

Drainage Issues

As stated in Minnesota Statutes, section 103A.201, the state's water policy is designed to regulate the conservation and use of water resources in a way that is in the best interest of the people and promotes public health, safety, and welfare. Regulation of water policy involves drainage, which the state has been attempting to manage since the late 19th century.

History of drainage laws

Minnesota's first comprehensive drainage law was passed in 1887. It established a petition process for landowners, monitoring by county commissioners, and a system of viewers to survey, locate, and prepare a report on a proposed drainage ditch. This 115-year-old law established a process that is similar to the approaches still used in state drainage law.

In 1955 the state established the Water Resources Board, which then authorized the creation of geographic watershed districts. (The board later became part of the present Board of Water and Soil Resources.) Watershed districts managed the drainage systems within their boundaries. County boards were required to evaluate the effects on the environment and natural resources when considering a drainage project, and the number of petitioners required to initiate a project was increased. The Commissioner of Natural Resources was required to evaluate environmental and conservation impacts before a drainage project could be established.

Drainage activity peaked in the 1950s. In the 1960s, public policy had shifted toward wetland conservation, and people began to question whether drainage was always in the public interest. Federal and state law evolved toward the acquisition and protection of wetlands. Changes in state law increased the consideration of environmental measures before a drainage proceeding commenced and imposed stricter protection of wetlands. These changes were manifested in the Wetland Conservation Act of 1991, which established a "no-net-loss" policy for the state's remaining wetlands.

Activity and authority

Up until the mid-1980s, Minnesota had about five million acres of drained land. About 20 percent of the land was drained by tile pipes conveying excess water from farm fields to collection ditches. The remaining 80 percent was drained by 27,000 miles of constructed drainage ditches.

In the last two decades, drainage activity has tapered off. There are fewer individual farmers and, subsequently, less interest in opening up new land to drain. The growing realization of public benefits of wetland protection and accompanying laws has slowed wetland drainage. Recent drainage activity has occurred in the state's growing urbanization areas, including preparing for streets, roads, airports, and residential and industrial development.

Counties have general authority for public drainage, although some drainage systems are under the supervision of a watershed district. Counties and watershed districts are more or less on their own in interpreting the drainage law, and generally do so on a case-by-case basis. This has caused a growing lack of uniformity and standardization of drainage procedures among counties and watershed districts.

Issues in public drainage

Issues and concerns about public drainage have emerged among various interest groups during the last decade. Some groups are interested in specific changes to the drainage laws; others want a wholesale change to “modernize” it. The state Board of Water and Soil Resources sponsored a public drainage forum to identify and discuss the issues. The major concerns that arose from that forum are as follows.

- There is a need for more education on the very process-oriented drainage law for all interested parties, but especially for public officials who are able to change the law
- The buffer strips required to be placed along new drainage systems to prevent erosion need to be maintained and inspected
- The abandonment of a public drainage is very hard to accomplish
- Repair of an existing drainage ditch sometimes is thought of as an improvement
- Some drain tile systems are overwhelming the capacity of existing ditch systems to handle the water flow
- The viewers’ report in a drainage proceeding may be the single most important document in the process; it lists viewers’ facts and findings

Several ideas for improving the drainage system came out of the forum.

- Implement a cost/benefit analysis of drainage on a countywide basis
- Use best management practices on ditch systems
- Use new technology in drain tile systems
- Give incentives to landowners to abandon ditch systems that no longer provide a public benefit
- Have engineers review the environmental criteria to assess the impact of a drainage project that’s initiated by a petition

For more information: Contact legislative analyst John Helland at 651-296-5039. Also see the House Research publication *The Drainage Issue*, January 1999.

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