



MUSKEGON COUNTY
M I C H I G A N
OFFICE OF THE DRAIN COMMISSIONER



Brenda M. Moore
Drain Commissioner
moorebr@co.muskegon.mi.us

141 E. Apple Avenue
Muskegon, Michigan
49442-3404

231-724-6219
(Fax) 231-724-3480
www.co.muskegon.mi.us/492/Drain-Commissioner

Flood Water Issues; 2020 update

Each year we receive numerous calls from frustrated property owners who want help with flooding issues. The worst thing about these calls is that most of the time nothing can be done immediately about the situation because the water must subside before equipment can be brought in; no matter who provides assistance in the situation. For example, when water is high it is very difficult to determine if a culvert is clogged, undersized, or collapsed. The *toughest* situation is frozen ground in the spring, a quick melt, and then rain. Water that would normally soak into the ground is rushing overland and clogging drainage systems. This situation is magnified, in part, because groundwater levels are now on the rise and soils cannot absorb as much water as they once could. This cycle is expected to continue for several more years.

The other unfortunate truth about the calls we receive is our office only has jurisdiction over established county drains. Legally we cannot work in most roadside ditches or intervene in private drainage matters. We do try, however, to provide information to help residents work through their problem. Following is information regarding the most common issues we get calls about.

Flooded Roads and Road Ditches

When the ground is frozen and there is a quick thaw, road ditches can back up quickly. Since road ditches must be contained within the limits of the road right-of-way, there is only so much room to accommodate water. It is the County Road Commission (not the Drain Commissioner's office) that most often has the responsibility for maintaining roadside ditches. Their number is **788-2381**. In cities it is the local department of public works that has jurisdiction over street drainage.

It is important to note that while the Road Commission is supposed to maintain most roadside ditches in townships; 1) the roadside ditches are meant to drain the roadway, not private property, and; 2) private culverts to driveways are the responsibility of each property owner to maintain.

Further, property owners are supposed to obtain permits from the Road Commission to place a culvert in the road ditch, but they don't always do so. Part of the permit process addresses proper sizing and placement of the driveway culvert. Aside of a rush of storm water or snowmelt hitting a road drain in a short time, following are common problems associated with private culverts that can impact the entire road ditch:

- A property owner (or contractor) uses a culvert that is too small to properly pass water through the system.
- A property owner (or contractor) sets the culvert too high or too low in the ditch line, backing up water.
- A culvert becomes clogged with mud/debris due to lack of owner maintenance, limiting its ability to pass water.
- An aged culvert collapses and acts as a dam.
- The ditch has been used by people to dispose of soil, yard waste or other debris, obstructing its flow.
- Someone fills their part of the ditch to get to their property rather than using a culvert to pass water.

Again, driveway culverts are the responsibility of private property owners. One problem culvert can impact numerous properties and become the subject of a civil law suit (i.e., one neighbor sues another). The County Road Commission has enforcement authority in the case of troublesome road culverts. When a section of road ditch is part of a county drain, the Drain Commissioner has enforcement authority as well.

Property owners pumping water onto another person's land or doing something physically to the earth to change surface water flow.

Property owners are not supposed to unnaturally shed their water on neighboring properties, nor are they supposed to make changes to the earth to redirect or add to natural flow. When this occurs one land owner is affecting another land owner's property rights. These cases are civil matters between property owners, i.e., you must work it out with the neighbor or take legal action against them. If the earth changes are associated with new construction, the Building Code addresses site drainage. Building Codes are administered by local units of government.

There is also the concept of "natural flow doctrine," which means if water flow is coming over the land and it is part of a natural or historically established drainage system, it is not supposed to be tampered with. Sometimes a property receives this "natural flow" across it and not much can be done about the situation.

Water in Basements

Water can get into basements when surface water backs up because natural or manmade drainage systems are overly taxed. The most common source of water in basements, however, comes from ground water. Although surface water and ground water often cross paths, they can also act independently.

There is an "ordinary high groundwater" mark that can be seen when digging below the soil; it is a line where groundwater has discolored the soil by oxidation. This is called the "mottling" line. Because of our proximity to Lake Michigan there are many areas in the county with high groundwater. Groundwater levels are cyclical and can vary in depth over decades. Unfortunately, many homes built in the last several decades were built during low groundwater. Some builders were not diligent about keeping basement floors above the ordinary high groundwater mark (mottling line). Also, if a structure is known to have flooding issues the property owner or Realtor are supposed to disclose that information as part of a sale.

Ground water is rising again and many homes that have not had problems in the past are having them now.

People in high groundwater areas take numerous measures to protect their property, see also: "*I have water in my basement*," on our website: www.co.muskegon.mi.us/492/Drain-Commissioner or call our office to get a copy sent to you; 724-6219.

Special assistance to address area wide drainage issues

In cases where drainage issues affect multiple properties or long expanses of roadway the option of a special road or drainage project is possible. However, this requires citizen petitions and results in a special assessment to the properties served. The township can work through a special assessment process for road ditch improvements. The Drain Commissioner's office can take petitions for drainage projects from a local community, citizens, or the Road Commission.