

10.0 Public Ditches

10.1 Issue Statements

A large portion of the Main Stem of Bassett Creek, downstream of the Medicine Lake outlet, is designated as county ditch. In addition, a portion of the north branch of Bassett Creek, just upstream of its confluence with the Main Stem, is designated as a county ditch. Figure 7 shows these public ditches. Hennepin County is responsible for the management of these ditches, but this responsibility could be turned over to the BCWMC if agreed to by both the county and the BCWMC. Although the county is responsible for their management, the county has not actively maintained the county ditches.

The BCWMC and the member cities perform work in public ditches and Minnesota state law requires they go through the public ditch process to perform this work. This process is cumbersome, so it would be appropriate for the BCWMC to support legislation that eliminates this requirement.

10.2 Goals and Policies

10.2.1. Public Ditches Goals

Manage public ditches in a manner that recognizes their current use as urban drainage systems.

10.2.2. Public Ditches Policies

- A. The BCWMC will support legislation abandoning public ditches in BCWMC and allowing all drainage to be managed in accordance with the BCWMC's latest adopted Plan.
- B. The BCWMC will work with the BWSR to pursue legislation abandoning public ditches on land zoned non-agricultural.
- C. The BCWMC will manage abandoned public ditches that are part of the trunk system and the cities will be responsible for abandoned public ditches that are not on the trunk system, but are currently part of their municipal drainage system.

10.3 Background

County (public) ditches in Hennepin County were established and constructed from 1904 to 1929 to improve agricultural drainage, but now serve as urban drainage systems. In some cases, these ditches are either piped (e.g., portion of County Ditch 18 along Highway 100) or exist only on paper (e.g., upstream portions of Judicial Ditch 6 in St. Louis Park). County Ditch (CD) 18, CD 23, CD 25, and CD 30 are shown as public ditches on the DNR's public waters and public waters wetlands inventory. Although Judicial Ditch (JD) 6 does not appear in this inventory, Hennepin County has no record of formal ditch abandonment. According to the public drainage law (Minnesota Statutes 103E), the County Board is the ditch authority and is responsible for the construction and maintenance of the public ditches. At the time a public ditch is established, the county determines benefits and assesses the construction costs as a special levy on the benefiting properties. The costs of maintaining and repairing public ditches are also levied against the benefiting properties. Hennepin County has not performed any public ditch maintenance or repair projects in the past 30 to 40 years.

Since public ditches in the BCWMC no longer serve their original agricultural purposes, it would seem reasonable to abandon their designation as public ditches. Occasionally, property owners have problems with property transfers because the property was in the original assessment area for the ditch. BCWMC and the cities have also had to go through the county ditch procedures when they have located a control structure on Bassett Creek. Currently, state law (MN Statutes 103D.811) dictates the process for abandoning ditches. The process is cumbersome and expensive, requiring a petition signed by 51 percent of the landowners. Watershed districts are required by statute to accept responsibility for county ditches when requested by the county; joint powers WMOs are not required or allowed to accept such a delegation. To make the process easier, Hennepin County proposed legislation in 2000 that would have allowed the county to transfer the authority for county ditches to joint powers WMOs, who would then not have to follow ditch law. The BCWMC supported this legislation, but it was not acted on by the Legislature.