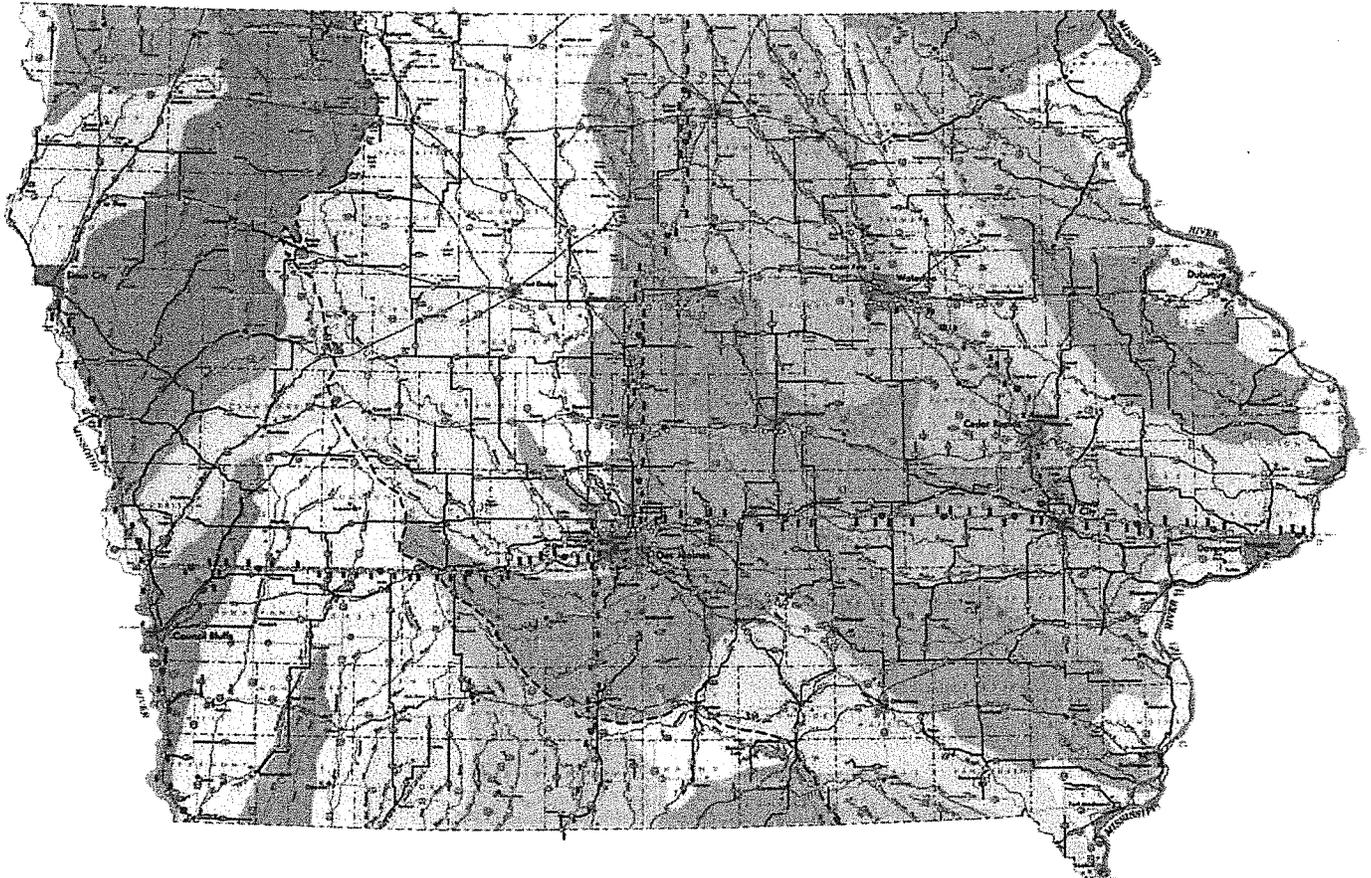


Iowa Drainage Law Manual



Sponsored by the Iowa Highway Research Board (TR-497)

diameter pipe could be inserted into the larger structure prior to backfilling.

Iowa Code Chapter 320 describes the responsibilities of agencies and property owners in the installation and maintenance of cattle passes. Right-of-way agreements for highway improvements may also stipulate specific conditions.

Drainage Records

What sources of records are available for reference on drainage construction and maintenance issues, such as locating existing tiles?

County recorders maintain a record of private drain tile installations that have been filed voluntarily by landowners. County auditors maintain drainage district plans and records, and these plans may show private tile locations. Individual drainage districts may maintain records as well. Local NRCS offices also have some records, especially for tile lines installed with federal assistance over the past several years. In addition, local tile contractors often keep records of tile installations for landowners' information and to facilitate possible future modifications.

Spills, Untreated Discharge

What liability does a road agency assume if a roadway crash results in a hazardous material release into a private ditch or tile system?

In general, the courts and Iowa Code hold the company or person who caused the spill to be liable. Agency legal staff and the Department of Natural Resources should be contacted to assure

that clean up from a hazardous spill is handled by the responsible party.

If untreated discharge from a sanitary (septic) system is encountered in the right-of-way, what is the best course of action?

When discovered, an active sanitary outlet on public right-of-way should be documented and reported to the local sanitation official or DNR for action. Iowa Code Section 455B.186 prohibits the disposal of inadequately treated sewage into any water of the state, including right-of-way ditches. Consult local ordinances and policies for additional restrictions.

What course of action is recommended to address runoff from animal feedlots onto downstream property?

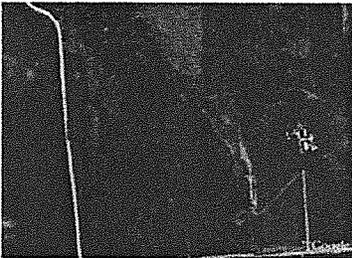
A property owner who has suffered damages from manure waste runoff from a neighboring feed lot can bring action for abatement of a temporary nuisance and seek injunctive relief and damages.

Iowa Code Section 459.309 addresses minimum requirements for manure control and Sections 459.310 and 459.311 describe minimum distance requirements from water sources.

Entering Private Property

Can a public agency enter on private property to restore outlet flow? If so, what is the recommended process?

Condemnation measures may be undertaken for maintenance and construction of roadways (Iowa Code Section 306.19). Persons in charge of improvement or maintenance work on any highway may enter upon adjoining lands for the purpose of



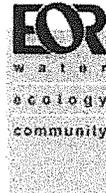
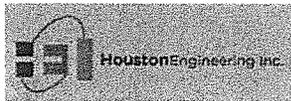
MINNESOTA DRAINAGE LAW ANALYSIS AND EVALUATION

FINAL REPORT

Louis N. Smith
Charles B. Holtman

August 15, 2011

With technical assistance from:

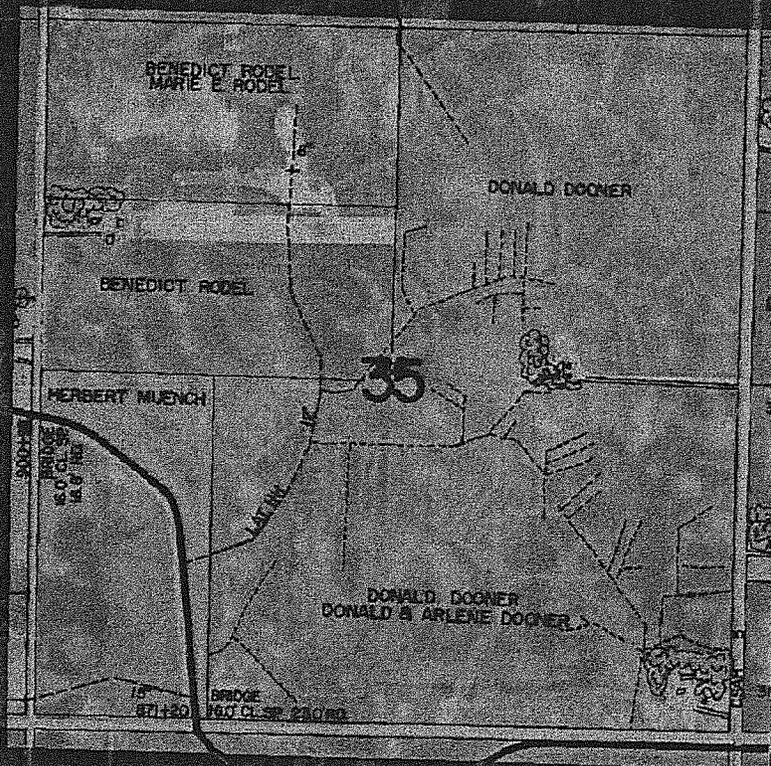


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Funding for this project was provided by the Minnesota Environment and Natural Resources Trust Fund as recommended by the Legislative-Citizen Commission on Minnesota Resources (LCCMR).



Drainage Records Modernization Guidelines



Prepared by:

Minnesota Board of Water and Soil Resources

In partnership with:

**Water Resources Center
Minnesota State University, Mankato**

September 2008

Questions Arise Over New Tile Drain Law

North Dakota Ag Connection - 09/08/2011

During the 2011 Legislative Assembly, lawmakers passed a bill to expedite the tile drainage permitting process to deal with all of the new systems that are being installed in the Red River Valley. The new law went into effect April 20, 2011.

The law states that any tile drainage system comprising eighty acres of land area or more requires a permit. "Traditionally, those permits came to our office for an initial review before they were forwarded to the local water board," said State Engineer, Todd Sando. But with the new law in place, those permit applications go directly to local water boards -- without going through the Office of the State Engineer.

"If a local water board determines that a tile drain application will have statewide significance, then the Office of the State Engineer gets involved," said Sando. "Otherwise it's their call."

One of the commonly cited selling points of tile drainage is that it removes excessive soil moisture more effectively than traditional surface drainage systems. This allows growers improved access to fields that otherwise might be too wet to till, plant, or harvest. And as the ongoing wet cycle continues to impact much of the Red River basin -- the popularity of tile drainage is most certainly on the rise, with new systems being installed all the time.

However, a common concern is being raised more and more to the Office of the State Engineer by local water boards. Due to the rising popularity of tile drainage systems, the push to get more of these systems installed means many are going in without necessary permit applications.

The new law says that if a person installs a tile drainage system without first securing the necessary permit, they are liable for downstream damages, and could be guilty of an infraction.

Water board members like Rich Axvig, from Grand Forks County, are trying to get the word out. "We want farmers and contractors to know that if they're installing a new tile system that has a land area of eighty acres or more, they need to file an application with the appropriate water board," said Axvig. "It's a simple application process, and it's worth going through the effort to avoid fines or liability issues later down the road."

The two-page application is available for download via the Water Commission's website at www.swc.nd.gov, or call 701-328-2752 to have an application mailed

APPLICATION TO INSTALL A SUBSURFACE DRAIN

Version 4/11

I, the undersigned, am applying for a permit to install a subsurface drain system on an area comprising 80 acres or more as required under NDCC 61-32

Date _____
Received Stamp _____
Location _____

(OSE USE ONLY) No. _____

(WRD USE ONLY) No. _____

This application must be accompanied by FSA aerial photo or equivalent showing the location of the proposed drain tile.

(1) Water Resource District in which project is located: _____

(2) Legal description of land to be tiled: _____ ¼ _____ ¼ Section _____ Township _____ Range _____

_____ ¼ _____ ¼ Section _____ Township _____ Range _____

Legal description /location outlet: _____ ¼ _____ ¼ Section _____ Township _____ Range _____

_____ ¼ _____ ¼ Section _____ Township _____ Range _____

(3) Design Data:

(a) Type of outlet (gravity, pump, other): _____

(b) Design capacity of tile system (inches/day): _____ Outlet flow capacity: _____ cfs gpm

Land area to be tiled (acres): _____

(c) Where does tile system discharge: road ditch , private drain , assessment drain , natural waterway

Other : _____

(d) If discharging into road ditch include approval document from appropriate Federal, State, County, or Township road authority.

(4) Do you own land to be tiled? Yes No If "No", give name and address of landowner: _____

(5) Do you own location where tile system outlets? Yes No

(6) Have downstream landowners been notified Yes No Date of notice: _____

Before the Water Resource District will process a tile drain application, all downstream landowners for a distance of 1 mile from project outlet must have received 30 days notice by certified mail.

(7) Contractor if known: _____

(8) Anticipated construction start date: _____ Completion date: _____

APPLICANT'S CERTIFICATION

I understand that I must undertake and agree to pay the expense incurred in making an investigation. If the investigation discloses that the quantity of water to be drained will flood or adversely affect downstream lands, I may be required to obtain flowage easements and must file the easements in the office of the county recorder before a permit may be issued. My signature below acknowledges that I have read and agree to these statements, and will adhere to the conditions given on the back of this application.

Land Owner (Print): _____

Address: _____

Phone: _____

Signature: _____ Date: _____

The filing of this application and its approval does not relieve the applicant and/or landowner(s) from any responsibility or liability for damages resulting from the construction, operation or failure of this drain.

FOR USE BY WATER RESOURCE DISTRICT AND STATE ENGINEER

If this application **does not** involve drainage of statewide significance, approval by the Water Resource District Board constitutes a permit to drain. If this application **does** involve drainage of statewide significance, approval by both the Water Resource District Board and the State Engineer must be given to constitute a permit to drain.

This application:

- does involve drainage of state-wide significance
- does not involve drainage of state-wide significance

The Water Resource District Board has investigated according to NDAC Section 89-02-01-09.2.

This application is hereby:

Denied

Signature: _____
Chairman or Secretary of Water Resource District Board

Approved

Date: _____

- (1) The project and the rights granted under the permit are subject to modification to protect the public health, safety, and welfare.
- (2) Construction must be completed within two years from the date of final approval.
- (3) Additional conditions may include permission from roadway authorities, other permits, erosion protection, landowner consent if applicant is a tenant, operation restrictions under flood conditions, and other appropriate conditions attached by the water resource district.

This application involving drainage of state-wide is:

Denied

Signature: _____
State Engineer

Approved

Date: _____

CONDITIONS:

- (1) The project and the rights granted under the permit are subject to modification to protect the public health, safety, and welfare.
- (2) Construction must be completed within two years from the date of final approval.
- (3) See additional conditions attached by the State Engineer.

Mail to: Water Resource District in which the project is located.