

## Ruling expected on Ditch 58 project

TUESDAY, DECEMBER 7, 1999

OSHAWA — A judge is expected to make a ruling soon on a portion of a lawsuit filed by environmental groups against Nicollet County and landowners who are proposing a new ditch.

Meanwhile, a coalition of counties that works on improving the Minnesota River is trying to find ways to design ditches that meet the needs of farmers while allaying environmentalists' fears and preventing lawsuits.

District Judge Terry Dempsey, in St. James, is to determine whether Nicollet County commissioners acted capriciously and arbitrarily when they decided an Environmental Assessment Worksheet was not needed before the ditch project moved ahead.

This summer, the Minnesota Center for Environmental Advocacy, based in the Twin Cities, along with some local landowners and environmentalists, filed suit against the proposed ditch improvement project.

Ditch 58, about halfway between St. Peter and North Mankato, consists of underground tile installed in 1917. Farmers in the area petitioned the county to improve the system. An engineering firm designed a new system — which would cost landowners \$440,000 — that would leave the underground tile in place but also add 2½ miles of open ditch.

The Department of Natural Resources objected to the plan, citing potential damage to Seven Mile Creek, which is a designated trout stream.

Mark Ten Eyck, of the Center for Environmental Advocacy, said his group sued because they do not believe the county commissioners fulfilled their obligation to make sure the most environmentally safe system is built.

The county and landowners argue that the design is safe, consisting of grass buffer strips along the ditch and a water-control structure to control flow going into Seven Mile Creek.