

**Todd County
Drainage System
Management
Policy**

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2005

Todd County Drainage System Management Policy

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1.00 Introduction

The following policy is intended to supplement Minnesota Statutes Chapter 103E in the maintenance and operation of ditches within Todd County. If any portion of this policy should come in conflict with any Minnesota Statute, primarily Minnesota Statutes Chapter 103E, the Statute shall prevail over this policy.

1.01 Purpose

1. To develop and implement a sound management of the Todd County Drainage System.
2. To provide a framework that simplifies the process of maintenance and operation of ditches within Todd County.
3. To provide public education on the Todd County ditch system and to encourage public participation throughout the county.

1.02 Steering Committee

The Steering Committee was appointed by the Todd County Board of Commissioners to guide the development of the Todd County Drainage Management Policy. This group is composed of the following membership base to ensure a solid cross-section of representatives throughout Todd County.

Commissioner District #1:	Barb Becker John Smith
Commissioner District #2:	Aaron Wendel Conrad Stoterau
Commissioner District #3:	Ardean Christiansen
Commissioner District #4:	Henry Becker Dale Katterhagen
Commissioner District #5:	Lorman Henry Ryan Hovey
Representing Townships:	Alan Perish Lynn Erickson
Todd County Public Works:	Duane Lorsung Loren Fellbaum
NRCS:	Jim Fritz
SWCD:	Meryl Wegner
Sauk River Watershed:	Alan Kuseske
Board of Commissioners:	Janet Gologowski Mark Nelson
County Coordinator:	Tony Haasser

1.03 Planning Process

Meetings:

- Meeting #1 (Full Committee)
Date: April 20, 2005, 1:00 p.m.
Location: Todd County Court House – Courtroom #2, Long Prairie, MN
Summary: Discussion on Todd County Drainage System Needs
- The need for increased communication between Todd County, agencies (NRCS, SWCD, DNR), and the public
 - The need for increased information and technology
 - The need for a County Ditch Inspector
 - The need for erosion control measures for cleaned out ditches
 - The need for grass buffer strips throughout the ditch system
 - The need for an administration checklist and “flowchart”
- Meeting #2 (Full Committee)
Date: May 18, 2005, 1:00 p.m.
Location: Commissioners meeting room, Long Prairie, MN
Summary: Discussion on drainage management solutions for Todd County along with a questions and answer session presented by Kurt Deter. Discussion focused on the need for the Todd County Drainage Management Policy to be a policy document. It was also noted that the plan must contain a clear checklist of the County’s drainage management process.
- Meeting #3 (Full Committee)
Date: July 20, 2005, 1:00 p.m.
Location: Todd County Court House – Courtroom #2, Long Prairie, MN
Summary: An overview of the first draft of the Todd County Drainage Management Policy was presented to the Todd County Drainage Management Committee. Discussion focused on the division of the Committee into two subcommittees including a Policy Subcommittee and an Administration Subcommittee. Membership on subcommittees was selected from the membership of the Drainage Management Committee. Discussion on selection of interim County ditch system contact person. Commissioner Nelson was selected to serve as this contact person.
- Meeting #4 (Policy Subcommittee)
Date: July 27, 2005, 1:00 p.m.
Location: Commissioners meeting room, Long Prairie, MN
Members: Alan Perish, Barb Becker, Lynn Erickson

Summary: Discussed policy presented within sections 1, 2 & 3 of the draft Todd County Drainage Management Policy. Revisions made to section 1.07 “Terms & Definitions,” section 3.03 “Vegetation Control,” 3.06 “Beaver Control,” and section 3.11 “Miscellaneous Drainage System Issues.”

Meeting #5 (Administration Subcommittee)

Date: August 2, 2005, 1:30 p.m.

Location: Commissioners meeting room, Long Prairie, MN

Members: Janet Goligowski, Conrad Stoterau, Jim Fritz, Dale Katterhagen, Barbara Becker

Summary: Meeting focused on development of administration checklist and development of position description for County Ditch Inspector.

Meeting #6 (Full Committee)

Date: August 17, 2005, 1:00 p.m.

Location: Todd County Court House – Courtroom #2, Long Prairie, MN

Summary: Discussion on subcommittee changes made to overall policy document. Formal motion made by the Committee to recommend the adoption of the Todd County Drainage Management Policy to the County Board of Commissioners after public hearing and public commenting period.

1.04 Key Players

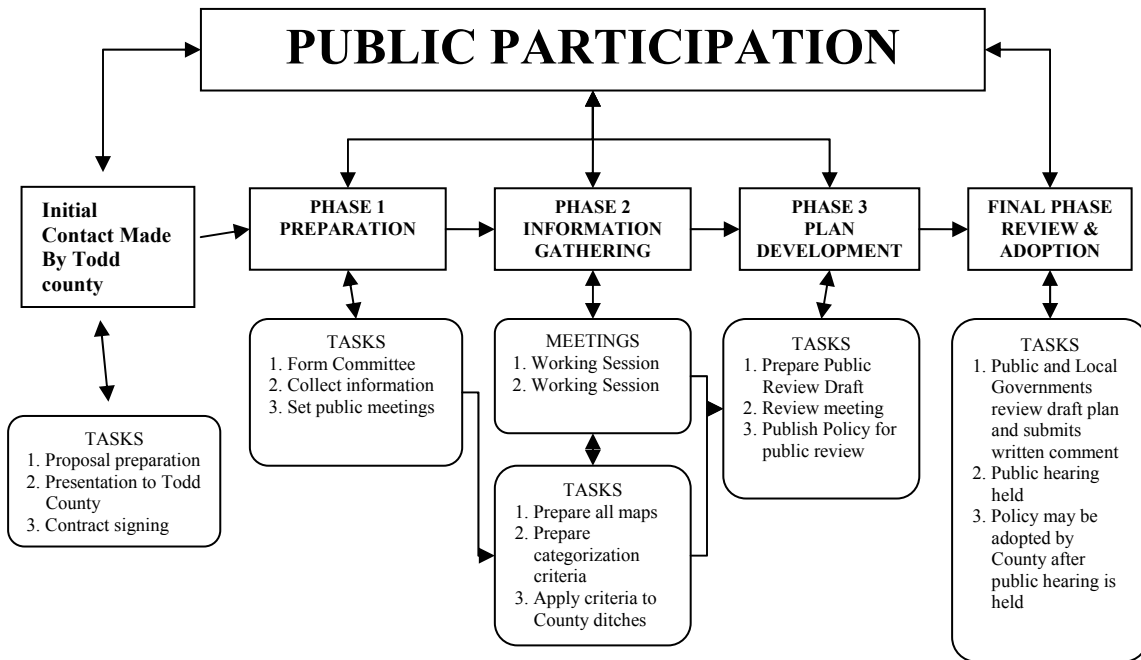
Public: The role is very important, by providing Todd County with comments on drainage issues throughout the county. The public is also very important because they can play the role of serving on the ditch management committee.

County Board (Drainage Authority): The county board provides oversight of every aspect of the counties drainage management plan. They also play an important role within the participation process by making the final decisions from the drainage management plan.

Committee: The committee’s role is to oversee discussion on drainage issues and develop goals, objectives, and plan policies. They also help serve as a source of conflict resolution on drainage issues within Todd County.

Region Five: The Region Five Development Commission is one of 11 regional development organizations statewide providing professional planning assistance and guidance to local governments within their respective jurisdictions. In 2005, Todd County contracted with the commission to provide technical assistance in the development of a drainage management plan for the county including the facilitation of planning meetings and development of the plan document.

1.05 Drainage Management Planning Process Flow Chart



1.06 Terms and Definitions¹

County Drainage Inspector (CDI): The person duly appointed by the Todd County Board of Commissioners under the authority of Minnesota Statutes 103E.065 to effectuate the Todd County Drainage Management Policy and all requirements of Minnesota Statutes 103E.

Drainage Authority (Drainage Authority): The Todd County Board of Commissioners, the Todd & Wadena County joint ditch authority, or the Todd & Douglas County joint ditch authority.

County Ditch: A term that means either an open ditch or a tile in the drainage system.

Combined Expenditures: When used, this is to include total expenditures on all activities on a ditch for the year; these activities would include repairs, cleanouts, crossings, vegetation control, and drop inlet structures. These expenditures are subject to final approval of Todd County.

Viewer: A person that is appointed by the Drainage Authority to assess and reports the benefits and damages of a ditch project.

Petition: A collection of signatures which serves as the instrument for initiating ditch maintenance, repairs, redeterminations of benefits, and other processes as required by Minnesota Statutes Chapter 103E.

County Board of Commissioners: The Todd County Board of Commissioners.

New System: The establishment of a new ditch system, where none existed previously.

Improvement: Tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system, including construction of ditches to realign or replace tile and construction of tile to replace a ditch.

Repair: To restore all or part of a drainage system to the same condition as originally constructed and subsequently improved.

Public Hearing: A formal process to involve the public and to address a public concern or project.

¹ Source of information from MN Statute 103E.005

Passes Over: Means in reference to property that has a drainage project or system, the 40-acre tracts or government lots or property that is bordered by, touched by, or underneath the path of the proposed drainage project.

2.00 Data

2.01 Maintenance Expenditures

The charts below show how much money has been invested by Todd County per ditch since 1999.

Ditch Number	Total Maintenance Costs/Ditch
15	\$10,236.71
16	\$1,380.42
19	\$122,580.87
20	\$2,692.39
25	\$97.75
28	\$456.03
29	\$94.91
31	\$6,255.97
32	\$239.11
34	\$580.98
41	\$839.90
45	\$201.48
IONA	\$196.57
JD5	\$180.44
JD-5-8	\$318.00
JD6	\$216.95
Total	\$146,568.48

2.02 Beaver Control Expenditures

The data within the charts below show the amount of money invested by Todd County for beaver control since 1998.

Ditch Number	Total Beaver Control Cost/Ditch
2	\$340.00
4	\$1,141.30
5	\$165.00
6	\$380.00
7	\$784.20
8	\$410.00
10	\$310.00
13	\$160.00
14	\$40.00
15	\$500.00
16	\$1,755.89
17	\$631.99

18	\$180.00
19	\$605.00
20	\$8,680.78
21	\$1,352.78
25	\$2,999.09
26	\$320.00
27	\$875.00
28	\$264.37
29	\$353.15
30	\$320.00
31	\$4,181.03
32	\$180.00
33	\$280.00
34	\$2,678.61
36	\$1,034.72
39	\$160.00
41	\$5,196.66
42	\$160.00
43	\$1,305.00
45	\$360.00
60	\$160.00
81	\$80.00
JD5	\$345.11
JD6	\$1,144.75
JD8	\$80.00
Miscellaneous Ditches	\$3,788.68
Total	\$43,788.68

2.03 Other Expenditures (Audit, Legal, Etc.)

The data in the charts below shows the amount of money Todd County has invested in auditor expenses and/or legal expenses since 1998 involving the county's drainage system.

Ditch Number	Total Auditor/Legal Costs/Ditch
15	\$18,183.66
19	\$8,501.47
JD-5-8	\$724.00
Miscellaneous Ditches	\$3,637.08
Total	\$31,046.21

3.00 Recommendations & Implementation

3.01 How to Use the plan:

This plan presents goals, objectives, and policies designed for the management of Todd County's Drainage System. Supporting these goals, objectives, and policies is the public and technical information obtained through the planning process. This data and information includes, but is not limited to, the following:

- MN Statue 103E
- Policy and Guidelines for Repairs of Joint County Drainage Systems in Meeker, districts 3,4 and 5 of McLeod, Renville, and Sibley Counties.
- Redetermination of Benefits Process (Rice County)
- Drainage Ditch Policy (Kandiyohi County)
- Drainage System Policy (North Fork Crow River Watershed District)
- Drainage Law in Minnesota, presentation by Kurt Deter

In order to effectively carry out the action items presented for each goal it is necessary to identify who will be responsible for each action as well as potential costs, potential resources, and a specified timeline for anticipated completion. It is important to draw upon this information throughout the implementation of this drainage management plan to ensure a successful future for Todd County's ditches and to achieve the desired level of consistency the plan provides. Generally, implementation of this plan should occur in the following manner:

1. All action items must be carried out by those who have assumed the responsibility for the action or as otherwise delegated by the Drainage Authority.
2. This plan is also intended to serve as a reference document. For all questions, or as required by local ordinance or state law, this document should be referenced and interpreted by the Drainage Authority and CDI to serve as a basis for decision-making.

3.02 Overview

This section addresses a series of components including the following:

- Vegetation control
- Ditch clean outs
- Tile repair
- Beaver control
- Erosion control
- Maintenance
- Improvements
- Abandonment
- Miscellaneous Issues

3.03 Vegetation Control²

Spraying Program: The intent of vegetation control is primarily to prevent a growth of any type of tree or brush within the ditch itself or its right-of-way and to reduce future repair and maintenance costs. The County Drainage Inspector or Drainage Authority may conduct an annual review of the County Ditch Systems. After review, the CDI or Drainage Authority will present a spraying program to Drainage Authority for approval of all spraying costs.

Approved Chemicals: On ditches selected by the CDI or Drainage Authority only approved chemicals will be applied to eliminate trees and brush within the ditch bank and within the 16.5-foot right-of-way. If landowner sprays any of their own ditches within the drainage system, they also must use only approved chemicals for such an application.

Opt Out of Spraying Program: Landowners who do not approve of chemical application shall notify the CDI or Drainage Authority through a Opt Out Application each year. The CDI must receive this application before April 1st of each year. Upon receipt of said notification, the CDI or Drainage Authority shall provide a “start date” after which the proposed spraying will be commenced. The landowner shall have the option to remove all trees and brush in the ditch right-of-way at their own expense. Upon completion, the landowner shall notify the CDI or Drainage Authority who shall then inspect the removal. If the removal is satisfactory, the CDI or Drainage Authority shall remove that portion of the ditch from the chemical spraying area. If the removal is not satisfactory, or if it is not completed by the “start date,” chemical spray will be applied.

Tree Growth: No person shall plant trees within 75 feet of the center of the ditch unless:
1.) A property owner may plant trees within 16.5 feet of the top of the ditch within 100 feet of the ditch’s inlet or outlet from a lake as measured from the lake ordinary high water level; 2.) A property owner receives approval by the appropriate County Zoning Department through a variance procedure.

Tree Removal: Trees that need to be removed from a drainage system will be removed in a manner that will reduce erosion. Trees will be piled, burned and buried when dry. Landowners may remove trees themselves for wood before the repair is started, at their own expense.

Crop Damage: During the course of the spraying operations and when crops are encountered, the Drainage Authority or its designee will use reasonable and prudent care in the operation of vehicles to minimize crop damage. If any crop is damaged within the 16.5 foot right-of-way from the top of the ditch bank, it will not be eligible for reimbursement of damages.

² Source of information from “Policy and Guidelines for Repairs of Joint County Drainage Systems in Meeker, districts 3, 4, and 5, McLeod, Renville and Sibley Counties”

Grass Buffer:³ A permanent grass strip buffer of 16.5 feet is required along all ditch banks within Todd County. This buffer must start from the crown of the ditch going away from the ditch within the 16.5 foot right-of-way strip. All land owners are encouraged to contact the Farm Service Agency about the Conservation Reserve Program (CRP).

Agricultural practices are not permitted on any portion of the permanent grass buffer strip, other than what is required for maintenance use. Grass that is planted for the ditch banks and buffer strip must be resistant to chemicals used to control brush.

If a violation of the grass buffer is found, the landowner will be notified by the CDI.

Upon notification the landowner will have 60 days to bring the area that is in non-compliance into compliance. If the landowner fails after 60 days to bring the grass buffer into compliance action will be taken by the county will be taken as stated in Minnesota Statute 103E.021 subdivisions 4 and 5.

Crossings, Bridges and Culverts: If a landowner needs repairs on a crossing, they must submit a copy of the Todd County Ditch System Work Order to the CDI. The landowner must specify what the problem is and the location of the crossing that is in need of repair. After the work order is submitted the CDI will process the form and present the proposed project to the Drainage Authority. No crossing, bridge or culvert repair work shall begin until the landowner applying to the County receives the approval of the Drainage Authority.

³ MN Statue 103E.021

3.04 Ditch Clean Outs⁴

Repair Authorization: Minor ditch cleaning (repairs costing less than \$10,000 combined) commonly referred too as “dip outs,” will be done on a request basis. These requests must be directed to the CDI or the Drainage Authority in written format. The CDI or Drainage Authority may make arrangements for an appropriate contractor to be involved with the clean out, but shall not authorize such work until the Drainage Authority is informed.

Repairs anticipated to cost more than \$10,000 combined shall be brought to the Drainage Authority for approval. The repair work documentation shall become part of the drainage system permanent file.

Scope of Work: All clean out requests will be reviewed to determine the appropriate limits of work so that any work done will return the ditch to proper operating condition. This may mean that work may extend downstream and upstream of an area for which a request for clean out occurs.

3.05 Tile Repair⁵

Repair Authorization: Minor tile repairs (repairs costing less than \$10,000 combined) will be done on a request basis. These requests must be directed to the CDI or Drainage Authority in written format. The CDI or Drainage Authority may make arrangements for an appropriate contractor to be involved with the repair, but shall not authorize such work until the Drainage Authority is informed.

Repairs anticipated to cost more than \$10,000 combined shall be brought to Todd County for approval. The repair work documentation shall become part of the drainage system permanent file.

Scope of Work: All repair requests will be reviewed to determine the appropriate limits of work so that any work done will return the tile to proper operating condition. This may mean that work may extend downstream and upstream of an area that a request for repair occurs.

⁴ Source of information from “Policy and Guidelines for Repairs of Joint County Drainage Systems in Meeker, districts 3, 4, and 5, McLeod, Renville and Sibley Counties”

⁵ Source of information from “Policy and Guidelines for Repairs of Joint County Drainage Systems in Meeker, districts 3, 4, and 5, McLeod, Renville and Sibley Counties”

3.06 Beaver Control

When a beaver dam is reported or found upon a ditch inspection the following actions are to take place:

1. The CDI will attain a trapper for the removal of the beaver. It is the trapper's responsibility to contact the landowners to obtain authorization for the removal of nuisance beaver. The trapper will be responsible for providing the CDI with a beaver trapped form which includes: the number of beaver trapped the location in which each beaver was trapped at, and the tails of the removed animals. Compensation rates for the removal of beavers will be determined by the county and reviewed annually.
2. After the removal of a nuisance beaver, the CDI will hire a contractor to remove the beaver dam(s). This will be done by mechanical means, if at all possible; otherwise it will be done through the use of explosives. If explosives are to be used, approval is needed from the sheriff's department, permits are to be obtained and insurance are all required. A notice must also be given to neighboring landowners that explosives will be used in the area for beaver dam control.
3. It is encouraged that Todd County considers participating in a nuisance control program for beavers if available.

3.07 Erosion Control⁶

Since erosion can become a major cost in future maintenance, Todd County will take an active role in ensuring erosion is kept to a minimum. This will be done by regular ditch inspections performed by the CDI, completing repairs when needed in a timely manner, and maintaining the ditches in a form in which erosion is minimized.

Drop Inlet Pipe Structures:⁷ The Drainage Authority will actively promote erosion control measures within their County's Drainage System to prevent future costly ditch clean outs. Since the most common cause of erosion in ditches is a lack of adequate structures to control side inlet water flow into the ditch, the Drainage Authority will have drop inlet pipe structures installed in areas where it determines erosion is a problem as a maintenance procedure. The Drainage System shall be responsible for paying for the following expenses, which are necessary to install a drop inlet tile structure:

- a. Forty-(40) feet of pipe; dual wall plastic pipe preferred, the first twenty (20) feet of the outlet end being non-perforated steel pipe.

⁶ Kandiyohi County Drainage Ditch Policy, Adopted April 18th, 2000

⁷ Source of information from "Policy and Guidelines for Repairs of Joint County Drainage Systems in Meeker, districts 3, 4, and 5, McLeod, Renville and Sibley Counties"

- b. The blind tee.
- c. The marker flag.
- d. Five (5) foot perforated riser, which must extend one (1) foot above ground level. A six (6) inch diameter hole must be cut in the side of the riser above ground, near the top to handle heavy rains.
- e. All necessary digging and dirt moving to install the drop inlet pipe structure.

The above changes are recommended, any further changes must be approved by the Drainage Authority. All expenses associated with extending the horizontal pipe beyond forty (40) feet will be paid by the landowner or the person requesting the extension.

Sites will be selected based on the requests by property owners and inspections of the ditches by the CDI or Drainage Authority. Drop inlet pipe inspection authorization will rest with the Drainage Authority. The design of a drop inlet structure must be approved by the CDI and/or Drainage Authority. If the installation of drop inlet pipe and dip out is expected to exceed \$10,000, the project, in order to proceed, shall be brought to the full Joint County Drainage Authority for their approval.

Attached to this policy is a diagram of what a typical drop inlet pipe structure would look like.

A property owner who has a tile system that brings sub-surface water drainage into the Drainage System shall be solely responsible for installing and payment for an adequate inlet into the System.

3.08 Maintenance

Drainage System Repair Fund:⁸ MN Statutes, Section 103E.735. The Drainage Authority may create a repair maintenance fund for each of the drainage systems. The repair fund may not exceed 20% of the last assessed benefit determination including property not originally assessed but found to be benefited, or \$40,000 which ever is greater. Assessments must be pro-rated according to the determination of benefits. Assessments will be collected as provided in MN Statutes.

Contractor Survey: Once each year the CDI will seek information from contractors to provide a list of equipment, hourly rates for each piece of equipment, operators and labor costs. This information may then be used by the CDI and Drainage Authority to make estimates of necessary repair costs.

⁸ MN Statue 103E.735

Municipal Discharge: Municipalities requesting to discharge into a drainage system must follow MN Statute 103E.411, must obtain a permit from the Drainage Authority and meet minimum discharge standards at all times. Continuous monitoring equipment should be installed at their expense.

3.09 Drainage System Improvements:

All improvements to a drainage system will follow MN Statute 103E.215 or .221. Signed petitions and bonds will be required. Petitioners or benefited property owners of the improvements will be required to pay the costs of the improvements.

3.10 Removal or Property Abandonment:

Removal of property or abandonment of any section of ditch or tile will follow MN Statutes 103E.805 or 103E.811.

3.11 Miscellaneous Drainage System Issues:

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

Manure: Manure shall not be spread within 100 feet from the crown of the spoils of any portion of the County ditch system, and no stockpiling of manure shall be placed within 300 feet from crown of the spoils, unless County regulation require a greater distance.

Feedlot Runoff: Feedlot runoff that is determined to be above state standards for contaminants must be prevented from entering the ditch system either by direct or indirect methods.

Fences: No permanent fence may be installed closer than 16.5 feet from the crown of the spoils. When ditch repair is performed, gates may be installed in the property line fences next to each side of the ditch to allow for the access of equipment used for repairing the ditch.

Erosion-Pollution: If erosion areas are discovered, proper measures shall be taken to correct the problem. If erosion is discovered due to water entering the system over the spoil's bank, then drop inlet pipe structure should be installed to drop the water in the bottom of the ditch. See Section 5 for Drop Inlet Pipe Structures.

No septic system will be allowed to discharge into a drainage system.

Obstructions: Any existing or proposed obstructions in a drainage system must have proper engineering, have a hearing as provided by State Statute and be permitted by the Drainage Authority.

Deer stands and other facilities used for recreation should not be placed closer than 16.5 feet from the crown of the ditch.

Rock and debris: Rocks or debris will not be allowed to be dumped within the in-slope of a drainage ditch. Landowners should be encouraged to stockpile rock when removing from fields for later use as riprap.

Wetlands: Wetland areas that are part of a drainage system should be used for temporary storage for large rain events. These areas should be allowed to drain out naturally so storage is available for future storm events.

Landowner Rights: None of these policies are intended to allow for additional access to landowners property which is not already allowed by law. Contractor, or CDI or DA personnel should contact landowners before entering property if possible.

4.00 Administration

4.01 Appointment of County Drainage or “Ditch” Inspector (CDI)⁹:

Todd County shall appoint a County Drainage Inspector in accordance with the provisions of Minnesota Statute 103E.065. The Todd County Board of Commissioners shall specify the period of appointment and compensation for the CDI.

Duties:

1. Implementation of the Todd County Drainage Management Policy
2. Conduct inspections as specified by Minnesota Statutes 103E.705, Subdivision 1.
3. Ensure compliance with the requirements of the Todd County Drainage Management Policy including the maintenance of grass strips as specified in Minnesota Statutes 103E.705, Subdivision 2.
4. Conduct examinations and prepare reporting providing information on necessary repairs and maintenance as specified by Minnesota Statutes 103E.705, Subdivision 3 and 4, et. seq.
5. Facilitate discussion and flow of information between the Drainage Authority, County staff, appointed staff (engineering staff, attorneys), agency personnel (NRCS, SWCD, DNR, MPCA and other agency personnel), landowners, and the general public.
6. To keep the public informed and educated with drainage concerns.

4.02 Repairs Initiated by Drainage Authority or CDI “Minor Repairs”

Minor repairs shall include

- _____ Petition by landowners, or Drainage Authority
- _____ CDI – Prepares project statement or “report”
- _____ (if WCA or Swampbuster applies involvement by NRCS & SWCD)
- _____ (if public waters involvement by DNR)
- _____ Notify Army Core of Engineers if needed
- _____ All required permits issued
- _____ Secure final approval of Drainage Authority
- _____ Work performed
- _____ Follow up and inspection

⁹ MN Statute 103E.065

4.03 Petitioned Repairs/Improvements/New Systems/Improvements of New Outlets/Laterals/Impoundment and Diversion

- _____ Petition by landowner
- _____ Petition review by County Auditor
- _____ Petitioner must secure \$10,000 certified bond, before work is to be started
- _____ Drainage Authority appoints engineer to prepare report (MN Statute 103E.715, Subd. 2.)
- _____ Engineer prepares project statement or “report”
(if WACA or swampbuster applies involvement by NRCS & SWCD)
- _____ (if public waters involvement by DNR)
- _____ Notify Army Core of Engineers if need be
- _____ Legal process (County Attorney reviews petition and project statement)
- _____ Drainage Authority holds Public Hearing
- _____ Assessment of Benefits
- _____ Bidding Process (bids approved, contract awarded)
- _____ Work performed
- _____ Follow up and inspection, enforcement of grass buffer strip

4.04 Establishment of New Ditches¹⁰

In order for a new ditch to be constructed, petitioners, the CDI and the Drainage Authority must complete the following steps for a petition as stated in Minnesota Statute 103E.212. A petition must be signed by at least 60% of the owners of property that the proposed ditch either passes over and/or passes by adjacent to their land.

The petition must include: why the proposed system is necessary, show that it will benefit the public, describe the area from the starting point including the general course of direction the ditch is to follow, and to describe each of the 40 acre tracts that the proposed ditch would be passing through and to include the landowners names and addresses of whom is affected by the proposed ditch.

The petitioner(s) must also file a bond with the county auditor’s office for a minimum of \$10,000 or for the projected cost of the project. This is to be used only if the proceedings are dismissed or if the contract for construction of the proposed drainage system is not awarded.

¹⁰ MN Statute 103E.212

4.05 Petition for Ditch Improvements¹¹

In order for improvement of an existing ditch the landowner must file a petition. This petition must be signed by:

- At least 26% of the owners of the property affected by the proposed improvement,
- At least 26% of the owners of property that the proposed improvement passes over,
- The owners of at least 26% of the property area affected by the proposed improvement,
- Or the owners of at least 26% of the property area that the proposed improvement passes over.

Two copies of the petition must then be filed with the auditor, one of which will then be forwarded to the CDI upon approval.

The petition must:

- Designate the drainage system proposed by either number and or another description that identifies the areas proposed for improvement,
- State that the ditch has insufficient capacity; describe the starting point and course in which the ditch follows,
- Names and addresses of landowners affected,
- State the purpose,
- And to contain an agreement by the petitioners that they will pay all expenses that may occur if the improvement proceedings are dismissed.

4.06 Assessment of Benefits and Damages¹²

State land must have benefits and damages reported just as taxable lands are. For Government property, the viewers report to the state, counties, and municipalities the benefits and damages for land that falls within the area that the proposed ditch project is to happen. If public roads are to be benefited or damaged, the state, county, and/or governmental unit with the legal duty to maintain the road must be assessed for the benefits or damages. If there are benefits or damages on bridges or culverts within a proposed project area, they must be assessed to the government body which maintains that bridge or culvert. If a railway is either to benefit or be damaged, than a report must be given to the railway.

The benefits are determined from the viewers report and are based from: and increase in the value of a property due to project construction, an increase in potential agricultural production due to project construction, or an increase in value due to a potential for different land use. Benefits and damages may be assessed only against property benefited or damaged or an easement interest in property for the exclusive use of the surface of the property.

¹¹ MN Statue 103E.215

¹² MN Statue 103E.315

If a project is to increase the amount of drainage capacity within drainage of a watershed, than the viewers may assess benefits on the property at a pro rata basis. Some damages that may occur and reimbursement is available for are: a fair market value of property that is required for the channel of an open ditch and for the permanent grass buffer strip, The diminished value of a farm due to severing a field by an open ditch, the loss of crop production during construction, and the diminished productivity or land value from increased overflow.

4.07 Redetermination of Benefits Process¹³¹⁴

The drainage authority may redetermine benefits and damages:

1. Whenever it judges the original benefits and damages determined in a drainage proceeding do not reflect reasonable present-day values or that the benefited or damaged areas have changed, OR
2. When more than 50 percent of the owners of the property benefited or damaged by a drainage proceeding petition for the correction of an error that was made at the time the system was established.

The most common reasons for a redetermination of benefits and damages include:

1. There are lands draining into the system which are benefited by the system but are not assessed for benefits. Drainage ditches established before 1920 were constructed through horse-powered excavation or tile trenches dug by hand.
2. Benefits determined many years ago are unrealistic in terms of current land values.
3. In the case of a repair by petition, additional lands may be brought into the systems that have not previously been assessed benefits. Lands already in the system may have been assessed at the land values determined many years ago. A redetermination will assess the entire system at current land values.
4. Redetermination benefits and damages replace the original benefits and damages. According to MN Statute 103E.351 subd.3, the redetermined benefits and damages, and benefits and damaged areas, must be used in place of the original determinations in all subsequent proceedings related to the drainage system.

Procedure Requirements:

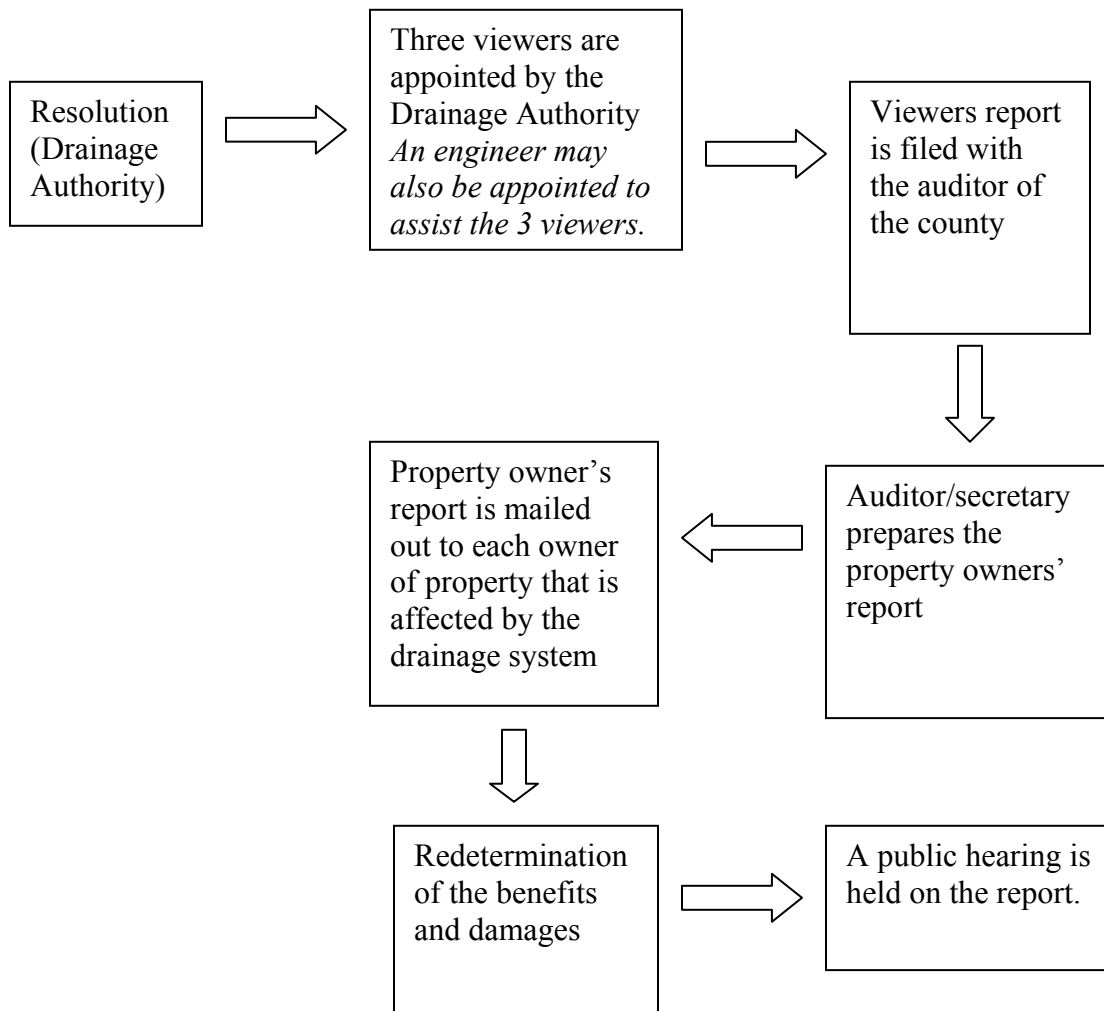
1. A resolution of the drainage authority.
2. Three viewers are appointed to perform the redetermination and report the benefits and damages and the benefited and damaged areas.
3. An engineer may be appointed to assist the viewers.
4. The viewers' report is filed with the auditor in a county or a joint county system or with the secretary of the board of managers in a watershed district system.

¹³ Rice County "Redetermination of Benefits Process"

¹⁴ Adapted from MN Statute 103E.351

5. A property owners' report is prepared by the auditor or secretary from the viewers' report and a copy of the property owners' report is mailed to each owner of property affected by the drainage system.
6. A hearing is held on the report. The hearing is similar to the final hearing in the establishment of a new system, except it is to be held within 30 days after the property owners' report is mailed.
7. A redetermination of benefits and damages is appealed in the same way as an order establishing benefits and damages.

PROCESS FLOWCHART



Viewers Report¹⁵

The viewers report is to be completed as soon as possible after being assigned. The report must be in tabular form and must include: a description of the lot, names of the current land owners (as shown on the county tax records), number of acres in each lot, number and value of acres added to lot by proposed ditch, the amount of damage (if there is any), the total number of acres and amount of benefits being assessed, the right-of-way acreage, and the amount each lot will benefit or be damaged.

Within the Benefits and Damages statement of the Viewers Report, the viewer must include: the existing land use, property value, and economic productivity (before & after), and benefits and damages from the proposed ditch project. If there is a disagreement between viewers, in which they are unable to agree on a decision involving the matter, then they are to each state their findings on the disputed issue separately.

Once the viewers report is completed, it must be filed with the auditor's office. A detailed statement must also be included to show the actual time the viewers were engaged in the project and what the costs that were incurred were.

Property Owners Report¹⁶

The property owners report must be completed within 30 days of the county auditor receiving a copy of the Viewers Report. This report shows the landowners affected by a ditch project what is benefited and what is damaged by the proposed ditch project. The property owners report must include:

1. the name and address of the property owner
2. each lot and it's area that is benefited or damaged
3. the number of benefited acres being assessed
4. the number of acres and amount of benefits for areas that would be considered a wetland
5. the damage
6. the amount of right-of-way acreage needed
7. the total number of value acres added
8. the net benefits or damages
9. the estimated cost to be assessed
10. a copy of the benefits and damages statement

The auditor must mail a copy of the Property Owners Report to any landowner whose land is affected by the proposed ditch project.

¹⁵ MN Statue 103E.321

¹⁶ MN Statue 103E.323

4.08 Information and Public Education

Information

Information needs to be centrally located within the county. All the information concerning ditches within Todd County should be kept with the CDI's office and readily accessible to anyone who is in need of the information. This includes data such as: sea level elevation throughout the county, flow mapping for the county, and forms/applications for tasks such as Work Orders, Opt Out Spraying Application, and Beaver Control Forms.

Information should be also made easily accessible for the public. This can be done by expanding the county's website and through uploading documents such as the Todd County Ditch Management Policy and the forms and applications for certain tasks.

Public Education

The County Ditch Inspector will provide information to the public on all aspects of the Todd County Drainage System including information on policies, administration, and financial documentation as is consistent with County and State public information laws, regulations, and rules.

1. Upon the completion of the annual report as indicated in Section 4.01 of this plan, the County Ditch Inspector shall conduct a public meeting providing an explanation of the report and any projects included within the report.
2. The County Ditch Inspector shall be responsible for administering a public information program to ensure all interested members of the public are well informed of Todd County Drainage System. This includes individual and group meetings with landowners and members of the public as requested.
3. Public information to be maintained by the County Ditch Inspector includes the following:
 - a. Todd County Drainage Management Policy
 - b. Todd County Drainage System Mapping (in cooperation with GIS)
 - c. All checklists contained within sections 4.02 and 4.03
 - d. Any other information as required by the County Drainage Authority