

MICHIGAN ASSOCIATION OF COUNTY DRAIN COMMISSIONERS



April 19, 2023

macdc.us

DRAIN/WATER RESOURCES COMMISSIONER

Statutory “Hats”

- Administers Drain Code of 1956
- County Enforcing Agency for Soil and Sedimentation Control (Part 91)
- Delegated Authority regarding inland lake levels (Part 307)
- County Parks and Recreation Commission
- County Board of Public Works
- Lake Improvement Boards (Part 309)
- Land Division and Plats/Storm Water Reviews



“The Drain Code of 1956 is an exceedingly complex statute, the provisions of which apparently are known by few in the profession and understood by far fewer.”

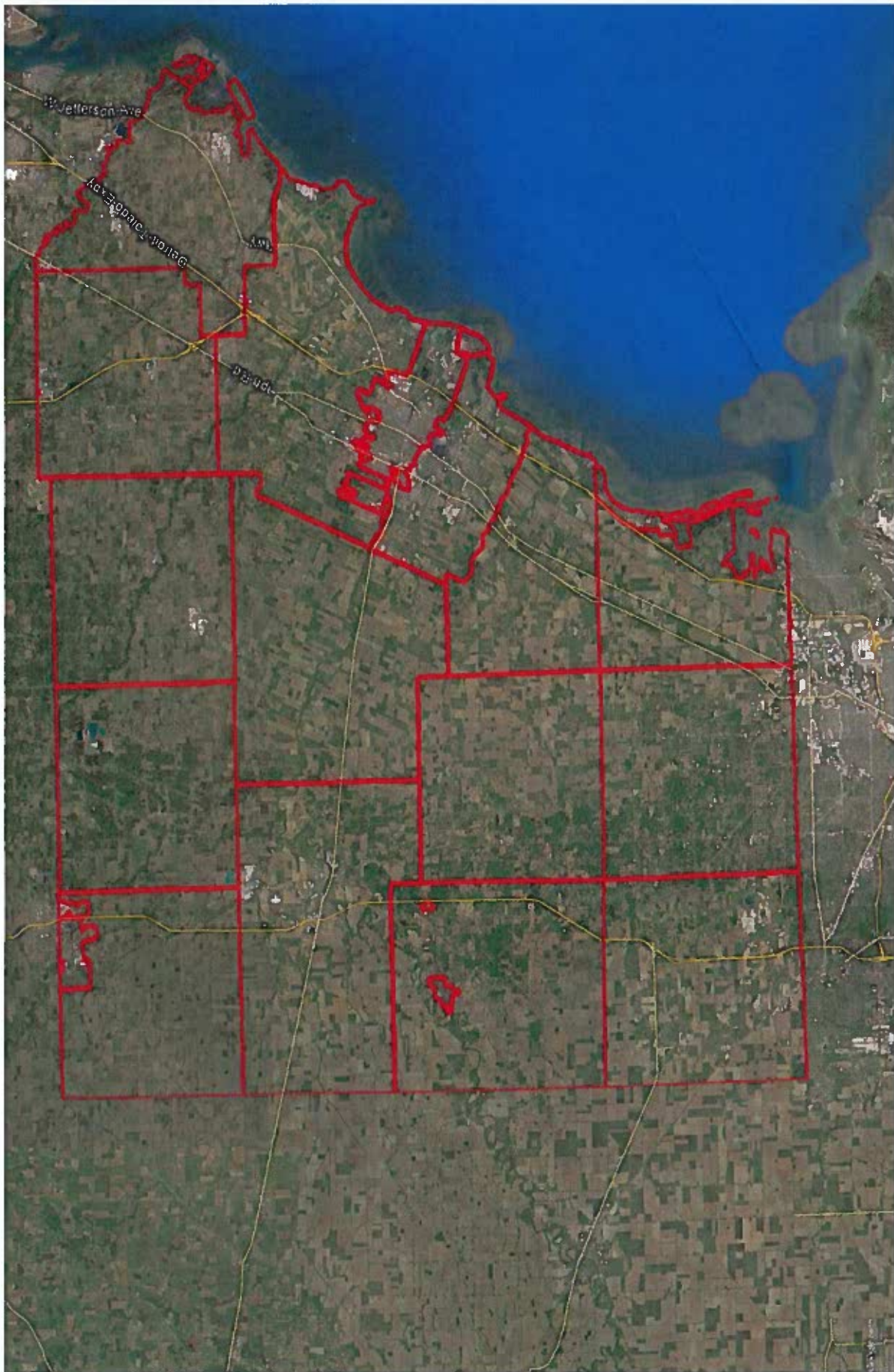
- Justice Stephen Markman

Elba Township v Gratiot Co Drain Comm’r

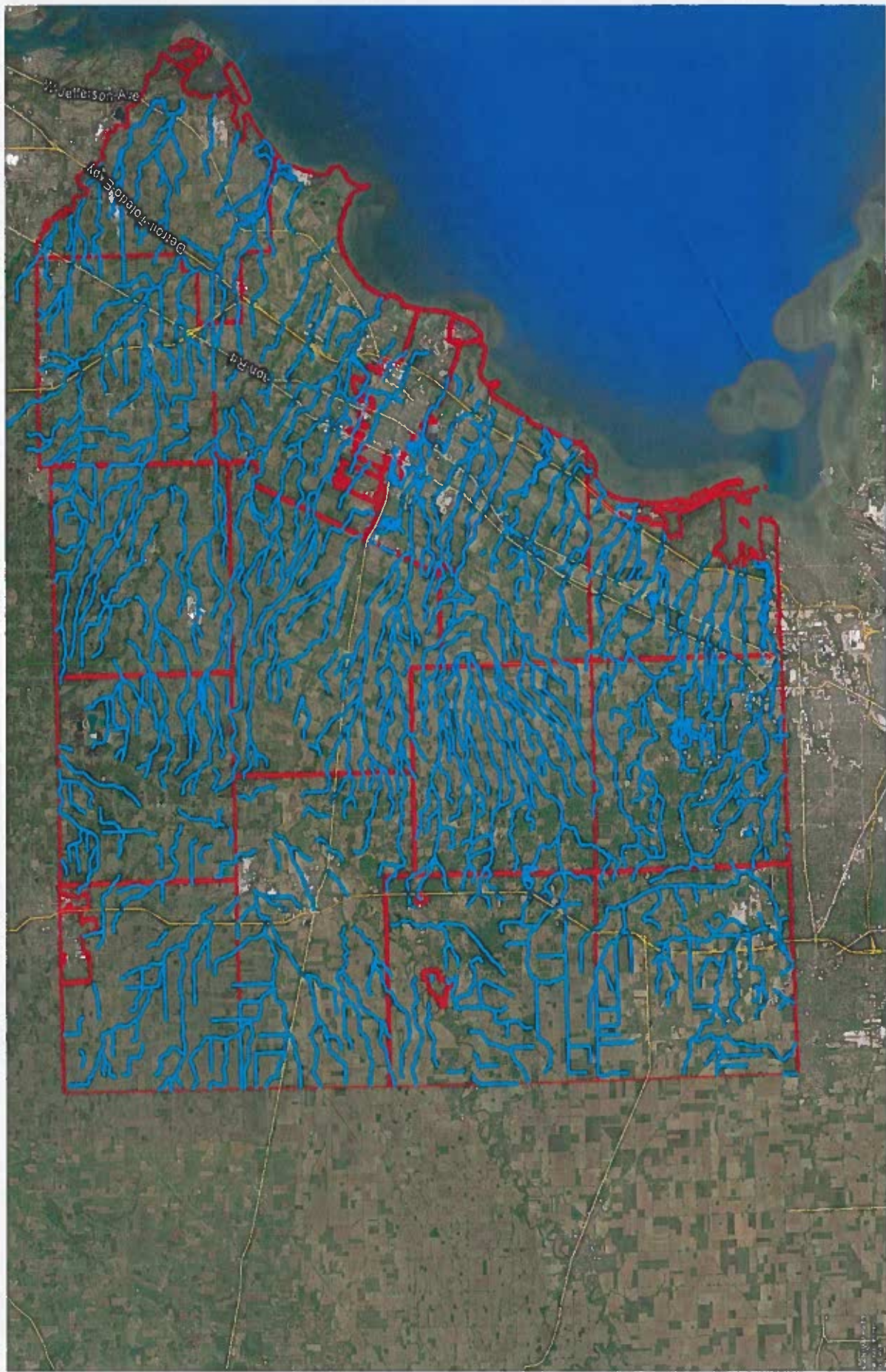
493 Mich 265, 269; 831 NW2d 204 (2013)



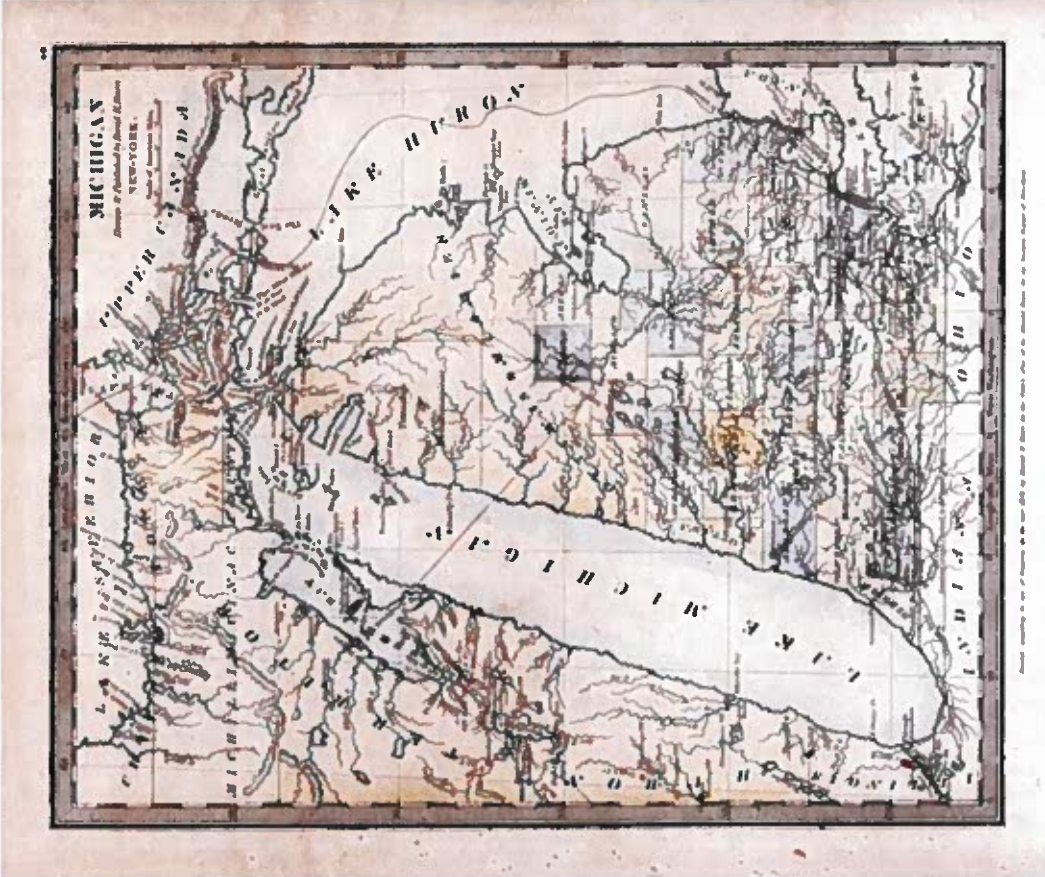
MONROE COUNTY



MONROE COUNTY



MICHIGAN – THE LAND BEFORE DRAINS



Tiffin Report

“Michigan apparently consisted of swamps, lakes, and poor, sandy soil **not worth the cost of surveying.** Not more than one acre in a hundred, or perhaps a thousand, could be cultivated.” (1816)



MICHIGAN – THE LAND BEFORE DRAINS

- Lansing under “several feet” of water when the first settlers arrived (1835)
- “Intermittent fever” and typhoid forced the abandonment of Fort Saginaw. (1823)
- Cholera outbreaks in 1832, 1834, 1849
 - In 1834, 7% of Detroit’s population died from cholera.



*“Don’t go to Michigan, that land of ills;
The word means ague, fever, and chills”*

HISTORY OF DRAINAGE AND DRAIN STATUTES



- First drainage statutes enacted well before statehood as Territorial Writs
 - 1819 – Drainage and Highway construction
 - 1827 – Drainage and Property disputes
 - Fenceviewer system – local property owners resolved disputes
 - Township had control
- Drain law codified within two years of Michigan attaining statehood

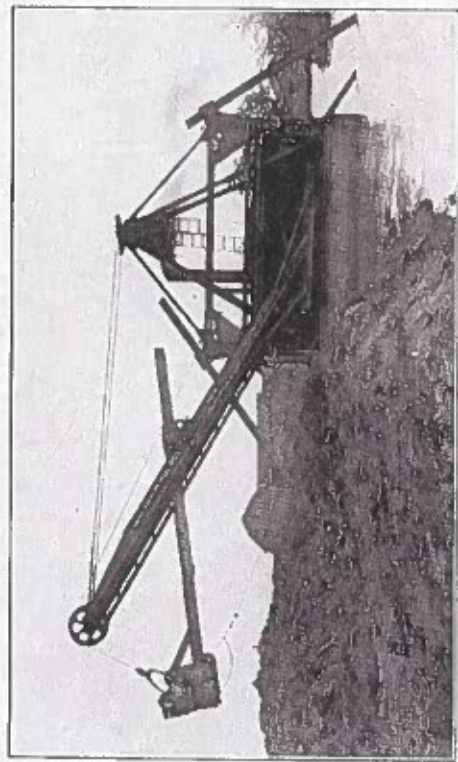
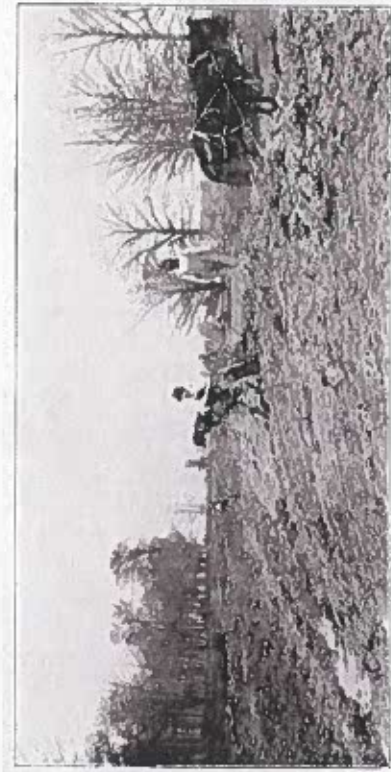


HISTORY OF DRAINAGE AND DRAIN STATUTES

- Major re-codification of the Drain Code in 1923
 - First use of drainage districts
 - Issuance of bonds authorized (1925)
- Sanitary Sewage System
 - 1880s-1900: Disposal of sanitary sewage by dilution (i.e. discharging into rivers, streams and lakes) commonplace in large cities along the Great Lakes
 - 1910s-1920s: Sanitarians began to criticize methods and think of alternative means



EARLY DRAINAGE TECHNIQUES



HISTORY OF DRAINAGE AND DRAIN STATUTES

The Drain Code of 1956

- Over 20 chapters covering drain law
- Increasing complexity of drainage required a recodification
- Over 200 amendments since the 1956 codification
- Drain Code remains grounded in the territorial writs and early statutes



Michigan Drain
Code of 1956

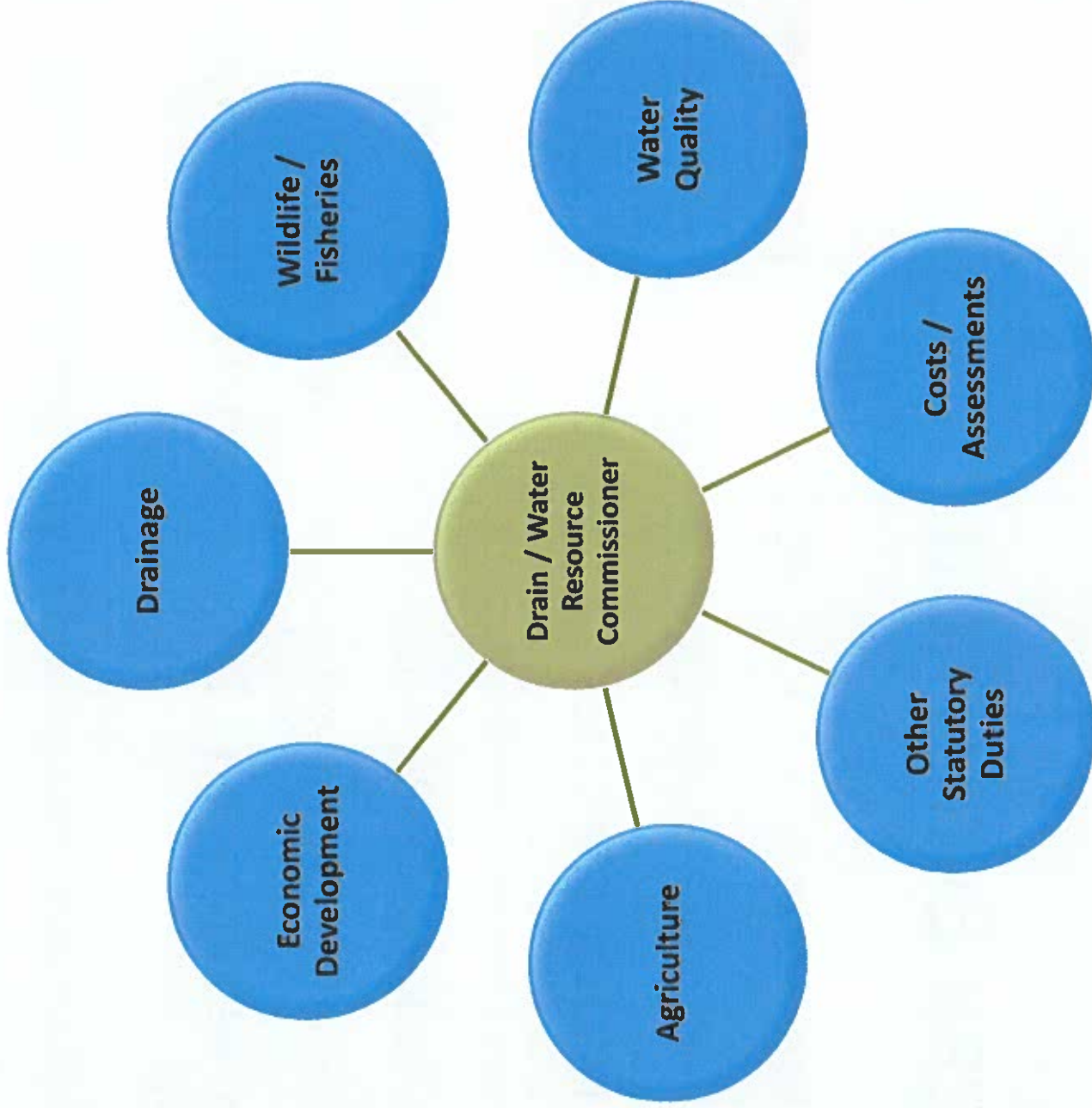


MODERN EVOLUTION

- Anderson-Rockwell Environmental Protection Act of 1970
- Clean Water Act of 1972
- Other Michigan Statutes
 - Inland Lakes and Streams Act (1972)
 - Soil Erosion and Sedimentation Control Act (1972)
 - Goemaere-Anderson Wetlands Protection Act (1979)
- Natural Resources and Environmental Protection Act (NREPA)
 - Passed to shelter the various environmental laws (1995)



BALANCING THE MODERN ROLE



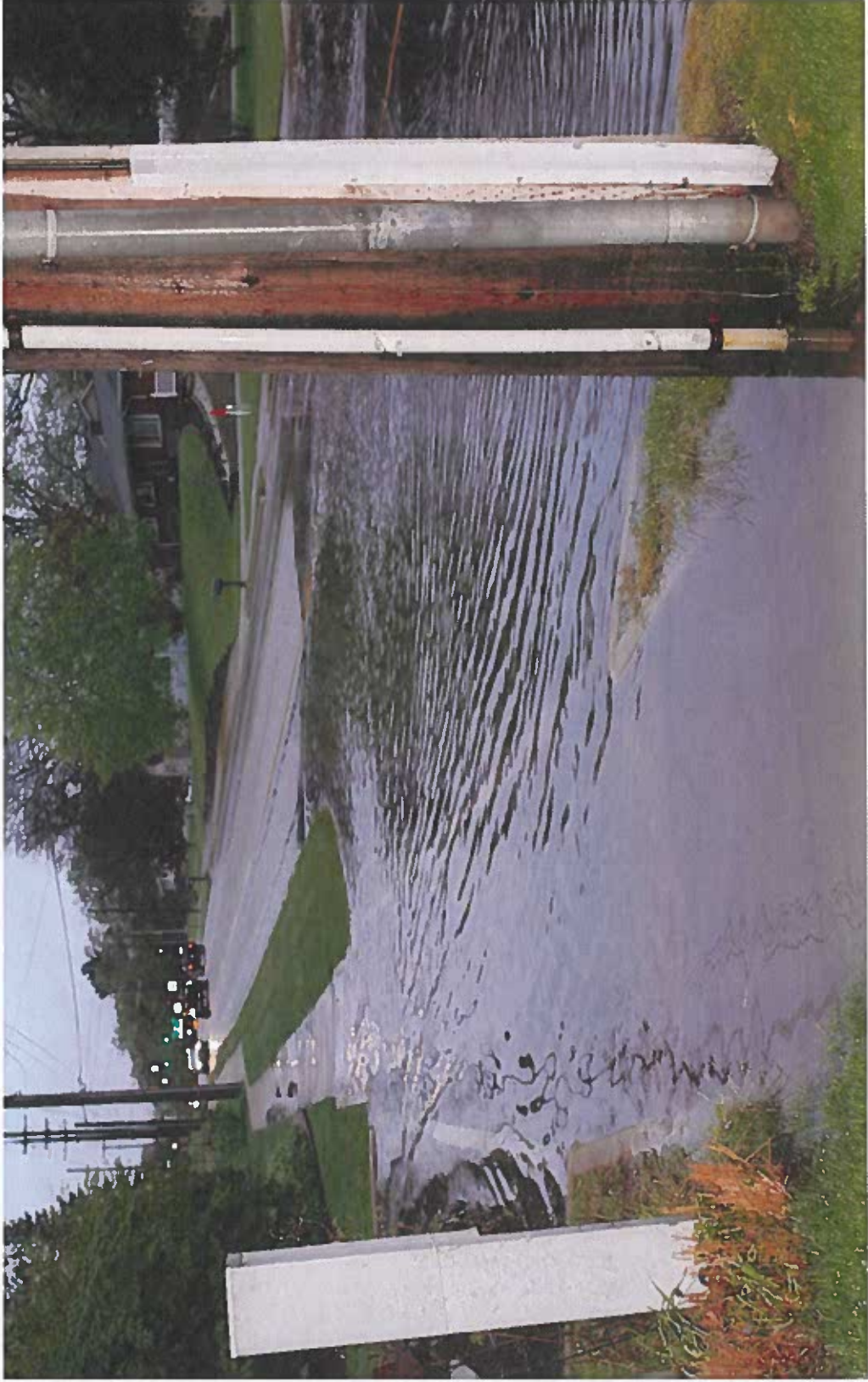
RESIDENTIAL FLOODING



PUBLIC FLOODING



ROAD FLOODING



DRAIN PROJECT PETITION PROCESS

- Board of Determination
 - Three disinterested property owners.
 - Determine necessity under public health, convenience, or welfare.



DRAIN PROJECT SCOPE CONSIDERATIONS

- Design
- Easements
- Permitting
- Conflicts with Other Utilities
- Costs



DRAIN ASSESSMENTS


- All costs expended are drawn against the drain fund for each drainage district.
- Expenses of the drainage district are paid from special assessments within the district.

DRAIN SPECIAL ASSESSMENT ROLL
 Macoon 21 Drain
 Township of Macoon County of Lenawee
 State of Michigan

See Town Range	Per cent	Per cent
Macoon Township at Large	17	4.00
SE 23A 1/4 S1/4	17	4.53
S 50A S1/4	17	22.36
SW 30A S1/4 SW 1/4 (16A) 20	20	51.22
SW 28A S1/4 SW 1/4 (18A) 20	20	37.07
SW 1/4 SW 1/4 SW 1/4 SW 1/4	20	25.59
SW 1/4 SW 1/4	20	29.80
SW 30A S1/4 S1/4	20	7.30
Lenawee County at Large on account of benefits to county roads		5.00
Total		100%

I hereby certify that the above and foregoing is the "Special Assessment Roll of the Macoon Drain" for the Township of Macoon, County of Lenawee, State of Michigan, that I have entered herein a correct description of all tracts, parcels and subdivisions of land benefited by said drain, as provided by law, that I have placed opposite each description the amount of the per cent heretofore determined upon me, also the amount of the per cent apportioned to the Township of Macoon and County of Lenawee at large.

Given under my hand this 23rd day of August 1950


 Arthur Bruce
 Lenawee County Drain Commissioner



DRAIN ASSESSMENTS

Entities liable for an apportioned benefit

- **Cities, Villages, Townships:** At-large for public health benefit
- **Counties:** At-large for benefit to county roads
- **Michigan Department of Transportation:** Benefit to state highways
- **Properties in the Drainage District:** Benefit to each parcel
- **STATE LANDS EXEMPT FROM ASSESSMENT**



DRAIN CONSTRUCTION



DRAIN PROJECT EXAMPLES



QUESTIONS?



