currently used for boat storage;

(3) the boat storage structure is not habitable and is not connected to a sewage system;

(4) the local government unit has had the opportunity to review the boat storage structure application and has not provided written comments opposing the application;

(5) the total area of boat storage structures on the applicant's property and on public waters adjacent to the applicant's property is not increased;

(6) the height of boat storage structures is not increased more than one foot, unless boat storage structures are consolidated and the same pitch roof results in an increased height; and

(7) the public-waters-work permit with the specific dimensions and location of the boat storage structure is recorded in the real estate records of the office of the county recorder or registrar of titles in the county in which the applicant's property is located.

(f) A boat storage structure may be repaired, replaced, or consolidated, provided that the repairs, replacement, or consolidation are consistent with the permit issued by the commissioner under paragraph (e). The repair or replacement of a boat storage structure may include:

(1) the replacement of the foundation of the boat storage structure, provided that the material below the ordinary high-water mark is not toxic to aquatic life; and

(2) the consolidation of multiple boat storage structures.

(g) Notwithstanding sections 103F.201 to 103F.221, and rules adopted under those sections, the local zoning authority may approve a boat storage structure that is at or above the ordinary high-water level to replace a boat storage structure that is at or below the ordinary high-water level of a public water if the boat storage structure was in existence prior to 1979. The replacement boat storage structure may not exceed the total area of the boat storage structure being replaced. A boat storage structure that is replaced under this paragraph must be removed prior to building the replacement structure.

**Subd. 5. Delegating permit authority to local units of government.** (a) The commissioner may delegate public-waters-work permit authority to the appropriate county or municipality or to watershed districts or watershed management organizations that have elected to assert local authority over protected waters. The public-waters-work permit authority must be delegated under guidelines of the commissioner and the delegation must be done by agreement with the involved county, municipality, watershed district, or water management organization and in compliance with section 103G.315.

(b) For projects affecting public waters wetlands and for wetland areas of public waters affected by a public transportation project as determined by the commissioner, the commissioner may waive the requirement for a public-waters-work permit if the local government unit makes a replacement, no-loss, or exemption

determination in compliance with sections 103A.201, 103B.3355, and 103G.222 to 103G.2372, and rules adopted pursuant to these same sections.

(c) For projects affecting both public waters and wetlands, the local government unit may, by written agreement with the commissioner, waive the requirement for a replacement plan, no-loss, or exemption determination if a public-waters-work permit is required and the commissioner includes the provisions of sections 103A.201, 103B.3355, and 103G.222 to 103G.2372, and rules adopted pursuant to these same sections in the public-waters-work permit.

**Subd. 6. Conforming with water and related land resource management plans.** A public-waters-work permit may not be issued under this section if the project does not conform to state, regional, and local water and related land resources management plans.

**Subd. 7. Effect on environment and mitigation.** (a) A public-waters-work permit may be issued only if the project will involve a minimum encroachment, change, or damage to the environment, particularly the ecology of the waterway.

(b) If a major change in the resource is justified, public-waters-work permits must include provisions to compensate for the detrimental aspects of the change.

**Subd. 8. Excavation in public waters.** Public-waters-work permits for projects that involve excavation in the beds of public waters may be granted only if:

(1) the area where the excavation will take place is covered by a shoreland zoning ordinance approved by the commissioner;

(2) the work under the permit is consistent with the shoreland zoning ordinance; and

(3) the permit includes provisions for the deposition of excavated materials.

**Subd. 9. Project affecting floodwaters.** (a) A public-waters-work permit for a project affecting floodwaters may be granted only if:

(1) the area covered by the public-waters-work permit is governed by a floodplain management ordinance approved by the commissioner; and

(2) the conduct authorized by the public-waters-work permit is consistent with the floodplain management ordinance, if the commissioner has determined that enough information is available for the adoption of a floodplain ordinance.

(b) A public-waters-work permit involving the control of floodwaters by structural means, such as dams, dikes, levees, and channel improvements, may be granted only after the commissioner has considered all other flood damage reduction alternatives. In developing a policy on placing emergency levees along the banks of public waters under emergency flood conditions, the commissioner shall consult and cooperate with the office of emergency services.

**Subd. 10. Changing level of public waters.** (a) A public-waters-work permit that will change the level of public waters may not be issued unless:

(1) the shoreland adjacent to the waters to be changed is governed by a shoreland zoning ordinance approved by the commissioner; and

(2) the change in water level is consistent with the shoreland zoning ordinance.

(b) Standards and procedures for use in deciding the level of public waters must ensure that the rights of all persons are protected when public water levels are changed and must provide for:

- (1) technical advice to persons involved;
- (2) establishing alternatives to help local agencies resolve water level conflicts; and
- (3) mechanics necessary for local resolution of water problems within the state guidelines.

Subd. 11. **Emergency repairs.** (a) The owner of a dam, reservoir, control structure, or waterway obstruction may make repairs that are immediately necessary in case of emergency without a public-waters-work permit under subdivision 1. The owner must immediately notify the commissioner of the emergency and of the emergency repairs being made. The owner must apply for a public-waters-work permit for the emergency repairs and necessary permanent repairs as soon as practicable.

(b) This subdivision does not apply to routine maintenance not affecting the safety of the structures.

(c) If the commissioner declares there is an emergency and repairs or remedial action are immediately necessary to safeguard life and property, the repairs, remedial action, or both, must be started immediately by the owner.

Subd. 12. **Operating structure predating permit requirement.** The owner of a dam, reservoir, control structure, or waterway obstruction constructed before a public-waters-work permit was required by law must maintain and operate the dam, reservoir, control structure, or waterway obstruction in a manner approved and prescribed by rule by the commissioner.

**History:** 1990 c 391 art 7 s 22; 1995 c 218 s 8,9; 1996 c 443 s 1,2; 1997 c 247 s 1; 2000 c 382 s 17; 2001 c 146 s 9; 2003 c 2 art 1 s 14; 2005 c 138 s 3; 2006 c 180 s 1; 2012 c 272 s 46,47; 2014 c 289 s 54; 1Sp2015 c 4 art 4 s 91

November 15, 2024

Lukas Croaker  
Ohnstad Twichell, P.C.  
444 Sheyenne St Ste 102  
West Fargo, ND 58078

Re: Improvement Project on 140<sup>th</sup> Street in Eldorado Township

Dear Mr. Croaker:

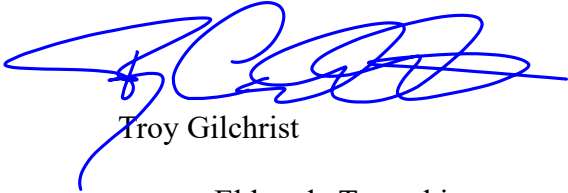
The Town Board of Eldorado Township (“Town”) asked me to help it to accomplish the long-planned improvement project to 140<sup>th</sup> Street (“Road”). As you are likely aware, the Town plans to improve an approximately three-mile portion of the Road located between 610<sup>th</sup> Avenue and 640<sup>th</sup> Avenue. The Town started pursuing the project roughly three years ago and, from what I have been told, have encountered long delays and incurred significant costs as a result of directives from your client, the Bois de Sioux Watershed (“Watershed”). I am writing to notify the Watershed that the Town intends to move forward with the project to improve the Road without connecting Traverse County Ditch 37, Lateral 1. The Town’s position is that since it no longer intends to connect to the ditch, it can proceed with the project as the road authority without needing to obtain any permits or permissions from the Watershed.

The Town Board is obviously frustrated with how the Watershed has handled this matter. A primary source of that frustration, other than the long delay, is Watershed requiring the Town to hire an engineering firm to develop plans for the project only to have the Watershed spend the Town’s money to reengineer the project. The Town was required to deposit \$60,000 with the Watershed, which ended up being spent to duplicate work the Town had already paid to have done. The Watershed does not have the authority to completely reengineer a public project and certainly does not have the authority to use the Town’s funds to undertake that work. The Town hired a well respected engineering firm to prepare the plans and there is no legitimate basis for the Watershed to have its engineer duplicate that work. While the Town is currently focused on moving forward with its project, I will be asking it if it would like me to pursue a sweeping data practices request to develop a detailed picture of how the escrowed funds were expended and to discover the communications made surrounding those expenditures to determine whether to initiate an action to recover its funds.

For now, the Town intends to exercise its power as a road authority to improve its road. Again, the Town will not be connecting to any county ditches and so it should not be necessary for the Town to obtain any permits or permissions from the Watershed. If the Watershed disagrees with that position, please provide a detailed explanation of what is needed and the legal support for any such requirements.

This is a critical public improvement project for the Town and one intended to address public safety concerns on the Road. The Town simply cannot abide further delays and the associated increase in construction costs. You are welcome to contact me if you would like to discuss this matter. Otherwise, the Town would appreciate obtaining any comments the Watershed may have on the Town's new direction within the next 30 days.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Troy Gilchrist', with a stylized flourish extending from the end of the signature.

Troy Gilchrist

cc: Eldorado Township

April 15, 2026

Lukas Croaker  
Ohnstad Twichell, P.C.  
444 Sheyenne St Ste 102  
West Fargo, ND 58078

**VIA U.S. MAIL AND EMAIL**  
(lcroaker@ohnstadlaw.com)

Re: Improvement Project on 140<sup>th</sup> Street in Eldorado Township

Dear Mr. Croaker:

I represent Eldorado Township (“Town”) and I previously sent you a letter dated November 15, 2024 (copy enclosed) in your capacity as the attorney for the Boix de Sioux Watershed (“Watershed”) regarding the 140<sup>th</sup> Street improvement project. The letter expressed several concerns about how the Watershed has handled this matter and indicated that because the Town could not identify any permits needed from the Watershed it intended to proceed. I specifically asked you to contact me if you disagreed with the Town’s determination. I received no response from you and so the Town proceeded with the construction of the project.

I understand the Watershed has since raised concerns and has suggested that some type of permit may have been required. The Town has attempted to work with the Watershed and I understand submitted an application at the Watershed’s urging. However, the Town cannot reasonably be expected to remain in permitting limbo for years while the Watershed attempts to figure things out. More recently, the Town has been waiting on culvert sizing for the improved road. The Town intends to seek expert advice on culvert sizing to help expedite the process.

The Watershed is a political subdivision of the state and is bound by the timing limitations in Minn. Stat. § 15.99. Any required Watershed reviews and approvals expressly constitute a “request” subject to the 60-day limit. As to any unissued permits, the Watershed has either failed to provide an incomplete notice within 15 business days, or failed to make a final decision within the 60-day period. As such, by operation of Minn. Stat. § 15.99, subd. 2, all such permit applications have been deemed approved as a matter of law.

The Town proceeded to improve its road pursuant to its broad authority as a statutory road authority to maintain and improve its roads and to manage water running through its road ditches. This is not a complete list, but the following are some of the authority the Legislature has given the Town to manage its rights-of-way.

- Minnesota Statutes, section 103E.701, subdivision 3:

“The town board has the power of a drainage authority to repair a town drainage system located within the town.”

- Minnesota Statutes, section 103E.701, subdivision 1:

“The term ‘repair,’ as used in this section, 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 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 operations that may be required to remove obstructions and maintain the efficiency of the drainage system.”

- Minnesota Statutes, section 103E.005, subdivision 12:

“‘Drainage system’ means a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority. Drainage system includes the improvement of a natural waterway used in the construction of a drainage system and any part of a flood control plan proposed by the United States or its agencies in the drainage system.”

- Minnesota Statutes, section 164.02, subdivision 1:

“Town roads shall be established, located, relocated, constructed, reconstructed, improved and maintained, or vacated by the several towns. The town boards shall have supervision over town roads, and they may employ such persons as they deem necessary to carry out their duties. They may appropriate and expend such sums of money from their respective town road and bridge funds as they deem necessary for the establishment, location, relocation, construction, reconstruction, improvement and maintenance, or vacation of such roads.”

- Minnesota Statutes, section 164.36:

“The town board has authority within the 66-foot right-of-way to:

...

(8) regulate erosion, drainage, public nuisances, and matters of public interest.”

- Minnesota Statutes, section 160.20:

Grants broad authority to establish regulations and to require a permit for the construction of drainage facilities that drain to or across town roads.

- Minnesota Statutes, section 160.201, subdivision 1:

“For the purpose of draining public roads and preventing accumulations of water in road ditches, the overflow of which may damage adjacent lands, the various authorities having supervision over public roads, in addition to all other powers granted to said authorities, are authorized and empowered to expend moneys from funds available therefor in repairing, cleaning out, deepening, widening and improving public road ditches within the jurisdiction and supervision of such authorities. The necessity for such work shall be determined by the authorities which now have the supervision of said public roads; provided, that before said work may be done said road supervising authority shall determine that said road ditch as so improved will be provided with an adequate outlet.”

- Minnesota Statutes, section 160.2715:

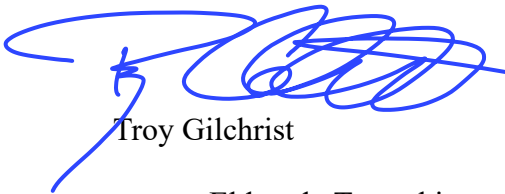
“(a) Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:

...

(7) obstruct any ditch draining any highway or drain any noisome materials into any ditch;”

The Town attempted to work with the Watershed on this project, but after years of delay, the waste of public funds, and serious doubt about the scope of the Watershed’s claimed authority, the Town Board could not justify waiting any longer to undertake this improvement project. Furthermore, regarding its most recent application, the incomplete notice was not submitted within the 15 business day period and so had automatically been approved by operation of law. The Town is willing to work with the Watershed on the appropriate sizing of the culverts, but it will not allow that process to fall into the same long period of delay it has experienced with its other requests.

Sincerely,



Troy Gilchrist

cc: Eldorado Township

## **ROAD DITCHES AND DRAINAGE**

One of the most controversial issues town boards consider is the drainage of water to, from, across, and along its roads. When no one wants the water, the town board usually finds itself in the middle of a dispute with the owners on either side of the road.

The following is a brief overview of surface water drainage and related public and private projects. This paper will not discuss county drainage ditches, the few township drainage ditches in the state, or natural watercourses.

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### **I. SURFACE WATERS**

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In most cases, towns build road ditches to accommodate the flow of surface waters. The courts have defined surface waters as rains, springs, or melting snow that lies or flows on the surface but does not form part of a well-defined body of water or natural watercourse (e.g., a stream). Because natural watercourses give rise to public and private rights, the law treats such waters differently than those classified as surface water.

Surface water is considered a common enemy that may, within reason, be used or expelled by an owner. In some cases, an owner may alter the natural flow of surface waters to dispel the water. Whether an owner acted appropriately concerning surface water is measured by the “reasonable use” doctrine. The doctrine essentially involves determining whether the change was reasonable under the facts of the particular situation. If harm results to others from the use of surface waters, the owner incurs liability only if the court finds that the change was unreasonable.<sup>1</sup> Some of the factors that courts consider when determining liability under the reasonable use doctrine include:

1. Are the landowner’s changes to the water flow reasonably necessary for drainage;
2. Did the landowner take care to avoid unnecessary injury;
3. Did the utility to the drained land outweigh the harm to the burdened land; and
4. Did the landowner accomplish the drainage by improving a natural drainage system or by adopting an artificial drainage system?

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<sup>1</sup> *Enderson v. Kelehan*, 32 N.W.2d 286 (Minn. 1948).

Challengers usually bring surface claims based on surface water use as nuisance suits, but other claims such as trespass or takings claims have become more common.

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## II. PUBLIC PROJECTS

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As the road authority, town boards are authorized to repair, clean out, deepen, widen, and improve town road ditches.<sup>2</sup> The board determines when such work is necessary. However, before the town does any ditch work, the board must ensure that the work to be performed includes adequate outlets for the surface water expected to encounter the road. Adequate ditching, culverts, field and driveway approaches, among other structures, may be needed to accommodate the road project.

When a town constructs a new road or relocates or reconstructs an existing road, **it must construct** a suitable approach to the adjacent parcels within the right-of-way, when the approach is reasonably necessary and practicable, to provide abutting owners a reasonable means of access to their property.<sup>3</sup> In other words, the town's road project cannot interfere with the adjacent landowner's accesses to their property. The town generally does not need to construct approaches where there was not one before the road project, but the town will need to replace or modify existing approaches. The town will need to pay the costs of replacing culverts in the approaches, if the existing culvert cannot be reused or is inadequate to accommodate the expected surface water drainage.

If a ditch that the board constructs to drain a road runs across a railroad right-of-way, the statutes provide a division of costs with the railroad.<sup>4</sup>

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## III. PRIVATE PROJECTS

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There are several types of projects that a private party may engage in that affects the town road and the surface water drainage. Drainage laws impose certain conditions upon the landowner before they may engage in those activities.

*Connecting Drain Tile or Ditch:* When the course of natural drainage of any land runs to a road, the adjacent owner has a right to connect a drain or ditch to the town road ditch.<sup>5</sup> Before the landowner may make any connections, the owner must receive a written permit for the connection from the town board. The permit may set forth specifications for the work, and the town board may

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<sup>2</sup> Minn. Stat. §§ 160.201, subd. 1; and 164.36 (8).

<sup>3</sup> Minn. Stat. § 160.18, subd. 2.

<sup>4</sup> Minn. Stat. § 160.19.

<sup>5</sup> Minn. Stat. § 160.20, subd. 1.

establish reasonable rules and regulations governing connections. The owner must leave the road in as good of condition as before it made the connection.

*Drain Tile Across the Road:* An owner may seek a permit from the town board to install a drain tile along or across the road right-of-way.<sup>6</sup> The town board may set specifications, adopt reasonable rules, and require a bond before issuing a permit, including restrictions on what may be permitted.<sup>7</sup> Once installed, the town board is not responsible for damage to the drain tile.

*Field Approaches:* With permission of the town board, an owner may install additional approaches as needed to facilitate the efficient use of the property for a particular lawful purpose.<sup>8</sup> Such approaches are subject to reasonable regulation by and permit from the town board as is necessary to prevent interference with the construction, maintenance, and safe use of the road. If a town road divides someone's land so that they need additional approaches, it is appropriate to consider these as additional approaches that are the obligation of the owner to build with permission from the town board.

It is a misdemeanor offense for a person to: install drain tile along or across a road without a permit;<sup>9</sup> obstruct a town road or drain any noisome material into any ditch;<sup>10</sup> or litter.<sup>11</sup>

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#### IV. APPROACH CULVERTS

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Landowners are primarily responsible for the cost and installation of new and replacement approach culverts on land adjacent to the right of way.<sup>12</sup> Landowners are entitled to at least one approach culvert to their property, but landowners must receive a permit from the town board to install it. The town board may set reasonable regulations concerning the location, size, materials, and manner of installation of the culvert.

However, the township is responsible for the costs and installation of an approach culvert if the town's actions required replacement or relocation of the culvert. If the town board chooses, it can adopt a policy by resolution to make the town responsible for part or all of the culverts' cost needed for approaches within town roads.<sup>13</sup>

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<sup>6</sup> Minn. Stat. § 160.20, subd. 4.

<sup>7</sup> Minn. Stat. § 160.20, subd. 3 & 4.

<sup>8</sup> Minn. Stat. § 160.18, subd. 3.

<sup>9</sup> Minn. Stat. § 160.20, subd. 4(b).

<sup>10</sup> Minn. Stat. § 160.2715(a)(7).

<sup>11</sup> Minn. Stat. § 609.68.

<sup>12</sup> Minn. Stat. § 160.18, subd. 1.

<sup>13</sup> Minn. Stat. § 160.18, subd. 2.

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## V. POTENTIAL LIABILITY

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Before doing any ditch work, the town board must consider its obligations and potential liabilities. In almost all cases, whether the town is liable to a damaged owner will be measured by the reasonable use doctrine. Because the law measures reasonableness on a case-by-case basis, boards must seek the necessary professional assistance before undertaking a project. Drainage is such a dynamic system that assistance is necessary to consider all the variables and impacts resulting from a project. If someone challenges a project, the board will rely on the engineer's advice to demonstrate its reasonableness.

The need to seek engineering advice also applies when permitting owners to undertake a project that affects drainage along or across a road. If not handled properly, a town could find itself in a suit over a private project it permitted.

Another source of potential liability is the failure to obtain or follow permits from regulatory agencies. The circumstances under which the town board must obtain a permit for a project are varied. Unfortunately, there is no simple way of determining when those circumstances arise or from whom the town must obtain the permits. As such, town boards should always assume permits are needed. It is much easier and cheaper to make a few phone calls than defend against a civil suit or criminal complaint. Town boards should work with the local soil and water conservation district offices to identify permit needs.

## **CULVERTS & APPROACHES**

At some time, nearly every township will need to administer driveway or field approaches and culverts to allow property access and surface drainage. Fortunately, a statute sets the expectations among townships and landowners on this issue. The law groups approaches into three categories for purposes of dividing responsibilities among the township and landowners.

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### **1. APPROACHES & CULVERTS TO EXISTING ROADS**

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If a person wants an approach to an existing road, the person is expected to first obtain a permit from the town board for the installation of the approach.<sup>1</sup> The landowner must pay the “cost and installation of any required culverts unless,” the township “adopts by resolution a policy for the furnishing of a culvert” to the landowner or applicant when “the culvert is necessary for suitable approach to the road.”<sup>2</sup> The town board decides what type and size of approach is suitable to protect the road surface, drainage, and safety concerns.

By default, the landowner must pay the cost of a culvert and installation for a new approach. This is opposite of the law that existed before 1998, so landowners may be surprised by the change of the law. Landowners are not “grandfathered” in to the old law, so they are not entitled to an approach or culvert at the town’s expense because an existing approach predated the change in the law.

When an existing culvert must be replaced because of damage, failure, or other reason not caused by the township’s reconstruction of the road, the landowner is expected to pay the costs of the new culvert and installation.

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### **2. APPROACHES & CULVERTS ON NEW ROADS**

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If the township builds a new road, relocates an existing road, or re-constructs an existing road, the town must provide one suitable approach within the road right of way when an approach is

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<sup>1</sup> Minn. Stat. § 160.18, subd. 1 (“Except when the easement of access has been acquired, a road authority, as to a highway already established and constructed may grant by permit a suitable approach to the highway.”).

<sup>2</sup> Minn. Stat. § 1603.18, subd. 1.

needed to access the property.<sup>3</sup> Note the township is required to provide *only one* approach under these circumstances. Parcels with multiple approaches may expect to pay for the costs of their additional approaches and culverts.

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### 3. APPROACHES FOR PARTICULAR PURPOSES & ADDITIONAL APPROACHES

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Landowners have a statutory right to as many approaches “as will facilitate the efficient use of the property” but subject to the reasonable regulation by the road authority.<sup>4</sup> The road authority’s regulations are allowed only as is *necessary* “to prevent interference with the construction, maintenance and safe use of the highway and its appurtenances ....”<sup>5</sup>

A statutory right is a privilege to receive some benefit described in the statute. This means the ‘right’ can change depending on the language of the statute and its interpretation by the courts. The ‘right’ though is balanced against the needs of the road authority in maintaining and managing the right of way. The great difficulty is in finding the extent of the individual right and the road authority’s discretion.

Courts have unfortunately avoided giving clarity on the outlines of this balance. The only published case addressing this section is *In re Stoick Creek, LLC*, 999 N.W.2d 915, 918 (Minn. Ct. App. 2023). In that case, the township denied an additional permit on the theory that as road authority, pursuant to 160.18 and long tradition in Minnesota, that it could grant, deny, or condition additional approaches at its own discretion. The Minnesota Court of Appeals disagreed, ruling that Minn. Stat. § 160.18 conveys a “right” to additional approaches that is “subject to reasonable regulation by and permit from the road authority as is necessary to prevent interference with the construction, maintenance and safe use of the highway and its appurtenances and the public use thereof.” *In re Stoick Creek, LLC*, at 920. MAT recommends that townships interested in limiting additional approaches carefully draft factual findings tying the restriction to prevent interference with the construction, maintenance and safe use of the highway and its appurtenances.

The landowner is expected to pay the costs of additional approaches and culverts. Like approaches to existing roads, the landowner should apply for a permit, is expected to install the type of culvert approved by the town board, and is expected to pay the costs of the approach, including the culvert and installation. Townships can modify this default rule by “adopt[ing] by resolution a policy for the furnishing of a culvert to an abutting owner when a culvert is necessary for suitable approach to a road.”

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<sup>3</sup> Minn. Stat. § 160.18, subd. 2.

<sup>4</sup> Minn. Stat. § 160.18, subd. 3.

<sup>5</sup> *Id.*, see also *In re Stoick Creek, LLC*, 999 N.W.2d 915, 920 (Minn. Ct. App. 2023)

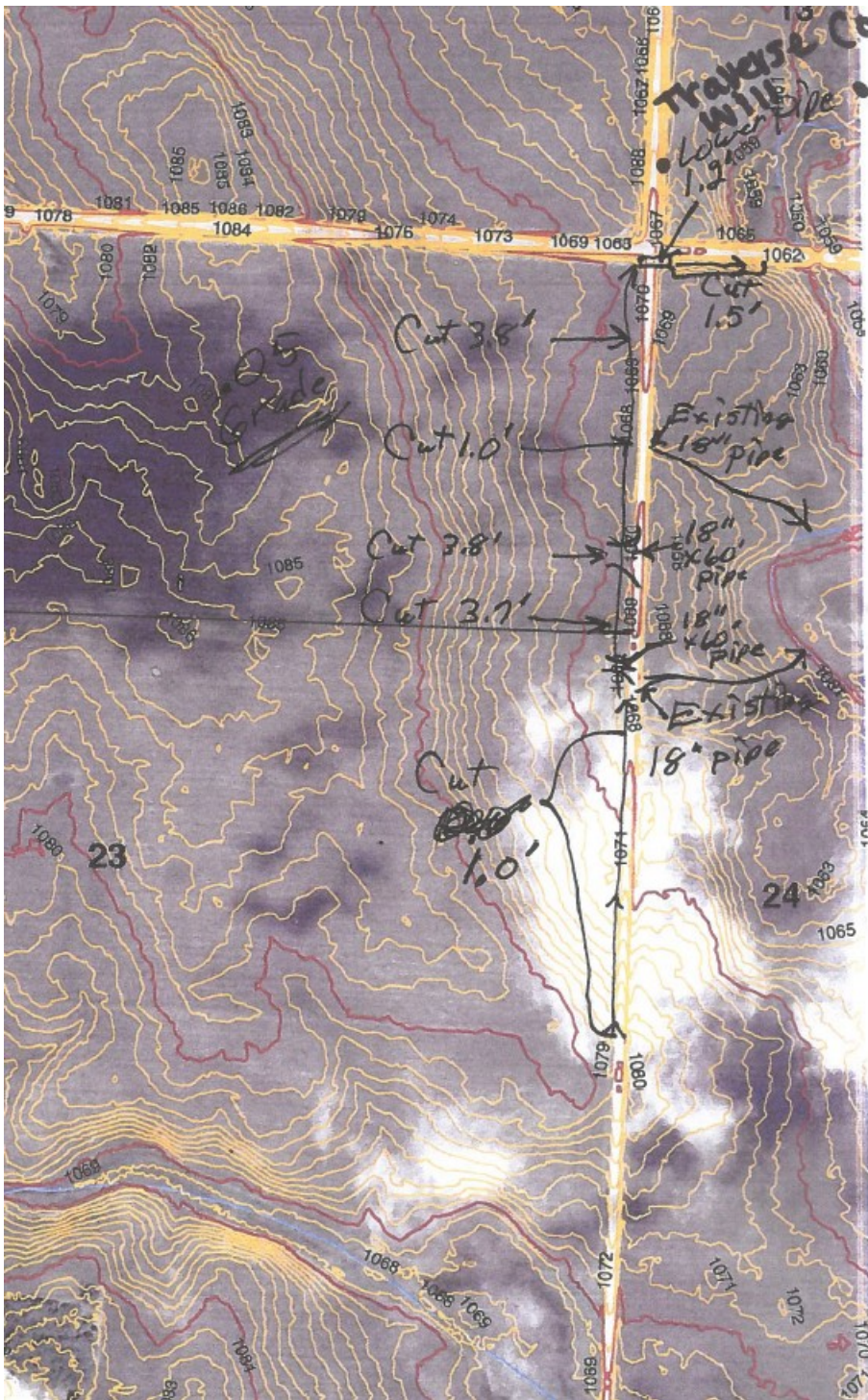
**From:** Bjerke, Ryan (DNR) <ryan.bjerke@state.mn.us>  
**Sent:** Tuesday, April 14, 2026 10:46 AM  
**To:** rodtheresa@hotmail.com  
**Cc:** Bois de Sioux Watershed; Chad.Gillespie  
**Subject:** FW: BdSWD PA 26-037, 26-043 TO 26-045  
**Attachments:** 26-044 ROD THIEL email.pdf

**Importance:** High

Good morning, Rodney. Yesterday, BdSWD staff sent me the attached permit application that you recently submitted for a road ditch excavation and culvert lowering project. I reviewed the proposal and found that there is a reach of DNR-administered public water adjacent to the project area—Public Watercourse 78028a in Sections 23 and 24 of Walls Township—represented by the blue line on the map below:



Based on the project specifications and map (shown below) in the permit application, excavation of the road ditch would occur on the west side of County Road 63 and the south side of County Road 6, and the 24 inch diameter culvert directly south of the intersection of the county roads would be lowered by 1.2 feet to facilitate drainage.



The proposed excavation of the road ditch along the west side of County Road 63 would significantly lower the grade line of the ditch—as a result, flows through the excavated channel would need to be much higher than at present to move through the existing culverts under the road and be conveyed to the public watercourse to the east. Bypassing a substantially greater portion of flow around the intervening

reach of public watercourse would be considered partial drainage of the public watercourse—an activity that is prohibited without replacement per the following Minnesota Statute:

## 2025 Minnesota Statutes

### **103G.211 DRAINING PUBLIC WATERS PROHIBITED WITHOUT REPLACEMENT.**

Except as provided in sections [103G.221](#) to [103G.235](#), public waters may not be drained, and a permit for drainage of public waters may not be issued, unless the public waters to be drained are replaced by public waters of equal or greater public value.

In order to prevent partial drainage of the reach of public watercourse in question, water needs to be routed to it along existing surface pathways without altering the timing and volume of flow by diversion. Several alternatives to the proposed excavation and culvert lowering could be used to accomplish that objective, including:

1. Maintaining existing conditions (do nothing)
2. Grassed waterways
3. Water & Sediment Control Basins (WASCOBs)
4. Drain tile installed in current overland flow pathways with outlets in the public watercourse

As you may know, local SWCD and/or NRCS staff would be good contacts to discuss the feasibility of alternatives 2 and 3. Regarding alternative 4, tile outlets can be installed in public waters without a public waters work permit if (1) the pre-installation cross-section is restored, (2) the bank around the outlet is adequately protected from erosion, and (3) no infrastructure other than the end of the pipe and erosion protection material (e.g., riprap) is installed below the top of the bank.

Please reply to this email or call me at your convenience to discuss the proposed project and implications for public waters—including prospective project alternatives. Thank you.

### **Ryan Bjerke**

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**From:** officemanager@runestone.net <officemanager@runestone.net>

**Sent:** Monday, April 13, 2026 4:22 PM

**To:** Chad.Gillespie <Chad.Gillespie@traversecountymn.gov>; Gronfeld, Sara - FPAC-NRCS, MN <sara.gronfeld@mn.nacdnet.net>; 'Janelle Tritz Traverse County Hwy Dept' <highwayinfo@co.traverse.mn.us>;

## **Appendix C: Drainage Law and Road Authorities**

**Drainage 101 for Transportation Engineers and Road Authorities<sup>1</sup>**

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<sup>1</sup> Authored by John C. Kolb of Rinke Noonan, St. Cloud, MN, in conjunction with Stonebrooke Engineering for the Minnesota Department of Transportation and the Minnesota Local Road Research Board.

## **INTRODUCTION**

Governmental and consulting transportation engineers, in designing and analyzing projects, often find themselves addressing risk and conflict at the intersection of transportation infrastructure and surface (drainage) waters. Navigating the common law cases, statutes, and regulations that balance the interests of private property owners with the interest of the public respecting drainage and surface water management can be daunting.

Road authorities, and their engineers, are responsible for ensuring surface water is managed when roads are constructed, maintained, improved or abandoned. Proper water management is necessary to accommodate frequent flooding; prevent erosion and sedimentation issues; address the concentration of flow on adjacent properties; prevent damages to roads, bridges, and other infrastructure; and to address non-point source pollution washed off from impervious surfaces.

This summary is intended to provide an overview of property rights associated with drainage, the statutory obligations of road authorities when accommodating water, and environmental regulations impacting road authorities' management and treatment of stormwater runoff.

### **COMMON LAW: PROPERTY RIGHTS IN THE REASONABLE USE OF LAND**

Common law is the basis of our legal system; it applies equally to all owners of property unless it is specifically modified by statute. Common law is created when disputes that are unable to be resolved mutually are brought to the courts through initiation of a lawsuit resolved by the court's ruling.

The first case on record in Minnesota addressing a dispute over drainage was decided by the State Supreme Court in 1872.<sup>2</sup> The dispute arose over the City of Saint Paul's discharge of a large quantity of stormwater across plaintiff's property, in amounts the plaintiff alleged exceeded the capacity of the existing natural watercourse and caused a nuisance by eroding the banks of a channel.<sup>3</sup> The Supreme Court found in favor of the plaintiff, but the standard it used to conclude that the city's stormwater management actions constituted a nuisance is not immediately clear.

Over time, more disputes over water were brought to Minnesota's courts for resolution. These court decisions established precedents in drainage disputes and from these precedents, a set of rules or principles were developed that apply to water and property rights. The cases separate rights that applied to "natural watercourses" from rights that applied to the management of "surface water"; thus, we must first explain how courts characterize the two.

### **Natural Watercourses:**

"Natural watercourses" and drain-ways for "surface water" differ in their physical characteristics.<sup>4</sup> In order to constitute a "natural watercourse," "the flow ordinarily must have some substantial permanency and continuity and must be a part of a well-defined stream or body of water."<sup>5</sup> To decipher the difference, the courts look at the physical characteristics of the flow in terms of volume,<sup>6</sup> topography,<sup>7</sup> or continuity.<sup>8</sup>

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<sup>2</sup> See *O'Brien v. City of St. Paul*, 18 Minn. 176 (1872).

<sup>3</sup> *Id.* at 181–82.

<sup>4</sup> See *Collins v. Wickland*, 88 N.W.2d 83, 86 (Minn. 1958).

<sup>5</sup> See *id.* at 86 (citing *Enderson v. Kelehan*, 32 N.W.2d 286, 289; 56 Am. Jur., Waters, §§ 9 & 6; 93 C.J.S., Waters, § 4; *Greenwood v. Evergreen Mines Co.*, 19 N.W.2d 726 (Minn. 1945)).

<sup>6</sup> See *McClure v. City of Red Wing*, 9 N.W. 767 (Minn. 1881).

<sup>7</sup> See *Sheehan v. Flynn*, 61 N.W. 462 (Minn. 1894).

<sup>8</sup> See *Collins*, 88 at FN7 (citing Restatement (First) of Torts, Watercourse Defined, § 841).

## Surface Waters:

“Surface waters,” on the other hand, consist of waters from “rains, springs, or melting snow which lie or flow on the surface of the earth, but do not form a part of a well-defined body of water or natural watercourse.”<sup>9</sup> These waters have a tendency to follow the natural depressions and contour of the land. While they might flow in a worn, small natural channel, they do not flow in the well-defined channels that rise to the description of natural watercourses above.

The distinction is relevant because the common law rule for resolving disputes over obstructing, enhancing, or diverting natural watercourses differs slightly from the rule for surface waters. When it comes to resolving disputes over natural watercourses, some courts cite the Latin phrase *aqua currit et currere debet*, which means, “water flows naturally and should be permitted thus to flow.” Obstructing a natural watercourse, for example, violates the property rights of riparian landowners—owners of property adjacent to the natural watercourse.<sup>10</sup> Surface water, on the other hand, does not impose riparian rights on to an abutting property owner; therefore, the rule addressing the manipulation of surface water requires a much more in-depth analysis into the facts of that particular situation.

Initially, many state courts, including Minnesota, treated surface waters as a “common enemy” which each owner may get rid of as best as he or she can.<sup>11</sup> Over time, that standard evolved to what is commonly referred to as “the rule of reasonable use.”

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<sup>9</sup> *Id.* at 87 (Minn. 1958) (citing *Enderson*, 32 N.W.2d 286).

<sup>10</sup> See *Johnson v. Seifert*, 100 N.W.2d 689 (Minn. 1960); *Petraborg v. Zontelli*, 15 N.W.2d 174 (Minn. 1944).

<sup>11</sup> See *O'Brien v. City of St. Paul*, 25 Minn. 331, 335 (1878) (stating “It [surface water] has been called a common enemy, which each owner may get rid of as best he may; and some cases, and not a few indeed, maintain the owner’s right to adopt any means he may choose to prevent it coming on his land, or to turn it off from his land, without regard to the consequences which may ensue to others.”).

## **The Rule of Reasonable Use:**

Applying the “reasonable use rule” requires balancing competing property rights. In simple terms, it means that a landowner may exercise rights on her land as she pleases, provided she does not interfere with the rights of others. The courts describe the rule as follows:

[I]n effecting a reasonable use of his land for a legitimate purpose a landowner, acting in good faith, may drain his land of surface waters and cast them as a burden upon the land of another, although such drainage carries with it some waters which would otherwise have never gone that way but would have remained on the land until they were absorbed by the soil or evaporated in the air, if:

- (a) There is a reasonable necessity for such drainage;
- (b) Reasonable care has been taken to avoid unnecessary injury to the land receiving the burden;
- (c) The utility or benefit accruing to the land drained reasonably outweighs the gravity of the harm to the land receiving the burden; and
- (d) Where practicable, it is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or if, in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is adopted.<sup>12</sup>

If damage is caused to others from the obstruction, enhancement, or diversion of surface waters, the person making the improvements will only be liable for such damages if the court finds that in planning and executing the diversion, the acting party made “unreasonable” use of its property. Drainage that is found by the courts under these factors to be “reasonable,” will not carry with it liability for the damages downstream.

Surface water runoff is a naturally occurring and generally unavoidable event: water flows downhill. Owners of higher elevated property, whether it be private or public, should

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<sup>12</sup> *Enderson*, 32 at 289.

consider how grading, routing and discharge of surface waters may potentially impact the lower property. Lower property landowners, including road authorities managing a public roadway, must recognize the natural rules of reasonable drainage while considering the impact of restricting runoff from a higher property.

## **ROADS & DRAINAGE**

When a new road is constructed, reconstructed, improved, or relocated, the impact of construction on surface waters must be an important part of the road authority's design considerations.<sup>13</sup> The road authority is responsible for roadside ditching to protect roads from flooding and erosion, to facilitate safe passage of the traveling public and to also accommodate reasonable improvements to the flow of surface waters toward the roadway. Courts will analyze the management of surface water between private property owners and road authorities under the same reasonable use rule factors described above. Because "reasonableness" is measured on a case-by-case basis, professional assistance from an engineer with training in hydrology should be sought before undertaking a project that will impact the accommodation or modification of drainage. Improper handling of changes in the right-of-way that impact drainage could create legal or financial obligations to affected property owners.

As explained above, one of the many rights that attach to property is the right to remove excess water from property, within reason, and the right to prevent an unreasonable amount of water from draining or flowing onto property. But these rights are not without limitation and

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<sup>13</sup> See *Felepe v. Town of America*, 219 N.W. 158, 159 (Minn. 1928) ("In the construction and improvement of public highways surface water has to be taken care of.").

whether an action is reasonable may be subject to both civil and criminal interpretation.<sup>14</sup> In some instances, the roadway will be located downstream of a natural watercourse or artificial improvements to drainage. In such instances, the road authority must ensure it accommodates a level of drainage which is natural, plus some quantity of reasonable improvement upstream. In some instances, the road authority may find its roadway is enhancing or diverting drainage upstream. In such instances, the road authority must ensure that any enhancement or diversion of the waters downstream is reasonable.

If the road authority obstructs, diverts, or enhances drainage in an unreasonable way, compensation to the private landowner may be required. It is important to understand the extent of invasions of property rights by drainage which constitutes a taking, versus an invasion of property rights by drainage which does not constitute a taking. Under the Minnesota Constitution, private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.<sup>15</sup>

Whether an action by a public authority takes or damages private property is a question of fact and degree. Physical appropriation of private property for public purpose is a taking requiring the government to commence eminent domain proceedings to compensate landowner for such taking.<sup>16</sup> However, where no additional or greater amount of water flowed past or upon owners' lands by reason of construction and operation of water control projects, and where such

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<sup>14</sup> For existing and established drainage of public roadways, it is unlawful to obstruct any ditch draining any highway or drain any noisome materials into any such ditch. Minn. Stat §160.2715 (a)(7).

<sup>15</sup> Minn. Const., Art. 1, § 13

<sup>16</sup> *Spaeth v. City of Plymouth*, 344 N.W.2d 815 (Minn. 1984) (planned permanently flooding such property for use as municipal stormwater holding pond).

lands would have been damaged in substantially the same manner in a state of nature, there was no “taking” of the lands by the state and owners were not entitled to compensation.<sup>17</sup>

Intermittent flooding may, under some circumstances, constitute a taking.<sup>18</sup> Flooding is permanent if it imposes a servitude of indefinite duration, even if intermittent, thus, intermittent flooding may, under some circumstances, constitute a taking. Whether occasional flooding is of such frequency, regularity, and permanency as to constitute a taking and not merely a temporary invasion for which the landowner should be left only to a possible recovery of damages is a question of degree, and each case must stand on its own peculiar facts.<sup>19</sup> Finally, property may be taken not only by actual flooding but also when adjacent flooding, by percolation, raises the water table so as to soak property to a degree and for sufficient duration to destroy its value.<sup>20</sup>

#### **Bridges & Culverts:**

Historically, road authorities carried the responsibility to pay for culverts in approaches. The law was amended in 1998 to place the primary responsibility for paying for culverts on the abutting property owners.<sup>21</sup> When the road authority gives an owner permission to construct an approach, the owner is responsible for paying for the culvert if one is needed in the approach. If the road authority chooses, it can adopt a policy by resolution to make it responsible for part or all of the cost of culverts needed for approaches. As is required under Minn. Stat. § 160.18, subd.

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<sup>17</sup> *State v. Bentley*, 71 N.W.2d 780 (Minn. 1955); *State ex rel. Peterson v. Bentley*, 12 N.W.2d 347 (Minn. 1943) (Flooding of land which resulted in serious interruption of its common and necessary use was a “taking” of property within provision of Minnesota’s Constitution prohibiting taking of private property for public use without just compensation); *State v. Stanley*, 247 N.W. 509 (Minn. 1933) (Owner of land permanently flooded by diversion of water in construction of highway was entitled to have such land included in highway condemnation proceedings for assessment of damages).

<sup>18</sup> *Blaine v. City of Sartell*, 865 N.W.2d 723 (Minn. Ct. App. 2015).

<sup>19</sup> *Nolan and Nolan v. City of Eagan*, 673 N.W.2d 487 (Minn. Ct. App. 2003); *Vern Reynolds Const., Inc. v. City of Champlin*, 539 N.W.2d 614 (Minn. Ct. App. 1995); *Spaeth v. City of Plymouth*, 344 N.W.2d 815 (Minn. 1984).

<sup>20</sup> *Nelson v. Wilson*, 58 N.W.2d 330 (Minn. 1953).

<sup>21</sup> Minn. Stat. § 160.18, subd. 1.

2, the road authority should provide approaches required by the construction of a new road or relocation of an existing road.

**“Takings Claims” for Unreasonable Use:**

Road authorities must place openings in roadways to permit surface water to escape in its natural course from the higher to the lower lands. The road authority must make proper and adequate provisions for passage of waters that can reasonably be anticipated to approach the roadway based on past history and all facts and circumstances reasonably available to the road authority.<sup>22</sup> An injunction may be granted to restrain the road authority from improving a roadway, or from eliminating, altering or installing new culverts that divert water from its course of natural drainage and causes it to flow upon land in an unreasonable manner. If a road does not reasonably accommodate the area’s natural flows, the road authority could be responsible to pay a monetary judgment for property that is damaged, typically in a case that is rooted in a claim for “inverse condemnation.”

The road authority is not liable for unexpected flooding if the road’s outlet is reasonably sufficient for the water from such storm events as ought to have been anticipated. In an early case before the Minnesota Supreme Court, the Court held that as long as the road authority provided a suitable outlet for flood waters that it ought to have anticipated, the road authority could not be held liable for damages caused by water retained on properties adjacent to the roadway.<sup>23</sup> However, if the road crossing was not sufficient to accommodate storm events that ought to be anticipated in that area, then the road authority could be held liable for overflow

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<sup>22</sup> *Poynter v. Cnty. of Otter Tail*, 25 N.W.2d 708 (Minn. 1947).

<sup>23</sup> *Van Wilgen v. Albert Lea Farms Co.*, 223 N.W. 301, 344–45 (Minn. 1929).

damages that the road contributed to, even if unprecedented rains for that area occurred.<sup>24</sup> By failing to provide a suitable outlet for anticipated rainfall, the Court ruled, the road authority's negligence contributed to the overflow and resulting damage.

#### **Statutory Road Ditch Authority:**

Road authorities are authorized to repair, clean out, deepen, widen, and improve road ditches for the purpose of draining public roads and preventing water from accumulating in the road ditch.<sup>25</sup> Whether such work is necessary is determined by the road authority; however, the board must ensure there is an adequate outlet before improving or enhancing road ditches.<sup>26</sup>

#### **Obstructions to Road Ditches:**

It is unlawful to obstruct any ditch draining any highway or drain any noisome materials into any ditch<sup>27</sup> and to damage or tamper with any drains on or along any highway.<sup>28</sup> This is often a common situation that will lead a resident to request assistance from the road authority. For example, when a neighbor obstructs the road ditch in a manner that impedes another neighbor's drainage, it is reasonable for the harmed neighbor to ask the road authority to intervene.

#### **Drainage in Railroad Rights-of-Way:**

When a drainage ditch constructed by the road authority to drain a road crosses the right-of-way of any railroad, the road authority may demand the railroad company allow the ditch under and across the railroad's right-of-way and divide the cost proportionately between the road authority and the railroad company on the basis of benefits that accrue to each.<sup>29</sup>

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<sup>24</sup> *Id.*; see also *Poynter*, 25 N.W.2d.

<sup>25</sup> Minn. Stat. §§ 160.201, subd. 1 & 164.36(8).

<sup>26</sup> Minn. Stat. §§ 160.201, subd. 1.

<sup>27</sup> Minn. Stat. § 160.2715(a)(7).

<sup>28</sup> Minn. Stat. § 160.2715(a)(11).

<sup>29</sup> Minn. Stat. § 160.19.

Railroads have the same obligation as road authorities when it comes to accommodating natural flow and reasonable drainage improvements across the railroad bed. Under the Federal Railroad Safety Act, the Secretary of Transportation was ordered to prescribe regulations for railroad safety.<sup>30</sup> Those regulations require “each drainage or other water carrying facility under or immediately adjacent to the roadbed shall be maintained and kept free from obstruction, to accommodate expected water flow for the area concerned.”<sup>31</sup>

### **ROAD AUTHORITIES & PUBLIC DRAINAGE SYSTEMS**

The first state drainage act was passed in 1858, the same year that Minnesota became a state. The primary purposes of the act and subsequent state drainage law were to enable joint, private drainage projects across private ownership and governmental boundaries to make land more productive for agriculture, to enable and protect roadways, to protect public health from stagnant waters, and to promote commerce. Over the years, Minnesota drainage law has retained these purposes, while adding provisions with regard to protection of public waters and, more recently, wetlands, as well as consideration criteria for environmental and natural resource protection. Minnesota drainage law (sometimes referred to as the “Drainage code”) is currently contained in Minnesota Statutes, chapter 103E.

Road authorities may be assessed benefits for drainage benefits provided to the roadway.<sup>32</sup> If assessed for benefits to a road in a drainage project proceeding and the road is later

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<sup>30</sup> 49 U.S.C. § 20103(a).

<sup>31</sup> 49 C.F.R. § 213.33.

<sup>32</sup> Minn. Stat. §§ 103E.315, subd. 3 & 103E.615, subd. 1.

vacated, the road authority may petition the drainage authority to have the benefit removed from the assessment roll.<sup>33</sup>

### **Bridges & Culverts across Public Drainage Systems:**

A public bridge or culvert may not be constructed or maintained across or in a public drainage system with less hydraulic capacity than specified in the detailed survey report.<sup>34</sup> If the detailed survey report does not specify the hydraulic capacity, a public bridge or culvert in or across a public drainage system may not be constructed without the approval of the hydraulic capacity required from the Director of the Division of Ecological and Water Resources of the Department of Natural Resources.<sup>35</sup>

Bridges and culverts on public roads required by the construction or improvement of a drainage project or system must be constructed and maintained by the road authority responsible for keeping the road in repair.<sup>36</sup> If the road authority does not complete construction within the required time, the drainage authority may order the construction to be completed and will deduct the cost of construction from any damages awarded to the road authority arising from the project, or assess the cost as a benefit.<sup>37</sup> When a drainage improvement or project proceeding is taking place, the viewers award damages for the cost of construction and maintenance of the bridges provided for in the engineer's report, less the value of the wreckage from the bridges to be replaced.<sup>38</sup>

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<sup>33</sup> Minn. Stat. § 103E.805.

<sup>34</sup> Minn. Stat. § 103E.525, subd. 1.

<sup>35</sup> *Id.*

<sup>36</sup> Minn. Stat. § 103E.525, subd. 2.

<sup>37</sup> Minn. Stat. § 103E.525, subd. 3.

<sup>38</sup> *In re Judicial Ditch No. 24*, 200 N.W. 816, 817 (Minn. 1924).

Road authorities are obligated to take care of surface waters when constructing and improving public highways; however, when utilizing a public drainage system as an outlet, the disposal must be adapted to the existing public drainage system so as to permit the drainage system to function substantially as established.<sup>39</sup> Once a public drainage system is established, the owners of the land who have been assessed for benefits or have recovered damages for its construction have a vested property right to have the ditch maintained in the same condition as it was when originally established.<sup>40</sup> The expectation interest of the landowners includes the anticipated function of culverts and conveyances related to the public road network.<sup>41</sup> Road authorities, in improving and maintaining public highways, do not have the authority to substantially change or interfere with the operation of duly established drainage systems.<sup>42</sup>

#### **PRIVATE DRAINAGE IN ROAD RIGHTS-OF-WAY**

Road authorities may not prohibit natural drainage or reasonable drainage improvements from entering the road right-of-way. Enforcement of such a rule would run counter to the reasonable use principles that prohibit unreasonable obstructions to the natural flow of surface waters and even those surface water drainage improvements upstream that are reasonable. Thus, road authorities must exercise caution in handling requests from landowners to improve or modify the drainage of surface waters into road ditches, through centerline culverts or across the roadway.

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<sup>39</sup> See *Garrett v. Skorstad*, 173 N.W. 406, 408 (Minn. 1919); *Lupkes v. Town of Clifton*, 196 N.W. 666, 669 (Minn. 1924).

<sup>40</sup> See *Fischer v. Town of Albin*, 104 N.W.2d 32, 34 (Minn. 1960); *Oelke v. Faribault Cnty.*, 70 N.W.2d 853, 860 (Minn. 1955); *In re Petition of Jacobson*, 48 N.W.2d 441, 444 (Minn. 1951); *Lupkes v. Town of Clifton*, 196 N.W. 666, 668-69 (Minn.1924).

<sup>41</sup> *Id.*

<sup>42</sup> See *Garrett v. Skorstad*, 173 N.W. 406, 408 (Minn. 1919); *Lupkes v. Town of Clifton*, 196 N.W. 666, 669 (Minn. 1924).

### Connecting Private Drains to Road Ditches:

When the course of natural drainage of any land runs to a road, the adjacent owner has a right to enter the right-of-way in order to connect a drain or ditch to the road ditch as long as the highway is left in as good condition in every way as it was before the connection was made.<sup>43</sup> The road authority may prescribe and enforce reasonable rules and regulations with reference to the connections by implementing a permitting system for such drainage connections, obligating the adjacent owner to obtain a permit before connecting a drain or ditch to the road ditch.<sup>44</sup> The permit may set forth specifications for the work and the road authority may establish reasonable rules and regulations governing connections.

An owner may seek a permit from the road authority to install a drain tile along or across the road right-of-way.<sup>45</sup> The road authority may set specifications, adopt reasonable rules, and may require a bond before issuing a permit. Certain restrictions are placed on what may be permitted.<sup>46</sup> For example, the permits must ensure that the length of the tile installation is restricted to the minimum necessary to achieve the desired agricultural benefits.<sup>47</sup> A permit must not allow open trenches to be left on the right-of-way after installation of the drainage tile is complete.<sup>48</sup> Once installed, the road authority is not responsible for damage to the drain tile.

In some instances, a road may block a landowner's access to a suitable outlet for drainage improvements. If a person desires, during construction or reconstruction of a highway, to install a tile drain for agricultural benefits in a natural drainage line in lands adjacent to any highway,

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<sup>43</sup> Minn. Stat. § 160.20, subd. 1.

<sup>44</sup> *Id.*

<sup>45</sup> Minn. Stat. § 160.20, subd. 4.

<sup>46</sup> See Minn. Stat. § 160.20, subd. 3 & 4.

<sup>47</sup> Minn. Stat. § 160.20, subd. 4(a).

<sup>48</sup> *Id.*

and if a satisfactory outlet cannot be secured on the upper side of the right-of-way and the tile line must be projected across the right-of-way to a suitable outlet, the expense of both material and labor used in installing the tile drain across the roadbed shall be paid from funds available for the roads affected provided the road authority is notified of the necessity of the tile drain in advance of the construction of the roadbed so that the drain may be placed and the roadbed constructed in the same operation.<sup>49</sup>

It is a misdemeanor offense for a person to install drain tile along or across a road without a permit,<sup>50</sup> to obstruct a road, or to drain any noisome material into any ditch.<sup>51</sup>

#### **Drainage Easement Agreements:**

The uncertainty regarding drainage liability can be overcome through execution of a drainage easement agreement between parties with an interest in property. A drainage easement is permanent permission given by one property owner burdened by water to the owner of property imposing the drainage burden. The easement is both a contract and a creation of a property right. The contract defines rights and obligations of the parties, limitations or restrictions on use, and enforcement remedies. Property interests are created by the terms of the contract which may grant reciprocal easements and rights of entry to ensure the parties maintain the ability to use and repair the drainage improvements over time. Typically, these rights attach to the property and are binding on future owners and parties.

All road authorities are statutorily authorized to acquire, voluntarily or through condemnation, easements needed for drainage in order to meet the obligation to take care of

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<sup>49</sup> Minn. Stat. § 160.20, subd. 2.

<sup>50</sup> Minn. Stat. § 160.20, subd. 4(b).

<sup>51</sup> Minn. Stat. § 160.2715, a(7).

surface waters in a manner that is necessary for the construction, maintenance, safety, or convenience of public travel.<sup>52</sup>

### **Considerations when Vacating Roads:**

When considering vacation of a roadway, the road authority must determine whether the road ditches or laterals thereto are essential for surface drainage of the adjacent lands, or for drainage of other public highways, in the area.<sup>53</sup> If the road authority finds that preservation of such drainage facilities is for the general health and welfare of the public, then the road authority may cause the road to be vacated with a provision that the road authority shall retain the right of access for the purpose of maintaining such drainage facilities.<sup>54</sup> An owner of land adjacent to the vacated portion of the road shall not interfere with the functioning of such drainage facilities.<sup>55</sup>

### **ENVIRONMENTAL CONSIDERATIONS: ROADWAY RUNOFF**

Under the Clean Water Act, some road ditches are categorized as Municipal Separate Stormwater Systems (MS4)<sup>56</sup> and the road authority is considered a MS4 entity subject to permitting requirements based on its ownership or operation of the system collecting and conveying stormwater. The purpose of the MS4 program under the Clean Water Act is to maintain and benefit water quality in creeks, streams, and waterways by reducing pollution in the stormwater runoff.

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<sup>52</sup> See Minn. Stat. § 160.04.

<sup>53</sup> Minn. Stat. §§ 160.09, 163.111 and 164.07, subd. 3a.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Minn. R. Part 7090.0080, subp. 8

A road authority is subject to stormwater regulation under the Clean Water Act and Minnesota Rule 7090 if:

- (1) Its stormwater system is located fully or partially within an urbanized area as determined by the last Decennial Census and owned or operated by a publicly owned entity that has the potential resident capacity, bed count occupancy, or average daily user population of 1,000 or more.
- (2) The road authority itself is located fully or partially within an urbanized area as determined by the latest Decennial Census and owns or operates an MS4.
- (3) The road authority has a population of 10,000 or more.
- (4) The MS4 is owned or operated by a municipality with a population of at least 5,000 and discharges or has the potential to discharge stormwater to one of the following:
  - a. A water identified as an outstanding resource value water as identified in Minn. R. 7050.0180, subps. 3 & 6.
  - b. A water identified as a trout lake or trout stream as identified in Minn. R. 6264.0050, subps. 2 & 4.
  - c. A water listed as impaired under section 303(d) of the Clean Water Act, 33 U.S.C. § 1313.<sup>57</sup>

MS4 entities are required to develop and implement a stormwater pollution prevention plan (SWPPP) to reduce the discharge of pollutants from their MS4 to the maximum extent practicable. The SWPPP must cover six minimum control measures. The MS4 entity must identify best management practices (BMPs) and measurable goals associated with each minimum control measure. An annual report on the implementation of the SWPPP must be submitted each year.

### **IMMUNITY PROTECTIONS**

Road authorities, including the State, counties, towns and municipalities are immune from (entitled to dismissal of) various types of claims. Minnesota statute sections 3.736 and 466.03 list claims from which governmental entities are immune. In addition, case law recognizes several immunity defenses, not otherwise provided for in statute. In those cases where a

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<sup>57</sup> Minn. R. Part 7090.1010, subp. 1

governmental entity is not immune from a claim, it may still be protected by a cap or limit on liability.

The rationale for protecting governmental entities is generally based upon the following concepts: (1) governmental entities are charged with making decisions for the public good that involve the weighing of multiple factors that often have both negative and positive outcomes; (2) the judicial branch through the medium of lawsuits should not second guess those political balancing decisions of governmental entities; (3) an award obtained against a governmental entity is paid out of public funds which are funded by the taxpayer; (4) public funds are better protected, and it is a better use of public funds, if a few individuals suffer as opposed to the public in general; and (5) governmental agents will perform their duties more effectively if not hampered by fear of tort liability.<sup>58</sup>

Related to the management of drainage facilities, immunity doctrines protect the exercise of discretion, application of professional judgment and weighing of policy considerations. Officials are entitled to official immunity against state law claims in Minnesota if they are engaged in discretionary acts taken in the course of their official duties.<sup>59</sup>

The immunity protections will extend to engineering consultants under certain circumstances. For example, a private engineering firm, performing the functions of city engineer pursuant to contract with the city, performs discretionary functions in close coordination with the city, and thus qualified as “public official” eligible for common law official immunity for its

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<sup>58</sup> *Nusbaum v. Blue Earth County*, 422 N.W.2d 713, 718 (Minn. 1988); *Holmquist v. State*, 425 N.W.2d 230, 231 (Minn. 1988); *Wilson v. Ramacher*, 352 N.W.2d 389, 393 (Minn. 1984); see generally, Restatement (Second) Torts §895B.

<sup>59</sup> *Drake ex rel. Cotton v. Koss*, 445 F.3d 1038 (8<sup>th</sup> Cir. 2006).

design of storm-water drainage system as city engineer.<sup>60</sup> An engineer's design of a municipal drainage system is a governmental function requiring the exercise of judgment and discretion. Engineering determinations on public-works projects are precisely the types of discretionary governmental acts that Minnesota courts have long deemed worthy of official immunity.<sup>61</sup>

However, a road authority will not be entitled to immunity protections when it ignores either a statutory obligation or abuses its discretion. For example, a county was not entitled to statutory immunity from a property owner's claims of trespass and nuisance based on a county's failure to maintain a closed-ditch drainage system where the county was required by state law to inspect the ditch on a regular basis but, instead, was ignoring its statutory duties to regularly inspect and maintain the ditch and used a reactive, complaint-based system to drive inspection and maintenance decisions.<sup>62</sup>

## CONCLUSION

Drainage and water management involves a complex system of law and regulation. Road authorities must navigate multiple requirements and landowner concerns. In all cases, road authorities should consider and balance its obligations to provide for the health, safety and welfare of its community and the protection and maintenance of its infrastructure.

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<sup>60</sup> *Kariniemi v. City of Rockford*, 882 N.W.2d 593 (Minn. 2016).

<sup>61</sup> *Id.*

<sup>62</sup> *Blaine v. City of Sartell*, 865 N.W.2d 723 (Minn. Ct. App. 2015).

## DRAINAGE LAW OUTLINE – RINKE NOONAN

### DRAINAGE 101 COUNTY ROADWAYS, CITY STREETS AND DRAINAGE WAYS: BEST PRACTICES AND RESOURCES GUIDE

#### I. Hypothetical Questions

A. **Highway Altering Natural Drainage.** A road authority plans to construct a highway in an area where the natural flow of water is perpendicular to the road system. On either side of the road, the engineer runs road ditches with culverts placed periodically along the road to allow passage of water in its natural direction. However, during major rain events, the road acts as a dike, preventing the natural flow of water, which causes water on the upstream of the highway to back up and flood the cropland adjoining the highway.

1. Does the fact that the highway may block the flow of water create severance damages as to the adjoining farmland?
2. After a significant rain, if a farmer loses some crops as the result of backed up water, can the farmer sue the road authority for damages?
3. Can the farmer run tile into the road ditch? Is there any limit to the amount of tiling that the farmer can do? If the road authority refuses the right to tile into the road ditch, is the farmer entitled to damages? If so, what is the legal standard that determines this?

B. **Design Requirements:** When a road is constructed, the impact on surface waters is an important part of the design. Assume that the drainage design work does not inflict additional damages on the surrounding lands. However, as the design work is done, the engineer has a choice to control the resulting water flow at a 10 year or 100 year flood event. By spending a bit more money, the engineer can provide substantial additional protection to surrounding lands.

1. Is there liability for failing to provide that additional protection based on a showing that the additional expenditure is justified by the damage protection conferred?
2. What if an engineer testifies that designing around the 100 year flood event is standard engineering practice.

#### II. About Water and Property Rights

- A. The water-related rights that belong to a particular property are important to the appraisers in a variety of ways.
1. **Part of the Bundle of Rights.** A property is more or less valuable depending upon the scope of its water-related rights. If the appraiser ignores those rights, the appraiser is ignoring an important part of the bundle of rights that makes the property valuable.
  2. **Severance Damages.** Understanding water-related rights is important to determining severance damages. Taking part of a property can impair the water-related rights of the remaining land and give rise to severance claims.
  3. **Project Interference with Property Rights.** It can be very important to understand the water-related impacts of a project. Many private or public projects disturb the natural flow of water. Consequently, it is important to understand whether this disturbance interferes with property rights.
  4. **Easement Design.** At times, a project seeks to acquire easements related to water-related rights. When so doing, it is important to understand what rights belong to the property.
  5. **Easement Scope.** Sometimes, when a project needs to acquire flowage or other easements, the landowner will argue against the scope of the proposed easement, contending that the project seeks to take more rights than reasonably necessary.
  6. **Nature of Damage.** It can be quite important to understand the distinction between an invasion of property rights which constitutes a taking, versus an invasion of property rights which do not constitute a taking.
- B. We live under the **riparian system** of allocating water among the property owners. The riparian system has its origins in English common law. It is used in the United Kingdom and the eastern United States.
1. Under the riparian principle, all landowners whose property is adjacent to a body of water have the right to make reasonable use of it.
  2. In the western United States, water rights are generally allocated under the principle of **prior appropriation**, which treats water as a resource unrelated to land. Under this system, there is an incentive to take as much water as you can, as soon as you can, to pre-empt the appropriation by others.

3. The riparian principle recognizes that the title to property abutting **“navigable waters”** includes special rights.<sup>1</sup> These rights arise by implication and do not need to be mentioned in a deed. Interpreted broadly, they include
  - a. Access to the water.
  - b. The right to wharf out.
  - c. The right to acquire accretions.
  - d. The right to fill.
  - e. The right to continued flow.
  - f. The right to preservation of the view of the water.
  
4. **Government rights.** The application of the riparian system of allocating water rights in navigable waters among competing owners, and understanding the complex relationship between public regulatory rights, state and federal, is extremely complex. It involves an understanding of the rights of the sovereign in navigable waters, the special rights afforded the United States through the Constitution in navigable waters, as well as state constitutional and legal principles. There are a series of Minnesota cases that deal with the allocation of riparian rights among private property owners and holders of roadway, railroad and other easements adjoining public waters.
  
5. A DNR publication points out that riparian owners also have **“riparian duties,”** to refrain from unreasonably interfering with the riparian rights of others.<sup>2</sup>

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<sup>1</sup> McLafferty v. St. Aubin, 500 N.W.2d 165 (Minn. 1993) states “Riparian rights are generally described as the rights to use and enjoy the profits and advantages of the water. See 78 Am.Jur.2d Waters § 263 (1975). The riparian owner has a right to make such use of the lake over its entire surface, in common with all other abutting owners, provided such use is reasonable and does not unduly interfere with the exercise of similar rights on the part of other abutting owners. Johnson v. Seifert, 257 Minn. 159, 169, 100 N.W.2d 689, 697 (1960). Riparian rights include the right to build and maintain, for private or public use, wharves, piers, and landings on the riparian land and extending into the water. State v. Korrer, 148 N.W. 617, 622 (1914). They also include such rights as hunting, fishing, boating, sailing, irrigating, and growing and harvesting wild rice. In re Application of Central Baptist Theological Seminary, 370 N.W.2d 642, 646 (Minn.App.1985), pet. for rev. denied (Minn. Sept. 19, 1985).” See also Sanborn v. People's Ice Co. 84 NW 641 (1900); Lamprey v. State, 53 NW 1139 (1883).

<sup>2</sup> It is the duty of the riparian owners to exercise their rights reasonably, so as not to unreasonably interfere with the riparian rights of others (see Petraborg v. Zontelli, 217 Minn 536, 15 NW 2d 174 [1944]). They cannot dike off and drain, or fence off, their part of the

- C. In considering the impact of a road project, appraisers or right of way professionals will consider property rights affected as part of a **bundles of rights**. The rights that come with acquiring land, consist of all sorts of constituent rights—access, air, support, groundwater, mineral, and other rights that together form the bundle of rights that make up the total (fee) interest in land. Riparian rights are part of the bundle of rights that come along with the total fee interest in land. Thus, if they are taken, compensation is required, unless those rights are subject to existing superior rights of the state or federal government.
- D. Another piece of the bundle of rights includes **rights and duties related to surface waters, the reasonable use principle**.
1. Surface waters consist of waters from rain, springs, or melting snow that lie or flow on the surface of the earth, but which do not form part of a well-defined body of water or natural watercourse.
  2. Minnesota courts initially applied the common-enemy rule to address legal issues associated with disputes regarding surface waters. The common-enemy rule provided that surface water is a common enemy that each landowner "may get rid of as best he may."
  3. Today Minnesota courts apply the reasonable use rule in cases that involve the channeling, obstruction, and diversion of surface waters. Common law defines private property rights to appropriate surface waters. Because it is judge-made, case-focused law, the common law naturally evolves to accommodate the role of water and water-related resources in current society.
  4. Reasonable use involves a **balancing of competing property rights**. Each possessor (of land) is legally privileged to make a reasonable use of his land, even though the flow of surface waters is altered thereby and causes some harm to others. He incurs liability only when his harmful interference with the flow of surface water is unreasonable.
    - a. There is a reasonable necessity for such activity
    - b. If reasonable care be taken to avoid unnecessary injury to the land receiving the burden;
    - c. If the utility or benefit accruing to the land from the activity reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and

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waterbody (See Johnson v. Seifert). It is a public nuisance and a misdemeanor to "interfere with, obstruct, or render dangerous for passage waters used by the public" (see: Public Nuisance Law, Minnesota Statute 609.74).

d. If, where practicable, it is accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, *or* if, in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is adopted.

5. Regardless of whether the water at issue is surface water or part of a natural watercourse, a landowner may not use his land in a way that unreasonably injures their neighbor.<sup>3</sup>

III. Examples of actual water related disputes involving roadways and other government construction projects

A. The obligation to use reasonable care to avoid damages from diversion of water

1. Van Wilgen v. Albert Lea Farms Co, 223 N.W. 301 (Minn. 1929). **No liability for unexpected flooding, if reasonable provisions for escape of water has been made:** Farming company that constructed a road authorized by County Board was not liable for damage from an unprecedented rainfall if it had made reasonable provision for the escape of water from such floods as were known to occur in that vicinity. The board of county commissioners laid out several county roads over the marsh, including one on the west line of section 4, and authorized defendant, Albert Lea Farms, to construct them. To drain the roadways, defendant dug a ditch along them with a buckeye ditching machine, depositing in the roadbed the material so excavated. The road embankment prevented surface water from the east from flowing west except as it was carried across the road by the 14-inch tile, as no culverts had been constructed across the road. In September, 1926, there was a rainfall of about 7 inches in 24 hours of which more than 6 inches fell in the space of 11 hours. This was a greater rainfall than had ever previously been recorded in that vicinity. The 14-inch tile was unable to carry off the water which came down from the high lands at the east,

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<sup>3</sup> Hunt v. Estate of Hanson, 356 N.W.2d 323 (Minn. App. 1985). See, e.g., McClure v. The City of Red Wing, 28 Minn. 186, 9 N.W. 767 (1881); Poynter v. County of Otter Tail, 223 Minn. 121, 25 N.W.2d 708 (1947); Pell v. Nelson, 294 Minn. 363, 201 N.W.2d 136 (1972); and Fink v. O'Neill Country Club, 218 Neb. 30, 352 N.W.2d 166 (1984).

and the road embankment held it back upon plaintiff's land causing the damage for which he seeks to recover.

2. Poynter v. County of Otter Tail, 25 N.W.2d 708 (Minn. 1947). The liability of one constructing or maintaining a structure in or across a natural watercourse is based on the rule that he must make **proper and adequate provision for the passage therein of such waters as can be reasonably anticipated** as shown by past history and all facts and circumstances bearing upon that question.
3. Roche v. City of Minneapolis, 223 Minn. 359, 27 N.W.2d 295 (1947) A city is not liable for water damage to private property, despite the inadequacy of its drainage system, when the private property was the natural depository of the water discharged. When the city had not unnecessarily discharged water upon private property, it cannot be held liable for failing to prevent a natural result. **A city is not required to be an insurer for all water damage from the natural flow of surface water.** "The only complaint plaintiffs can make is that the municipality did not do more and wholly relieve the premises of surface and infiltrated water." Id. at 365, 27 N.W.2d at 298. The court in Roche found no liability for water damage when the city had not gathered surface waters into a large body and cast them in large quantities in an area where they did not previously flow.

B. Remedy for Reasonable Use Violations

1. **Negligence:** Bush v. City of Rochester, 191 Minn. 591, 255 N.W. 256 (1934). The traditional negligence case is based upon
  - a. Breach of ordinary care by the defendant
  - b. Proximate causation of damages.
  - c. Contributory negligence defense.
  - d. However, beginning with Bush v. City of Rochester, the courts began to apply the reasonable use test even to negligence cases.

2. **Nuisance: Highview North Apartments.** Then in the Highview North Apartments case, the Court seemed to move us to a nuisance based theory, suggesting that in most cases, no matter what the theory, the issue is reasonable use.
3. **Failure to Design** a city's deliberate decision not to expand its system to accommodate all storm water is not, by itself, negligence. The City of West St. Paul, V. Orr-Schelen-Mayeron & Associates, Inc.,1990 WL 152689 (Minn.App), Damages for negligence cannot be predicated upon flooding were the rainfall was unusual, extraordinary, and one that could not reasonably be anticipated. See, generally, Power v. Village of Hibbing, 182 Minn. 66, 233 N. W. 597, and cases cited; Taubert v. City of St. Paul, 68 Minn. 519, 71 N. W. 664; 4. See also Chabot v. City of Sauk Rapids, 422 N.W.2d 708 Minn.,1988.

C. Takings

1. United States v. Chicago, M., St. P. & P. R. Co., 312 U.S. 592, 596 -597 (1941) The **dominant power of the federal Government**, as has been repeatedly held, extends to the **entire bed of a stream, which includes the lands below ordinary high water mark**. The exercise of the power within these limits is not an invasion of any private property right in such lands for which the United States must make compensation. The damage sustained results not from a taking of the riparian owner's property in the stream bed, but from the lawful exercise of a power to which that property has always been subject.
2. Caponi v. Carlson, 392 N.W.2d 591 (Minn. App. 1986) (review denied); city's adoption of plans recognizing existence of storm water holding pond on property and installation of two storm sewer pipes bringing water into pond, vastly increasing water volume, was taking without compensation in violation of takings provisions of the State and Federal Constitutions....Caponi's property has been permanently flooded and is now used to hold storm water. This was done according to the city's plan and with its approval. The evidence substantiates Caponi's claim that it was the city's actions which **permanently flooded**

**his land.** Caponi's land, which was intermittently wet and dry, is now permanently flooded; it was sometimes tillable and suitable for grazing cattle. He fenced the land. This fence is now under water. \* \* \* He has no use of the property.

3. Love v. Burlington Northern, Inc., 407 N.W.2d 452 (Minn. 1987)...Watershed district granted potato farmers permit to install culvert decreasing water flow in private drainage ditch used by sugar beet farmers. Appellants argue that as a result of the culvert, their land will be flooded each spring for a substantially longer period than in the past, preventing them from planting their crops on time, and there will be increased crop damage during the occasional summer flood. The record shows that there is **intermittent flooding of appellants' lands**, and the installation of the culvert will likely exacerbate the flooding. It does not establish, however, that the intermittent flooding will be of sufficient "frequency, regularity, and permanency" to constitute a taking.
4. Nelson v. Wilson, 239 Minn. 164, 58 N.W.2d 330 (1953)...In Nelson, the State built two dams which caused flooding in surrounding lands due in part to the overflowing of a drainage pool behind one dam. The supreme court held there had been a taking of lands below the dams which had been periodically flooded when the pool was drained, and had remained wet and flooded for several years. It stated: **Whether occasional flooding is of such frequency, regularity, and permanency as to constitute a taking and not merely a temporary invasion for which the landowner should be left only to a possible recovery of damages is a question of degree, and each case must stand on its own peculiar facts.** \* \* \* Here, since the land remained flooded and wet for several years, since a bridge and trees were swept away, and since the state had full knowledge of the flooding and had taken no timely steps to correct the situation, \* \* \* there is ample evidence to support the finding of a taking \* \* \* 239 Minn. at 172, 58 N.W.2d at 335 (emphasis in original).
5. **United States v. Rand** 389 U.S. 121 (1967), "The power to regulate commerce comprehends the control for that

purpose, and to the extent necessary, of all the **navigable waters** of the United States . . . . For this purpose they are **the public property of the nation, and subject to all the requisite legislation by Congress**. This power to regulate navigation confers upon the United States a "dominant servitude," FPC v. Niagara Mohawk Power Corp., 347 U.S. 239, 249 (1954), which extends to the entire stream and the stream bed below ordinary high-water mark. The proper exercise of this power is not an invasion of any private property rights in the stream or the lands underlying it, for the damage sustained does not result from taking property from riparian owners within the meaning of the Fifth Amendment but from the lawful exercise of a power to which the interests of riparian owners have always been subject. Thus, without being constitutionally obligated to pay compensation, **the United States may change the course of a navigable stream or otherwise impair or destroy a riparian owner's access to navigable waters, even though the market value of the riparian owner's land is substantially diminished.**

6. United States v. Twin Cities Power, 350 U.S. 222 (1956). Court rejected a power company's contention that uplands taken should be compensated at a value which reflected its special value because of its power generation capability: It is argued, however, that the special water-rights value should be awarded the owners of this land since it lies not in the bed of the river nor below high water but above and beyond the ordinary high-water mark. An effort is made by this argument to establish that this private land is not burdened with the Government's servitude. The flaw in that reasoning is that the landowner here seeks a value in the flow of the stream, a value that inheres in the Government's servitude and one that under our decisions the Government can grant or withhold as it chooses. It is no answer to say that payment is sought only for the location value of the fast lands. That special location value is due to the flow of the stream; and if the United States were required to pay the judgments below, it would be compensating the landowner for the increment of value added to the fast lands if the flow of the stream were taken into account.

7. On the other hand, the government (including the United States) does not retain these unrestricted rights when it land above the ordinary high water mark of a stream or lake, the so-called fast lands. The issue is, what kind of damage, and under what circumstances, does a taking result. The destruction of all uses of the property by flooding has been held to constitute a taking. in *Pumpelly v. Green Bay Co.*, 13 Wall. 166, 20 L.Ed. 557; *Pumpelly v. Green Bay & M. Canal Co.* involved the right to compensation for land overflowed with backwater from a dam erected and maintained in the Fox river, under authority of the state of Wisconsin, for the improvement of navigation. The State of Wisconsin argued that it could raise the river above its natural stage, by means of an artificial structure to improve navigation. The Supreme Court found a compensable taking. This court overruled the contention, and held there was a taking without compensation, contrary to the applicable provision of the Constitution of Wisconsin. In *United States v. Lynah*, 188 U.S. 445 , 47 L. ed. 539, 23 Sup. Ct. Rep. 349, the same principle was applied in the case of an operation by the government of the United States. For the improvement of the navigation of the Savannah river certain dams and other obstructions were placed and maintained in its bed, with the result of raising the water above its natural height and backing it up against plaintiff's embankment upon the river and interfering with the drainage of their plantation. This was held to be a taking of private property, requiring compensation under the 5th Amendment, notwithstanding the work was done by the government in improving the navigation of a navigable river.
8. In *U. S. v. Dickinson*, 331 U.S. 745 (1947), the Court considered a compensation claim resulting from construction of the Winfield Dam to improve navigability of the Kanawha River. The water above the dam was to be impounded to create a deeper channel and to raise the river pool level in that area. Notice of the proposed pool elevation was given to abutting landowners on July 1, 1936, and the dam was completed and officially accepted by the United States on August 20, 1937. The river was to be raised by successive stages from 554.65 feet to 566 feet

above sea level. That level was not reached until September 22, 1938. As a result of the raising of the river the land belonging to Dickinson was permanently flooded. In addition, erosion attributable to the improvement damaged the land which formed the new bank of the pool. The Court noted, "Property is taken in the constitutional sense when inroads are made upon an owner's use of it to an extent that, as between private parties, a servitude has been acquired either by agreement or in course of time.... When [the Government] takes property by flooding, it takes the land which it permanently floods as well as that which inevitably washes away as a result of that flooding. The mere fact that all the United States needs and physically appropriates is the land up to the new level of the river, does not determine what in nature it has taken. If the Government cannot take the acreage it wants without also washing away more, that more becomes part of the taking. This falls under a principle that in other aspects has frequently been recognized by this Court. ...If the resulting erosion which, as a practical matter, constituted part of the taking was in fact preventable by prudent measures, the cost of that prevention is a proper basis for determining the damage."

IV. **Selected statutes.** Below are references to some selected statutes that bear on the relationship between roads and drainage. These are included for reference only.

- A. Right to acquire: Minnesota Statutes Section 160.04. Width of roads. Except as otherwise provided, all roads hereafter established, except cartways, shall be at least four rods wide. Additional right-of-way and easements, including easements needed for drainage, may be acquired by purchase, gift, or eminent domain proceedings when necessary for construction, maintenance, safety, or convenient public travel. The necessity for such additional right-of-way and easements shall be determined by the road authority having jurisdiction over the particular road involved.
- B. Use of roadway right of way: 161.45 Subdivision 1. Rules. Electric transmission, telephone, or telegraph lines; pole lines; community antenna television lines; railways; ditches; sewers; water, heat, or

gas mains; gas and other pipelines; flumes; or other structures which, under the laws of this state or the ordinance of any city, may be constructed, placed, or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such rules as may be prescribed by the commissioner who shall have power to prescribe and enforce reasonable rules with reference to the placing and maintaining along, across, or in any such trunk highway of any of the utilities hereinbefore set forth. Nothing herein shall restrict the actions of public authorities in extraordinary emergencies nor restrict the power and authority of the commissioner of commerce as provided for in other provisions of law. Provided, however, that in the event any local subdivision of government has enacted ordinances relating to the method of installation or requiring underground installation of such community antenna television lines, the permit granted by the commissioner of transportation shall require compliance with such local ordinance.

- C. Section 160.18 Access to roads; approaches. Deals with cost of culverts when approaches are supplied.
- D. Section 160.19 Drainage ditch crossing railroad right of way. Railroad must carry a road drainage ditch under and across its right-of-way.
- E. Section 160.20 Drainage:
  - 1. Subdivision 1. Connecting drains to highway drains. When course of natural drainage of any land runs to a highway, owner of the land shall have the right to enter upon the highway for purpose of connecting a drain or ditch with any drain or ditch constructed along or across the highway. Permit required. Reasonable regulations allowed.
  - 2. Subdivision 2. Governs private tile drain that must be projected across the right-of-way to a suitable outlet. If proper notice, road funds pay for installation.
  - 3. Subdivision 3. Installing drain tile along or across highway. If properly permitted, when the course of natural drainage of any land runs to a highway, owner of the land may

install drain tile along or across the highway right of way along the general course of the natural drainageway, provided further that there will be no diversion of drainage waters away from the natural receiving drainageway...

F. 160.201. Repair and improving drainage:

1. For the purpose of draining public roads and preventing accumulations of water in road ditches, the overflow of which may damage adjacent lands, the various authorities having supervision over public roads, in addition to all other powers granted to said authorities, are authorized and empowered to expend moneys from funds available therefor in repairing, cleaning out, deepening, widening and improving public road ditches within the jurisdiction and supervision of such authorities. The necessity for such work shall be determined by the authorities which now have the supervision of said public roads; provided, that before said work may be done said road supervising authority shall determine that said road ditch as so improved will be provided with an adequate outlet.

G. 161.28. Altering public drainage ditch by trunk highway

1. Subdivision 1. Petition. Upon the filing of a petition by the commissioner with the appropriate county auditor setting forth that it would be advantageous or desirable in the construction or maintenance of a trunk highway to make a minor alteration or change in a public drainage system directly affecting a trunk highway and that the alteration or change will not affect the functioning or efficiency of the public drainage system, the auditor shall fix a time and place for hearing and give notice of the hearing by publication, as defined in section 103E.325. Upon the filing of the petition, the commissioner shall also file a plan showing in detail the alteration or change petitioned for. If upon the hearing it appears to the county board or joint county ditch authority that the alteration or change in the public drainage system will not affect or impair the efficiency of the drainage system, the board or authority shall make its order allowing the commissioner to make the alteration or change petitioned for. Upon the making

of the order by the county board or the joint county ditch authority, the commissioner may proceed at the sole cost and expense of the state to make the alterations or changes as may be in the order allowed, damages, if any, for any additional lands necessary for the change or alteration being first duly paid or secured. Upon completion of the alteration or change, the commissioner shall file with the appropriate auditor a map drawn to scale showing the change or alteration made and shall also file a profile of all lines of the alteration or change in the ditch showing graphically the elevation of the ground and gradient, whether open or tiled, the size of tile, and the bottom width and side slope of open ditch sections, and such other information as may appear necessary for understanding. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include such alteration or change as a part of it with the same force and effect as though it had been originally so constructed and established.

2. Subd. 2. Recovery of damages. Within six years after completion of any alteration or change as provided in this section, any owner or owners of lands in the drainage system claiming damages by reason of the alteration or change may bring an action in the district court of the county in which the lands are located to compel the commissioner to pay damages, if any, caused by the alteration or change. See also 163.17 to similar effect.

H. Obstruction 160.2715. Right-of-way use; misdemeanors.. (a) Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:....(7) obstruct any ditch draining any highway or drain any noisome materials into any ditch;...(11) deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains, or any other highway appurtenance on or along any highway.

I. 103E.701(a) :

1. Subd. 3. Repair of town ditches. The town board has the power of a drainage authority to repair a town drainage system located within the town.
2. Subd. 4. Bridges and culverts.
  - a. (a) 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 under section 103E.525.
  - b. (b) Private bridges or culverts constructed as a part of a drainage system established by proceedings that began on or after March 25, 1947, must be maintained by the drainage authority as part of the drainage system. Private bridges or culverts constructed as a part of a drainage system established by proceedings that began before March 25, 1947, may be maintained, repaired, or rebuilt and any portion paid for as part of the drainage system by the drainage authority.
  - c. (c) For a repair of a drainage system that has had redetermination of benefits under section 103E.351, the drainage authority may repair or rebuild existing bridges or culverts on town and home rule charter and statutory city roads constructed as part of the drainage system and any portion of the cost may be paid by the drainage system.
3. Subd. 5. Construction of road instead of bridge or culvert. In a repair proceeding under sections 103E.701 to 103E.745, if the drainage authority finds that constructing a private road is more cost-effective or practical than constructing a bridge or culvert, a drainage authority may order a private road to be constructed under section 103E.526, instead of a bridge or culvert.

J. **103E.525. Construction and maintenance of bridges and culverts**

**Subdivision 1. Hydraulic capacity.** A public or private bridge or culvert may not be constructed or maintained across or in a drainage system with less hydraulic capacity than specified in the detailed survey report, except with the written approval of the director of the division of waters. If the detailed survey report does not specify the hydraulic capacity, a public or private bridge or culvert in or across a drainage system ditch may not be constructed without the director's approval of the hydraulic capacity.

**Subd. 2. Road authority responsible for construction.** Bridges and culverts on public roads required by the construction or improvement of a drainage project or system must be constructed and maintained by the road authority responsible for keeping the road in repair, except as provided in this section.

**Subd. 3. Notice; charging cost.** The auditor shall notify the state and each railroad company, corporation, or political subdivision that they are to construct a required bridge or culvert on a road or right-of-way under their jurisdiction, within a reasonable time as stated in the notice. If the work is not done within the prescribed time, the drainage authority may order the bridge or culvert constructed as part of the drainage project construction. The cost must be deducted from the damages awarded to the corporation or collected from it as an assessment for benefits. If the detailed survey report or viewers' report shows that the construction of the bridge or culvert is necessary, the drainage authority may, by order, retain an amount to secure the construction of the bridge or culvert from amounts to be paid to a railroad, corporation, or political subdivision.

**Subd. 4. Construction on line between two cities paid equally.** The costs of constructing a bridge or culvert that is required by construction of a drainage project on a public road that is not a state trunk highway on the line between two statutory or home rule charter cities, whether in the same county or not, must be paid jointly, in equal shares, by the cities. The cities shall pay jointly, in equal shares, for the cost of maintaining the bridge or culvert.

**Subd. 5. Construction on town and county lines.** The cost of constructing and maintaining bridges and culverts on a town or county road across a drainage system ditch constructed along the

boundary line between towns or counties, with excavated material deposited on the boundary line or within 33 feet of the line, must be paid equally by the town or county where the bridge or culvert is located and the other town or county adjoining the boundary.

K. **103E.526. Construction of road instead of bridge or culvert.**

If the drainage authority finds that constructing a private road would be more cost-effective or practical than constructing a bridge or culvert, the drainage authority may order that a private road be constructed. The private road must be constructed and maintained in the same manner as a bridge or culvert. The private road must be constructed in a manner suitable for farm vehicles but may not have a right-of-way wider than 33 feet. The drainage authority has jurisdiction over the land required for the private road and the road is part of the drainage system.

L. Public highway crossing inventoried public water course (DNR Rule part 6115.0230 - .0231)

1. It is the goal of the department to allow crossings of public waters, only when less detrimental alternatives are unavailable or unreasonable, and where such facilities adequately protect public health, safety, and welfare.
2. The construction or reconstruction of any bridge, culvert, intake, outfall, or other crossing of public waters is subject to this part. Abandonment or removal of all crossings and structures governed by this part requires a permit.
3. No permit is required to construct or reconstruct a bridge or culvert on a public watercourse with a total drainage area, at its mouth, of five square miles or less, except on officially designated trout streams.
4. The construction, reconstruction, or relocation of all bridges, culverts, or other crossings over public waters shall be approved if the hydraulic capacity of the structure is established by a competent technical study. The sizing shall not be based solely on the size of existing upstream and downstream structures. If a state or federal floodplain information study exists for the area, or a United States Geological Survey gaging station is located nearby on the stream, the hydraulics of the proposed bridge/culvert

design must be consistent with these data. The department may waive this requirement if: the department has performed a hydraulic study based upon available information and reasonable assumptions; the department has made a field investigation of the project site; and the project will not cause flood-related damages or problems for upstream or downstream interests.

5. For new crossings, no approach fill for a crossing shall encroach upon a community designated floodway. When a floodway has not been designated or when a floodplain management ordinance has not been adopted, increases in flood stage in the regional flood of up to one-half of one foot shall be approved if they will not materially increase flood damage potential. Additional increases may be permitted if: a field investigation and other available data indicate that no significant increase in flood damage potential would occur upstream or downstream, and any increases in flood stage are reflected in the floodplain boundaries and flood protection elevation adopted in the local floodplain management ordinance.
6. For replacement of existing crossings, if the existing crossing has a swellhead of one-half of one foot or less for the regional flood, the replacement crossing shall comply with the provisions for new crossings. If the existing crossing has a swellhead of more than one-half of one foot for the regional flood, stage increases up to the existing swellhead shall be allowed if field investigation and other available data indicate that no significant flood damage potential exists upstream from the crossing based on analysis of data submitted by the applicant. The swellhead for the replacement crossing may exceed the existing swellhead if it complies with the provisions for new crossings.



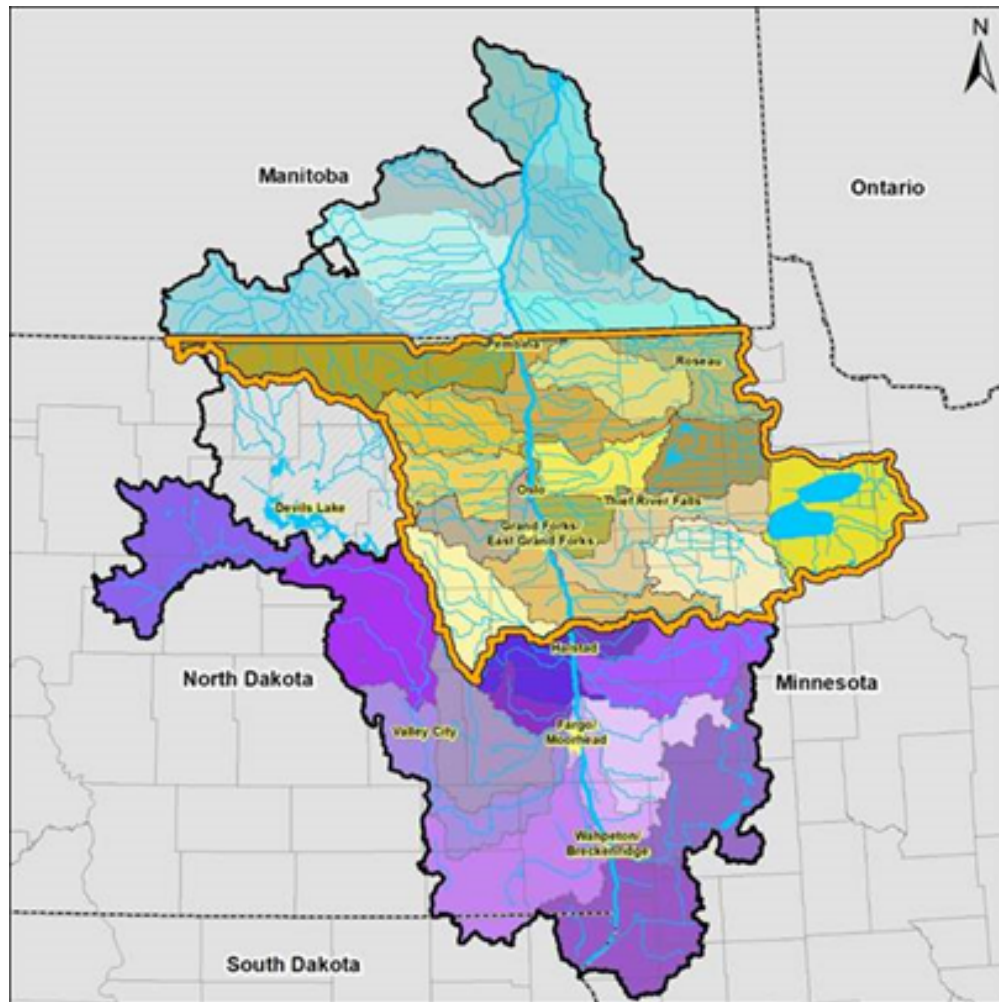
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Feature Story

# Planning Assistance to States: Red River Basin Comprehensive Study

Published March 24, 2026



*Red River Basin upstream and downstream of Halstad, Minnesota.*

Purpose

The purpose of this study is to investigate the effectiveness of various flood risk reduction measures basin-wide to reduce main stem peak flows by 20% for the larger rare events such as the 0.5% (200-year) and 0.2% (500-year) chance of exceedance floods.

### **Location**

The Red River of the North rises in Lake Traverse near Wheaton, Minnesota, and flows north towards Canada and ultimately to Lake Winnipeg. This is a basin-wide study in Minnesota and North Dakota.

### **Description**

The Red River Basin Commission produced the Long-Term Flood Study (LTFS) in 2011 after the 2009 flood. Minnesota and North Dakota expressed the need for a coordinated, comprehensive, proactive plan that responds to and mitigates flooding and flood damages throughout the Red River Watershed. The 2011 LTFS report provided 48 recommendations ranging from immediate needs and critical risks to additional long-term studies. A 2015 status report showed that substantial progress had been made for about 20% of the recommendations but that limited or no progress had been made for approximately 50% of the recommendations. The focus of the study will be on the 0.5% (200-year) and 0.2% (500-year) chance of exceedance floods.

Study tasks include updating hydrology models with sensitivity to climate variability and other factors like storage, impacts of changed hydrology on levee certification, risk reduction goal analysis, floodplain regulation effectiveness, and stormwater management.

### **Status**

A partnership agreement was executed between the U.S. Army Corps of Engineers (USACE) and the sponsor (Red River Basin Commission) in November 2018. The sponsor will meet all or a portion of their cost-share requirements through work-in-kind efforts.

#### *Phases 1 and 2:*

- Hydrologic data for floods in the range of the 0.5% to 0.2% chance exceedance events have been developed.
- Impacts of flood storage are being investigated with significant input from study partners. Work is ongoing.

The project is currently paused due to funding constraints. USACE has worked with the sponsor to determine options to secure additional funding to complete the project. The project will commence in April 2026, with an anticipated completion in December 2026.

### **Authority**

Section 22 of the Water Resources Development Act of 1974 (Public Law 93-251), as amended. The study is being conducted under the USACE Planning Assistance to States program, following the 50/50 cost-share formula with the nonfederal sponsor. The sponsor may contribute additional funds beyond this formula.

**Funding**

The following is a summary of the funds required for the Red River Basin LTFS Planning Assistance to States Project:

Total study cost for Phases 1 and 2	\$650,000
Total federal funds allocated to date	\$325,000

Planning Assistance to States    Red River Basin    Minnesota  
Water Resource Development Act    North Dakota    Red River of the North    PAS  
Mississippi Valley Division

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# Public Waters Inventory (PWI) Update Project

## Answers to 10/2/2024 Webinar Questions

### Process, Scope, Timeline and Stakeholder Engagement

1. **Question:** Has there been a change to the definition of public waters? Is that why the PWI Update is being done?

**Answer:** There was no change to the definition of public waters in statute. The statute change did clarify that a waterbody's presence or absence on the PWI is not how you determine whether a waterbody is a public water. The existing statutory definition is used to determine if a waterbody is a public water and the PWI is an informational tool that helps to identify public waters.

2. **Question:** Who should we contact to confirm a waterbody's presence or absence on the PWI?

**Answer:** Contact your DNR Area Hydrologist. A map and list of Area Hydrologists with their contact information is online at: [https://files.dnr.state.mn.us/waters/area\\_hydros.pdf](https://files.dnr.state.mn.us/waters/area_hydros.pdf).

3. **Question:** Prior to the 2024 session law directing the DNR to update the PWI, had the agency made corrections to the PWI?

**Answer:** Yes. In 2000, language was added to statute to enable the DNR to revise the PWI to correct errors in the original PWI. Since that time, the DNR has made corrections to the PWI when an error was discovered.

4. **Question:** Do you have an estimate for the scale of alterations or corrections that may be needed? Are there any geographies where you anticipate more changes?

**Answer:** At this point, it's difficult to estimate the number of corrections. The number of corrections will vary between counties, depending on how many public waters are on the landscape. Areas with designated trout streams will likely have more corrections because trout stream tributaries are being added to the PWI.

5. **Question:** What makes a county "easier" to evaluate, if the review is completely based on the definition of public waters?

**Answer:** The PWI update will be easier in those counties with fewer PWI corrections. Counties with more water resources will take longer to review and

**will likely have more PWI corrections. Areas where there are public drainage systems, and overlap of regulation of the water resources, are more difficult to review.**

- 6. Question:** When will the schedule for each county PWI update be shared? Are ag-heavy regions being prioritized?

**Answer: The schedule hasn't been established yet, but counties will be informed before the PWI update process starts. Any updates on process and timing will be announced on the project website and emails will be sent to all individuals that have signed up for updates at the project website.**

- 7. Question:** Will current complaints and PWI corrections be completed before the updated PWI?

**Answer: No. DNR will address all pending complaints/corrections at the time the area is under review. If there is a need to prioritize review, the DNR could consider expediting, but that would be rare.**

- 8. Question:** Why are 8 years needed when the original PWI was completed within 4 years and how was this lengthy timeline determined?

**Answer: The original PWI took more than four years, it took about 8 – 9 years in total. The eight-year estimate was based on the human resources that could reasonably be secured and managed for the project. Experiences with previous efforts in Renville and Polk Counties also helped assess the level of effort needed.**

- 9. Question:** Right now, who will decide if a waterbody is a public water if there is a question? Is that the DNR, and what does that process look like?

**Answer: DNR Area Hydrologists are local experts for determining if a waterbody meets the definition of a public water. If an error is identified outside of the PWI Update effort, the Area Hydrologist would elevate the determination within the agency. This would likely only occur if there was proposal to do work within the waterbody and the DNR's authority and responsibility to regulate that activity needed to be determined.**

- 10. Question:** Will DNR staff make jurisdictional decisions as requested to determine if a waterbody is a public water, and what does that process look like? If not the DNR, who is responsible for making this determination?

**Answer: The DNR is responsible for determining if a waterbody is a public water. If you have a question as to whether a waterbody is a public water, please contact your DNR area hydrologist. A map and list of Area Hydrologists with their contact information is online at: [https://files.dnr.state.mn.us/waters/area\\_hydros.pdf](https://files.dnr.state.mn.us/waters/area_hydros.pdf).**

**11. Question:** Is it still anticipated that this effort will add 640 miles of public waters?

**Answer: The DNR will review all of the public watercourses removed from the PWI by the 2017 Commissioner's Order, to determine if they meet the statutory definition of public waters and need to be added back onto the PWI.**

**12. Question:** Over the next 8 years, will PWI GIS data be updated piecemeal as counties are completed or will the DNR be rolling out a finished product at the end of the project?

**Answer: The DNR will update the PWI GIS data as the PWI corrections are finalized in each county.**

**13. Question:** After a county PWI update is complete, how will the PWI continue to be maintained and updated?

**Answer: The DNR maintains a public waters program and field hydrologists that, among many other activities, will continue to monitor the PWI, address petitions, and make any needed revisions as authorized under Minn. Stat. 103G.201 (e).**

**14. Question:** Once the PWI update is complete, will that final product be the tool to identify if a waterbody is a public water? Or will there be a requirement to ask state staff if a waterbody is a public water, even if it's not shown on the PWI?

**Answer: The PWI is the tool to use to identify if a waterbody is a public water. The PWI has been the tool to use for the last 40 years to identify public waters, and it will continue to be the tool to use to identify public waters. There still could be situations, for whatever reason, where a waterbody meets the definition of a public water but didn't make it onto the PWI. Those situations would be very rare but could still be possible.**

**15. Question:** Drainage area being the primary determining factor for listing on the PWI seems like a very limiting criteria for water protection. Not all watersheds are created equally. Considering unique circumstances, does the DNR have any leeway under the statute to add a water body to the PWI?

**Answer: No. The PWI update process uses the statutory definition for public waters to determine if waters meet the definition or not.**

**16. Question:** Who will be digitizing the waters? Does the DNR have GIS specialists who will be focused on this? Will the DNR be putting out RFPs for the GIS work?

**Answer: The PWI Update Project is an in-house project. In addition to in-house DNR GIS expertise, DNR is utilizing the services of Minnesota Information Technology (MNIT) to assist in updating the GIS data.**

**17. Question:** What are examples of public lands from this part of the public waters definition, "water basins located within and totally surrounded by publicly owned lands"?

**Answer: Public lands include, but are not limited to, federal, state, and county lands, wildlife refuges, Wildlife Management Areas (WMAs), state parks, and federal and state forests.**

**18. Question:** Has there been a determination of what will be included in the PWI?

**Answer: The PWI update project is to correct errors and the DNR will be using the statutory definition of public waters to guide those determinations.**

**19. Question:** Arguments can be made that the statutory criteria has its shortcomings for water protection. Does the DNR intend to, as part of this update, to make any recommendations about potential revisions to the existing statute?

**Answer: There are no plans for statutory revision.**

**20. Question:** Will there be an effort to make sure the PWI alignments will match across county lines before finalizing the information by county?

**Answer: The DNR will review the public waters at county boundaries to make sure that if a waterbody extends into an adjacent county, that portion is also included as part of the waterbody being reviewed.**

**21. Question:** Has there been any thought in working on the PWI update on a Watershed scale to make it easier to not miss part of a public water in the review?

**Answer: Yes. While we recognize that there are some advantages to working on a watershed scale, at this stage in the project planning, the decision is to work county-by-county, also taking into consideration public waters that cross county boundaries.**

**22. Question:** Does the DNR intend to weigh in on instances where water bodies do not meet statutory criteria for a public water but without protections would warrant considerations for ecological and water quality impacts?

**Answer: No. This project is solely to correct PWI errors based on the statutory definition of public waters. Other agencies such as the Board of Water and Soil Resources (BWSR), Minnesota Pollution Control Agency (MPCA), and local governments have responsibility for water quality and for other waters of the state that do not meet the statutory definition of a public water.**

**23. Question:** Our city has excavated lakes in historic gravel mining areas. Historically, these have not been a PWI, but have a Basin ID #. Will you be looking at additional information for these water bodies and clarifying their designation?

**Answer: Yes. Water bodies will be reviewed against the definitions in statute for natural watercourse, altered natural watercourses, and water basins. All three definitions require that the feature was naturally occurring prior to physical alterations.**

**24. Question:** How much due process will be afforded to landowners whose land is identified as being “omitted” from the original PWI and will be added to the new PWI? Will they get a hearing in District Court? Will they be able to meet in person with DNR hydrologists? Will the DNR meet in person onsite with landowner-retained wetland consultants, or will these landowners only be afforded the right to “comment”?

**Answer: Landowners riparian to potential PWI corrections will get direct notice. Public meetings will be held in each county where questions can be asked and information submitted. Any information submitted will be considered in the final DNR Order. In general, the DNR would only meet onsite with landowners if there is a need to make a visual inspection and data collection of the waterbody. Any individual that disagrees with the DNR Order is entitled to judicial review at the Minnesota Court of Appeals.**

**25. Question:** Will landowners receive notice of field visits?

**Answer: If a site visit is required, the DNR would first request landowner permission.**

**26. Question:** Will watersheds be given advance notice of reviews done within their boundaries? Will they be given the chance to have meaningful input to proposed changes aside from the opportunity to "comment"?

**Answer: Before the DNR begins the PWI update in a county, the DNR will give notice to local governments, including watershed districts, counties, cities, and the public, to provide an opportunity for individuals to provide the DNR with information on corrections that might be needed. Also, public meetings will be held in each county where questions can be asked and information submitted. Any information submitted will be considered in the final DNR Order.**

**27. Question:** How long of a comment period will be offered?

**Answer: The length of the comment period for review of changes has not been determined but will likely be between 60 and 90 days.**

**28. Question:** Will new and updated maps be able to be printed for the counties like we currently have? Will we have a final product to reference?

**Answer: Yes. Mapping of public waters will be available that will not require using Geographic Information System (GIS) software to view.**

**29. Question:** When will the updated maps be available for the public to use?

**Answer: Currently the plan is to work through the state on a county-by-county basis. When the PWI corrections for a county are finalized, the information will be available for anyone to use.**

**30. Question:** Will the DNR hire consultants through an RFP process for any of this work or will it all be completed internally?

**Answer: No. This work will be completed by the DNR.**

## **Methodology**

**31. Question:** Is the presence of water necessary for the DNR to decide that a waterbody is a public water?

**Answer: No. Year-round presence of water is not a requirement in the definition of public waters. Intermittent streams are an example of water that only needs to be present long enough to create a definable bed and bank, to be a public water.**

**32. Question:** Will the DNR use high-definition satellite or aerial photography or drone-gathered data for this review, given that those technologies weren't available in the 1980s?

**Answer: The DNR will use publicly available data for its reviews.**

**33. Question:** Are Type I and Type II wetlands exempt?

**Answer:** Type I and Type II wetlands are not included in the definition for public waters wetlands. These wetland types are regulated under the Minnesota Wetland Conservation Act.

**34. Question:** Are stormwater ponds or other created water features that are considered a type 3, 4, or 5 wetland classified as a public water?

**Answer:** In general, constructed stormwater ponds do not meet the definition of public waters. However, stormwater ponds that were constructed in naturally occurring water bodies may meet the definition of public waters and be included on the PWI.

**35. Question:** Example: Stony Run Creek's buffer map indicates the creek moving from a public water to a ditch and back 16 times during its course. Would classifying the whole creek as a public water (per statute) result in an amendment to the buffer map?

**Answer:** A public watercourse can also be part of a public drainage system. Stony Run Creek in Big Stone County is a public watercourse with sections that are also public ditch. While the entirety of the creek is a public water, those sections that are part of the public drainage systems are managed by the public drainage authority under Minn. Stat. 103E. Public waters include both natural and altered natural watercourses including watercourses that have been ditched. With respect to buffer requirements, those portions of a public watercourse that are part of a public drainage system need a 16.5-foot buffer unless the watercourse has a shoreland classification, in which case the shoreland classification buffer requirement controls.

**36. Question:** There was mention of a watercourse being a stream or river, with the smallest being a trout stream. Does the term watercourse also include low areas in fields that are channelized during spring flooding or during large summer rainfall events?

**Answer:** Natural and altered natural watercourses with a total drainage area greater than two square miles meet the definition of public waters. In agricultural fields, some watercourses that are farmed through stay channelized or become re-channelized annually during spring flooding or summer rainfall events. These watercourses, because they have bed and bank, meet the definition of public waters and are included on the PWI.

**37. Question:** Does the public waters designation stop at the county jurisdictional boundary? Or does the county boundary affect the contributing drainage area to help determine if it is a public water or not, since it is completed by a county-by-county determination?

**Answer: The public waters designation does not stop at the county boundary. For public watercourses, the drainage area is determined by the topography on the landscape and is not limited by administrative boundaries. Efforts are underway to address those situations where a waterbody is present in more than one county.**

**38. Question:** If a watercourse has a drainage area larger than 2 square miles but is not on the map is it still considered a public water? And will it be added to the PWI?

**Answer: Natural and altered natural watercourses with definable beds and banks and a total drainage area greater than two square miles are public waters. Yes, any watercourse that meets the definition will be added to the PWI.**

**39. Question:** There have been a number of public waters in urban areas that were historically altered for purposes of capturing stormwater drainage. With retrofits to improve stormwater, stormwater maintenance needs, and TMDL requirements to meet stormwater permits, will the DNR consider removing those public waters that were previously altered and are now used as stormwater basins?

**Answer: Alterations to a public water do not make the water ineligible to be a public water.**

**40. Question:** If a landowner has a wetland restoration that results in a type 5 wetland greater than 10 acres but before restoration it was a type 1 wetland then that should be considered a non-PWI wetland basin, correct?

**Answer: Any wetland restoration situations would need to be evaluated on a case-by-case basis. Factors to consider include the condition of the wetland prior to the restoration and the purpose of the wetland restoration.**

**41. Question:** Please clarify whether watercourses that do not meet the definition of a public water will be included on the PWI.

**Answer: Watercourses that do not meet the definition of a public water will not be included on the PWI.**

**42. Question:** How will private agricultural drainage be handled? For example, there are channels with continuously flowing water that exist today as a result of tile drainage that didn't previously exist. Would this be considered a public water under this update?

**Answer:** In these situations, the DNR evaluates the entire history of the watercourse. If there was an existing channel that was altered, it would be an altered natural public watercourse under the definition.

**43. Question:** Will converted wetlands that were once greater than 10 acres in unincorporated areas or 2.5 acres in incorporated areas but no longer meet the area criteria continue to be classified as public waters?

**Answer:** Wetlands that have changed over time will be reviewed on a case-by-case basis, taking into consideration multiple factors, including the reason for the change in wetland type or area.

**44. Question:** Would a public water stream that has been replaced with tile and is now farmed over or has a grassed waterway without perennial surface flow still be considered a public water?

**Answer:** Natural and altered natural watercourses with definable beds and banks and a total drainage area greater than two square miles meet the definition of public waters. Year-round presence of water is not a requirement in the definition of public waters. Intermittent streams are an example of water that only needs to be present long enough to create a definable bed and bank, to be a public water. Some watercourses that flow through fields but that have been farmed through or that do not have perennial surface flow still meet the definition of public waters because they continue to form beds and banks during periods of spring flooding or summer rainfall events.

**45. Question:** There is a large wetland I work on, and the PWI map layer shows a public waters channel flowing through the area of the wetland. In reality, there is no distinct channel in the wetland. Would the rest of the wetland be considered a public water?

**Answer:** For public watercourses that flow through wetlands, the Ordinary High Water Level (OHWL) of the watercourse is the jurisdictional boundary of the public water. The wetland would only be considered a public water if it was a type 3, 4 or 5 wetland and met the size requirement (2.5 acres in incorporated areas; 10 acres in unincorporated areas). All wetland areas above the OHWL that are not designated public waters would be regulated under the Minnesota Wetland Conservation Act (WCA).

**46. Question:** By public drainage, does that also mean the privately owned drainage systems?

**Answer: No. A public drainage system is a legally established ditch system. Private ditches are generally privately owned and not part of a public drainage system.**

**47. Question:** What methodology of review will be used - is this a desktop software exercise?

**Answer: The PWI Update Project will primarily include desktop review of features using Geographic Information System (GIS) software and a variety of digital data sources, but it will also include review of historical documents and site visits when needed.**

**48. Question:** Will the Basin ID # (DOW #) currently used to uniquely identify public waters be adjusted as a result of this process e.g., if a new lake is added or a lake is removed?

**Answer: If a public waters basin or public waters wetland is added to the PWI, it will be assigned a new unique Basin ID #. If a waterbody is removed from the PWI, it's assigned Basin ID # will be retired.**

**49. Question:** Many public waters currently have no official name. In databases, they are called simply "Unnamed" which is a bit confusing. Will there be any effort to name unnamed lakes or associate local/colloquial names with those waterbodies?

**Answer: Naming or renaming public waters is not a part of the PWI Update Project. Naming and renaming of geographic features has its own formal process.**

**50. Question:** How are you dealing with drained or altered basins? The webinar made it sound like they will remain on the PWI, so will they be restored?

**Answer: These types of circumstances will be examined and decided on a case-by-case basis.**

## **Calculation of Watercourse Drainage Area**

**51. Questions:** I was unclear on the calculation you showed for defining public watercourse extent. There are portions of the stream reach you indicated that would be far less than 2 square miles. My understanding is that the definition should only include those portions of the watercourse that drain more than 2 square miles, not the entire reach. This would be consistent with prior public watercourse designation.

**Answer: This is not correct. The drainage area is measured at the confluence with the next downstream watercourse. You do not measure at points along the watercourse to determine where the contributing area becomes greater than 2 square miles. The term “total” drainage area means the entire drainage area of the watercourse, not just a portion of the drainage area.**

**52. Question:** Does a public waters watercourse begin where the accumulated drainage area reaches 2 square miles? Does the public waters watercourse begin at that point?

**Answer: No. The statutory definition is the “total” drainage area of the watercourse, not a portion of the drainage area. If a watercourse with definable bed and bank has a total drainage area greater than two square miles, the entirety of that watercourse is a public water.**

**53. Question:** For watercourses, will the 2 square mile drainage area be based on pre-settlement conditions or current conditions (including altered drainage)?

**Answer: The DNR will make use of all information available to determine what will be included as part of drainage area calculations.**

**54. Question:** Please elaborate on how the 2 square mile drainage area logic will be applied. The example provided was very simple and not reflective of more complex scenarios. How will this logic apply in highly dendritic, ditched, or drain tiled systems?

**Answer: As was stated in the webinar, translating these simple statutory definitions to complex ecosystems has inherent challenges. However, the data available now such as aerial photographs, elevation data, and watersheds will be used to sort out what areas are considered as part of the total drainage area.**

**55. Question:** When determining the 2 square mile drainage area for a stream, how will you determine where the PWI stream designation begins? Will it begin at the point of convergence of the 2 square miles or at the initial channelization of the stream segment?

**Answer: The extent of the watercourse will be determined by the presence of a definable bed and bank. A public waters watercourse begins at its confluence and extends upstream until there is no longer a definable bed and bank observed on the landscape.**

## Ordinary High Water Level (OHWL)

**56. Question:** Will OHWL determinations be part of this effort or merely just identifying the waterbodies that are public waters?

**Answer:** In general, this review will not include OHWL determinations.

**57. Question:** We have several lakes where the water level is consistently lower than the OHWL. Will the PWI boundary be set based on recent lake levels or by the official OHWL?

**Answer:** The PWI Update Project is intended to correct errors in the existing PWI. Determining the specific elevation of Ordinary High Water Levels is not in the scope of this project. Any corrections that add a waterbody to the PWI will be reviewed for accurate geometry (size, shape, and location) of the waterbody.

**58. Question:** Are you going to set new Ordinary High Water Levels? Like if the waterbody is rising or going down?

**Answer:** The purpose of the PWI Update Project is not to review OHWL elevations, but rather to make corrections to the PWI.

**59. Question:** How will drainage area be identified for situations where there is subsurface drainage in addition to the surface drainage area?

**Answer:** As was stated in the webinar, translating these simple statutory definitions to complex ecosystems has inherent challenges. However, the data available now such as aerial photographs, elevation data, and watersheds will be used to sort out what areas are considered as part of the total drainage area.

## Tribal Consultation

**60. Question:** Are Tribes considered landowners, stakeholders, or the public? Tribes were not mentioned in the introduction.

**Answer:** Tribes are not simply stakeholders, they are sovereign nations within the state of Minnesota. The DNR will implement notification and coordination process for Tribes and, if requested, consultation on the PWI corrections within Tribal boundaries.

**61. Question:** You mentioned the process will go by county and local government. What about Tribes?

**Answer: The DNR will address Tribal governments as sovereign nations. Any corrections within Tribal reservations will be subject to Tribal coordination and potentially Tribal consultation.**

**62. Question:** Will Tribes be given notice when the PWI review process begins within their boundaries?

**Answer: Yes. Tribes will be noticed at the start of PWI review within their boundaries. Any corrections within Tribal reservations will be subject to Tribal coordination and potentially Tribal consultation.**

**63. Question:** By January 2025 will MNDNR have considered Tribal input?

**Answer: Yes, to the degree Tribal input has been provided.**

**64. Question:** We [Grand Portage Tribe] have asked for consultation and that has not occurred. Most of the waters within the Reservation are on PWI list but do not meet the definition. When will there be consultation and coordination with the Tribes?

**Answer: Tribal engagement will occur over the next several months and continue throughout the project.**

**65. Question:** It doesn't look like it, but is there any consideration of whether a waterbody is partially or wholly on Tribal lands in this process, or do Tribal land boundaries play any meaningful role in this review?

**Answer: The statutory definition for public waters does not address geopolitical boundaries. The DNR is aware of and sensitive to geopolitical differences, however the PWI Update will be consistent statewide.**

## **Regulations**

**66. Question:** How will this impact the Buffer Law of 2015?

**Answer: The PWI Update Project will not impact the buffer law but it will change the buffer requirements on some public waters subject to corrections.**

**67. Question:** The state's 50-foot buffer maps were at least partially based on public waters. If the PWI update identifies additional public water streams and rivers will the buffer maps be updated accordingly?

**Answer: Yes. The buffer map will be updated to reflect changes to the PWI.**

**68. Question:** Will newly identified public waters added to the PWI be subject to the Minnesota Buffer Law? If so, when?

**Answer: If waterbodies are added to the PWI, the buffer map will also be updated. The update to the buffer map would occur after the PWI updates in a county are finalized.**

**69. Question:** Are the changes to the PWI only additions, or will some public waters be removed as well in the process?

**Answer: It is likely that this project will both add public waters to the PWI and remove public waters from the PWI, based on whether or not the waterbodies meet the definition of public waters in statute.**

**70. Question:** Will the PWI update have any impact on shoreland regulation?

**Answer: This project will not change shoreland regulations on existing public waters on the PWI. Any waterbody added to the PWI will not automatically have a shoreland classification. The assessment and designation of shoreland classifications is not part of the PWI update project.**

**71. Question:** Existing lakes, typically in urban areas, that were identified as public waters wetlands have been added to the impaired waters list as a lake by the MPCA. Do you anticipate the PWI be changed to reflect other state agencies identifying these waters as a lake in the PWI?

**Answer: The determination of whether a public water is considered a basin or a wetland is based on the statutory definition of public waters in Minn. S. 103G.005, not determinations by other state agencies.**

**72. Question:** Being subject to public waters permits won't automatically require shoreland protections and/or the DNR won't be designating shoreland?

**Answer: Any waterbody added to the PWI will be subject to applicable buffer requirements. Other shoreland protections will be determined by local shoreland ordinances.**

**73. Question:** Are all judicial ditches with running water considered as possible additions to the PWI?

**Answer: No. Not all judicial ditches with running water would be added to the PWI. If a ditch is part of a public drainage system, it could also meet the definition of an altered natural watercourse and thus also be considered a**

**public water. However, if the public ditch is managed by a public drainage system, it is managed under drainage law (Minn. Stat. 103E).**

**74. Question:** Will the definition of a public waters wetland be changed in the future to be similar to the changes that happened to the Wetland Conservation Act? The changes took effect on August 1, 2024. The Wetland Conservation Act converted from using the wetland classification system of wetland types in U.S. Fish and Wildlife Service Circular 39 to the Hydrogeomorphic classification system.

**Answer: Currently there is no plan to change the definition in statute for public waters wetlands.**

**75. Question:** What authorizes the DNR the rights of usage, and control over Torrens Deeded Property, & establishing the OHWL? Our State issued Certificate of Title is dated 12-26-1929, prior to the DNR's existence. Plotted dry land!

**Answer: The State of Minnesota, through its police power, has been defining and protecting its public waters resources since 1867 (1867 Minn. Laws, c. 40). The State's authority to regulate and control public waters has been constant since at least 1937, regardless of the PWI.**

**76. Question:** Statutory Dedication, Adverse Possession, Prescriptive Easements are all against the MN Torrens Act! In 1975, the MN Supreme Court ruled Government Entities cannot establish a protected interest in Torrens Property as "It's a Taking"! ( 232 N.W.2d911,920) Is the DNR a Governmental entity by Statutory authority?

**Answer: The Torrens system is a land registration system and does not impact the classification of water. Classifying a waterbody as a public water is not a taking.**

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## — Background

The project will proceed county-by-county, with the goal of completing an average of 12 counties a year. The DNR plans to update four counties at a time, to have one county underway in each of DNR's four administrative regions at any given time. Counties will be updated on a quasi-alphabetical basis, with adjustment as needed to defer areas with intricate topics such as ongoing trout stream designations. This approach ensures geographic representation and maintains a balance of the resources involved.

## — What to expect in each county


For each county, in general, the DNR will:

- Send an initial notice to the county, soil and water conservation district, and watershed agencies.
- Prepare a preliminary map reflecting the corrections and any modifications and submit it to the county board with a public meeting date. Potentially affected landowners will receive direct mail notice.
- Provide a 60-day public comment period and host a public meeting in the county to obtain feedback on the preliminary corrections. The comment period closes 45 days after the public meeting.
- Review the feedback received during the comment period and make necessary modification to the preliminary map. This revised map, now a provisional final map, will be submitted to the county and made available on the DNR's project web page.
- Provide 90 days for parties (including riparian landowners) or counties wishing to challenge a decision made by the DNR to request Commissioner review of the modified and updated PWI.
- Issue the updated PWI list and map for the county, upon completion of DNR Commissioner review.

[Click here to view the process map »»](#)

## — Public engagement in the PWI Update

The stakeholder outreach and public input phase begins for a county when the DNR publishes the preliminary map of proposed corrections. As preliminary corrections are provided for each county, there will be opportunity for review, questions and comments. The DNR will provide a 60-day public comment period and host a public meeting in the county to obtain feedback on the preliminary corrections. The comment period closes 45 days after the public meeting.

The DNR will receive public input on the PWI Update preliminary map through a web-based tool accessible on this webpage. Any comments received will be considered prior to finalization of PWI corrections for that county. Written comments may be submitted to Public Waters Inventory Update, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4025, or [PWI.Update.dnr@state.mn.us](mailto:PWI.Update.dnr@state.mn.us) . Comments cannot be submitted by phone.

Any information submitted will be part of the public record. Individual comments will not receive a reply. The DNR will review feedback received during the comment period and make necessary modifications to the preliminary map.

## — Stakeholder feedback examples

Useful feedback will be specific to proposed corrections shown on the preliminary map and related statutory definitions of public waters. Feedback not sought by the DNR includes refinements to digital line placement or public water name adjustment. Those data management activities are not a statutory definition error and are not part of the PWI Update scope of work. Feedback on Buffer Law requirements for any new public waters will be accepted only after the finalization of a county's updated map.

## — Requests for PWI additions or removals


To ensure all potential corrections are identified, the public may request the DNR evaluate a resource as a potential correction during a county's public input phase. PWI designations cannot be removed or added unless it can be proven to have been in error at the time of designation (late 1970s through early 1980s) and consistently demonstrated throughout time as an error.

Minnesotans that have evidence of an error in the PWI may submit a request for review. A requestor must provide specific evidence demonstrating why the resource in question did, or did not, meet the definition of a public water at the time of the inventory and throughout time.

In order to do so, there are two steps required prior to the close of the public comment period.

1. Using the public comment tool, navigate to the particular point desired for reconsideration and select. Enter information in the pop-up text box.

**Please note: Your request will not be considered if you do not complete the following steps.**

2. Copy the Feedback ID from the map tool to the designated text box in the Add/Remove Request Form. Requesters must complete the form and include a minimum two different types of evidence to support your request.
3. Prior to the close of the public comment period, email this form and the required document with exhibits to [pwi.update.dnr@state.mn.us](mailto:pwi.update.dnr@state.mn.us) . Requesters must complete the form and include a minimum two different types of evidence to support your request.

[Click here for the Add/Remove Request Form »»](#)

Sign up for email updates on the project webpage to receive information as the project progresses

## — Next steps and further public input

The DNR will review feedback received during the comment period and make necessary modifications to the preliminary map. A revised map, now a provisional final map, will be submitted to the county and made available on the DNR's project webpage.

Parties wishing to challenge a decision made by the DNR will have 90 days to request a Commissioner's Review of the provisional final PWI map for a county. The challenge request must regard a specific PWI correction decision within the preliminary map and public input phase. This request must be accompanied by a submission form provided by the DNR and all required evidentiary materials.

Commissioner's Review request form will be posted here when available.

## — Project Goals

**Update the Inventory:** The Public Waters Inventory Update Project addresses known errors identified by the DNR. Key updates include adding trout streams and tributaries identified since the 1990s, and correcting classification errors found during the 2016 Buffer Protection Map initiative. Review will include other DNR-identified errors.

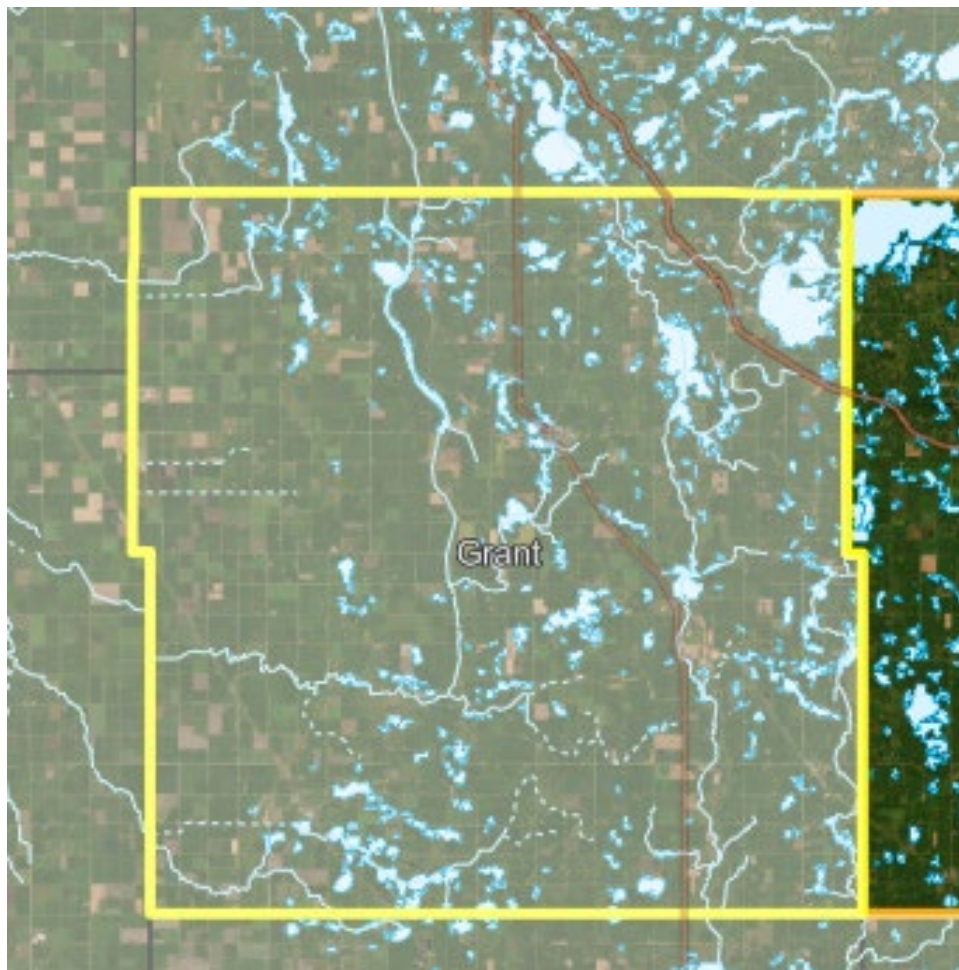
**Support Water Protection:** Help landowners, agencies, and local governments better understand and manage water resources.

**Clarify Regulations:** Ensure compliance with state laws, including Minnesota's Buffer Law, which requires public waters to have vegetative buffers to protect water quality.

## About the PWI

The original development of the PWI used a rigorous and robust process. Originally created in the 1980s, the PWI serves as a shared reference for:

- Determining public water locations
- Guiding development and conservation decisions
- Supporting enforcement of state water protection laws





## Frequently Asked Questions – Public Waters Inventory Update

### What is the PWI Update Project?

Public waters are defined in statute and include lakes, wetlands and watercourses of certain sizes and characteristics. A 2024 statute revision clarified that public waters are not determined by their inclusion in or exclusion from the Public Waters Inventory (PWI). However, because the PWI is such an important tool, the DNR has been directed to update the PWI.

The PWI Update process will proceed with a goal of averaging 12 counties a year, concluding by 2032. The update effort will be organized with review of four counties at a time, distributed across DNR's four administrative regions.

### Is the PWI being completely rebuilt?

No. The PWI Update Project is a targeted effort and is not a re-inventory of the state's public waters. Statewide, the Project's baseline review areas are:

- Designated trout stream tributaries to be added.
- Watercourses that qualify as a public water but were removed from the PWI in 2017 by Commissioner's Order due to errors found during the Buffer Protection Map project.
- Public water wetlands that clearly did not conform to statutory criteria for size.

During the county review process, DNR Area Hydrologists may inform the project of case-by-case potential corrections in addition to the baseline data. However, past decisions, including those tied to the original PWI effort and subsequent final agency actions, will remain in place and are not subject to review.

### When will the PWI Update occur in my county?

Counties will be updated on a quasi-alphabetic basis with adjustment as needed to defer areas with intricate topics such as ongoing trout stream designations.

Counties will be notified by letter prior to the work commencing. The project webpage and email notification will be used for updates and to display county status statewide.

### How will the PWI Update Project proceed?

The DNR has assembled a team of hydrologists to use the best available technology, within the time constraints of the project, to conduct technical analysis of needed PWI corrections.

A diagram illustrating the process is available on the project website. A general outline of the process is as follows:

- The DNR will send a notification letter to a county and begin technical review.
- The DNR will prepare a map of preliminary corrections with opportunity for review, questions and comments.
- Potentially affected landowners will receive direct mail notice of the preliminary map.
- A public meeting will be held in each county, with notice of the meeting provided via GovDelivery email.
- Any comments received will be considered prior to finalization of PWI corrections for that county.
- Parties wishing to challenge a decision made by the DNR will have an opportunity to request a Commissioner's Review.
- A final map and list will be published.

### Will landowners and others have opportunities for input and feedback?

Yes. As preliminary corrections are provided for each county, there will be opportunity for review, questions and comments. Any comments received

will be considered prior to finalization of PWI corrections for that county.

### **What types of feedback are being sought?**

The DNR will receive public comments on the PWI update preliminary map through a web-based tool accessible through the project website ([mndnr.gov/pwi-update](http://mndnr.gov/pwi-update)).

Useful feedback will be specific to proposed corrections shown on the preliminary map and related statutory definitions of public waters. Feedback not sought by the DNR includes refinements to digital line placement or public water name adjustment. Those data management activities are not a statutory definition error and are not part of the PWI Update scope of work.

Feedback on Buffer Law requirements for any new public waters will be accepted only after the finalization of a county's updated map.

### **When is the comment period?**

The stakeholder outreach phase begins when the DNR publishes the preliminary map of proposed corrections for a county. The comment period will close 45 days after the public meeting is held.

### **How will the preliminary map be distributed?**

The preliminary map of proposed corrections will be available for viewing on an interactive web-based tool accessible through the project website ([mndnr.gov/pwi-update](http://mndnr.gov/pwi-update)). Additionally, static PDF versions of the preliminary map will be created.

The DNR will announce the preliminary map along with details of the public meeting via multiple channels.

- Emails and printed mail will be sent to a county board, county administrator, SWCD, and Tribal governments as applicable.
- Potentially affected landowners will receive printed mail. Notice will be published in the county newspaper of record.
- GovDelivery subscribers will receive a notification. A link to sign up for

GovDelivery updates is available on the project webpage ([mndnr.gov/pwi-update](http://mndnr.gov/pwi-update)).

### **What is the Commissioner's Review process?**

The DNR will review the feedback received during the comment period and make necessary modification to the preliminary map. This revised map, now a provisional final map, will be submitted to the county and made available on the project webpage. Parties wishing to challenge a decision made by the DNR will have 90 days to request a Commissioner's Review of the modified and updated PWI. This request must be accompanied by a submission form provided by the DNR and all required evidentiary materials.

### **How does the PWI Update Project relate to Minnesota's existing Buffer Law?**

Minnesota's Buffer Law requires perennial vegetation buffers of up to 50 feet along rivers, streams and ditches that help filter out phosphorus, nitrogen and sediment.

The DNR's role in Minnesota's buffer law is to produce and maintain a map of public waters and public ditch systems that require permanent vegetation buffers.

The PWI Update may change the buffer requirements on some public waters subject to corrections. Any waterbody added to the PWI will be subject to applicable buffer requirements. The update to the buffer map would occur after the PWI updates in a county are finalized.

### **How will the PWI Update Project affect local requirements such as shoreland ordinances?**

The project will not change shoreland regulations on existing public waters on the PWI. Any waterbody added to the PWI will not automatically have a shoreland classification. Local governments interested in revising or amending their shoreland ordinance as a result of an updated list of public waters can contact Dan Petrik, DNR Shoreland Program Manager, at [Daniel.Petrik@state.mn.us](mailto:Daniel.Petrik@state.mn.us)

### **Where can I find out more?**

Questions about the PWI Update Project can be sent to [pwi.update.dnr@state.mn.us](mailto:pwi.update.dnr@state.mn.us)

# PWI Update Project | Process Highlights

This diagram shows a simplified view of the DNR's process to review the Public Waters Inventory Updates for each county.

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