

# TECH NEWS

## TECHNOLOGY NEWS

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## Understanding drainage law

The *Iowa Drainage Law Manual* is now available to Iowa transportation agencies. Sponsored by the Iowa Highway Research Board (TR-497), this reference includes the following information:

- frequently asked questions
- examples of practical solutions
- summaries of Iowa and federal law related to drainage, including case law
- brief articles on stormwater management, wetlands and mitigation, and drainage easements and agreements
- a glossary of common terms and typical policies and agreement forms used by agencies to address drainage issues

Although the manual summarizes and references the laws most relevant to drainage, it should not be considered a substitute for legal advice.

Copies of the manual have been distributed to county engineers, county auditors with established drainage districts, larger cities, and Iowa DOT districts.

## General concepts

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Iowa relies on a broad system of drainage-related laws established in several forms: common law, statutory law, and case law. For many aspects of drainage law, however, specific legal rules are not available.

Most of the pertinent legal precepts were established early in the twentieth century. Some, as with case law, may be more precisely defined even today. Federal statutes further define requirements regarding drainage of rural lands.

In general, perpetuating natural drainage is the recommended course of action. Essentially, water runs

## Legal significance of drainage

Drainage is a major issue in Iowa. More than 90 percent of Iowa land is suitable for agricultural purposes, but millions of acres must be artificially drained to achieve maximum productivity.

Most of this drainage has been accomplished with an extensive network of levees, open ditches, and underground tiles. The U. S. Census Bureau estimated that as early as 1920 approximately nine million acres of Iowa land had been artificially drained or needed to be drained.

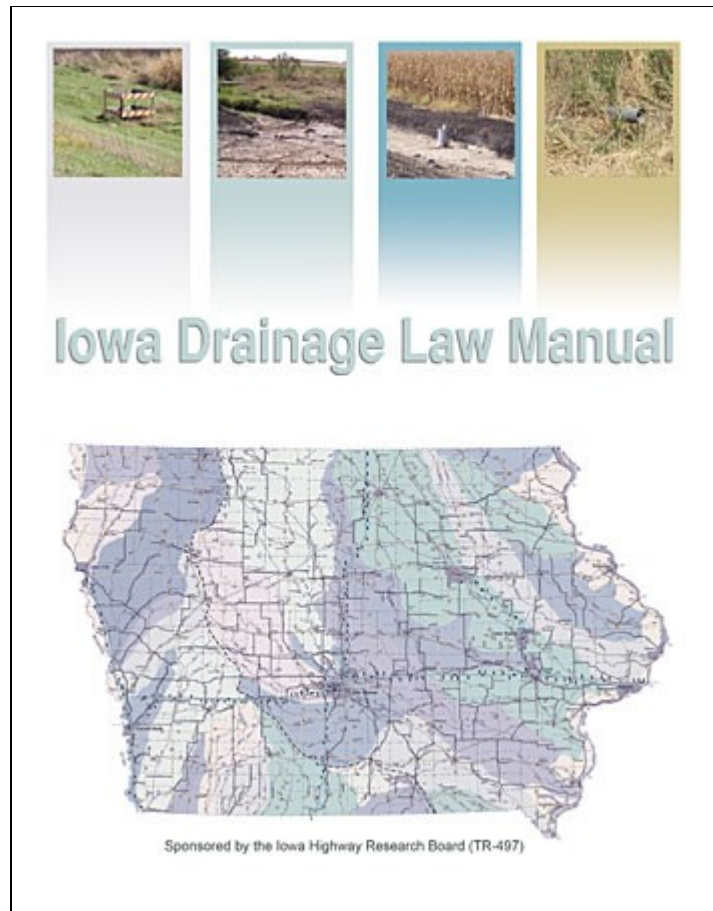
Iowa's extensive road system must accommodate this drainage. Local agencies are responsible for nearly 90,000 miles of roads and streets. Considering the millions of acres that must be drained, especially farm land, the potential for conflict is clear.

downhill, so it's natural that downstream or lower land receives runoff from upstream or higher land. Iowa courts have ruled that lower lands are obligated to receive all natural drainage and cannot obstruct that natural flow to the detriment of upstream property.

Property owners can make *reasonable* drainage improvements to their land, even if they have some effects on neighboring property. But if substantial damage results, the courts may consider certain improvements *unreasonable*, and may consequently assess damages and order the improvement removed.

Under Iowa common law, cities and counties have the same rights and obligations and are subject to the same liabilities as private citizens in the control and disposition of drainage. But public agencies are generally held to higher standards than private interests.

With urban expansion resulting in residential and commercial development of rural land, disagreements about the maintenance of drainage will continue to arise. To avoid conflict and potential liability over drainage, agencies should always look for solutions and opportunities for cooperative action between agencies and property owners.



## For more information

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If you have questions, contact Tom McDonald, Iowa's safety circuit rider and primary author of the drainage law manual, 515-294-6384, [tmcdonal@iastate.edu](mailto:tmcdonal@iastate.edu).

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