

**MORRISON COUNTY  
DITCH AUTHORITY MEETING AGENDA  
SEPTEMBER 21, 2021 10:00AM  
MORRISON COUNTY BOARD ROOM  
LITTLE FALLS, MN 56345**

- 1. CALL TO ORDER**
- 2. Public Ditch 1 - Unauthorized Outlet**
- 3. Public Ditch 18, 18-1 and 18-2 Inspection Report.**
- 4. Public Ditch 17 Update**
- 5. Authorize Notice of Ditch Benefit Template**
- 6. General Information Update and Discussion**
- 7. ADJOURNMENT**

*Morrison County will provide cost effective, high quality services to county residents in a friendly and respectful manner.*

Drainage Authority Board  
Official Minutes  
JULY 20, 2021  
PAGE 1 of 1

The meeting was held at the County Board Room, in Little Falls, MN, and was called to order at 11:50 a.m. by Chairman Wilson.

**Members present:** Commissioners Randy Winscher, Jeff Jelinski, Mike Wilson, Greg Blaine, and Mike LeMieur.

**Staff present:** Deb Gruber, Steve Backowski, Chelsey Robinson, and Tabitha Maher.

**Others present:**

**APPROVE THE DRAINAGE AUTHORITY BOARD MINUTES**

A motion was made by Commissioner Winscher, seconded by Commissioner LeMieur and carried unanimously to approve the Drainage Authority Board Minutes for June 8th, 2021.

**DITCH 17**

Public comment was received and presented by Chelsey Robinson, County Auditor/Treasurer and Steve Backowski, County Engineer.

A motion was made by Commissioner Jelinski, seconded by Commissioner LeMieur and carried unanimously to authorize the County Engineer to move forward with repairs for Ditch #17.

**ADJOURNMENT**

A motion was made by Commissioner LeMieur, seconded by Commissioner Jelinski and carried unanimously to adjourn the meeting at 12:15 pm.

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Mike Wilson, Chairman

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Tabitha Maher, Deputy Clerk to the County Board

## Steve Backowski

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**From:** Cathy Theis <CTheis@rinkenoonan.com>  
**Sent:** Monday, August 16, 2021 1:44 PM  
**To:** Steve Backowski  
**Cc:** Kurt Deter  
**Subject:** 15882-0013: Unauthorized Outlet  
**Attachments:** MN Statutes 103E.pdf

*Public Ditch 1*

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**Caution:** This message has originated from outside from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

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*Hi Steve - See message from Kurt. If you have any questions, do not hesitate to contact Kurt.*

Hi Steve:

Attached is Minnesota Statutes 103E.401 concerning use of a drainage system from unassessed property. If it gets resolved with a simple letter, it is probably just a cost that the drainage system incurs. However, under subd. 7, if we have to enforce by blocking the drainage or approving a petition for an outlet, we would likely make the outlet fee such that it at least covered the expenses of bringing the outlet into compliance. The statute in several instances never makes it exactly clear who pays expenses, but for unauthorized outlets, if the landowner petitions into the system, we will make sure the outlet fee covers all expenses, as no one else in the system should have to be paying anything. If you have any questions, please contact me.

Kurt

Cathy Theis  
Legal Secretary

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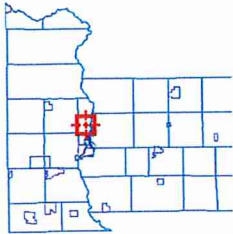


RINKE NOONAN  
*attorneys at law*

Linked <sup>in</sup>



Overview



Legend

-  Political Township
-  Parcels
- Road Centerlines
  -  US/State Hwy
  -  CSAH; County Roa
  -  Township
  -  Roads

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**103E.401 USE OF DRAINAGE SYSTEM AS OUTLET.**

Subdivision 1. **Drainage outlet proceedings when purchasing wetlands.** If the commissioner purchases wetlands under section 97A.145, the commissioner must recognize that when a majority of landowners or owners of a majority of the land in the watershed petition for a drainage outlet, the state should not interfere with or unnecessarily delay the drainage proceedings if the proceedings are conducted according to this chapter.

Subd. 2. **Express authority necessary.** After the construction of a drainage project, a public or private drainage system that drains property not assessed for benefits for the established drainage system may not be constructed to use the established drainage system as an outlet without obtaining express authority from the drainage authority having jurisdiction over the drainage system proposed to be used as the outlet. This section is applicable to the construction of a public or private drainage system that outlets water into an established drainage system regardless of the actual physical connection.

Subd. 3. **Petition.** A person seeking authority to use an established drainage system as an outlet must petition the drainage authority. When the petition is filed, the drainage authority in consultation with the auditor shall set a time and location for a hearing on the petition and shall give notice by mail and notice by publication of the hearing. The auditor must be paid the actual costs for the hearing notices by the petitioner.

Subd. 4. **Hearing.** At the hearing the drainage authority shall consider the capacity of the outlet drainage system. If express authority is given to use the drainage system as an outlet, the drainage authority shall state, by order, the terms and conditions for use of the established drainage system as an outlet and shall set the amount to be paid as an outlet fee. The order must describe the property to be benefited by the drainage system and must state the amount of benefits to the property for the outlet. The property benefited is liable for assessments levied after that time in the drainage system, on the basis of the benefits as if the benefits had been determined in the order establishing the drainage system.

Subd. 5. **Private drainage system; outlet fee required.** A private drainage system may not be constructed to use the established drainage system as an outlet until the outlet fee, set by order, is paid by the petitioner to the county treasurer where the petitioner's property is located.

Subd. 6. **Paying outlet fee.** The outlet fee for a proposed drainage project is a part of the cost of the proposed drainage project and is to be paid by assessment against the property benefited by the proposed drainage project, under section 103E.601, and credited to the established drainage system account.

Subd. 7. **Unauthorized outlet.** (a) The drainage authority must notify an owner of property where an unauthorized outlet into a drainage system is located and direct the property owner to block the outlet or otherwise make the outlet ineffective by a specified time. The outlet must be blocked and remain ineffective until:

(1) an outlet fee is paid, which is determined by the drainage authority based on the benefits received by the property for the period the unauthorized outlet was operational; and

(2) the drainage authority approves a petition for the outlet and establishes the outlet fee.

(b) If a property owner does not block or make the outlet ineffective after being notified, the drainage authority must issue an order to have the work performed to bring the outlet into compliance. After the work is completed, the drainage authority must send a statement to the auditor of the county where the property is located and to the property owner where the unauthorized outlet is located, containing the expenses incurred to bring the outlet into compliance and the outlet fee based on the benefits received by the property during the period the unauthorized outlet was operational.

Subd. 8. **Unauthorized outlet expenses; lien against property.** (a) The amount of the expenses and outlet fee is a lien in favor of the drainage authority against the property where the unauthorized outlet is located. The auditor must certify the expenses and outlet fee and enter the amount in the same manner as other drainage liens on the tax list for the following year. The amount must be collected in the same manner as real estate taxes for the property. The provisions of law relating to the collection of real estate taxes shall be used to enforce payment of amounts due under this section. The auditor must include a notice of collection of unauthorized outlet compliance expenses with the tax statement.

(b) The amounts collected under this subdivision must be deposited in the drainage system account.

**History:** 1990 c 391 art 5 s 60; 2010 c 298 s 4

**MORRISON COUNTY PUBLIC DITCH NUMBER 18, 18-1 and 18-2**

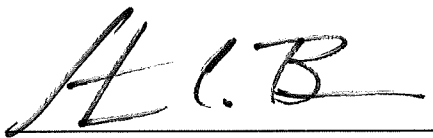
Engineers Inspection Report

Morrison County Ditch Authority

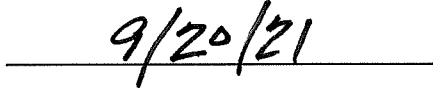
Prepared by

Steven C. Backowski

Morrison County Engineer



Steven C. Backowski



Morrison County Engineer

18286

License No.



**Public Ditch 18, 18-1 and 18-2 Location:**

Public Ditch 18 Commencing in the NW1/4 of Sec. 9-39-29(Morrill Town) flowing in an easterly route through sections 16, 15, 14 and 13-39-29 continuing easterly through Sec. 18, 19 and 20-39-28 (LakinTown) to its discharge to the West Branch of the Rum River. Public Ditch 18-1 commencing in Sec. 10-39-29 flowing easterly through sections 11, 14, 18 and 13-39-29 discharging into PD 18 main. Public Ditch 18-2 commencing in section 16-39-29 flowing easterly through sections 15, 14, 23 and 13-39-29 and discharging into Public Ditch 18 main. Length of Public Ditch 18 main 6.23 miles, 18-1 is 2.40 miles and 18-2 is 2.38 miles for a total length of 11.01 miles.

**Establishment:**

The records indicate that Public Ditch 18 system was established in 1905 and the main system consists of 32921 feet of open ditch with a 4 foot bottom and 1:1 side slopes along with Public Ditch 18-1 consisting of 12713 feet of open ditch constructed with a 3-foot bottom 1:1 side slope and Public Ditch 18-2 consisting of 12,606 feet of open ditch constructed with a 3 foot bottom and 1:1 side slopes. The average cut ranges between 3 to 4 feet with a high of 4.82 feet and a low of 1.40 feet. Plan and profile are on file with MCDPW.

**Recent activity:**

In March of 2006 a permit to conduct a private repair on PD-18 main was issued to Wayne Juetten. In December of 2009 a permit to install a crossing of PD-18 main was issued to Scott Matvick. On April 23, 2021 the Public Works Department received a notice from a benefitted property owner that Public Ditch 18 was not functioning and in need of repair.

On July 7, 2020, the PD 18 main was flown with drone technology. On August 25, 2021 the PD 18-2 was flown and on September 8, 2021 the PD 18-1 was flown. The inspection of the system was made, and it was found to be out of repair with the channel being restricted with sediment, brush, trees, beaver cuttings, weeds and other vegetative material. On January 3, 2021 the department removed several beaver dams from the system.

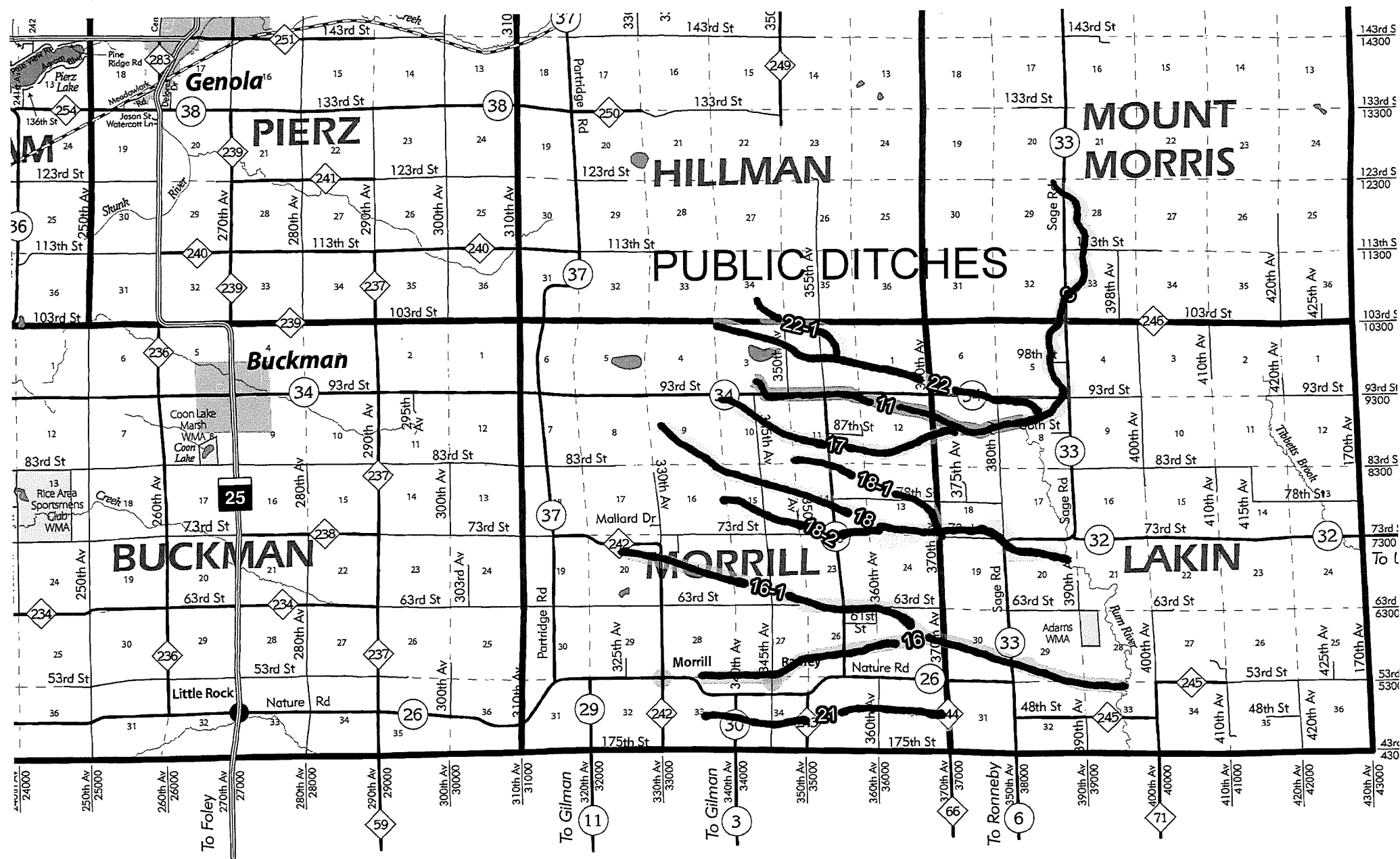


**Findings:**

PD 18 is just over 11.0 miles in total length. The ditch is observable in the field as to its location. There is at least one location that alteration of the original alignment has taken place. There will need to be an engineering investigation of the records and documents to accurately locate the original alignment of this segment. The one rod perennial vegetation along the ditch is in place over all. There are five Morrill Township Road crossings and four County Road crossing on this system. The Morrill Township crossings will require the culverts at road crossing to be inspected and determination made as to their functioning and need of replacement. Cost of replacement are the responsibility of the road authority. Public Ditch 18 system itself is out of repair with it being choked off with vegetation, trees, brush, beaver cuttings and sentiment.

**Recommendation:**

It is my recommendation that the Ditch Authority authorize the Auditor/Treasurer to solicit comment from benefitted property owners on the repair of the system. Following receipt of their comments the Public Works Department will prepare the ditch report for the Ditch Authority. The comments and correspondence from benefitted property owners would be presented to the Ditch Authority along with the Repair Report. The Ditch Authority would then direct the Public Works Department as to what repair actions should be conducted on the ditch. The Ditch Authority will need to determine if the work is in the best interest of the affected property owners along with any other environmental and conservation considerations the Board feels is relevant.



Genola<sup>16</sup>

PIERZ

HILLMAN

MOUNT MORRIS

PUBLIC DITCHES

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BUCKMAN

MORRILL

LAKIN

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To Foley

To Gilman

To Gilman

To Ronneby

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