

Policy Regarding Culverts and Flap Gates Within County/CSAH Highway Rights of Way

The many issues surrounding the construction of public and private crossings and entrances, flap gate applications, and maintenance of drainage related work within Marshall County is a significant part of the Highway Department's operations and a demanding service expected by the Public. A consistently applied program for the funding, furnishing and installation, and maintenance of private entrances, centerline culverts, and flap gate applications is essential for the success in serving the public's needs. The culvert and flap gate policies listed below establishing proper procedures were adopted by the Marshall County Board of Commissioners at the regularly scheduled board meeting on **January 18, 2005**, as they apply to use within Public Drainage Systems under County Board jurisdiction, and County/County State Aid Highway Rights of Way.

I. Culverts for Private Entrances over Roadside Ditches

Minnesota Statutes, Section 160.18, addresses the establishment of a policy for the furnishing of a culvert to an abutting owner when a culvert is necessary for suitable access to a County and State Aid Road, and such policy may include provisions for the payment of all or part of the costs of furnishing such culverts by the abutting landowner.

It is therefore established by the Marshall County Board of Commissioners that the following provisions apply to the furnishing and installation of private entrance culverts to County and County State Aid Highways:

- 1) The County Highway Department shall furnish each abutting landowner culverts for access to property as follows:
 - A. A maximum of 1 per active Building Site
 - B. 1 per maximum of ½ mile and minimum of 40 acre parcel size
 - C. 1 additional entrance allowed per 160 acre minimum size parcel if divided by an active natural waterway preventing reasonable access to all parts of property.

For new entrances, Culvert material costs in excess of \$1200 shall be the responsibility of the landowner. For the replacement of existing entrance culverts, the County will pay all culvert material costs.

- 2) Landowners will bear full responsibility and cost obligation for all new installations of entrance culverts. The County Highway Department may provide installation services at the landowners expense.
- 3) The County Highway Department will maintain existing entrances which satisfy the requirements of 1) above. Both furnishing and installation costs associated with this work will be funded fully by the County, except all backfill material necessary for culvert replacement shall be provided by the landowner on site at no expense to the County. Additional existing entrances shall be maintained by the landowner.

- 4) Entrance dimensions and culvert length-diameter-elevation will be determined by the County Highway Department. Location shall be approved by the Highway Department. Minimum geometric standards of the entrance will be in accordance with MnDOT Standard Plate 9000D.
- 5) Relocation of existing entrances which satisfy 1) above shall be at the landowners expense, unless the useful life of the existing culvert has expired. Backfill material shall be provided by the landowner on site.
- 6) Where land is subdivided, internal service roads may be required in order to minimize the number of road entrances for access to the property. Where a service road entrance is not feasible, one culvert shall be furnished for each landowner.
- 7) All private entrance culverts placed within the right of way of County State-Aid Highways and County roads shall become the property of Marshall County regardless of their origin.
- 8) Private entrances shall be installed only for the purpose of access to private property, not for the intent to divert the natural flow of water.
- 9) Minnesota Statue Section 103E regarding legal drainage ditch crossings shall supersede the above described local policies. See section below for policies regarding legal drainage systems.
- 10) Culvert related work within the County Right of Way not performed by County forces may require a permit from the County Highway Department and/or Watershed Authority outlining size, installation, elevation, location, and entrance geometry requirements.

II. Culverts for Private Entrances over Legal Ditch Systems

Culverts for private entrances onto County and County State Aid Highways may be handled differently when the culvert is placed in a legal ditch system than when over a simple roadside ditch.

Section 103E.701, Subdivision 4, describes the responsibility of the Ditch System for the maintenance of entrances installed as part of the original ditch construction or improvement proceedings,

Therefore, the following provisions regarding the maintenance of existing and the construction of new private entrances over legal ditch systems shall be complied with:

- 1) Private approaches installed as part of the original ditch system shall be maintained in whole by ditch system funds regardless of the date the ditch system was originally established.
- 2) The construction of new private approaches not installed as part of the original ditch system shall in no part be funded with ditch system funds.

- 3) Construction of new private entrances accessing public roads and crossing legal ditch systems shall be funded according to the respective road authority's policies regarding private entrances.
- 4) Construction of new private entrances accessing unrecorded roads, shall be funded according to the respective township policies.
- 5) The County Highway Department's responsibilities for new private entrances over Legal Ditch Systems shall be the same as that described for **Culverts for Entrances over Roadside Ditches**.

In addition, this policy shall not supersede Mn Statute Section 103E regarding legal drainage systems.

III. Culverts through Public Roads over Legal Drainage Systems

Mn Statute 103E.701 Subd.4 addresses the maintenance responsibility of culverts and bridges on public roads over legal ditch systems which were established after March 25, 1947.

The above referenced Statute does not address the authoritative body responsible for maintaining culverts and bridges crossing legal ditch systems which were established prior to March 25, 1947.

Therefore, the Marshall County Board of Commissioners will adopt as its policy, that all culverts and bridges on public roads crossing legal ditch systems shall be maintained by the authoritative body having jurisdiction over that public road which crosses the legal ditch system. This includes public road entrances accessing another public road and crossing a legal ditch system. All costs associated with repair and/or replacement work associated with the public entrance shall be borne by the Public Road Authority of the road which crosses the ditch system.

Furthermore, this policy shall apply regardless of the date the ditch was established or how the original construction costs of the structure were funded.

IV. Centerline Culverts through County/CSAH Highways

Minnesota Statutes 160.20 and 163.02 provide for maintenance of roads, bridges, and culverts within the authority of Marshall County.

A policy regarding additions or alterations of new or existing centerline culverts not required for the necessary function of the County and/or State Aid Road is necessary to maintain consistency within the County.

Therefore, it is concluded that costs of adding or altering centerline culverts for the primary purpose of promoting or improving drainage of abutting land shall be borne by the benefitted landowner(s). All

work required for the installation and/or maintenance and removal of centerline culverts shall be performed by County forces or County authorized contractors. In all cases under this policy all costs of materials and labor shall be borne by the benefitted landowner(s).

Furthermore, when the County, Soil Conservation Service, or local watershed determine that the County or County State Aid Highway is not providing adequate drainage ability to serve at least 40 acres of land in agricultural production, the County shall bear the cost to furnish and install a new centerline culvert at that location.

In addition, any culverts furnished in total or in part by private property owners and installed on County Road right of way shall become the property of Marshall County.

Any work within the County right of way not performed by County forces requires a permit from the County Highway Department and/or Watershed Authority, outlining size, installation, location, backfilling, and signing requirements. Permits shall not be issued to private individuals or landowners to perform work within the roadway portion of County right of way.

V. Flap gates Within County/CSAH Right of Way

Flap gates have potential to control the natural movement of flood water either overland or out of a channel.

Although flap gates may be beneficial to some landowners they may be detrimental to others at the same location, as there is potential to unfairly and unnaturally distribute flood waters.

Therefore, in consideration of the above, the Marshall County Board of Commissioners will adopt the following policies on flap gates:

- 1) The County will not furnish, install, replace, maintain or accept any liabilities associated with flap gates on culverts through County or County State Aid Highways when water from a natural watercourse is involved, unless the specific site is approved by the Marshall County Board of Commissioners. If approved, the landowner would assume all associated furnishing and installation costs, maintenance and liabilities. If the County Board determines the flap gate benefits a general interest of the County, then the County may assume all costs, maintenance and liabilities associated with the flapgate.
- 2) The County will salvage or install new, any existing flap gates affected by a highway construction project.
- 3) The County will not furnish, install, replace, maintain or accept any liabilities associated with flap gates on a ditch system unless it can be verified that the flap gates were installed as part of the original ditch system proceedings. The County Board of Commissioners may allow the installation of new flap gates, but all associated costs, maintenance, and liability of the flap gate will be borne by the requesting landowner. If it is determined by the ditch authority that the proposed flap gate maintains or preserves the efficiency of the ditch, then the ditch system may assume all costs and liabilities associated with the flap gate.