



DRAINAGE COMPLAINT APPEALS AND REVIEWS

GUIDELINES | REG_08.2026

NORTH
Dakota | Water Resources
Be Legendary.

Effective Date 04/01/2026

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1 OVERVIEW

North Dakota Water Resource Districts (WRDs) have jurisdiction over drainage complaints under North Dakota Century Code (N.D.C.C.) § 61-32-07. WRDs are required to investigate drainage complaints and determine whether the alleged unauthorized drainage was in violation of N.D.C.C. Title 61 or rules adopted by the WRD at the time of the unauthorized activity.

The North Dakota Department of Water Resources (Department) regularly reviews drainage complaints and drainage complaint appeals as a part of its regulatory duties. Department Policy REG_02 Drainage Permitting Considerations provides further information on the Department's definitions related to drains and can be found on the Department's website.

These guidelines provide transparency and clarity on the Department's processes and procedures used when evaluating drainage complaints and drainage complaint appeals.

1.1 AUTHORITY OR IMPLEMENTATION

These guidelines garner authority from N.D.C.C. § 61-32-08 and North Dakota Administrative Code (N.D.A.C.) ch. 89-02-04 and are implemented by the Department's Regulatory Division.

1.2 ACCEPTANCE OR ENFORCEMENT

The Department reserves the right to change these guidelines as necessary to ensure the Department fulfills its statutory duties.

1.3 APPEALS

Department decisions may be appealed per the process outlined in N.D.C.C. § 61-03-22.

1.4 DEVIATIONS

The Department reserves the right to deviate from these guidelines as deemed appropriate and within requirements outlined in N.D.C.C. or N.D.A.C.

1.5 DEPARTMENT CONTACT

Please contact the Department's Engineering and Permitting Section at (701) 328-4956 or dwrregpermit@nd.gov for questions regarding these guidelines or other water drainage questions.

2 SUBMISSIONS TO THE DEPARTMENT

The Department has limited jurisdiction over drainage complaints and appeals through N.D.C.C. § 61-32-08. The Department must follow the processes outlined in N.D.C.C. ch. 61-32 and N.D.A.C. ch. 89-02-04 to process drainage complaints and appeals.

The Department will evaluate a drainage complaint or appeal only when the request is submitted within the timeline requirements dictated in statute and all of the required information is provided to the Department.

2.1 APPEAL OF WRD DECISION

Any aggrieved party (petitioner) of a WRD's decision on a drainage complaint may appeal the WRD's decision to the Department within 30 days of receiving the WRD's decision (N.D.C.C. § 61-32-08(1)).

The following information is required by N.D.A.C. § 89-02-04-05 to be submitted to the Department to be considered a complete appeal. The Department will not begin evaluating the appeal until the petitioner provides all necessary documentation to the Department.

If all required documentation is not provided within the 30-day submission timeline, the appeal will be considered incomplete and void.

- a. A completed Appeal of Water Resource District Decision (SFN 61409), including the location of the alleged unauthorized drainage and the land ownership information on which the alleged drainage is located;
- b. A copy of the original complaint to the WRD and all the materials required as a part of that complaint under N.D.C.C. § 61-32-07;
- c. The WRD's decision; and
- d. A statement specifying the reason why the WRD's position is erroneous.

2.2 WRD INACTION COMPLAINT SUBMISSION

If a WRD does not act upon a drainage complaint within 120 days, the person filing the complaint may file a drainage complaint directly with the Department. The Department must receive the drainage complaint from the person filing the complaint between 120 days and 150 days from the date the original drainage complaint was received by the WRD to be accepted under this scenario (N.D.C.C. § 61-32-08(2)).

The following information is required by N.D.A.C. § 89-02-04-05.1 to be submitted to the Department to be considered a complete complaint. The Department will not begin evaluating the complaint until all necessary documentation is provided to the Department by the person filing the complaint.

If all required documentation is not provided within the 120 to 150-day submission timeline, the complaint will be considered incomplete and void.

- a. A copy of the original complaint to the WRD and all the materials required as a part of that complaint under N.D.C.C. § 61-32-07; and
- b. Proof, including the date, the complaint was submitted to the WRD.

3 UNAUTHORIZED DRAINAGE OCCURANCE CONSIDERATIONS

Under N.D.C.C. § 61-32-08(1), the Department is required to make an independent determination of drainage complaints or appeals.

The Department determines if drainage occurred and whether a permit was required by doing the following:

- a. **Drainage Occurred:** The nature and extent of drainage (i.e., channel dimensions, such as depth, width, and location) must be clear enough to inform compliance with any potential violations found. The Department reviews the following information to identify the existence of the drainage, when it occurred, and the extent of the watershed (i.e., 80 acres or more) drained:
 - Topographic maps and aerial photographs of the area
 - Any existing surveys of the area
 - Department records
 - The documentation and testimony given to the WRD for its consideration
 - Any pertinent rules of the appropriate WRD
 - The WRD's decision
 - Additional information obtained from an on-site investigation

- b. **Permit Required:** If drainage occurred, the Department reviews N.D.C.C. Title 61 and any rules and policies adopted by the Department or WRD that were in place at the time of the drainage activity.

Once the Department has enough information to determine if unauthorized drainage occurred, a determination will be made in accordance with N.D.C.C. § 61-32-08.

4 APPLICATION OF SURFACE DRAIN

If, either during the Department's complaint or appeal review or after a Department order has been issued, a completed SFN 2830: Application for Surface Drain (Application) is submitted to the Department covering the identified unauthorized works, any Department order or internal appeal review will be suspended until the Application review has been processed.

An approved Application covering the alleged unauthorized works will terminate outstanding Department complaint or appeal reviews and fulfill any pending Department corrective orders in regards to the identified works.

Note that an Application does not suspend any timelines that are required to appeal matters to the district court.

5 HISTORY

Guidelines Adopted: 05/15/2025

Guidelines Version REG_08.2026 Effective: 04/01/2026

Previous Revision(s):

04/01/2026: REG_08.2026 Updates Related to N.D.A.C. Changes

05/15/2025: REG_08.2025 Guidelines Adopted