

December 2022/
January 2023

MINNESOTA LICA NEWS

LAND IMPROVEMENT CONTRACTORS OF AMERICA • MINNESOTA CHAPTER

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2023 CONVENTION AGENDA

JANUARY 11TH, 12TH & 13TH

Wednesday, January 11, 2023

8:30 AM – 3:30 PM – SSTS Continuing Education Class

Presented by the U of M – Gallery 1

5:30 PM – 7:00 PM - Hospitality Room #205

7:00 PM-?? Bean Bag Tournament in Pre-function Room

Thursday, January 12, 2023

Ladies Program – TBD – Meet at registration desk

8:30 AM–9:30 AM - Risk Management–Loss trends

9:45 AM–10:45 AM-Drain Tile Safety Coalition Presentation

11:00 AM–Noon–National LICA–Allison Hack & Caroline Krug

11:00 AM–Noon-Lunch for Associates; Noon–Lunch for Members

Noon – 4:30 PM Tradeshow / Pre-Function Room

5:00 PM - ?? Gallery 1,2, & 3 - Dinner & Awards

Entertainment by: Comedian John DeBoer

Scholarship/Legislative Fund Raiser Auction

Friday, January 13, 2023

8:00 AM – 8:30 AM - Devotions - Gallery 1

8:30 AM – 9:45 AM - Annual Meeting - Gallery 1 & 2

10:00 AM – 11:00 AM - John Kolb, Attorney,

Rinke Noonan Law Firm

11:00 AM – Noon - “Distracted Driving” A Personal Tragedy

Tim Weidenbach, High Power Sports

Noon-Lunch - Gallery 3

1:00 PM – 2:00 PM - Paige Guetter, NRCS Wetland Specialist - Wet-
land Compliance - Gallery 1 & 2

2:00 PM - 3:00 PM - Officer Prokosch – Over width/Overweight,
DOT Regulations - Gallery 1 & 2





GREETINGS From Your PRESIDENT

The customer is always right. Or, are they?

One of the oddest repairs we did involved finding a six inch cast iron intake cap, 400 ft. downstream from the actual intake! It seems the customer had an eight inch intake, but didn't want to spend the dollars on a correctly fitting intake cap. So, he made a piece of metal to lay on top of the intake riser and set the six inch cast iron "beehive" style cap on top. However, when the metal moved, the cap fell into the intake, washed down the line until it caught on another piece of tile. In the end, saving twenty dollars for a cap cost much more, figuring my bill along with the lost crop. But are there times we do the same thing? Are you being like the guy with the intake cap who was "penny wise but dollar foolish?"

We have an opportunity to attend the convention where you can learn some stuff, meet some people and grow as a contractor. Yes, it's a commitment of time and dollars, but I've found that the investment pays off. Jenny Breberg has been working hard to line up quality education seminars and some good entertainment as well.

(conti.)

You can also get some exercise in as well if you come for the bean bag tournament!

Sign up today for the 2023 Winter Convention!

Stu Frazier, MNLICA President



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-  WETLANDS
-  PUBLIC DRAINAGE
-  COMPLIANCE
-  PERMITS



MNLICA CONVENTION REGISTRATION
BEST WESTERN PLUS HOTEL
2101 South Broadway Street, New Ulm, MN 56073
January 12th – 13th, 2023 Hotel Phone: 507-359-2941

Contact Name: _____

Company: _____

Address: _____

Phone Day: () _____ Phone Evening: () _____

GENERAL REGISTRATION		
Discount Registration - Must be Postmarked by Dec. 20, 2022		After Dec. 20th, 2022
Members, Associates, Gov't Employees, Consultants	\$150.00	\$175.00
Member Spouse	\$125.00	\$150.00
Non-Members	\$225.00	\$275.00
Childred under 12 years of age are Free		

Members & Associates

Attending on January 12th – 13th, 2023
 Includes all Thursday and Friday events at the MNLICA Convention.

Members attending the SSTS Class on Wednesday, January 11th 2023 there will be an additional charge, see SSTS form.

Print Name for Badges (Please write legibly)	Owner or Employee	Total

MNLICA'S Annual Auction will be held on Thursday, January 12th, 2023 to raise money for our Political Action fund and Scholarship Fund, please provide an auction item that has a suggested minimum value of \$25.00 or more or a cash donation.

<p>Hotel reservations must be made for discount by December 20th, 2022</p> <p style="text-align: center;">Best Western Plus Hotel 2101 South Broadway Street New Ulm, MN 56073 Phone: 507-359-2941 Room Rate \$99.00 + Tax</p>	<p>Make checks payable to: MNLICA Convention Fund</p> <p>Mail to: MNLICA 2570 130th Str. Dawson, MN 56232</p> <p>Phone: 320-226-6398 E-mail: mnlica2@gmail.com</p>
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Registration Policy: Only individuals registered and with a badge may attend convention events. The spouse/guest of a registered member need not register to share hotel accommodations but must register to participate in convention programs or functions. **No registration will be processed without payment.** A \$30.00 processing fee will be incurred on cancellations postmarked before December 20th, 2022. Cancellations postmarked after December 20th, 2022 will be subject to a 50% reduction in refund. All requests must be in writing. Meals will be on an "availability basis" for on-site registration.

**MINNESOTA LICA
TRADE SHOW
JANUARY 12, 2023**



The MNLICA State Convention Trade Show will be held on Thursday, January 12th, 2023 at the Best Western Plus Hotel, New Ulm, Minnesota.

The cost of the booth is \$350.00, including an 8-foot table and 2 chairs **for 2 people** with draping and electricity (if needed). The tradeshow will be open from Noon to 4:30 P.M. (A lunch will be available for you from 11:00 A.M. to Noon.) Please feel free to invite your customers to attend the Trade Show. There will be an Auction (Political Action Fund Raiser and 2- \$1,000.00 Scholarships), Awards Presentation and entertainment during the evening dinner.

Company Name: _____

Contact Person/Persons: _____

Who will be attending(needed for name badges): _____

Telephone or E-mail: _____

I will need electricity for my booth: Yes ___ No-___

I/we will bring an auction item with a minimum value of \$25.00: Yes ___ No ___

I/we will be attending the Annual Awards Dinner January 12th, 2023, Number attending Dinner will be _____; More than two attending will cost \$25.00 per person: _____ Number of extras.

NOTE: AS AN ASSOCIATE YOU CANNOT ATTEND THE TRADESHOW UNLESS YOU ARE PARTICIPATING AS AN ASSOCIATE AT THE TRADESHOW OR PAID THE NON-MEMBER REGISTRATION FEE OF \$225.00. YOUR ASSOCIATE DUES MUST BE CURRENT.

Please return this by December 20th, 2022 to ensure a space. Space is on a first come, first serve basis. Thank you for your continued support of MNLICA. Without YOU we could not be the success we are!

Sincerely,

Jennifer Breberg, Executive Director
Phone: 320-226-6398
E-mail: mnlica2@gmail.com

MAIL PAYMENT TO: **MNLICA
2570 130th Str.
Dawson, MN 56232**

“WOTUS” What is the definition?

What is going on in Supreme Court cases concerning this issue!

By: Hannah Schacherl, Attorney from Rinke Noonan Law Firm

Sackett v. EPA: Potential Impacts Agricultural Drainage

On October 3, 2022, the U.S. Supreme Court held oral arguments for *Sackett v. EPA* – the latest confrontation on the Clean Water Act’s applicability to wetlands. The case concerns a family who purchased a residential lot near Priest Lake in Idaho. The lot is separated from Priest Lake by a road and a strip of lakefront properties. After purchasing the property in 2004, the Sacketts began placing sand and gravel on the lot in preparation to build a home. However, the EPA claimed the lot contained wetlands that qualify as “navigable waters” regulated by the Act and ordered the removal of the sand and gravel and restoration of the property to its natural state. The Sacketts’ case asks the Court to determine what is the correct test for determining whether wetlands are “waters of the United States” under the Clean Water Act.

The Clean Water Act requires a permit from the U.S. Army Corps of Engineers for any work that results in “the discharge of fill materials into navigable waters.” The term “navigable waters” is defined as “Waters of the United States” or “WOTUS”. WOTUS include traditionally navigable waterways, like rivers, streams, and, lakes, tributaries to those navigable waterways, and wetlands adjacent to those waterways and tributaries.

Prior to *Sackett*, there have been three Supreme Court cases that have touched on the Clean Water Act and wetlands. The first, *U.S. v. Riverside Bayview Homes, Inc.*, found that wetlands can be regulated under the Clean Water Act even though they are not navigable. The second, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, determined the Clean Water Act does not cover all wetlands, just ones that are somewhat permanent and not isolated from other waters. Finally, like *Sackett*, *Rapanos v. U.S.*, focused on what does it mean for a wetland to be “adjacent to” a tributary or waterway. In 2006, the Court did not answer conclusively because no single test gained majority support. The first test, the Continuous Surface Connection test, stated that a permit would only be required for wetlands with a "continuous surface connection" to a regulated waterway that makes it "difficult to determine where the waterway ends and the wetland begins. The second test, the Significant Nexus test, stated wetlands “adjacent to” a traditionally navigable water must have a "significant nexus", meaning the wetland has a significant effect on the water quality of navigable waters.

(Conti.)

At oral arguments the Sacketts argued the Court should adopt a form of the Continuous Surface Connection test. The EPA advocated for the Significant Nexus test. Justices Thomas, Alito, and Gorsuch seemed to favor the Continuous Surface Connection test. Justices Sotomayor, Kagan, and Jackson appeared to favor defining “adjacent to” more broadly than the Continuous Surface Connection test would allow. All the justices appeared to be in agreement that the Clean Water Act is murky as to how to determine if wetlands are “adjacent to” regulated waters.

There are three potential outcomes when the Court issues its decision. First, the Court could adopt the Continuous Surface Connection test and the Sacketts will prevail.

Second, the Court could adopt the Significant Nexus test and the Sacketts will likely lose. Finally, the Court could adopt an entirely new test.

The Court’s interpretation of the Clean Water Act in conjunction with the regulations adopted by the Army Corps of Engineers have the potential to impact agricultural drainage practices. Currently, typical practices for an established farm, like plowing cultivating, repairing old drainage systems, do not require a permit. The regulations require a permit for any new use of water that reduces or impairs the flow or circulation of regulated water. Any activity that converts a regulated wetland into upland would require permitting. A permit will not be granted for the discharge of fill material if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation’s waters would be significantly degraded. The applicant seeking a permit must show that they took steps to avoid impacts to wetlands, minimize potential impacts, and provide compensation for all remaining unavoidable impacts. The type and amount of compensation depends on the amount and location of the proposed work.

The Supreme Court usually releases the majority of its opinions in June, so there likely remains a period of uncertainty in determining if wetlands are regulated and require a permit under the Clean Water Act. Despite the uncertainty, there are steps landowners may take to mitigate the risk of violating the Clean Water Act based on what work is done and how drainage tile is laid.



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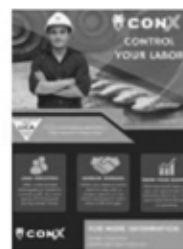


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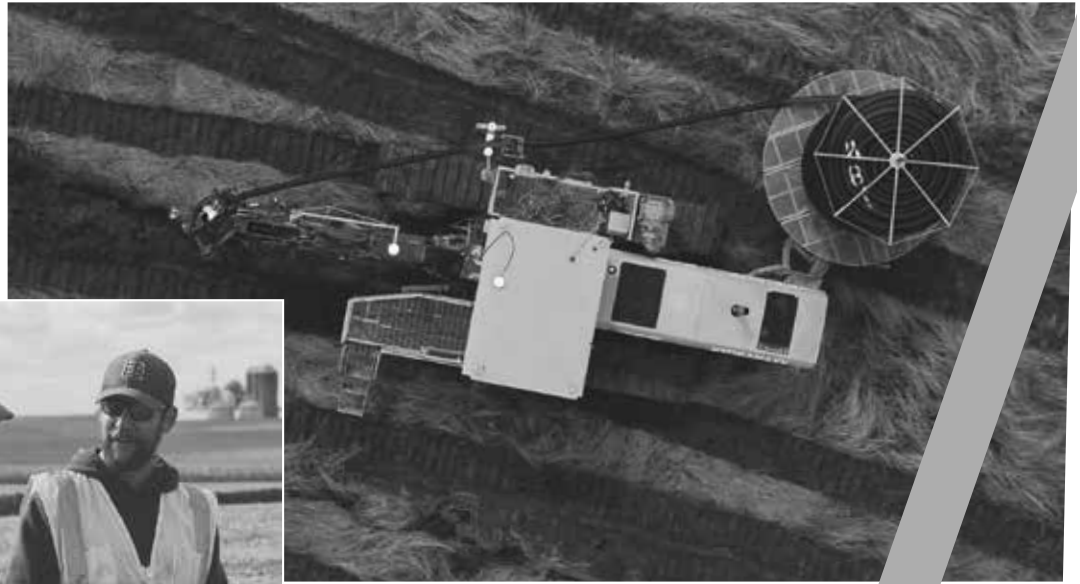
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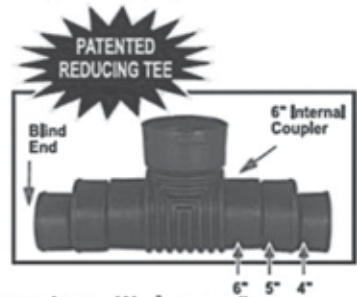
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Tres Mark Olsen	P	P	P	A	
Chrmn Steve Vis	P	P	P	P	
Mark Morreim	P	A	P	P	
Karlen Nelson	A	P	P	P	
Everett Garlisch	P	P	P	P	
Brad Herickhoff	P	A	A	P	
Mike Lehmann	P	P	P	P	
Doug Breberg	P	P	P	A	
Dee Ann Larson	P	P	P	P	
Jesse James	A	P	P	P	
Don Loken	P	P	P	A	
Assoc. Tim Dahl	A	A	A	A	
Assoc. Mike Kluck			P	P	
Ex Dir Jennifer Breberg	P	P	P	P	

A = Absent P = Present C = Cancelled Meet



MNLICA WEB
www.mnllica.org

Check out the MNLICA web-site:
 Membership: Benefits: Applications:
 Directory & Map
 Scholarship Application:
 Ladies Activities Newsletter Archive:
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See the full application on the MNLICA website (mnlica.org) or email: mnlica2@gmail.com to receive an application.



2023 National LICA Winter Convention

March 11 -13 | Harrah's Las Vegas

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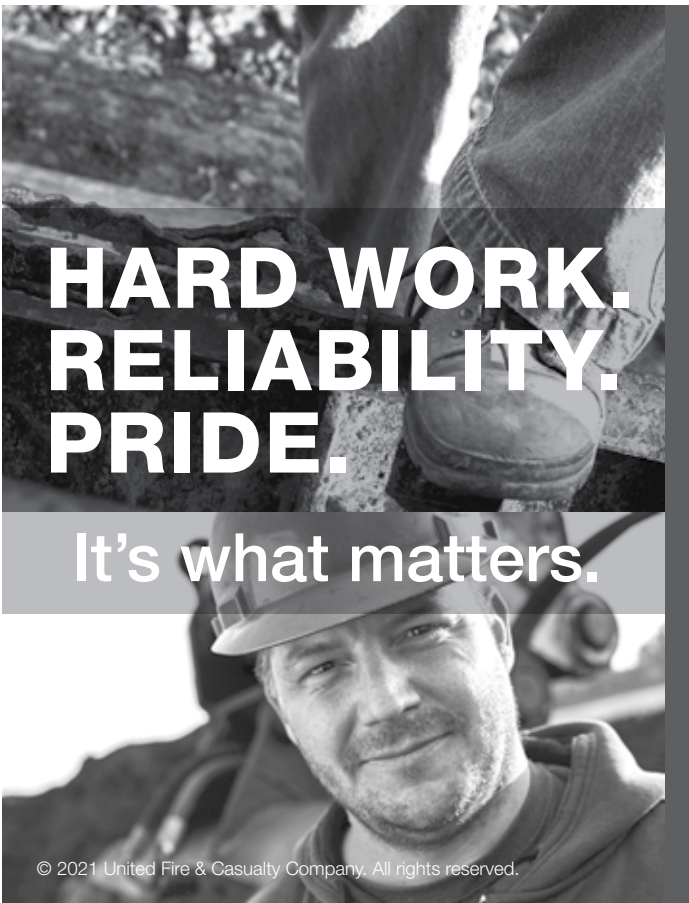
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Executive Director's Report

We are again entering the winter season, most of us have had a taste of winter so far.

As you can tell, plans have been made for our annual Winter Convention. Registration information has been mailed out. If you did not receive this, please let me know. I have been working on the agenda for the convention and we have a full list of classes, speakers and entertainment lined up. The convention is an opportunity for you and your employees to get first hand vital information about working in the industry. I would encourage everyone to attend and bring your employees. Everyone will take away good information and advise. You will also have the opportunity to meet many of the Associates that support our association at the tradeshow.

I have been working on other trainings and safety courses. An MSHA class has been scheduled for January 25th, in Owatonna. Loken Excavating & Drainage has graciously agreed to host the event. Registrations will be coming out soon, so watch for it, or contact me and I can send the information to you. There will be other training, but have not been scheduled yet.

And, last but not least, consider attending the National LICA Winter Convention and CON EXPO in Las Vegas in March. Registration is open and you can find that information on the National LICA web site. I would really like to see Minnesota LICA members in Las Vegas..

Jennifer Breberg, Executive Director



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Mike Kluck—WA Group



2022—2023 UPCOMING EVENTS - MNLICA
Web-site: www.mnlica.org

**December 8th, 2022—Board Meeting—Best Western Plus,
New Ulm, MN**

**January 11th, 12th and 13th, 2023—Winter Convention
Best Western Plus, New Ulm, MN**

**January 25, 2023—MSHA Class @ Loken
Excavating & Drainage - Owatonna, MN**

**March 11-13, 2023—National LICA Convention—and
March 14-18, 2023—CON-EXPO—Las Vegas, NV**



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the foundation of banks.*

*All that man builds is from the land.
We often take it for granted, or even abuse it,
and yet many unthinkingly and unknowingly pass the land by.
What man finally does with the land
will be the deciding factor in his survival.*