

RESOLUTION NO. 11-2

WHEREAS, Harlan County is responsible for maintaining the integrity of its road system to provide a safe traveling surface for the motoring public, and

WHEREAS, Harlan County has established maintenance priorities such as road surface maintenance, culvert replacements, etc., pertaining to the safety of the traveling public, and

WHEREAS, there is a serious problem caused by landowners failing to prevent soil erosion from their land onto County Right-of-Way resulting in the need to clean ditches more frequently than normally necessary, which is being done by the County thereby interfering with the priorities that have been established, and

WHEREAS, Harlan County is not responsible for the negligence of landowners allowing irrigation water, re-routed storm water run-off and silt to fill up road ditches, and further will not be responsible for damages caused as a result of that silting.

NOW, THEREFORE, BE IT RESOLVED, that the Harlan County Board of Supervisors hereby adopt the attached Drainage Policy to be enforced in Harlan County.

Following discussion, Bushnell moved and Metzger seconded the motion to approve and adopt said resolution and Drainage Policy.

Adopted this 15 day of March, 2011.

Motion: All Ayes.

Ronny Hann
Chairman, Board of Supervisors

Janet Dietz
County Clerk



**HARLAN COUNTY
RIGHT-OF-WAY DRAINAGE POLICY**

1. Harlan County will maintain and improve drainage on county right-of-way only for purposes of protecting county roads and other public facilities. If a landowner is not effectively preventing silting in the county road ditch, the landowner shall clean and maintain said ditch at the landowner's expense. If landowner fails to do so, the County reserves the right to clean and maintain said ditch and assess the cost to the landowner.

2. Harlan County will maintain the constructed capacity of culverts and bridges on county roadways.

3. Harlan County will maintain natural drainage ways (as determined from US Geological Survey maps, aerial photos or other authoritative, objective source materials) that lie within county rights-of-way, in accordance with Nebraska State Statute 31-224.

4. When landowners alter natural drainage patterns to effectively re-route natural drainage ways onto county rights-of-way, by their actions they assume responsibility for construction, maintenance and improvement of ditches and other structures that may be required to convey water to the nearest downgrade natural drain. Furthermore, said landowners, by their actions, assume liability and the County Board may seek to impose upon said landowners, liability for damage to county roads and other public facilities that may result from landowners' actions.

5. If landowners alter natural drainage to effectively re-route natural drainage ways onto county rights-of-ways and fail to adequately maintain the capacity of those drainage ways, as determined by the Harlan County Board of Supervisors in consultation with NRCS, Harlan County will seek to assess the costs of said maintenance against the landowner by appropriate action, which may include but not be limited to assessing costs against the property as tax liens.

6. Landowners or tenants shall obtain permits from the County Highway Superintendent prior to any ditch cleaning or any other activities on County Right-of-Way. Failure to do so may result in civil liability or criminal prosecution. County will over-see the area after cleaning is completed.

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7. Nebraska State Statute 46-266 states: "No person in the application of water in the irrigation of lands shall permit the same to escape from such lands and to flow upon any public road or highway." Roads and highways, as defined here, include adjacent rights-of-way. Violations of this statute are Class V Misdemeanors and will be submitted to the NRCS for enforcement.

8. Landowner shall pay for the culvert and the County shall install said culvert.