

PHELPS COUNTY RIGHT-OF-WAY DRAINAGE POLICY

1. Phelps 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. Phelps County will maintain the constructed capacity of culverts and bridges on county roadways.
3. Phelps 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 patterns 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 Phelps County Board of Supervisors in consultation with Tri-Basin Natural Resources District, Phelps 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.
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 Tri-Basin Natural Resource District for enforcement.