



# Drainage Law Update: Water Management Considerations

September 2014 Snapshots

Drainage law matters. Drainage infrastructure for agriculture, roads and urban development is extensive throughout Minnesota, and drainage law applies to a substantial share. A 2006 study estimated there are more than 21,000 miles of drainage ditches administered under Minnesota drainage law Chapter 103E. There are also many thousands of miles of Chapter 103E subsurface tile drainage systems in Minnesota that often serve as outlets for private drainage systems.

Since 2006, the Board of Water and Soil Resources (BWSR) has facilitated the stakeholder Drainage Work Group, which involves more than 20 stakeholder entities representing agricultural, environmental, government and university sectors. Last year, the group's work focused on a section of drainage law that dates back to 1955 (now titled: Section 103E.015 Considerations Before Drainage Work is Done).

The original provision required Chapter 103E drainage authorities (counties and watershed districts) to consider conservation of soil, water, forests, wildlife, and related natural resources when determining whether drainage work will be of public utility, benefit, or welfare. In a 1976 update, nine environmental and land use criteria were added to the law to be considered by drainage authorities when they either establish or improve a drainage system. The work group's fourth set of consensus recommendations to update drainage law was unanimously passed by the Legislature and signed by the Governor in 2014 and became effective on August 1.

There are three key components of those recommendations:

- 1) Clarified environmental, land use criteria, including adding criteria for wetlands and updating a list of multiple purposes for water management in the alternative measures criteria.
- 2) Added a new subdivision that requires drainage authorities to coordinate with Soil and Water Conservation District, County and Watershed District local water planning authorities when establishing or improving a drainage system, and for petitioned repairs. Since a 2000 drainage law update, drainage authorities have been able to use external funding for wetland restoration or protection, water quality improvements, or flood control. This recommendation ensures they investigate possibilities for funding and technical assistance.
- 3) Updated the law to explicitly include wetlands in the considerations for determining public utility, benefit and welfare, and clarified applicability of this subdivision to repairs.

Counties and watershed districts serving as drainage authorities now have clearer authority to consider and to implement multipurpose water management, including use of external sources of funding and technical assistance for certain purposes (i.e. to integrate public with private funding for multipurpose water management). What is multipurpose water management? The purposes outlined in Section 103E.015 include



*Public drainage ditch with buffer strips in Kandiyohi County.*

beneficial water uses, reduced peak flows and flooding, adequate drainage capacity, reduced erosion and improved water quality.

A recent example of a multipurpose drainage project is Blue Earth County Ditch 57, which received LCCMR funding to include temporary detention and other water quality improvement practices with a drainage system improvement project. The planning and coordination required for CD 57 was significant and required more time, but resulted in multipurpose water management. Another example of multipurpose water management is the use of project teams in the Red River Basin for planning flood damage reduction projects that also integrate natural resource enhancements.

BWSR's new One Watershed, One Plan initiative, conceived by local governments and passed by the Legislature, provides a substantial new opportunity for multipurpose water management. For much of the agricultural lands in Minnesota, this involves multipurpose drainage management. Local water planning authority in Minnesota is key to implementation of the new program, including coordination of technical assistance and funding for multipurpose projects. The recent updates in state drainage law enable drainage authorities to work better with local water planning authorities, as well as state and federal conservation programs, to integrate public with private funds for multipurpose water management involving Chapter 103E drainage systems.

The adage "you don't get something for nothing" applies here. Yes, multipurpose water management requires additional planning and coordination. But that work translates to better results for Minnesota's extensive drainage infrastructure, which is critical to achieving our state, federal, local and private water management objectives. Multipurpose drainage management can make a difference for Minnesota, and we'll keep working to make it easier to accomplish.