

Ditch Frequently asked questions

What is a county ditch?

A county ditch is established through a legal proceeding based on Minnesota Drainage statutes 103E. Once a property owners petition for a ditch system is accepted by the County Board of Commissioners, a legal drainage system is established.

Here is a link to drainage statutes

<https://www.revisor.mn.gov/statutes/cite/103E>

Who pays for the ditch?

At the time of drainage system establishment, a team of Ditch Viewers visited the land encompassing the ditch system. These Viewers determined what properties used and benefitted from the ditch system. It is those property owners who pay all costs incurred by the Drainage System. The Viewers also determined how much a property benefitted, which is how each individual properties share of expenses are calculated

What is a ditch redetermination of benefits?

Because many drainage systems are so old, the property utilizing the ditch is often out of date compared to the current conditions. Redetermination is a legal proceeding to analyze properties that utilize the ditch based on use today rather than 100 plus years ago. Often, a determination results in more properties becoming part of the drainage system because over time, more people use the ditch to move water. Examples could be tiling a farm field or modern storm sewer systems that direct water to a ditch.

What is a watershed?

The term watershed can be confusing because there are several different meanings. There are legal watersheds like the old Two Rivers Watershed, which no longer exists. A legal watershed is an administrative entity with taxing power. Another definition is the natural watershed. In CD28, we discuss the natural watershed boundary, which is the area determined by engineering that shows what land contributes water to CD28. The natural watershed deals more with how mother nature carved out the land and where rain goes once it falls.

What is a ditch re-establishment of records?

103E.101 Subd. 4a defines the re-establishing of records of a drainage system as, “If, after thorough investigation of drainage system records, a drainage authority finds that records establishing the alignment, cross-section, profile, or right-of-way of a drainage systems that it administers are lost, destroyed, or otherwise incomplete, it may, by order, re-establish records defining the alignment, cross-section, profile, hydraulic structure locations, material, dimensions, an elevations or right-of-way of the drainage system as originally constructed or subsequently improved in accordance with this chapter.”

In short, because drainage systems are so old and record keeping may not have needed information for modern times, re-establishment is a method to fill out the drainage record for needed information in order to administer the ditch.

What is a ditch repair?

A ditch repair generally involves excavating accumulated sediment from the ditch. The process for Ditch repairs is governed by the Drainage statutes in MN103E. A legal ditch repair can only restore the ditch to its original construction. The ditch cannot be dug deeper or wider than what was done at the time the drainage system was established and constructed.

Can an area beyond a ditch be repaired?

Generally NO, but depending on the location and situation, there may be possibilities to do work beyond the legal extent of the ditch. DNR authority over Minnesota Public Waters and Wetland Conservation Act rules are examples of things that need to be considered when working in and around water that may limit the possibility of working beyond the ditch.

What is an Engineer's Repair Report?

Under MN 103E.715 Sub. 2, a Repair report is described as containing the following elements: If the drainage authority determines that the drainage system needs repair, the drainage authority shall appoint an engineer to examine the drainage system and make a repair report. The report must show the necessary repairs, the estimated cost of the repairs, and all details, plans, and specifications necessary to prepare and award a contract for the repairs. The drainage authority may give notice and order a hearing on the petition before appointing the engineer. Additionally, the Engineer evaluates the environmental impacts and permitting requirements associated with the recommended repairs (Acquiring permits is part of completing the actual repair).

What about flood insurance?

A legal repair under MN statute 103E is a separate matter from FEMA requirements for flood insurance. Any changes to an individual property's requirements for flood insurance are a matter for FEMA. Ditch activity will NOT result in any change to FEMA floodplain insurance requirements.

Can a Ditch be abandoned?

MN103E.811 details how Abonnement of a drainage system is handled. A drainage system can be abandoned through a petition process that involves either 51% of the number of property owners or signatures representing 51% of the acreage within a drainage system. A valid petition will result in an abandonment hearing. If there are objections at the hearing, the drainage authority SHALL appoint three ditch viewers to review the property.

MN103E.805 also details the process of a partial abandonment of a drainage system. Contact Stearns County for additional information about the potential to abandon a drainage system.

Can my property be removed from a drainage system

MN103E.805 REMOVING PROPERTY FROM DRAINAGE SYSTEM is the statute that details how a property owner can petition the drainage authority to remove property from the drainage system. The process involves a petition stating the request is sent to the County Auditor and then a hearing before the Drainage Authority, which is made up of the five elected County Commissioners, is set. Once a hearing date and time are established, you will bring your information to present to the Drainage Authority. State statute defines that the following criteria be met to order the petition to be granted.

The burden is on the petitioning landowner to establish three things:

1. That the waters from petitioners' property have been diverted from the drainage system or that the property cannot significantly or regularly use the drainage system;
2. That the property is not benefited from the drainage system; and
3. That removing the property from the drainage system will not prejudice the property owners and property remaining in the system.