

# COUNTY OF ANOKA

## PUBLIC SERVICES DIVISION

*-Highway -Parks & Recreation -Surveyor -GIS -Transit -Administration  
Integrated Waste Management License Centers*

GOVERNMENT CENTER

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**JON G. OLSON, P.E.**  
Division Manager  
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jon.olson@co.anoka.mn.us

May 2, 2013

Julie Landru  
8752 Viking Boulevard NW  
Nowthen, MN 55330

SUBJECT: Ditch Along Property

Dear Ms. Landru:

As we discussed, I have asked for and received the attached County Attorney opinion on your ditch issue. Anoka County does not have a "cause of action" in this matter as I suggested. Therefore, your course of action is outlined on the second page of the attached letter.

Sincerely,

Jon G. Olson, P.E.  
Division Manager, Public Services

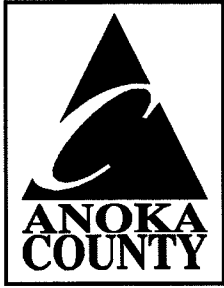
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Attachment

Copies to:

Aaron Diehl, Wetland Specialist, Anoka Conservation District, 1318 McKay Drive NE, Suite 300,  
Ham Lake, MN 55304

Christine Carney, Assistant County Attorney, Anoka County Government Center



## ANOCA COUNTY ATTORNEY

TONY PALUMBO

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April 25, 2013

TO: Jon Olson, Public Services Manager  
FROM: Christine Carney, Assistant County Attorney  
RE: Concern of property owner, Julie Landru, in Nowthen, MN

**This Memorandum is intended for use by the Public Services Division Manager and staff. This is not intended to constitute legal advice to any third party.**

It is my understanding that Aaron Diehl of the Anoka Conservation District contacted your office on or about April 15, 2013, with a concern raised by property owner, Julie Landru, who lives in Nowthen, MN. I also understand that you and Mr. Diehl then visited Ms. Landru's property on April 16, 2013, to take a closer look at her concerns regarding a neighbor's ditch.

Based upon my conversation with you after inspection of the property, I believe the relevant facts are as follows. Ms. Landru's neighbor has constructed a deep ditch, which runs along the eastern side, parallel to Ms. Landru's property. From the photos provided by your office, it appears that no portion of this ditch is located on Ms. Landru's property. It also appears that the private ditch drains at the southeastern corner into County Ditch 28 ("CD 28"). From your inspection of the ditch, you and Mr. Diehl were able to confirm that (1) no wetlands were impacted in construction of the ditch, and (2) the property is located in the watershed boundary of CD 28; therefore, the property owner has the right to drainage.

Our office has further reviewed these facts, and relevant law, to determine if there is further action Anoka County should take regarding this matter. Minnesota Statutes §103E.011 outlines the powers of the drainage authority. Most of the powers given to the drainage authority relate to the establishment of or maintenance of drainage systems. If the private ditch was obstructed or not functioning properly, the County may have a cause of action to pursue the removal of the obstruction, to the extent CD 28 may also be impacted. Based upon your inspection of the ditch, this does not appear to be the situation.

I understand Ms. Landru is also concerned about safety, in light of the depth and slope of the neighboring ditch. Because this concern involves private property owner's rights, it is a private civil matter, which the County cannot pursue.

Often, disputes between private landowners are resolved in mediation. Ms. Landru may certainly attempt mediation, if she cannot resolve her issues with her neighbor more informally. Alternatively, Ms. Landru may wish to contact the City of Nowthen, or to consult a private attorney, to discuss other options that may be available. Any action taken by Ms. Landru is her decision and should not be based upon any advice from the Anoka County Attorney's Office.

In summary, based upon my review of the current law and the facts presented, it is my legal opinion that Anoka County does not have a cause of action relating to the private ditch neighboring Ms. Landru's property in Nowthen, MN. Please feel free to contact me if have any questions or concerns regarding this matter.

cc: Dave Cossi, Chief Deputy Anoka County Attorney  
Nancy Norman Sommer, Assistant Anoka County Attorney