

OFFICIAL OPINION NO. 90-20, County and Township Bridges

May 24, 1990

Wilson Kleibacker
Lake County State's Attorney
P.O. Box 45
Madison, SD 57042

OFFICIAL OPINION NO. 90-20

County and Township Bridges

Dear Mr. Kleibacker:

You have requested an official opinion from this Office with regard to the following factual situation.

FACTS:

The words "bridge" and "culvert" as used in SDCL ch. 31-14 are defined by 31-14-1. Pursuant to these definitions, a "bridge", is a structure, including supports, erected over a depression or obstruction, and a "culvert" is any structure, not classified as a bridge, providing an opening under a roadway. It appears that the fences or guardrails on the structure itself would be a part of the bridge and therefore the county's responsibility. However, it is not certain if guardrails or fences all the way across the bridge or above a culvert, or guardrails and fences along a roadway leading up to a bridge, are considered part of the structure.

The question has also been raised as to what responsibility the county has for erection and maintenance of signs leading up to bridges or culverts, and signs that are actually on the bridge itself. A reflector-type sign on a bridge abutment is part of the bridge, but what about a sign stating the name of the stream or river being crossed?

Is the county responsible for signs on the roadway prior to the bridge alerting motorists to the bridge, or requesting that they slow their vehicles, both as to construction and maintenance of such signs?

Based on the foregoing factual situation and observations, you have asked the following questions.

QUESTIONS:

1. Is a county, under SDCL 31-14-2, obligated and responsible for the construction and maintenance of signs associated with township bridges?
2. Is a county obligated under SDCL 31-14-2 to provide for the construction and maintenance of guardrail fences leading up to but not actually on a bridge under the provision of SDCL 31-14-2?

DISCUSSION:

SDCL 31-14-2 establishes county responsibility for all bridges and culverts within the county except as otherwise set forth in statutes pertaining to township bridges and culverts:

The duty to construct and maintain all bridges and culverts throughout the county, except upon the state trunk highway system, is hereby imposed upon the board of county commissioners, subject to conditions relating to bridges and culverts on secondary highways in townships.

SDCL 31-14-27 establishes that the county will construct and pay for all bridges and culverts of sixteen square feet or more opening, except that the township must reimburse the county \$500 of the expense, and also maintain culverts of this size on township roads. This statute also establishes that townships will be responsible for construction and maintenance of all bridges and culverts with an opening less than sixteen square feet.

SDCL 31-14-30 provides, as to guardrails on county and township bridges:

The board of county commissioners and the board of township supervisors shall cause to be built and maintained substantial guardrails, not less than twenty inches high, upon and along the sides of all county and township bridges. The guardrails may be paid for out of the county road and bridge fund or township bridge fund.

A bridge includes the structure, abutments, approaches, piers and foundation. SDCL 31-14-4, 31-14-5, 31-14-7 and 31-14-20.

IN RE QUESTION NO. 1:

A county is responsible for the construction and maintenance of signs on county bridges, regulatory weight signs, bridge limit signs and signs that specifically relate to use of the bridge. As to township bridges (under sixteen square feet opening), the township is responsible for signs that specifically relate to the bridge, as well as normal road direction signs on the township roads. The township is also responsible for maintenance of culverts in excess of sixteen square feet opening, which includes all signs associated with such culverts.

IN RE QUESTION NO. 2:

The county (on bridges and culverts with sixteen square feet or more openings) and the township (on bridges and culverts on township highways with less than sixteen square feet openings) are responsible for the guardrail associated with that structure, whether it is on the bridge, protecting the bridge or leading up to the bridge. If there should be guardrail maintenance associated with culverts over sixteen square feet opening, it is the responsibility of the township.

Respectfully submitted,

ROGER A. TELLINGHUISEN
ATTORNEY GENERAL

RAT:jj