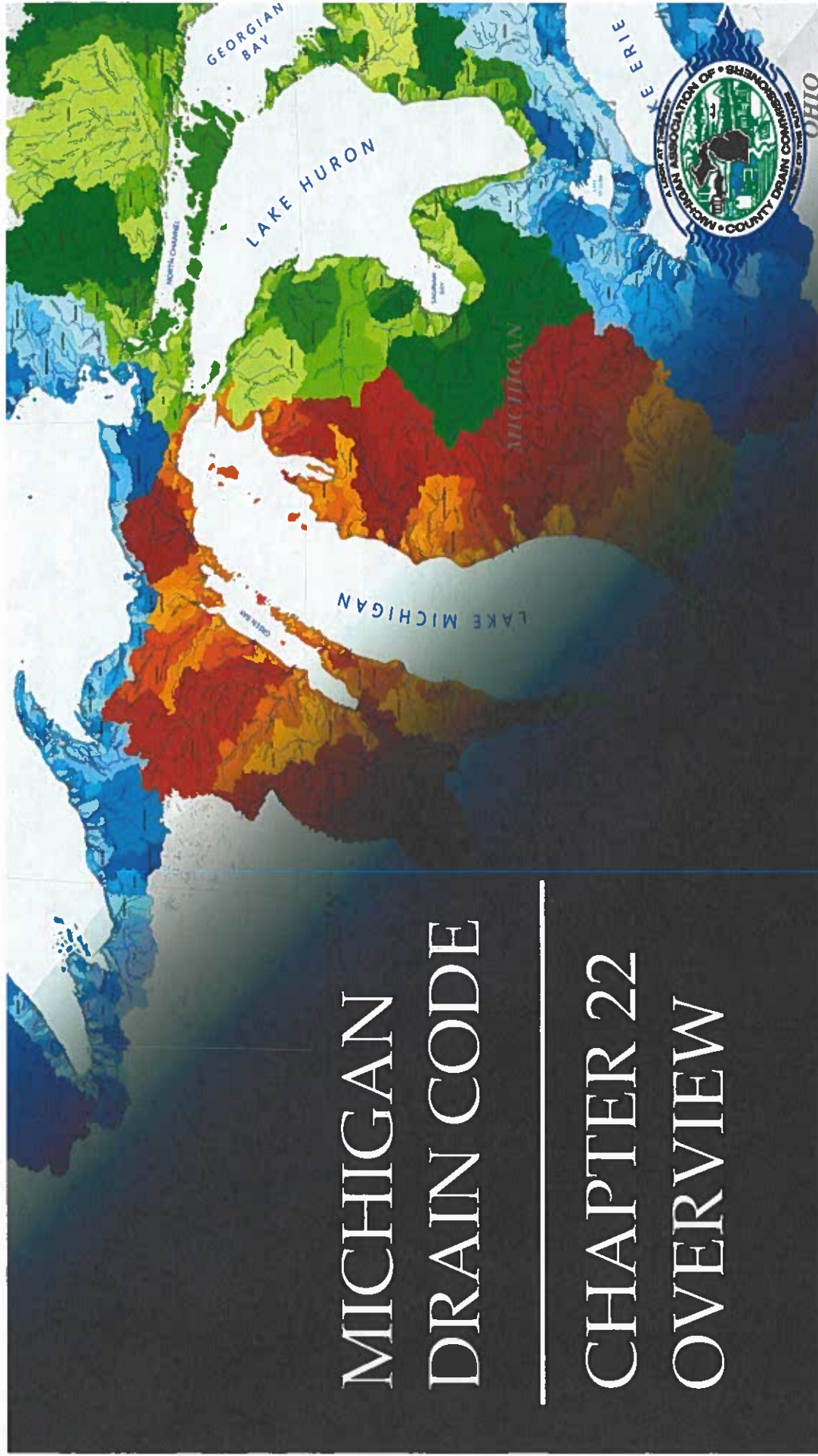


# MICHIGAN DRAIN CODE

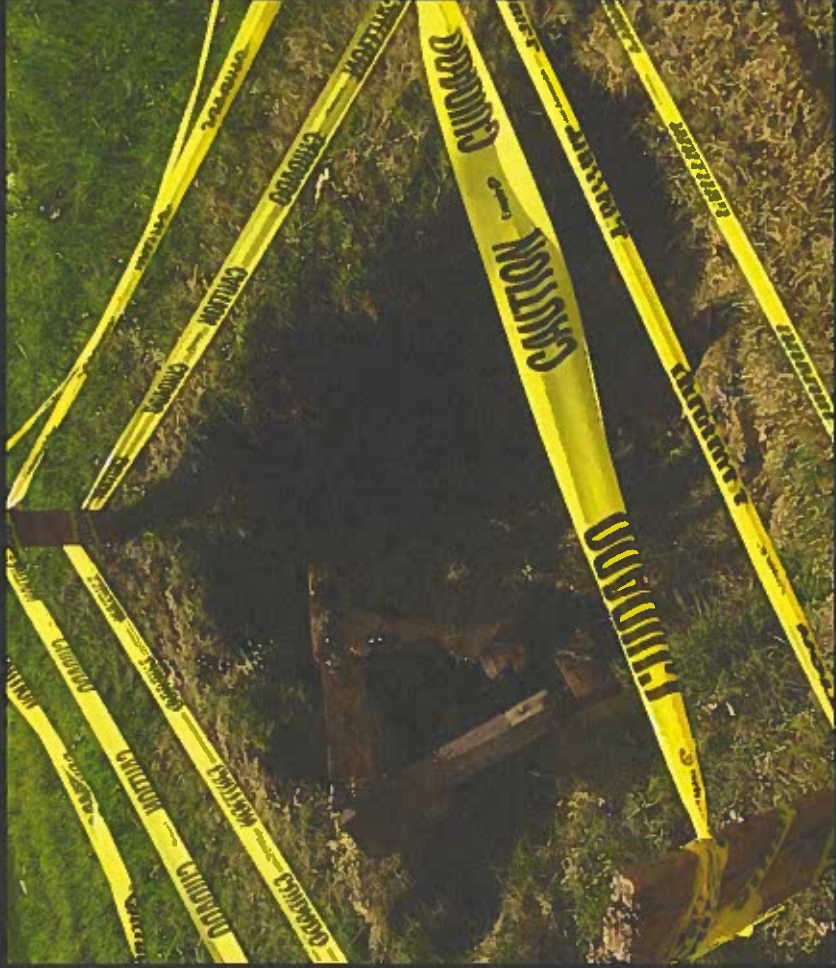
## CHAPTER 22 OVERVIEW



# Compounding Effect

- Aging infrastructure
- Record rain events
- Rising Great Lakes and groundwater levels
- Continuing development
- Loss of wetlands

# Aging Infrastructure



# 89%

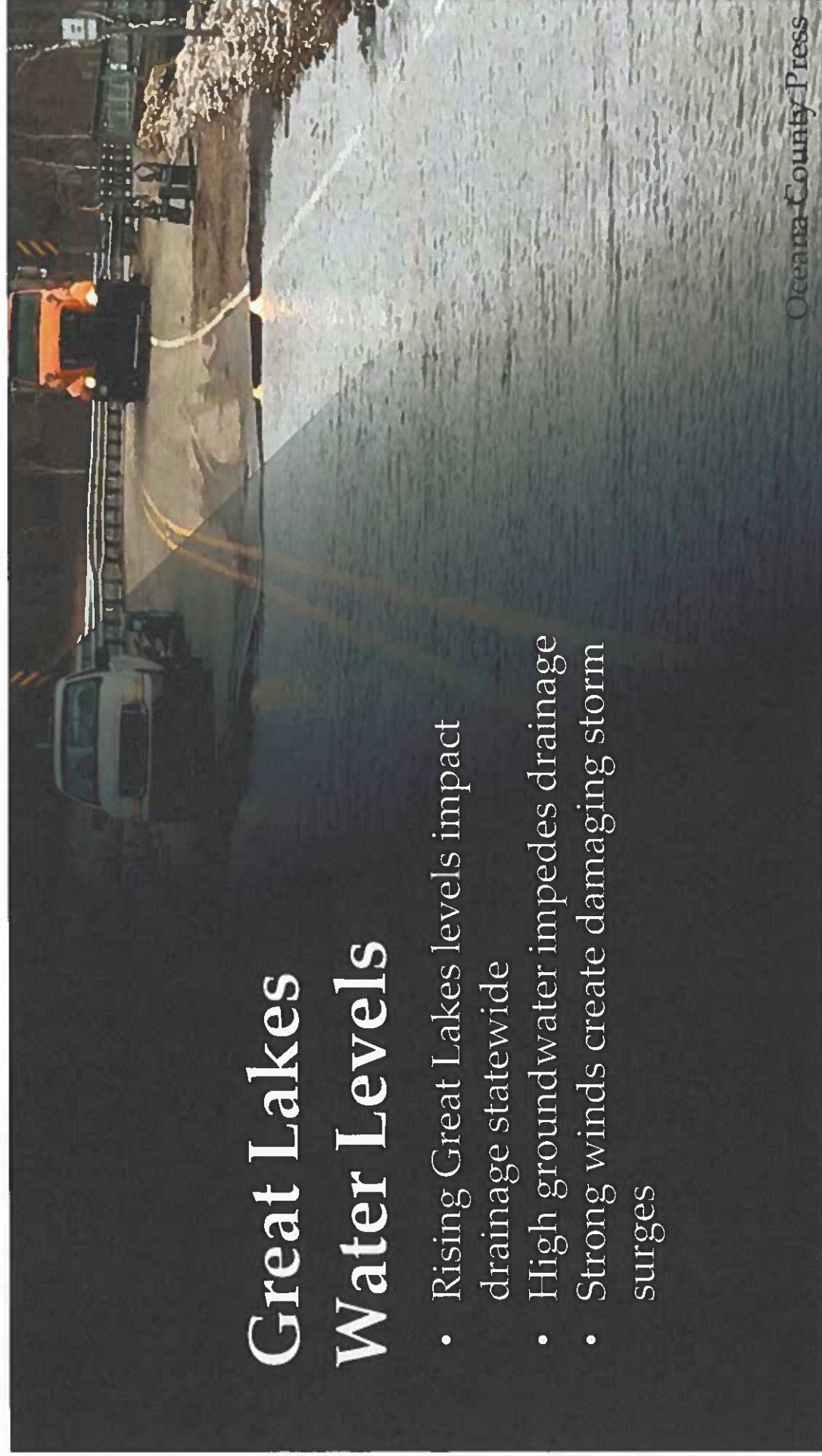
Increase in frequency of extreme storms in  
Michigan in last 50 years

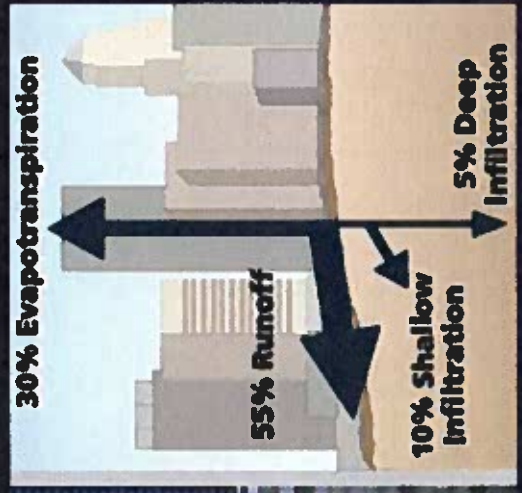
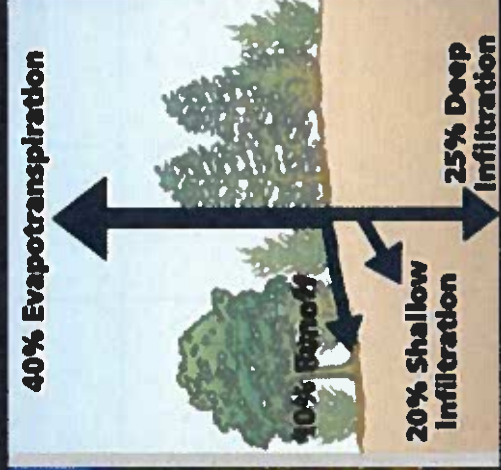
# 200,000+

Additional homes at risk of flooding over  
next 30 years

# Great Lakes Water Levels

- Rising Great Lakes levels impact drainage statewide
- High groundwater impedes drainage
- Strong winds create damaging storm surges

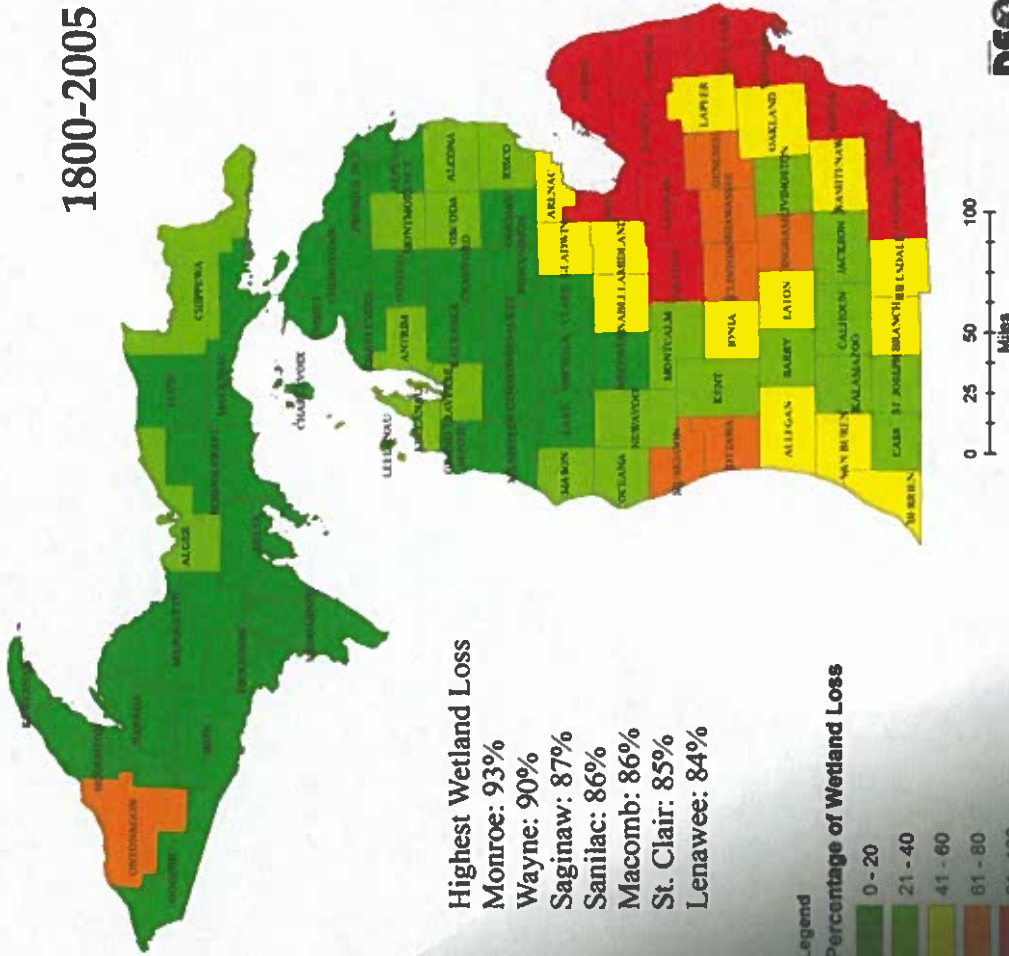


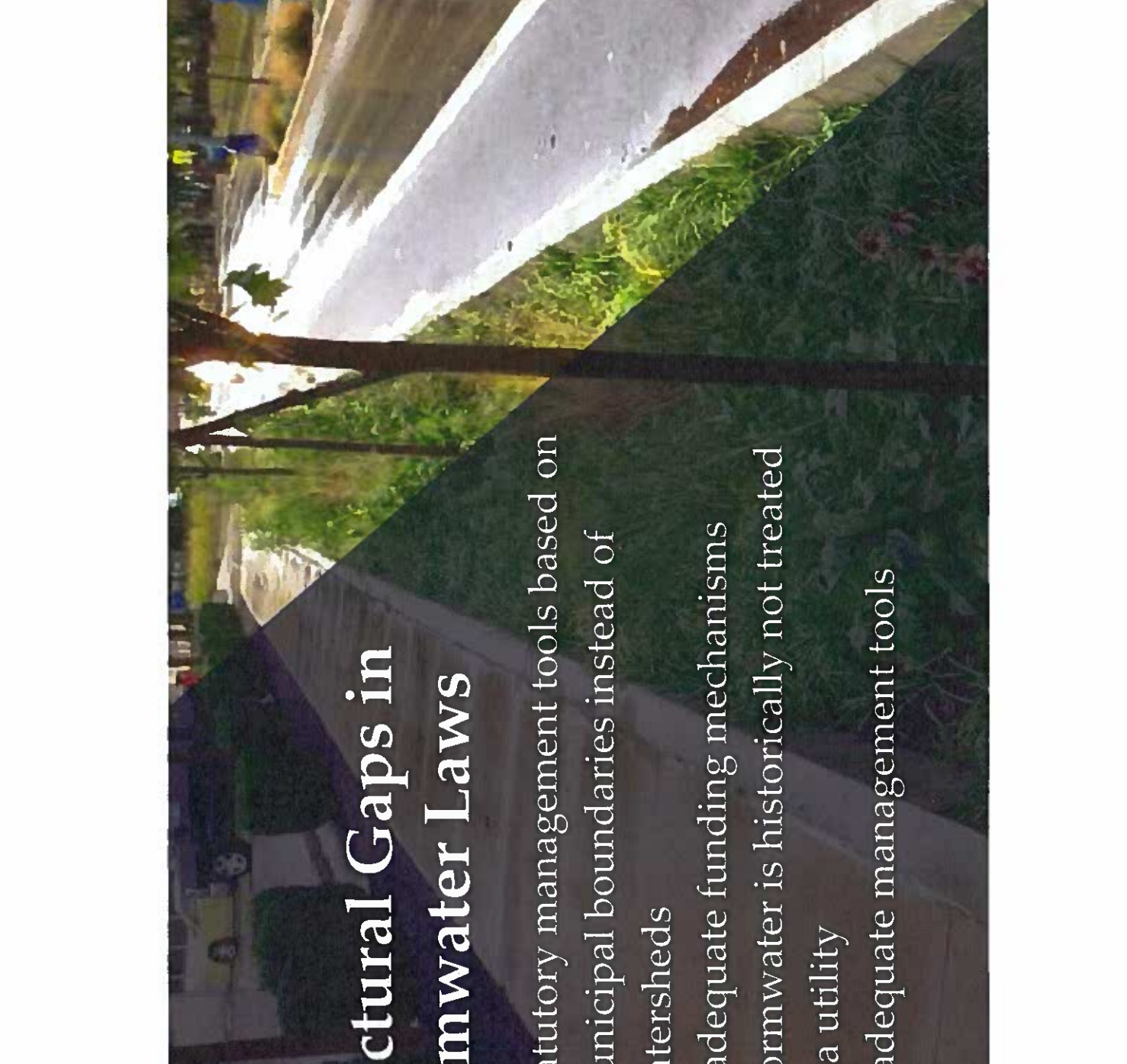


# Increase in Development

Michigan has converted 4.2 million acres of wetland (water storage) in past 200 years

1800-2005





# Structural Gaps in Stormwater Laws

- Statutory management tools based on municipal boundaries instead of watersheds
- Inadequate funding mechanisms
- Stormwater is historically not treated as a utility
- Inadequate management tools



The background of the slide features a scenic landscape. In the foreground, there is a dark, textured stone wall. Beyond the wall, a river flows through a lush green area with many trees. The sky is overcast and grey.

# The Drain Code: Strong Fundamentals

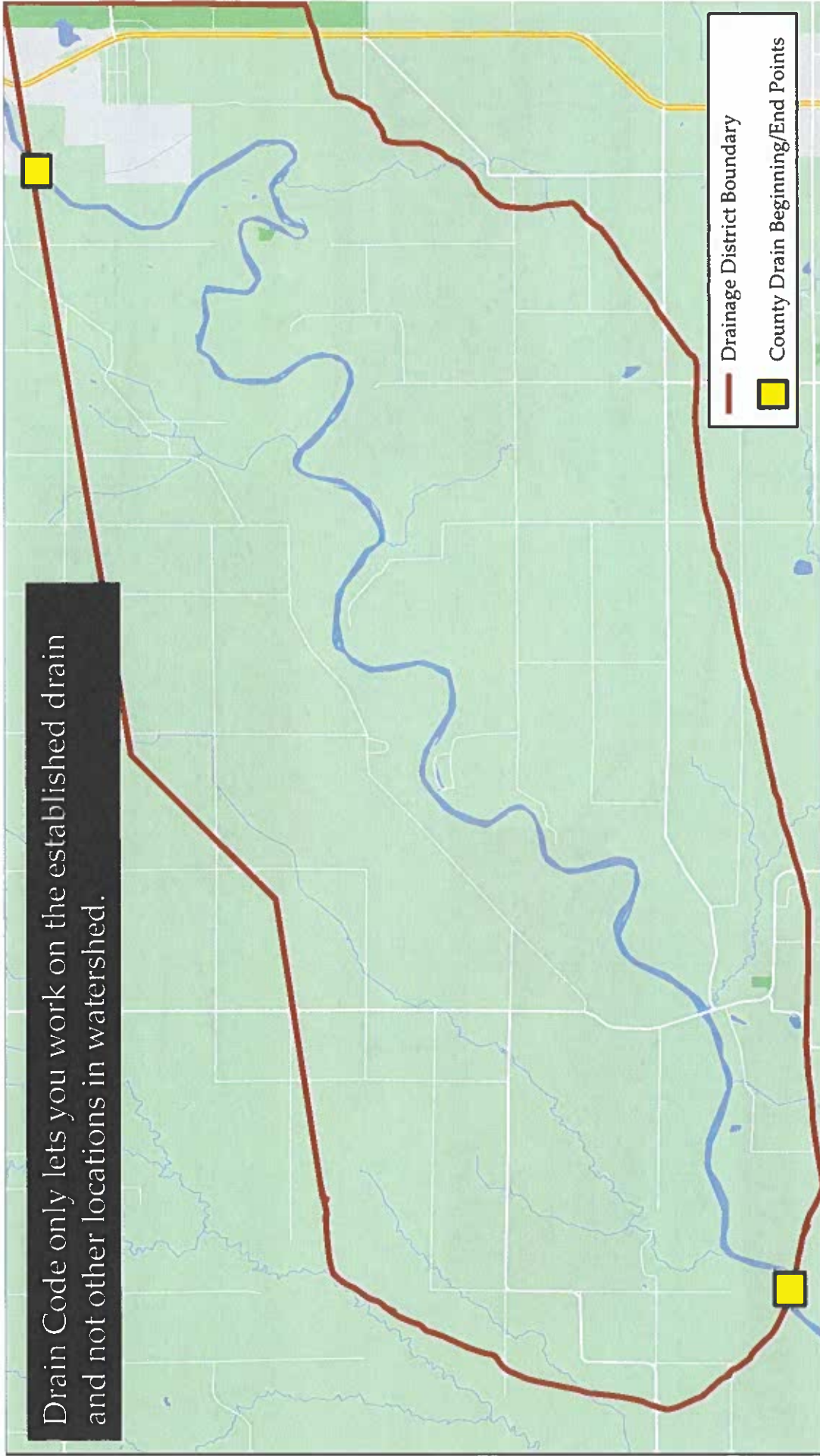
- It is Job #1 of Drain Commissioners to manage stormwater
- Local problems managed with local solutions
- Statutory framework already in place
- Based on special assessments - no *Headlee* or *Bolt* Issues
- Assessment methodology of benefits derived in place for over a century

An aerial photograph of a river valley. The river winds through a lush green landscape with rolling hills and dense vegetation. The water is a light, silty color, contrasting with the surrounding greenery. The sky is a pale, hazy blue.

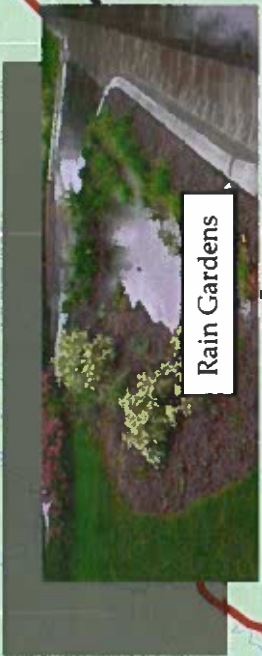
## Challenges of Current Drain Code

- Limited to work on drain and not anywhere in watershed to solve problem
- Environmental regulation
- Continuing to increase the size of existing drains is expensive and often infeasible to address today's storm events

Drain Code only lets you work on the established drain and not other locations in watershed.



Same watershed with more tools



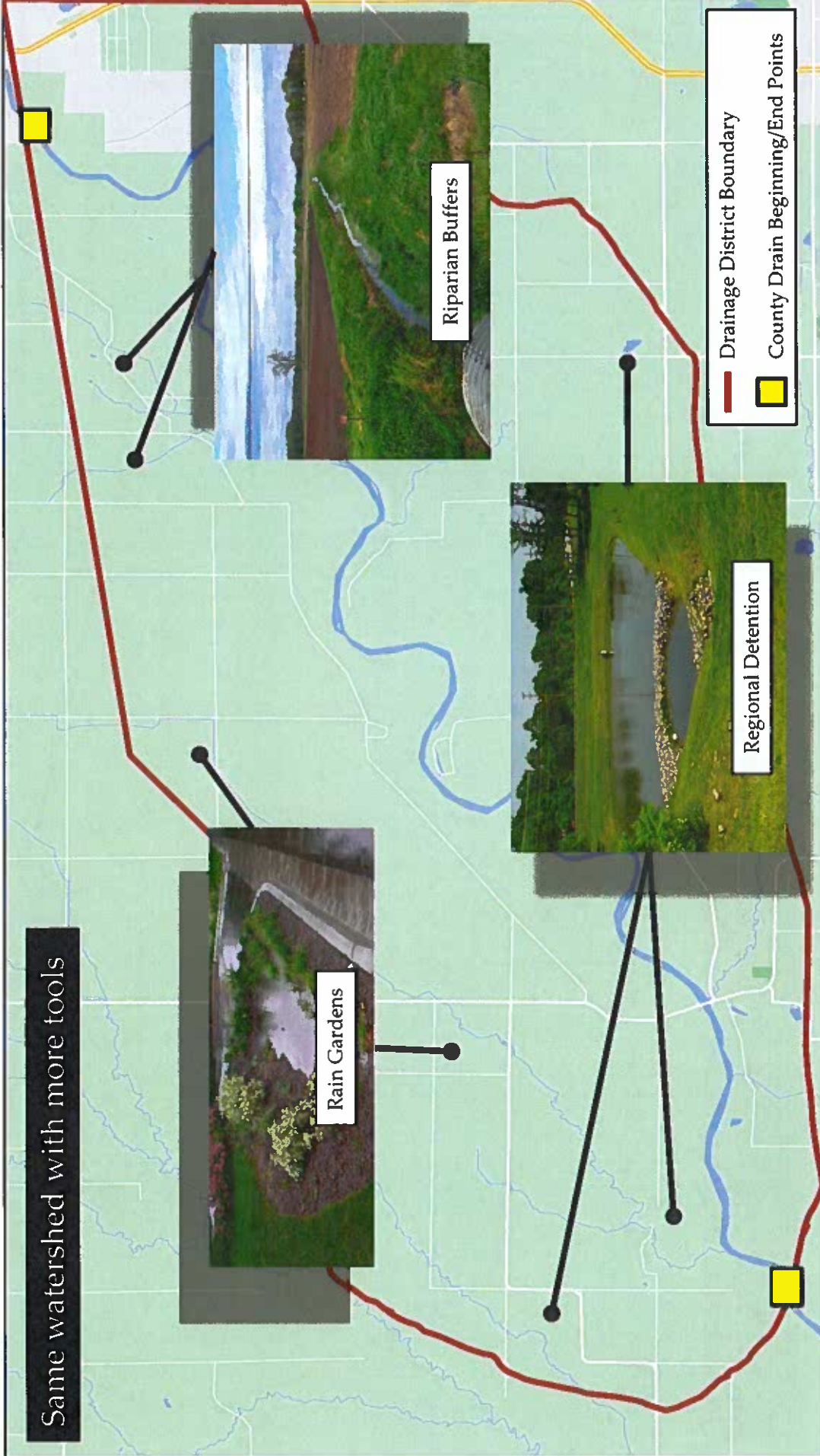
Rain Gardens



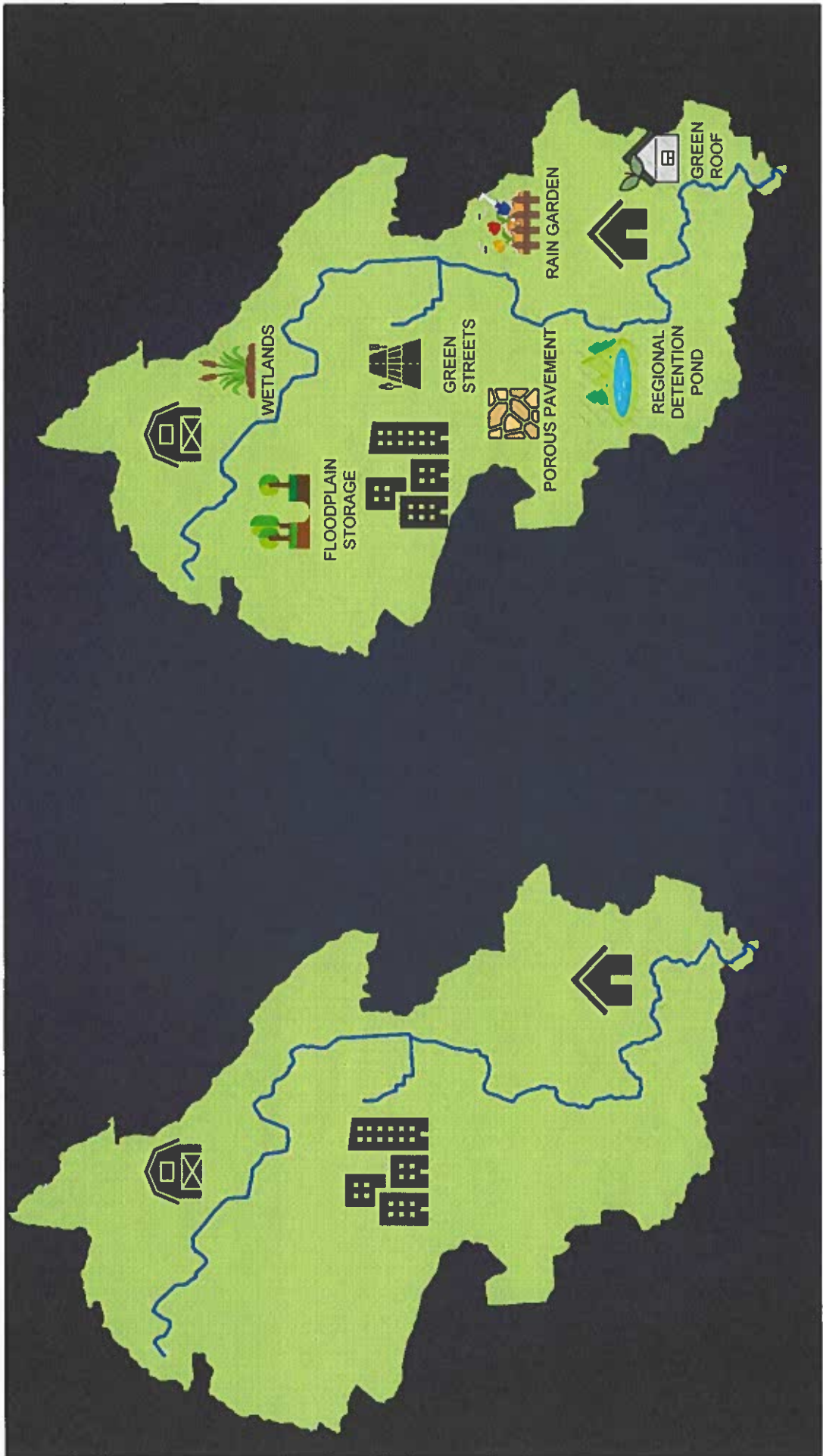
Regional Detention



Riparian Buffers



- Drainage District Boundary
- County Drain Beginning/End Points

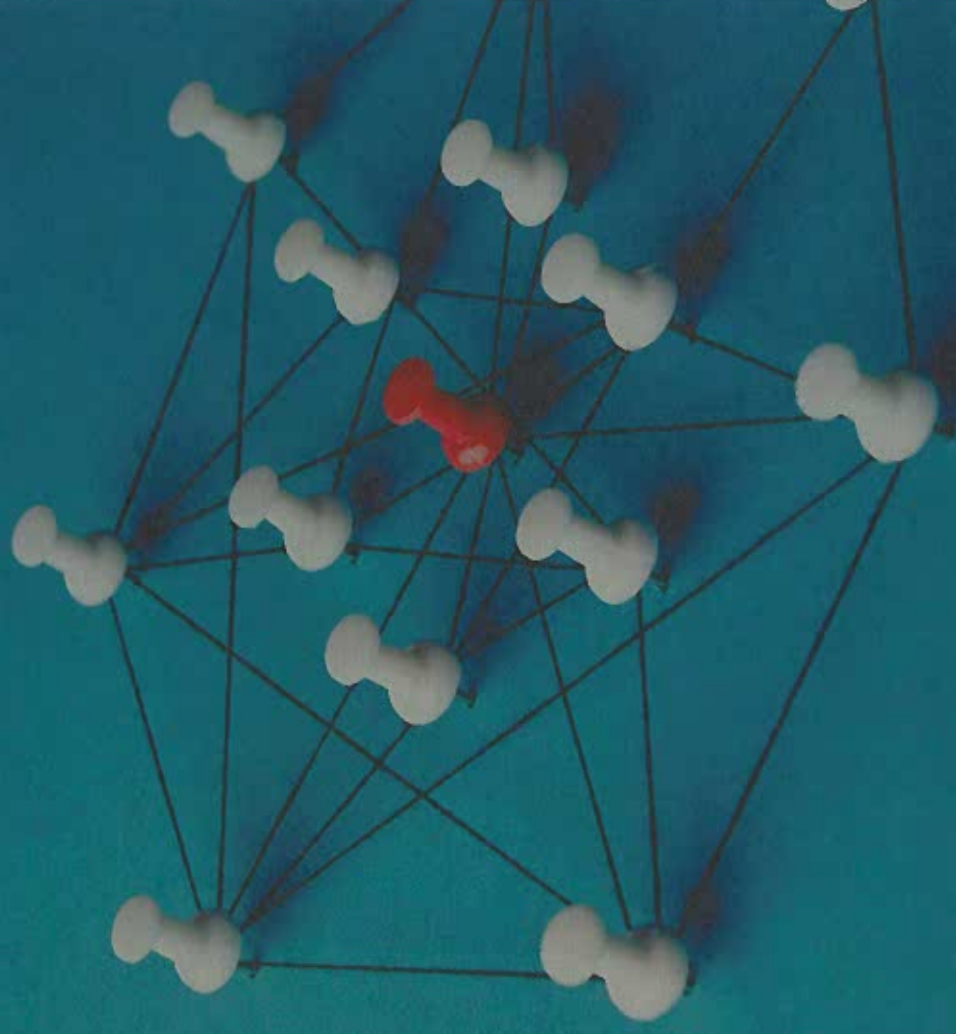


# Proposed Legislation: Key Points

- Drafted to complement (not replace) other chapters of Drain Code
  - More involvement from local units in decision-making process, especially in intracounty watersheds
- Intended to take “pressure” off drains by storing/managing water in the entire watershed
- Increased planning by local units with ordinances/reviews

# Proposed Legislation: Boards Intercounty

- ② Section 553(1)(a)
- ② Drain Commissioner (Chair)
- ② 1 member of each municipality in district
- ② If only 1 municipality involved, then municipality selects 2 members
- ② Municipality selects member(s) by appointment; if no appointment, then supervisor, mayor, village president is member (Section 556(1)(a))



## Proposed Legislation: Boards Intercounty


- Section 553(1)(b)
- MDARD Director/Designee (Chair)
- Drain Commissioner of each affected county
- For certain counties with a population over 1 million, the Board also includes an appointee by each drain commissioner that is an elected official for 2-year terms (Section 553(1)(c))



# Proposed Legislation: Commission/Intercounty

- ❑ Section 553(3)
- ❑ MDARD (Chair)
- ❑ Drain Commissioner from each county
- ❑ County Board Chair and Finance Director from each county
- ❑ Similar to augmented drainage board in Chapter 21
- ❑ Only role is to determine necessity
- ❑ After necessity, all action is taken by Board





## Proposed Legislation: Who can petition?

- ❑ Section 552(2)
- ❑ Property owners subject to assessment
- ❑ Public corporations subject to assessment
  - ❑ Cities, Townships, Villages
  - ❑ Road Commissions/Departments
  - ❑ MDOT

# Proposed Legislation: Petition Requirements

- 2 or more public corporations subject to assessment (Sections 552(2)(a) and 552(3)(a))
- 50 property owners whose lands are subject to assessment (Section 552(2)(b) and 552(3)(b))
- If less than 500 property owners in district, by at least 10% of property owners (Section 552(2)(c) and 552(3)(c))

# Proposed Legislation: Necessity Hearing

- Section 558
- Conducted by Board for intracounty drains and Commission for intercounty districts
- Determine necessity of a water management program for the “public health, safety or welfare.”
- Determine the boundaries of the water management district (notices sent based on tentative district)
- Determines municipalities subject to assessment at-large for benefits to public health and for state highways, county roads, or city/village streets

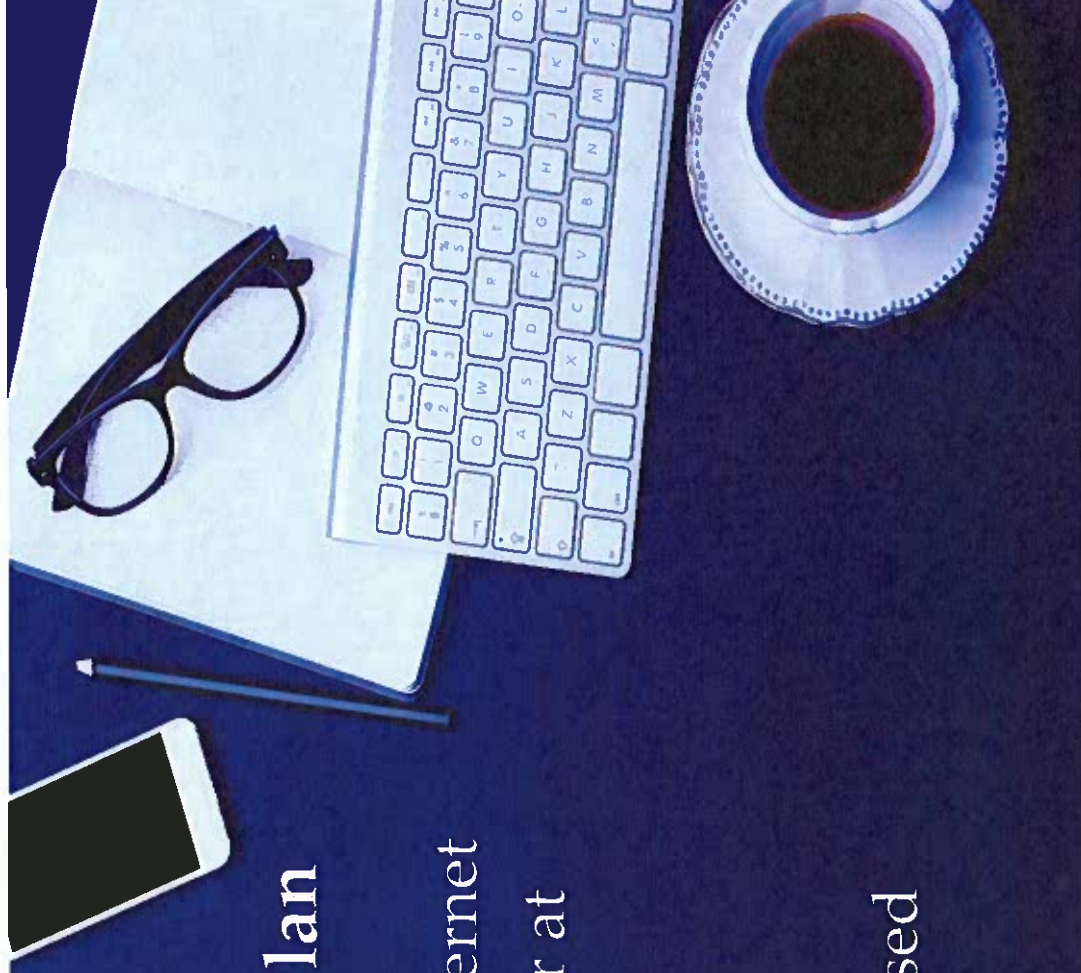


## Proposed Legislation: Program Process--Plan

- ❑ Section 560
- ❑ Water Management Board:
  - ❑ Shall prepare a proposed water management plan
  - ❑ Shall retain necessary qualified personnel to provide analysis and recommendations
  - ❑ May appoint advisory committees for assistance with any aspect of development of the plan
  - ❑ May utilize/consider plans already prepared for district area

## Proposed Legislation: Comments on Proposed Plan

- Plan must be posted on internet in every affected county for at least 30 days
- Board shall consider the comments and may make modifications to the proposed plan



# Proposed Legislation: Plan Requirements

- ❑ Section 551(o)
- ❑ Recommendation for program activities
- ❑ Estimates of costs for each activity



# Proposed Legislation: Plan Approval/Rejection



- ② Section 560(3)
  - ② Board can approve the plan with/without modification; or
  - ② Reject the plan if a water management program is not feasible
- If rejected:
- The petition is dismissed
  - Costs are assessed to the water management district
  - No new petition for 1 year



# Proposed Legislation: Types of Allowable Activities

- ☐ Section 551(a)
- ☐ Stormwater management activities may include (but not limited to):
  - ☐ Stormwater reviews and ordinance drafting
  - ☐ Public education re: stormwater
  - ☐ Stormwater control facilities, infrastructure or equipment

A photograph of a forest path with sunlight filtering through the trees. The path is paved and leads into a dense forest of tall trees. Sunlight creates a dappled effect on the ground and foliage. The overall scene is peaceful and natural.

## Proposed Legislation: Adoption of Program/ Selection of Activities

- Section 561b
- Order adopting Program shall describe 1 or more activities to be performed
- Program activities shall be consistent with water management plan
- Order includes apportionment between counties, if intercounty.

Architectural blueprints are spread out on a light-colored surface. The drawings show various technical details, including dimensions, lines, and annotations. Some drawings are partially unrolled, showing the edges of the paper. The overall scene is a top-down view of the blueprints.

## Proposed Legislation: Bids/Computation of Costs

- Section 562
- Bid shall be taken for construction portion of program activities
- Advertise for bids on county website(s)
- Computation of Costs (Section 573)

## Proposed Legislation: Apportionment of Benefits

- ❓ Section 563
- ❓ Apportionments to same entities as in Chapter 4/6
- ❓ “Benefit” defined in Section 551(c):

“advantage to public corporations, the inhabitants of public corporations, or property that results from a water management program, including, but not limited to, a benefit as a result of contribution of stormwater, or a benefit from the elimination of water conditions that jeopardize the public health, safety or welfare.”



## **Proposed Legislation: Apportionment of Benefits**

- Sections 563
- Drain Commissioner determines apportionments in county for intercounty water programs
- Drain Commissioner determines apportionments for intracounty water programs

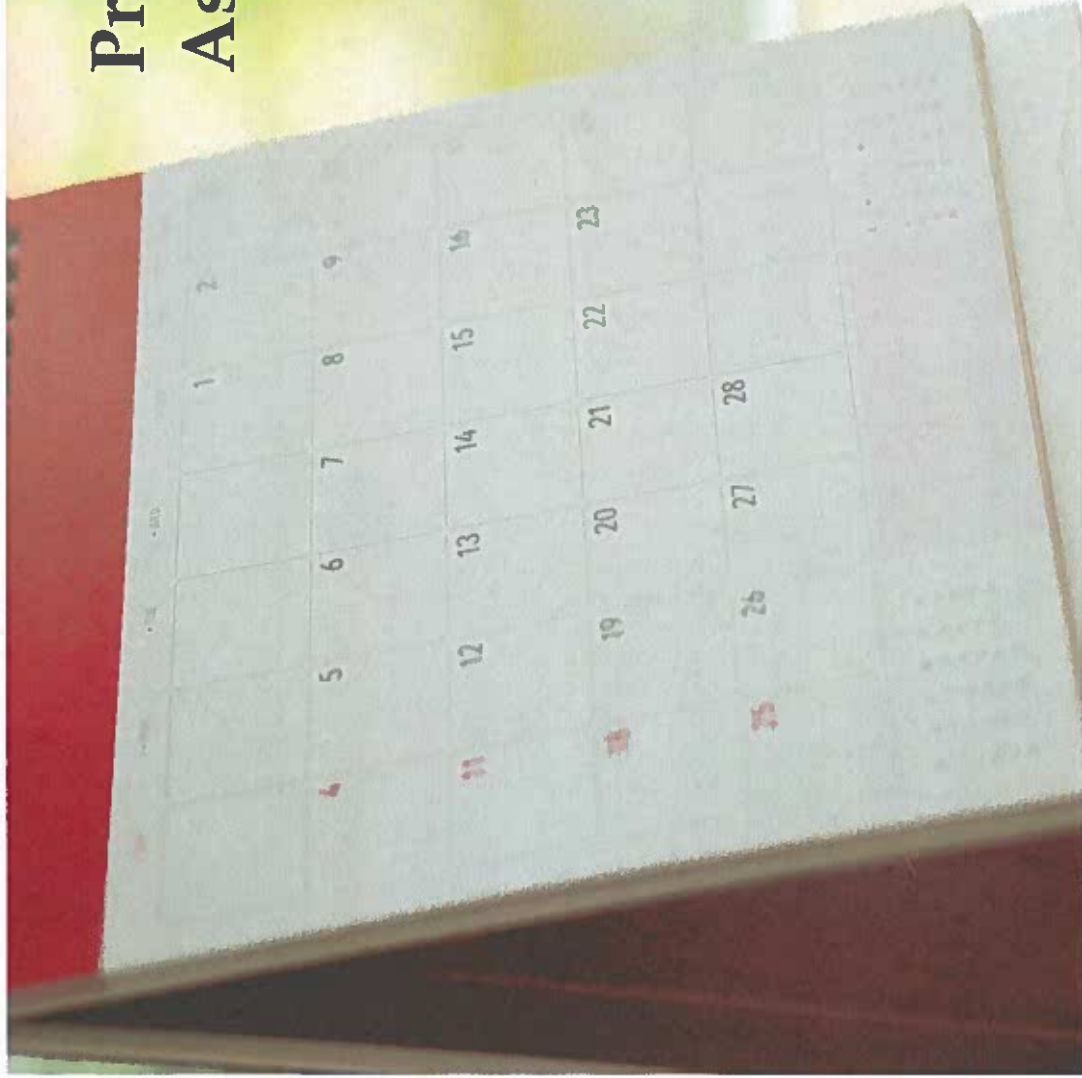


## Proposed Legislation: Day of Review of Apportionments

- ❑ Sections 564
- ❑ Notice same process as Chapters 4/6
- ❑ DOR to be held not more than 60 days after bids
- ❑ Computation of Costs must be available
- ❑ Appeals same process as Chapters 4/6
- ❑ Roll filed with Board after DOR

# Proposed Legislation: Assessments

- Assessments
- Up to 30-year assessment (Section 569)
- Assessment placed on property taxes



## Proposed Legislation: Program Continuation/Maintenance

- Board continues with operation of activities and maintenance of activities
- Must post annual report on status of program
- No annual maintenance limit
- Assessments based on historic apportionment unless new DOR

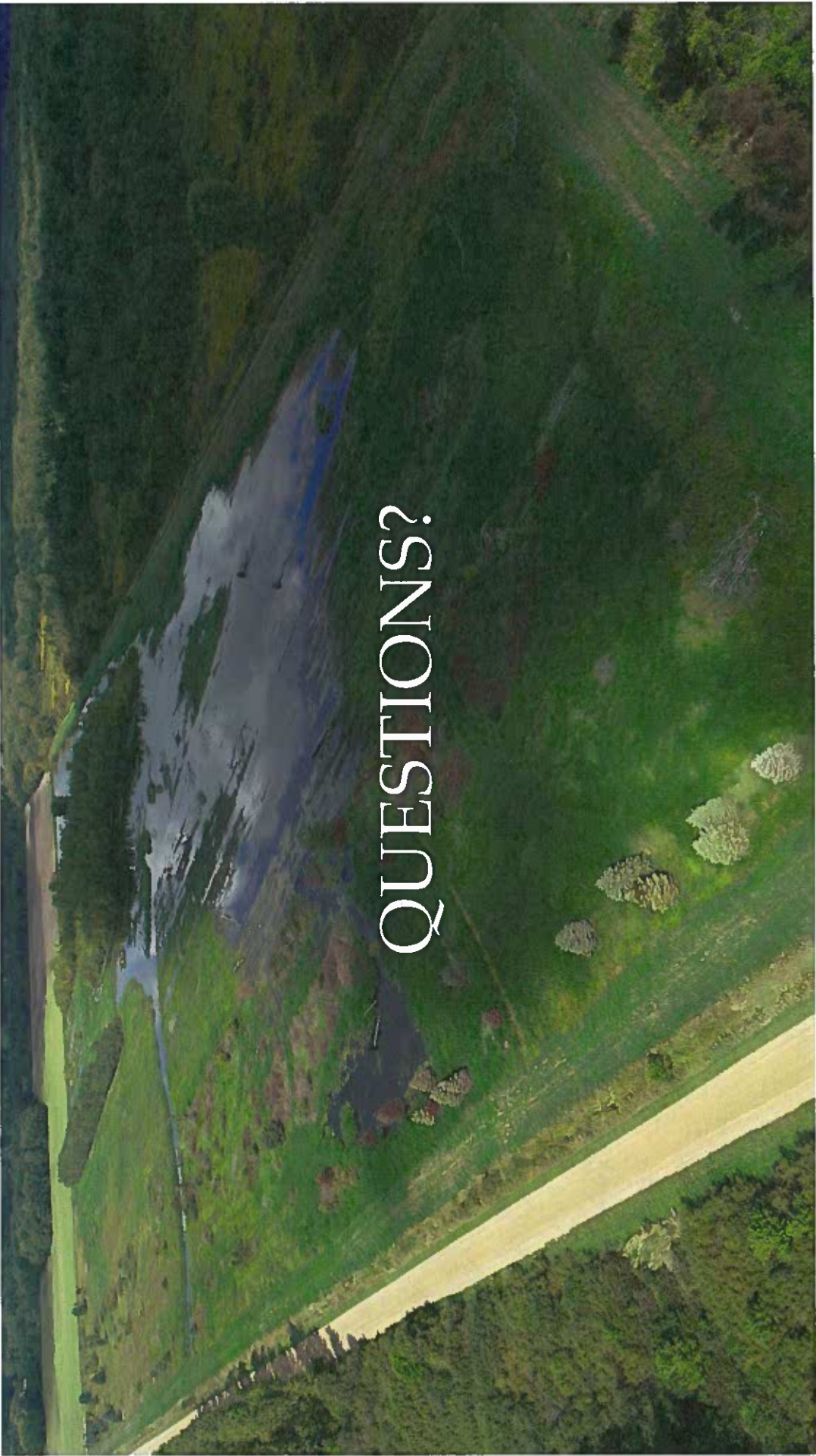






## Proposed Legislation: Additional Activities/Changes to Plan

- ▣ Additional activities in Plan require petition
- ▣ Amendments to Plan require petition
- ▣ Improvements to existing infrastructure, etc., requires petition
- ▣ Program infrastructure, etc., may be relinquished



# QUESTIONS?