



ANOKA COUNTY ATTORNEY

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August 11, 2004

TO: Larry Hoiium, County Surveyor
FROM: Pamela McCabe, Assistant County Attorney
RE: County Ditch No. 14

I am writing in response to your inquiry about County Ditch No. 14 as it relates to a proposed plat.

Your office currently is reviewing a proposed plat that includes an area through which the original County Ditch No. 14 was originally constructed during the 19th century. A number of years later in the early 1920s as part of repair proceedings authorized by the County Board, the ditch was reconstructed. During this repair, the county engineer appointed by the County Board for this repair project realigned the ditch and provided two branches to the ditch.

As part of the contract for this ditch project, the engineer provided that fill from the construction should be placed in the old ditch. The engineer's survey and map includes a portion of the original alignment of County Ditch No. 14 as Branch 2. County Ditch No. 14 as constructed as part of the repair project passes south of the property involved in the proposed plat.

The portion of original alignment that is involved in the proposed plat was not included as part of either Branch 1 or Branch 2. On the County Engineer map, this portion was labeled original location.

Current drainage statutes have specific requirements for the improvement of a drainage system and require a repair project to be converted to an improvement project in order to lengthen, widen, deepen, or change the channel of an existing county ditch. But the repair activities at issue in this situation were undertaken in 1920 and were subject to different statutes applicable to county ditches.

Except for that portion used as Branch 2, the detailed specifications of the engineer do not include the original alignment as a continuing portion of County Ditch No. 14. The 1971 County Ditch Map does not show County Ditch No. 14 as including the original alignment. The Public Ditch Inventory completed in 1992 also does not include the original alignment. County Ditch No. 14 is depicted with two branches and the main ditch passing south of the property being platted. This is the configuration of County Ditch No. 14 that has existed since 1922.

The 1992 Public Ditch Inventory also notes the fact that several additional ditches have been tied into County Ditch No. 14. These additional ditches are classified as private ditches that would facilitate drainage of the benefited properties. The additional ditches are not classified as branches and do not function as part of the county ditch. The property owner may have continued to use a portion of the original ditch configuration as a private ditch.

Based on these facts, I would recommend that the proposed plat be revised to eliminate the depiction of a county ditch on this property.

cc: Jon Olson, Anoka County Ditch Inspector