



Le Sueur County, MN

Wednesday, October 28, 2015

Workshop

Item 1

1:00 p.m. Le Sueur-Scott Joint Ditch Board Informational Workshop

Staff Contact:

**AGENDA
SCOTT – LESUEUR JOINT DITCH BOARD WORKSHOP
NEY NATURE CENTER
28238 NATURE CENTER LANE
HENDERSON, MN 56044
OCTOBER 28, 2015**

1:00 p.m.

(1) Public Drainage Systems: Drainage Authority Responsibilities

Public Drainage Systems: Drainage Authority Responsibilities



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The Drainage Authority

- "Drainage authority" means the board or joint county drainage authority having jurisdiction over a drainage system or project. Minn. Stat. §103E.011, subd. 9.
- A watershed district shall take over a joint county or county drainage system within the watershed district if directed by a county or joint county drainage authority. Minn. Stat. §103D.625, subd. 1.



Drainage Authority's Role

- The drainage authority "is in an appropriate position to assert the property owners' drainage rights, since it is the only entity authorized to conduct work in the ditch." McLeod County v. MDNR, 549 N.W.2d 630 (Minn. Ct. App. 1996).



Property Owners Rights

- Drainage Benefits/Drainage Rights
 - A landowner assessed for benefits in a public drainage system has a vested property right in the maintenance of the ditch in the same condition as it was then originally established. Fischer v. Town of Albin, 104 N.W.2d 32, 33 (Minn. 1960).
 - The landowner is entitled to have all of the conditions upon which a drainage system is based, as well as the ditch itself, maintained so that the system will function substantially as established. Id. at 35. The vested rights of assessed landowners to the as constructed ditch condition does not, under the law, diminish over time.

Drainage Authority's Responsibilities

- Protect the drainage right
 - Keep system in state of repair
 - Prevent damage
 - Prevent unauthorized use
 - Ensure "fair share"
- Balance interests
 - Economic interests
 - Environmental interests



Keep system in state of repair

- After the construction of a drainage system has been completed, the drainage authority shall inspect and shall maintain the drainage system that is located in its jurisdiction and provide the repairs necessary to make the drainage system efficient

Repairs (103E.701)

- Repair means to restore all or a part of a drainage system as nearly as practicable to the same condition as originally constructed and subsequently improved, including:
 - resloping of ditches and leveling of waste banks to stabilize
 - realignment to original construction to restore the effectiveness
 - routine operations that may be required to remove obstructions
 - incidental straightening and replacement of tiles

Repairs

- Repair of a drainage system may include the realignment of a drainage system to prevent drainage of a wetland





Unauthorized use

- If the engineer determines or is made aware that property that was not assessed for benefits for construction of the drainage system has been drained into the drainage system or has otherwise benefited from the drainage system, the engineer shall identify the benefitting land. Minn. Stat. §103E.741, subd. 1.



Unauthorized use

- A public or private drainage system that drains property not assessed for benefits for the established drainage system may not be constructed to use the established drainage system as an outlet without obtaining express authority from the drainage authority. Minn. Stat. § 103E.401





Prevent damage

- If a drainage system has been obstructed, including by the installation of bridges or culverts of insufficient hydraulic capacity, the board shall direct the responsible party to remove the obstruction or show why the obstruction should not be removed. Minn. Stat. §103E.075
- A person may not cause or construct a drain that outlets into a drainage system without permission
- A person may not willfully obstruct or damage a drainage project or system.
- Violation of this section is a misdemeanor. Minn. Stat. §103E.081



Ensure Fair Share

- If the drainage authority determines that the original benefits or damages determined in a drainage proceeding do not reflect reasonable present day land values or that the benefited or damaged areas have changed, the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.

Balancing interests

- Drainage Authorities have an obligation to administer ditches in a manner consistent with the policies established by the legislature in various environmental laws. McLeod County
- The appellate courts will construe **drainage** laws **liberally** to promote the public health and the drainage and reclamation of wet or overflowed land.



Managing funds



- The board shall provide funds to pay the costs of drainage projects and systems.
- The treasurer shall keep a separate account for each drainage system.
 - The account must be credited with all money from assessments and other sources for the drainage system.
 - The account must be debited with every item of expense made for the drainage system. Minn. Stat. §103E.651



Inspection

- The drainage authority shall have the drainage system inspected on a regular basis by a drainage inspector appointed by the drainage authority.
- Open drainage ditches shall be inspected at a minimum of every five years.



Drainage Inspector

- Where constructed drainage systems have an aggregate cost of more than \$50,000, the board shall appoint a competent person as drainage inspector.
- The inspector shall examine the drainage systems designated by the board.
- The board shall specify the appointment period and compensation.



Inspections

- Periodic/systematic
 - On a set schedule
 - Budgeted
 - Specified criteria
 - Allows for proactive maintenance
- Reactive
 - Complaint driven
 - Compromises rights



Questions/Discussion

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