

Maintenance Memorandum

Date: March 25, 1985

Subject: Maintenance of County Drain Culverts and Bridges Under State Trunklines

For your review, I have enclosed two letters which relate to the subject of maintenance of county drain culverts and bridges under state trunklines. These letters reiterate the policy of the Department regarding this matter.

In addition, I have prepared and enclosed a flow chart of the procedural process for making improvements to county drains. (no longer attached)

It is important that a uniform application of the Department's policy be applied with respect to our involvement with drain commissioners.

Please share this information with those of your staff who have dealings with this subject.

A. Ross Heath
Drainage Engineer
(Signature on file)

Attachments

“Letter to William P. Rosebush - Re: Mill Pond County Drain @ I-75”; 2 pgs.

“Letter to Hon. Donald Van Singel - Re: Vandewater Drain”; 2 pgs.

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Mr. William P. Rosebush
Bay County Drain Commission
Bay County Building
Bay County, Michigan 48706

Dear Mr. Rosebush:

Re: Mill Pond County Drain @ I-75
Bay County - Monitor Township
C.S. 09035

I appreciate the opportunity to discuss with you the issue of maintaining the flow line in culverts located within the limited access right of way of I-75. The Michigan Department of Transportation (MDOT) as part of the construction of I-75 installed culverts under I-75 in an effort to provide continuity for the Mill Pond County Drain.

In regard to these culverts, it has been and continues to be the policy of MDOT that:

1. If any person desires during construction or reconstruction of a highway to install a drain for agricultural benefits in lands adjacent to any highway, and if a satisfactory outlet cannot be secured on the upper side of the highway right of way and the drain must be projected across the right of way to reach an outlet which may be legally utilized as an outlet and is suitable for such purpose, the expense of both material and labor used in installing the drain across the right of way shall be paid from funds available for the highway affected if the highway authority is notified of the necessity of the drain sufficiently in advance of the construction or reconstruction of the highway so that the drain may be installed and the highway constructed or reconstructed in the same operation. See Michigan Drain code of 1956, Act 40 of the Public Acts of 1956; Chapter 13, Sec. 280.322b.
2. Following construction of said culverts as described in paragraph 1 (immediately above), the structural adequacy of the culverts, shall be the responsibility of the Department and any costs expended for maintaining the structural adequacy shall be borne by the MDOT. See Michigan's Drain Code of 1956; Act 40 of the Public Acts of 1956; Chapter 13, Sec. 280.322.
3. Following construction of said culverts, as described in paragraph 1, above, the culvert being an integral part of the county drain system, such an item as maintaining the flow line of the county drain which would include but not be limited to cleaning out the culverts would be a responsibility of the county drain commissioner. See Michigan Drain Code of 1956, Act 40 of Public Acts of 1956; Chapter 13, Sec. 280.322.

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The Department, therefore, would normally be assessed for the cleaning of the culvert as a property owner, equally situated with all other property owners in the drainage district, based upon the normal contribution/benefit formulas as described in Section 14a, Act No. 327 of the Public Acts of 1972.

This policy, as above enunciated, has been uniformly used throughout the State and has been accepted by the several drain commissioners.

Should any further question arise regarding this matter, please do not hesitate to contact me.

Regards,

A. Ross Heath
Drainage Engineer
Engineering Services Division
(Signature on file)

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Hon. Donald Van Singel
Michigan State Representative
The Capitol
Lansing, Michigan 48909

Dear Representative Van Singel:

Re: Vandewater Drain
Maintenance of Culverts within State Trunkline Rights of Way
City of Lakeview
CS: 59042

County drains are administered by the County Drain Commissioners. The authority and responsibility for this administration flows primarily from the Michigan Drain Code of 1956, 1956 PA 40, MCLA 280.154 et. seq.; MSA 11.1154 et. seq.; This authority allows the County Drain Commissioners, in accordance with statutorily prescribed procedures, to establish drainage districts, locate county drains and provide for the construction and maintenance of county drains.

Costs incurred in maintaining culverts under state trunklines have been a concern of many of the county drain commissioners. Sections 280.322 and 280.322b of the Drain Code specifically relate to the question of maintenance of bridges or culverts within state trunkline rights of way. These sections have been interpreted to mean the following:

- I. Should any person desire during construction or reconstruction of a state trunkline to install a bridge or culvert across the right of way to properly drain lands adjacent to the state trunkline, the Michigan Department of Transportation shall provide funds for the construction of the necessary bridges or culverts.
- II. Should a county drain commissioner locate a county drain such that it crosses an existing state trunkline, the cost of constructing the necessary bridges or culverts shall be charged in the first instance as part of construction of such a drain and as such shall be chargeable to the freeholders within the established drainage district.
- III. Culverts or bridges constructed in accordance with paragraphs I and II immediately above shall be maintained by the Michigan Department of Transportation.

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NOTE: Maintained has been interpreted to mean maintain the structural integrity of the bridge or culvert, i.e., the physical aspect of the structure. Maintained does not mean maintaining the hydraulic grade line of the county drain which would involve, but not be limited to, widening, deepening, cleaning, straightening, or relocating of said county drain.

- IV. If the county drain commissioner shall make future improvements such as widening, deepening, straightening or relocating such drain, but not clean out alone, there shall be constructed the necessary bridges or culverts as part of such improvement and as such, the total cost of such an improvement will be borne by all freeholders in the designated drainage district.

The Director of the Michigan Department of Agriculture has been empowered, through the Drain Code, with the authority to arbitrate disputes regarding assessments of benefits for drainage. Much of the interpretation of the Drain Code comes from these assessment disputes. Additionally, several Attorney General Opinions relate to this subject.

For your review, I have enclosed the applicable sections of the Drain Code as well as the Attorney General Opinions regarding this matter. (no longer attached)

Should you have further questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A. Ross Heath
Drainage Engineer
Engineering Services Division
(Signature on file)