POLICY STATEMENT REGARDING REQUEST(S) BY PRIVATE PROPERTY OWNERS TO DRAIN WATER INTO COUNTY ROADSIDE DITCHES

Recently, there has been a request by a private property owner to drain his property into a roadside ditch under the jurisdiction of the Muskegon County Road Commission. It is expected that, with the natural growth of any community within this Road Commission's jurisdiction, similar requests will be made in the future. Therefore, this Policy Statement and Directive is considered necessary to provide a uniform guide to the Commission's review and assessment process regarding present and future actions on such requests.

It must be recognized that the primary duty and objective of the Muskegon County Road Commission is to construct, improve, and maintain in a safe condition those public roadways within this Commission's jurisdiction. At present, there are 1,100 miles, more or less, of such roadway within the County of Muskegon. The character of these roadways run the spectrum from quasi expressway standards, to two-lane roads graded out of and upon original sand bases. There are still numerous roads which have not been opened to the public, and many of these remain as simply two-track trails.

The duty, and the desire, of this Muskegon County Road Commission, is to plan, design, and construct, and then to properly maintain, that system of county roads which best serve the traveling public, and their changing patterns of residences,

industry, shopping areas, recreational, and other traveling needs. It should be noted that the function of roadside drainage facilities and improvements are for the sole and express purpose of protecting and serving the needs of the roadway/motoring public, including the need to permit the natural flow of water from higherlands to lowerlands and into natural water courses. Further, that proper drainage of road rights-of-way is an important factor and consideration of the Road Commission and that consideration most directly relates to the rights-of-way for road purposes, not the desires and/or needs of the abutting owners, excluding their rights under the natural drainage flow concept.

It is further recognized by the Muskegon County Road Commission that, due to the relatively flat nature of the topography and various soil types located within the confines of Muskegon County, that roadside drainage is of prime concern and importance in the proper construction and maintenance of the public road system. Detailed attention must be given by our engineers and maintenance personnel to make certain that existing and newly constructed roadways maintain their integrity and serviceability throughout the year and life of the roadway, even while experiencing extreme variations in weather conditions, including the wide range of temperature changes, and rain and snowfall which this area annually and seasonally experiences.

It is recognized and celebrated as the constant duty of the Muskegon County Road Commission, through all of its departments, agencies, and employees, to provide the very best service that is possible to the travelling public, and to engage in

the most cooperative attitudes towards other agencies of government whose statutory duties and obligations have any relationship whatsoever to the duties of this Road Commission. Specifically, this Commission determines that it will, at all times, be cooperative and responsive to any concern of the Muskegon County Commission, the governing bodies of every City, Village, and Township within this County, all other public bodies as School Districts and any Regional Authorities existing or established, and also to any offices which have parallel and intersecting duties such as the County Drain Commissioner, and any others with concerns about the roadway system.

Finally, this Road Commission declares that it will seek out and follow without deviation competent legal, engineering, or other advice as to the scope and extent of its lawfully imposed duties and obligations, and will attempt, so far as is permissible by law, to conform its every decision and action to that course which, consistent with law, allows it to implement the foregoing principles.

Therefore, with respect to any request by a property owner adjoining a roadway under the jurisdiction of the Muskegon County Road Commission, whose owner requests that part or all of such lands be allowed to drain into and through a County Road drainage ditch, the following Policy Statements shall apply.

1. After the proper study and consultation with qualified engineering personnel, this Road Commission will allow, and will not impede, the natural flow or

seepage of water from adjoining property into its roadside ditches, so long as such flow is the natural flow of surface/groundwater from uplands, and such flow has not been artificially increased, diverted, or redirected from its natural flow into the roadside ditch, and further provided that no artificial or mechanical means are used to increase, accelerate or elevate such flow from its natural course into any roadside ditch. The Road Commission shall, in every instance, also be cognizant of the rights of downstream property owners, and shall take special care in approval of any application and/or engineering plans to insure that no action, construction, or maintenance of a roadway shall cause or impress any damage upon downstream owners in excess to such burdens as are recognized by law.

2. Consistent with the above statement No. 1., it is and shall be the policy of the Muskegon County Road Commission, to look with disfavor upon any request or plan submitted by an adjoining landowner which would artificially increase the rate, and/or amount of water discharged into a roadside ditch by any artificial or mechanical strategy or means, unless the Road Commission is fully satisfied, after receipt of qualified engineering advice and review of plans, that such discharge will not, under any foreseeable circumstance, injure or impair the ability of this Road Commission to maintain, in all possible factors or conditions, a safe and convenient roadway surface.

3. It is the policy of this Road Commission, consistent with the policies set out in paragraphs 1 and 2 above, to allow other units of government, which have

proper legal or lawful jurisdiction to do so, to use the Muskegon County roadway rights-of-way to construct, operate, and maintain open and/or enclosed drainage improvements; provided, however, that this Commission is satisfied after it has had sufficient time and information to review, that such installation, operation, and maintenance, will not unduly interfere with the operation of the roadway, and that safety to the travelling public will have the highest priority in the plans for construction, operation, or maintenance of such a facility; and further provided that any such facility shall initially, and at all times thereafter, remain under the sole and exclusive jurisdiction of such other public body, and that this Road Commission shall be exposed to no liability whatsoever for any damages caused by the installation, operation, or maintenance thereof.