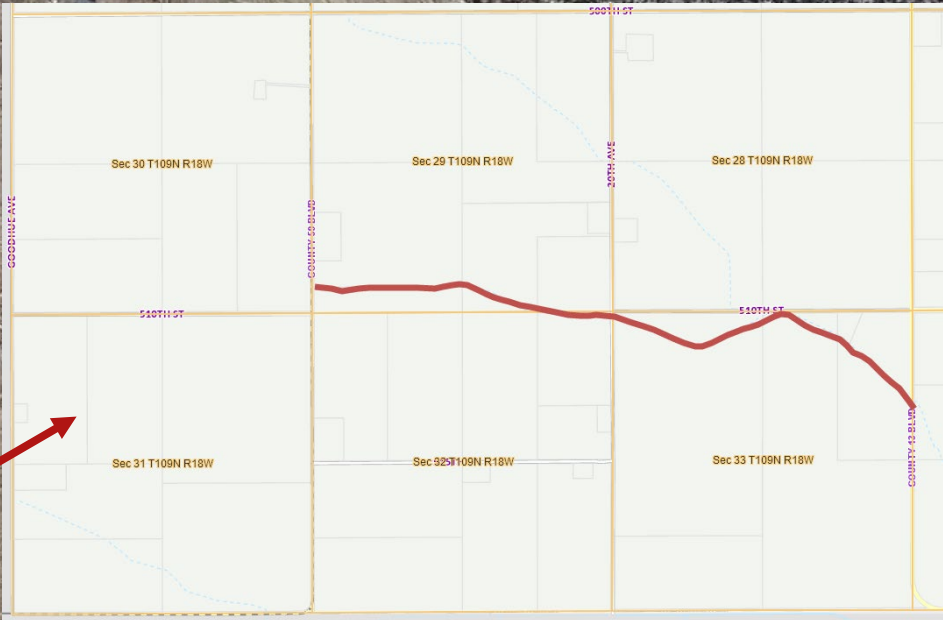
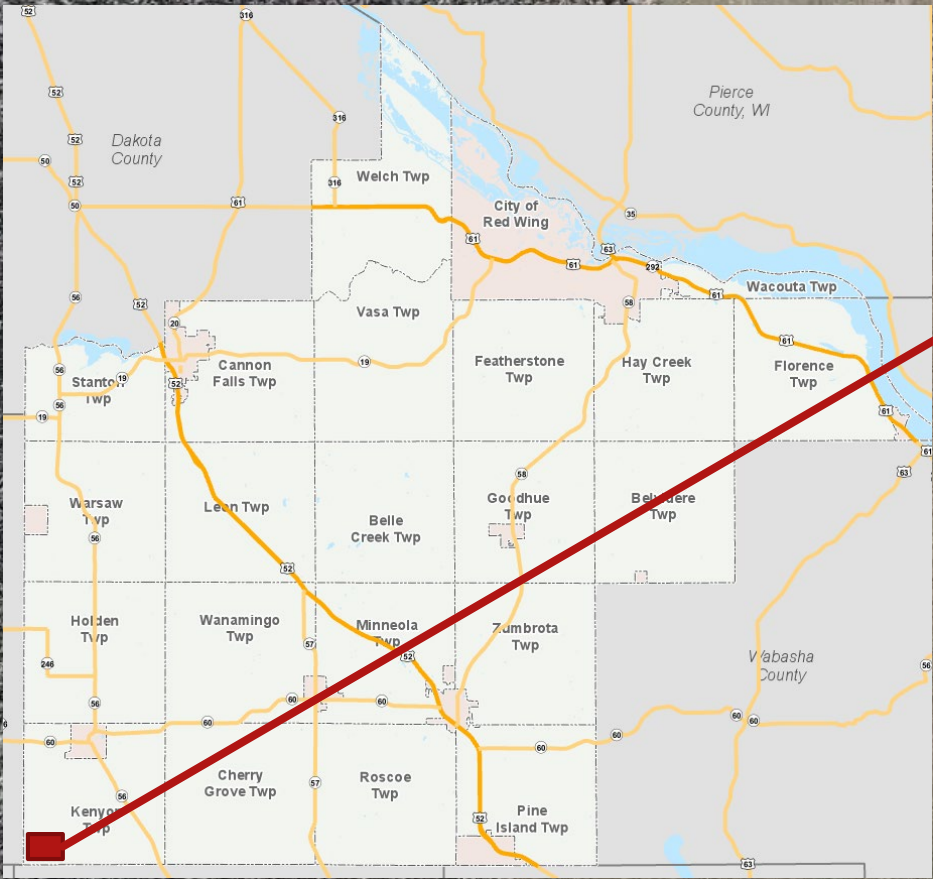


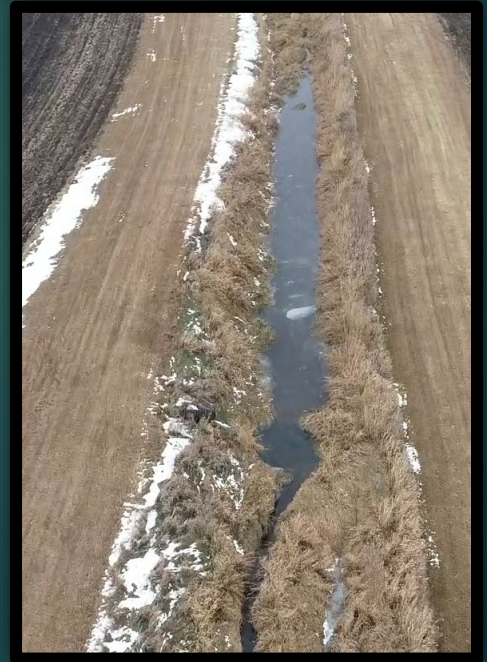
Goodhue County Ditch 1 Powerpoint Presentation

Documents:

[GoodhueDitch1MtgAug2020 \(002\).pdf](#)

# Goodhue County Ditch 1





## Original Design 1954

### 12 Culverts

- 10 CMP's ranging from (10"- 58") 20 -60 feet long
- 2 Concrete sewer pipes (6" and 12") 30 feet long

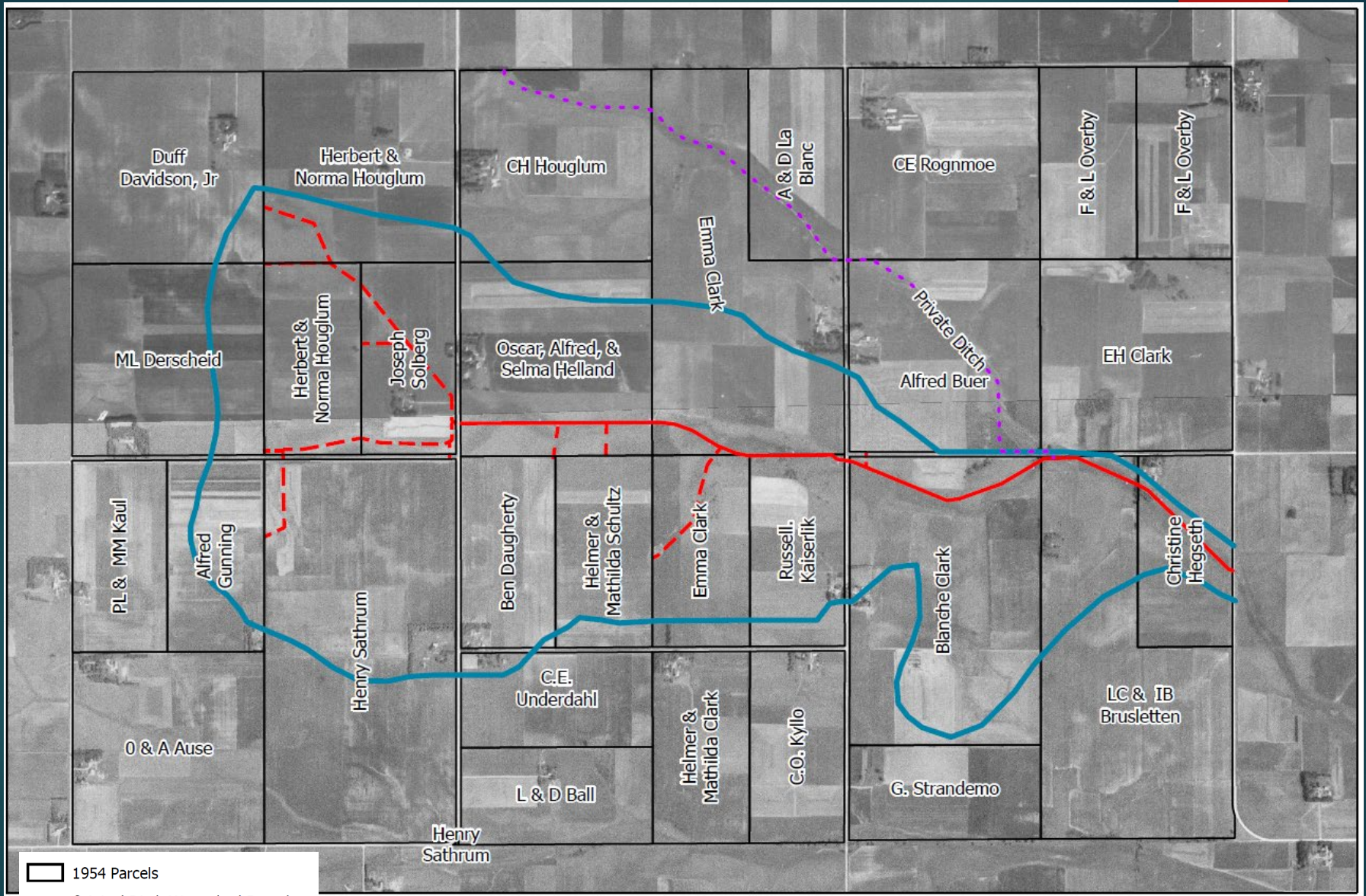
### 3 Concrete structures

- (2) 3' x 3' x 4'
- (1) 6' x 6' x 5' 3"

### Width of bottom of ditch

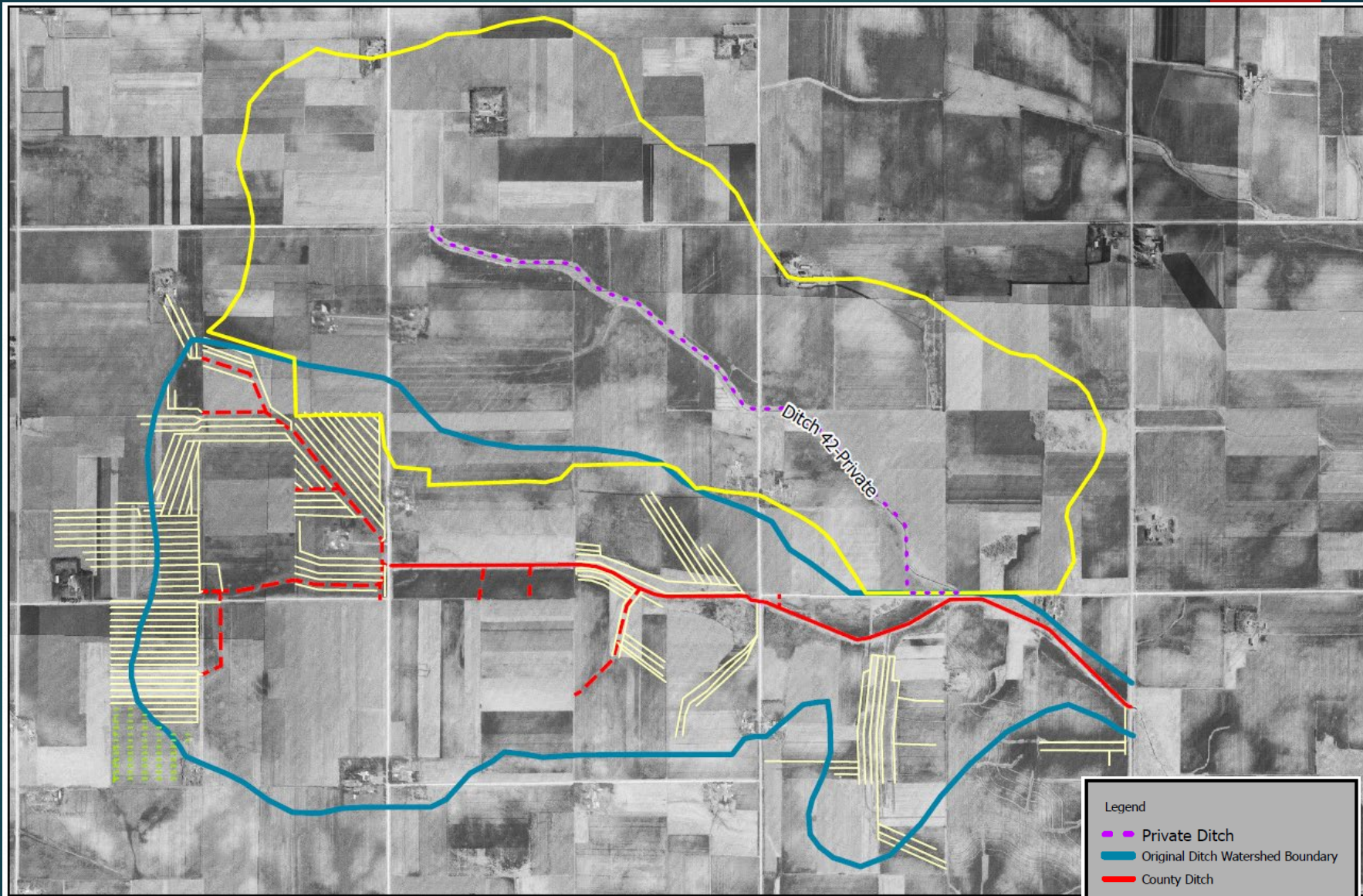
- 0+00 – 30+00 = 6 feet\*\*
- 30+00 – 114.84 = 4 feet

\*\*Width of bottom of ditch increased in 1961 to 10' bottom between stations 0 to 30+00

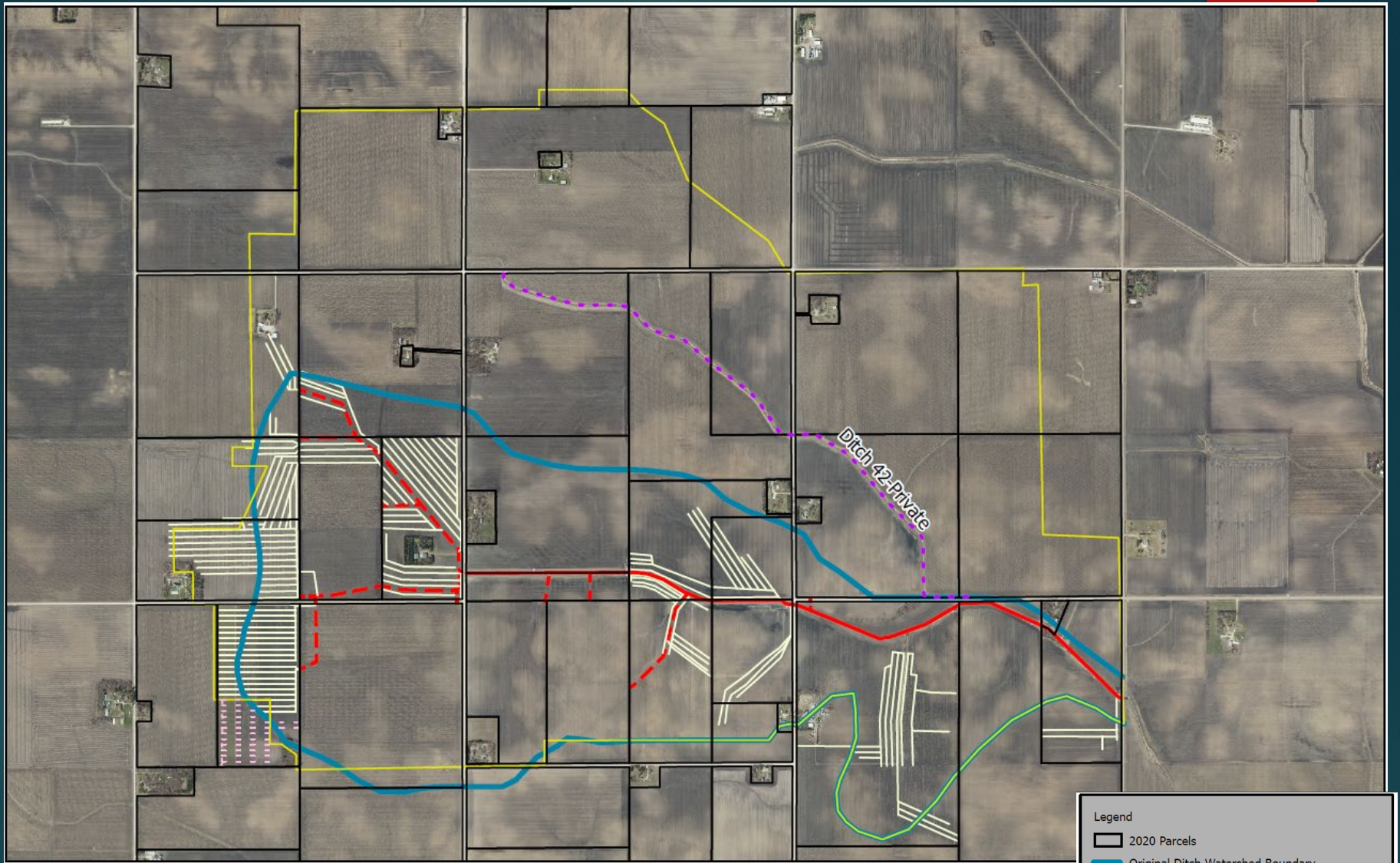


- 1954 Parcels
- Original Ditch Watershed Boundary
- County Ditch
- County Added Tile
- Private Ditch

# 1950's



1960's



2020

Legend

- 2020 Parcels
- Original Ditch Watershed Boundary
- County Ditch
- County Added Tile
- Tile Not In Watershed
- Private Tile
- Side Inlets
- Approx. Current Watershed Drainage Boundary

- Early 1950's:** Request for/preliminary drainage report Boyum/Erdahl/Kyllo
- Mar 1953:** Petition of Emma Chambers and others
- 1953-1954:** Drainage report for Solberg/Kaiserlik group
- 1954:** Final Engineer's report County Ditch No. 1
- Feb 21 1955:** Letter to Munson Construction Company to begin construction
- May 1955:** Contracts assigned: open ditch to Munson Construction Company/tile installation to Benson & Steberg
- 1955:** Majority of Ditch work completed
- Sep 1955:** Partial payment on ditch
- Nov 1955:** Published assessment for County Ditch #1
- Mar 1956:** Commissioner meeting to consider Final Acceptance
- 1960:** Plan to clean out 0+00 to 30+00' to clean out and widen to 10' bottom
- 1960- 1961:** Established lateral to County Ditch 1 (Group Ditch 42)
- 1964:** Ditch cleanout
- 1966:** Level spoil piles from cleanout
- 1971:** Release for payment in full of Assessment for ditch construction
- 1994:** Walker – side Inlet/cleanout
- 1995:** Petition– cleanout request
- 1997:** Clean out of ditch – indicates silt removal to gravel layer/reference to 10' bottom throughout and installed 9 side inlets
- Dec 1997:** Assessment for cleanout w/descriptions
- Nov 2002:** Certificate of Lien Release for cleanout
- 2006:** Tile repair- Clark farm
- 2007:** Tree removal clean out

# County Ditch 1 Timeline



## 1995 Repairs

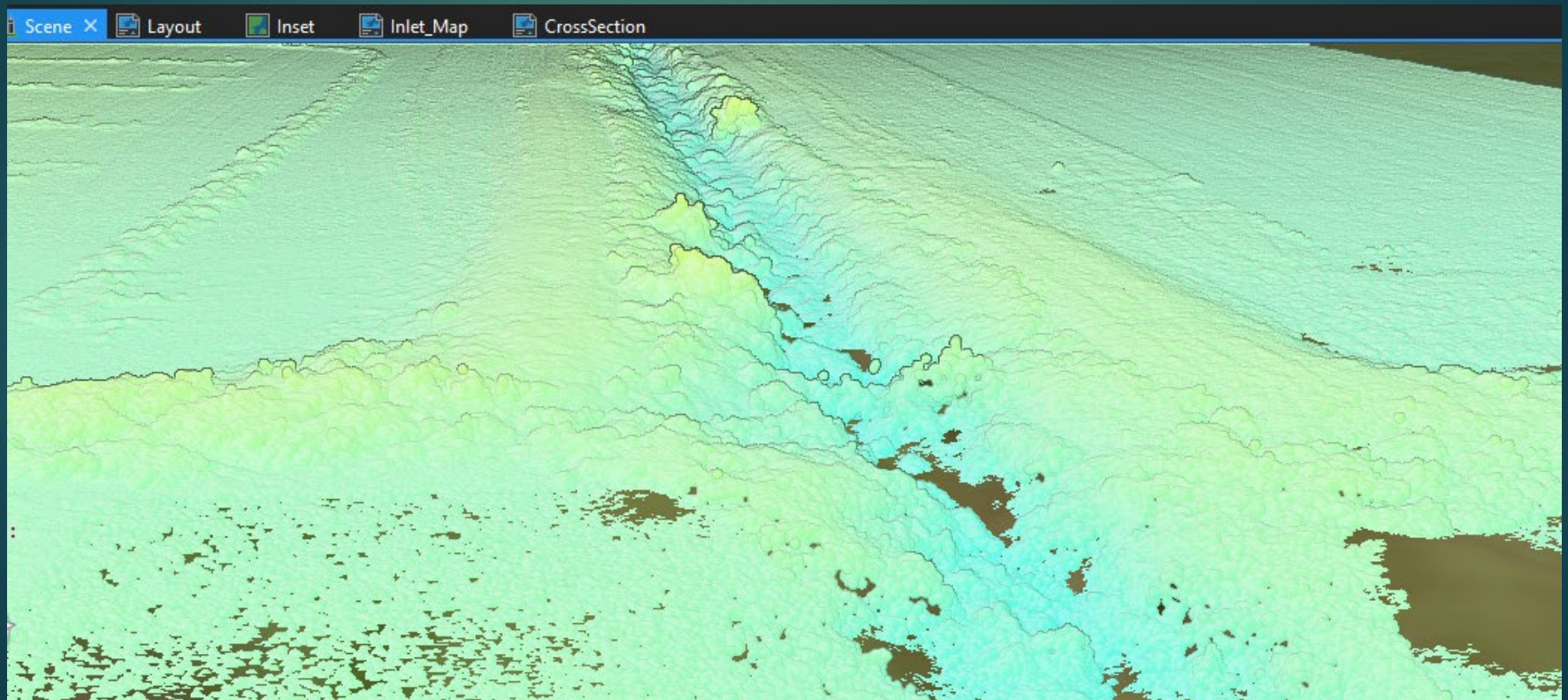
Ditch cleaning  
Inlet construction  
Inlet Pipe  
Crossing re-construction  
Seeding

Ditch widened to 10' across bottom

Assessed to 31 parcels paid over 5 years at 7% interest

Since that time we have only done tree cleaning (2006)

# December 2019 Drone Lidar Flight



## 2020 Updates

- Goodhue County hired Rinke-Noonan to assist with the legal aspects of the project
- Goodhue County hired Houston Engineering, Inc to review the record and Lidar data and prepared an Inspection Report

# Goodhue County Ditch 1 Inspection

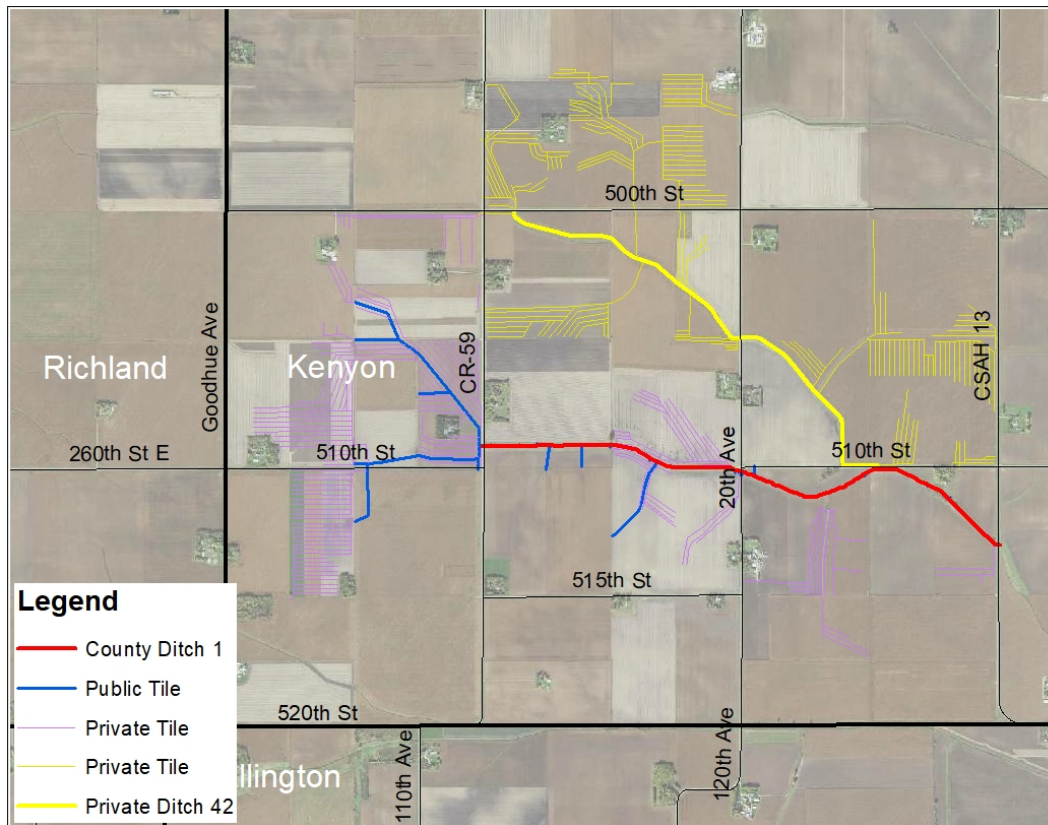
## Report and Recommendations

Houston Engineering  
August 20, 2020





# OUR TASK



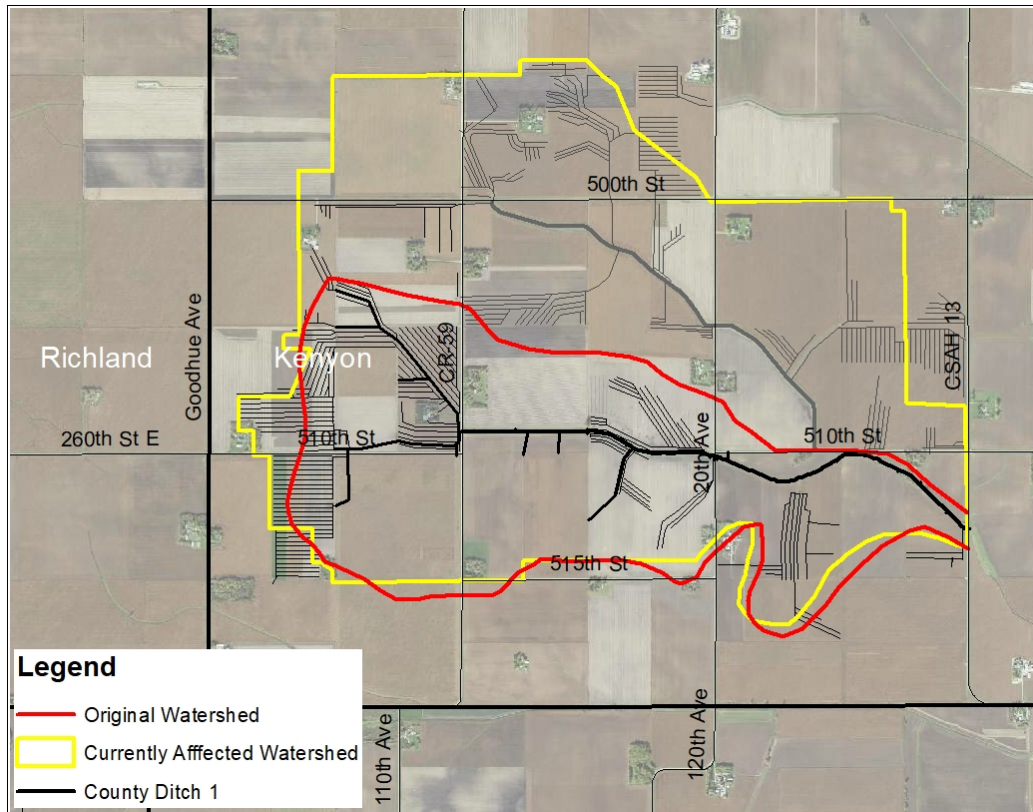
Review historic records and prepare an inspection report

Based on available records and information from Goodhue Co. staff

Scope limited to Main Trunk open channel (excludes public tile and private branch)



# CD 1 ALIGNMENT AND DIMENSIONS



**Length**  $\approx$  11,500 ft (2.2 mi)

## Bottom Width

- Originally 6' from 0+00 to 30+00, later improved to 10' width
- 4' from 30+00 to upstream end

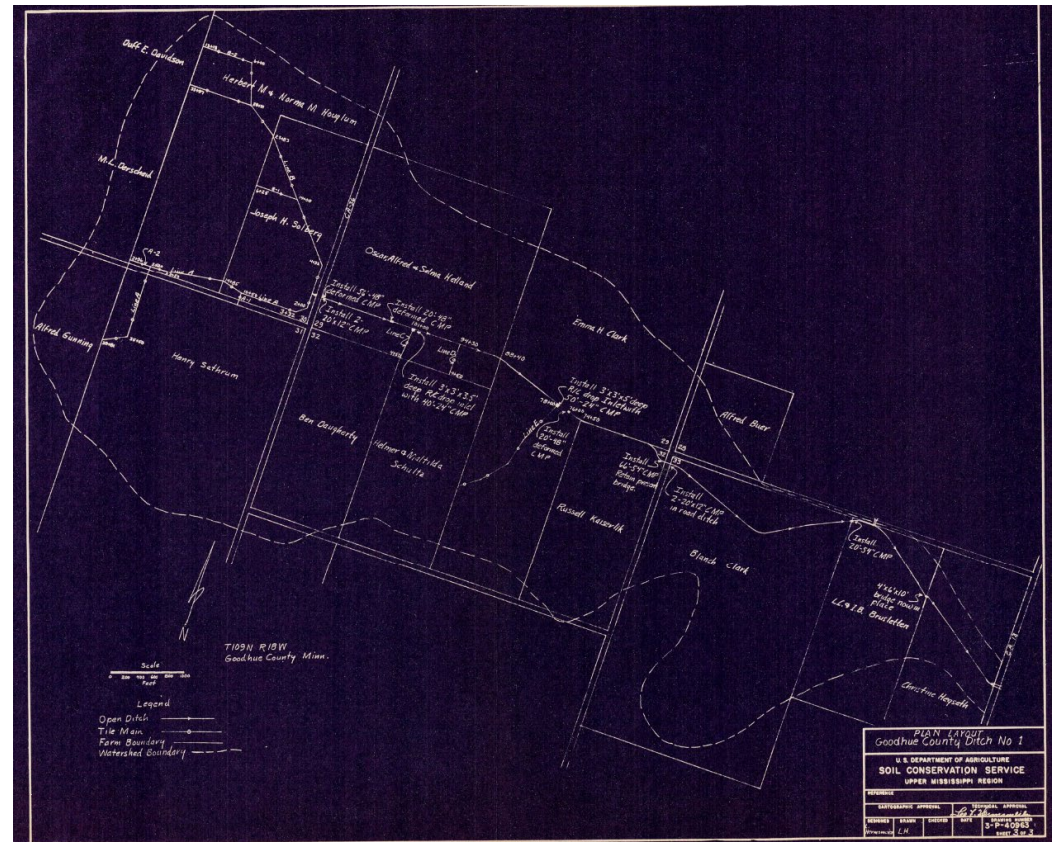
## Public Drain Tile

- 12,500 ft (2.4 mi)



# CONCLUSIONS OF RECORDS REVIEW

- Alignment, cross-section, and right of way of the system are clear in the record
- Grade (elevation) of the system is unclear
- Need to complete soil borings and analysis to determine as-constructed and subsequently improved condition (basis for repair)





## CURRENT CONDITIONS



Vegetation Growth  
and Debris



Bank Sloughing



Channel Meandering





# CURRENT CONDITIONS



Failing Culverts

Culverts Above Channel





# MAINTENANCE VS. REPAIR

## Drainage Terms

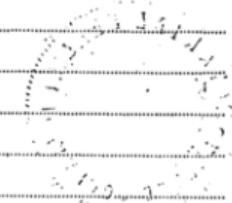
- “Repair” – Return to historical design and function
- “Improvement” – increase capacity or depth
- Generally, “Repair” requires much less process and regulatory engagement

No. 675—Engineer's Report in Ditch Proceedings. ☆☆☆  
MINNESOTA

In the Matter of the Petition of Emma Chambers and Others  
and Others, for a Drainage Ditch and Laterals in the County of Goodhue  
State of Minnesota, Designated and Numbered as County Ditch No. 1

To the Honorable Board of County Commissioners  
of the County of Goodhue State of Minnesota:

The undersigned Civil Engineer, appointed by your order bearing date the 15th  
day of April, 1954, to view the route proposed in the petition of  
Emma Chambers and Others  
for a public Drainage Ditch and Laterals





# RECOMMENDATIONS

## Complete Ditch Repair

- Remove debris and sediment
- Straighten channel
- Replace culverts at grade
- Requires additional investigation (repair report)

## Complete Redetermination of Benefits

- Include all parcels benefitting from CD 1

## Investigate CD 1 Tile





## QUESTIONS AND COMMENTS?





**RINKE NOONAN**  
*attorneys at law*

# Goodhue County Ditch 1

Chapter 103E Overview & Proceedings  
for Repairs & Improvements

**Rinke Noonan Law Firm**  
US Bank Plaza, Suite 300  
1015 W St. Germain St.  
Saint Cloud, Minnesota 56301

**Kale R. Van Bruggen**  
[kvanbruggen@rinkenoonan.com](mailto:kvanbruggen@rinkenoonan.com)  
320-251-6700 (O)  
320-656-3522 (D)  
[www.rinkenoonan.com](http://www.rinkenoonan.com)

## Drainage Authority's Role

- ▶ The drainage authority “is in an appropriate position to assert the property owners’ drainage rights, since it is the only entity authorized to conduct work in the ditch.” McLeod Cnty. v. Minn. Dep’t of Nat. Res., 549 N.W.2d 630 (Minn. Ct. App. 1996).
- ▶ When a drainage system is established, the drainage authority acquires jurisdiction over its constituent property, and landowners recovering damages or incurring assessments acquire property rights in the ditch system. Fischer v. Town of Albin, 104 N.W.2d 32, 34 (Minn. 1960).

# Drainage Authority Responsibilities

- ▶ After the construction of a drainage system has been completed, the drainage authority shall inspect and shall maintain the drainage system that is located in its jurisdiction and provide the repairs necessary to make the drainage system efficient.

## **Protect the Drainage Right:**

- Keep system in repair.
- Prevent damage.
- Prevent unauthorized use.

- Ensure “fair share.”

## **Balance interests:**

- Economic interests.
- Environmental interests.

## Unauthorized Use

- ▶ If the engineer determines or is made aware that property not assessed for benefits for construction of the drainage system has been drained into the system or has otherwise benefited, the engineer shall identify the benefitting land. [Minn. Stat. § 103E.741, subd. 1.](#)
- ▶ The drainage authority shall appoint viewers before the repair contract is awarded. The viewers shall determine the benefits to all property and entities benefited by the original construction of the system and not assessed benefits arising from its construction.
- ▶ Consider [Minn. Stat. § 103E.351](#) alternative: Redetermination of Benefits & Damages.



## Ensure Fair Share

If the drainage authority determines that the original benefits or damages determined in a drainage proceeding do not reflect reasonable present day land values or that the benefited or damaged areas have changed, the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas. [Minn. Stat. § 103E.351](#) (Redetermination of Benefits & Damages)

## Repairs ([Minn. Stat. § 103E.701](#))

Repair means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including:

- Resloping of ditches and leveling of waste banks to stabilize.
- Realignment to original construction to restore the effectiveness.
- Routine operations that may be required to remove obstructions.
- Incidental straightening and replacement of tiles.

## Repairs

Repair of a drainage system may include:

- ▶ the preservation, restoration, or enhancement of wetlands;
- ▶ wetland replacement under section 103G.222;
- ▶ the realignment of a drainage system to prevent drainage of a wetland; and
- ▶ the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality.



## Repairs without Petition

- ▶ Board may authorize repairs based on consideration of drainage inspection reports.
- ▶ In one calendar year, may not levy assessment greater than greater of:
  - ▶ 20 percent of the benefits on the drainage system;
  - ▶ \$1,000 per mile of open ditch; or
  - ▶ \$175,000
- ▶ If greater than the amount(s) above, then use the “procedures” of 103E.715 (petitioned repair).

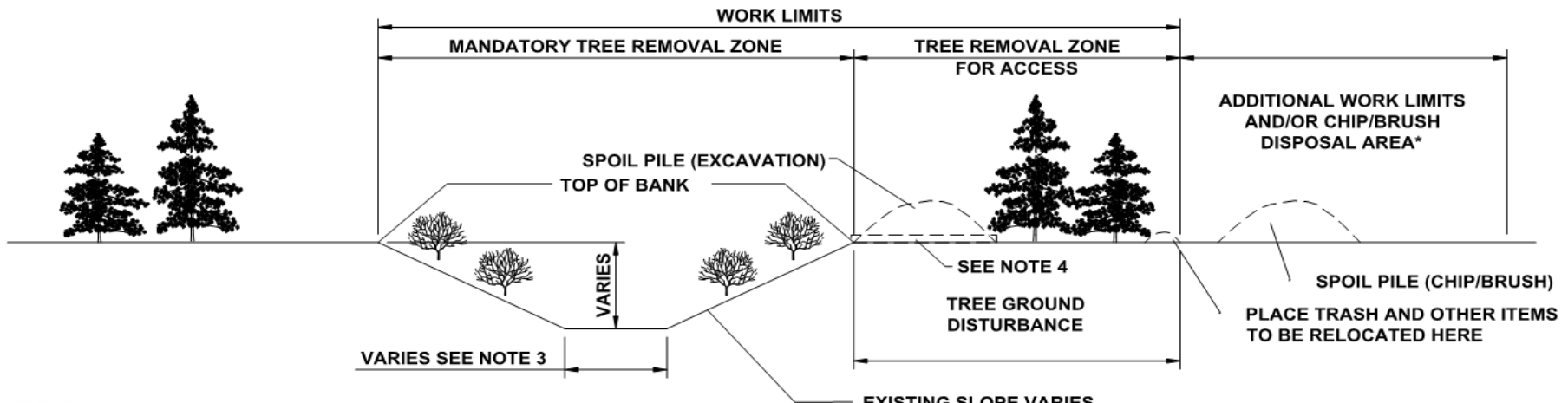
## Repairs by Petition ([Minn. Stat. § 103E.715](#))

- ▶ If a repair petition filed, or a repair requested in inspection report exceeds the section 103E.705, subd. 6 thresholds, the drainage authority appoints engineer before proceeding with repair.
- ▶ Drainage authority notices and conducts a public hearing on the engineer's repair report.
- ▶ A cost-versus-benefit analysis is not required for petitioned repairs. A petitioned repair may be approved by the drainage authority if it determines that the "repairs recommended are necessary for the best interests of the affected property owners."

## Right-of-Way Acquired

- ▶ Drainage code procedures invoke eminent domain powers –when a new drainage project is established, the drainage authority acquires an easement for construction and future maintenance of the project.
- ▶ Damages are awarded by the viewers for the area occupied by the project and for temporary damages for construction and future maintenance.
- ▶ The easement area includes the area physically occupied by the drainage system along with the area impacted by construction, including areas cleared and grubbed of trees and the area over which the spoils were spread and leveled.

# Right of Way & Easements



**\*NOTES:**

- 1) WORK LIMITS EXTEND FROM TOP OF BANK TO WORK LIMIT STAKES, ON THE DITCH SIDE NOTED IN THE PLANS.
- 2) ADDITIONAL AREA ALONG THE WORK LIMITS WILL BE UTILIZED FOR ADDITIONAL WORK LIMITS AND DISPOSAL OF CHIPS AND BRUSH WHERE APPROVED BY ENGINEER.
- 3) MATCH EXISTING OR EXCAVATE ACCORDING TO BOTTOM WIDTH TABLES
- 4) LEAVE SIDE INLET SWALE OR INSTALL SIDE INLET PIPE IN LOW AREAS TO PROVIDE DRAINAGE AND AS DIRECTED BY ENGINEER

EXISTING SLOPE VARIES  
2:1 MAX PROPOSED  
SLOPE IN EXCAVATION  
AREAS

**DITCH CORRIDOR "WORK LIMITS"**  
NOT TO SCALE

## Funding Repairs

- ▶ The cost of repairing a drainage system is apportioned pro rata on all property and entities assessed benefits, generally. [Minn. Stat. § 103E.728, subd. 1](#). Some unique exceptions exist in subdivision 2 & 3.
- ▶ Pro rata assessment can be globally updated through redetermination of benefits proceeding. [Minn. Stat. § 103E.351](#). Or, additional properties added using [Minn. Stat. § 103E.741](#) (current benefits not updated).
- ▶ New in 2019: Relative Runoff & Relative Sediment Delivery based repair cost apportionment. Based upon geographic information system technology including, but not limited to, topographic data, soils and land use data, property, road, and utility corridor identification data, with on-site verification. [Minn. Stat. § 103E.729](#).



## Funding Repairs

- ▶ Once final repair construction costs are known, the Auditor prepares a drainage lien statement in tabular form and records the lien against all benefited properties. [Minn. Stat. §103E.601.](#)
- ▶ Drainage liens may be apportioned over 20 or less equal, annual installments, as determined by the Drainage Authority. Interest is an additional drainage lien on all property until paid. Drainage liens may be prepaid to avoid interest charges. Interest may be paid at any time, computed to the date of payment, except that after interest is entered on the tax lists for the year, it is due as entered without a reduction for prepayment. [Minn. Stat. § 103E.611.](#)

# Improvements

- ▶ “Improvement” means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to reline or replace tile and construction of tile to replace a ditch. [Minn. Stat. § 103E.215, subd. 2.](#)
- ▶ Petition & bond must be filed. Minn. Stat. §§ [103E.215, subd. 4](#) and [103E.202](#). Bond covers costs of improvement proceedings if contract for construction is not awarded.
- ▶ Engineer appointed to prepare preliminary survey of improvement. Engineer files report; drainage authority orders preliminary hearing within 30 days of order. Notice by mail given to all landowners likely to be assessed; affected political subdivisions; and DNR.

## Preliminary Order

- ▶ Required determinations to advance to order for detailed survey report and appointment of viewers:
  - ▶ The proposed drainage project outlined in the petition or modified by the engineer is feasible;
  - ▶ There is necessity for the proposed drainage project;
  - ▶ The proposed drainage project will be of public benefit and promote the public health after considering criteria in Minn. Stat. § 103E.015, subd. 1;
  - ▶ The outlet is adequate.
- ▶ Order dismissing the petition after the preliminary hearing may be appealed; an order directing the detailed survey report and appointment of viewers may not be appealed

## Final Hearing

- ▶ Viewers (three disinterested residents of the state qualified to assess benefits and damages) determine benefits and damages of property affected by improvement under [Minn. Stat. § 103E.315](#).
- ▶ Engineer, viewers, and DNR Commissioner file reports; drainage authority orders final hearing not less than 25 days but not more than 50 days after order. Notice of the final hearing is given by posting, publication, and mail

## Final Order

- ▶ Required determinations to establish a drainage project:
  - ▶ The detailed survey report and viewers' report have been made and other proceedings have been completed under chapter 103E
  - ▶ The reports made or amended are complete and correct
  - ▶ The benefits and damages have been properly determined
  - ▶ The estimated benefits are greater than the total estimated costs, including damages
  - ▶ The proposed drainage project will be of public utility and benefit and will promote the public health
  - ▶ The proposed drainage project is practicable.
- ▶ Appeals under Minn. Stat. §§ 103E.095 and 103E.091

## Questions?

**Kale R. Van Bruggen**

**Rinke Noonan Law Firm**

**320-251-6700 (O)**

**320-656-3522 (D)**

**[kvanbruggen@rinkenoonan.com](mailto:kvanbruggen@rinkenoonan.com)**