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Vacation and Abandonment of County Roads

South Dakota Assoc. of County Commissioners

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Vacation and Abandonment of Roads

- Procedure for Vacating a Road (“Highway”)
 1. Petition to board of county commissioners or township supervisors, depending on road authority
 - Must describe beginning, course and termination of road to be vacated.
 - Must include names of landowners abutting road to be vacated.
 - Must state how public interest will be better served by vacating the road.
 - If to county commissioners, must be submitted by number of voters equal or greater than 1% of votes cast in the last gubernatorial election in the county.
 - If to township supervisors, must be submitted by 2+ voters in the township.

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Vacation and Abandonment of Roads

- Procedure for Vacating a Road, cont.
 2. Public Hearing
 - Must publish notice in the township or county newspaper of the hearing once a week for 2 weeks.
 - Notice must state the purpose, date, time, and location of the hearing.
 - At the hearing, the board must determine by resolution and order whether the public interest is better served by vacating the road in question.
 - The resolution and order must describe the road to be vacated by description of land, landmarks, or survey across which the road extends.



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- Procedure for Vacating a Road, cont.
 3. Publication of Resolution and Order
 - The resolution and order adopted by the board must be printed in the minutes of the board meeting and published in the township or county newspaper once a week for 2 weeks.
 - Anyone opposing the resolution and order has 30 days to appeal.
 4. Finalization
 - Road vacated if 30 days lapse with no appeals.
 - County auditor must make changes to map as necessary.
 - Title to land underlying a vacated road reverts to original owner or their successors in interest.

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Vacation and Abandonment of Roads

- Issues regarding Road Vacation
 - Highways on county or township lines can only be vacated by the adjoining county or township passing a like resolution and order to vacate the road in question.
 - Section line highways must be *affirmatively* vacated.
 - SDCL 31-3-17: “Nothing in this chapter may be construed to prevent the township or county board from reopening (section line) highways so vacated without payment of damages to landowners on account of reopening said highway.”

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Vacation and Abandonment of Roads

- Issues regarding Road Vacation, cont.
 - Non-meandered waters



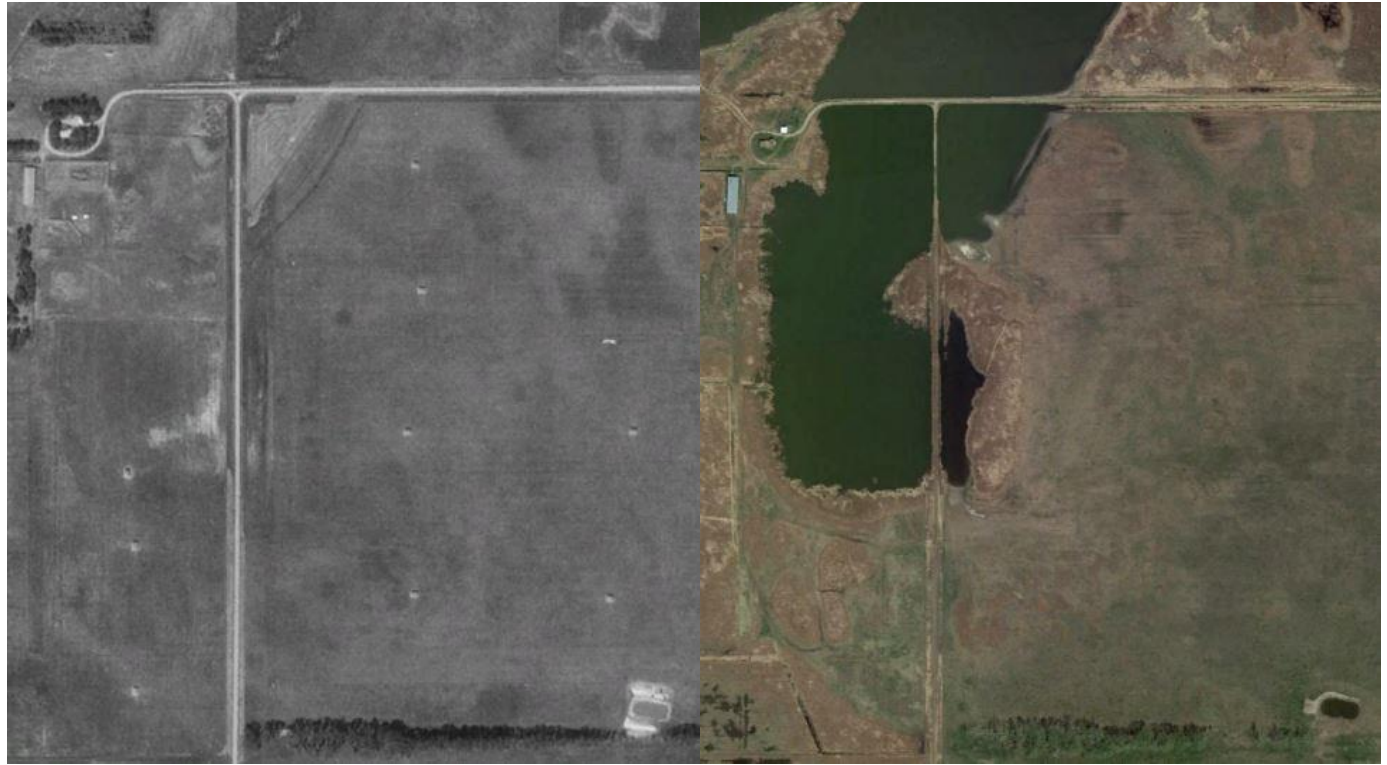
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Vacation and Abandonment of Roads

- Issues regarding Road Vacation, cont.
 - Non-meandered waters



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Vacation and Abandonment of Roads

- Issues regarding Road Vacation, cont.
 - HB 1140: passed by both houses, on governor's desk.
 - “No board of county commissioners or board of supervisors may vacate a section-line highway that provides access to public lands or public waters embracing an area of not less than forty acres. This section does not prohibit the closing of a section-line highway to vehicular traffic if the highway is unsafe for vehicular traffic.”

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Vacation and Abandonment of Roads

Contact Gary R. Leistico to help
you with issues involving:

- Vacating and abandoning roads
- Non-meandered waters
- Public drainage systems
- Regulatory enforcement
- Administrative law

320-251-6700

www.rinkenoonan.com

*Licensed in South Dakota, North Dakota,
Minnesota, Iowa, and Wisconsin.*

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