

CHAPTER 89-02-04 DRAINAGE COMPLAINT APPEALS

Section

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89-02-04-01. Scope of chapter.

Repealed effective April 1, 2026.

89-02-04-02. Definitions.

Repealed effective April 1, 2026.

89-02-04-03. Filing of complaint.

Repealed effective April 1, 2026.

89-02-04-04. Complaint to department - Director's action when board fails to act.

Repealed effective April 1, 2026.

89-02-04-05. Form and acceptance of appeal.

1. Any aggrieved party under subsection 1 of North Dakota Century Code section 61-32-08 may appeal the board's decision to the department of water resources. The following information is required by the department to be considered a complete appeal. Only the information below may be accepted as a part of an appeal.

- a. A completed appeal form including the location of the alleged unauthorized drainage and the ownership information of the land on which the alleged drainage is located;
 - b. A copy of the original complaint to the board and all the materials required as a part of that complaint under North Dakota Century Code section 61-32-07;
 - c. The board's decision; and
 - d. A statement specifying the reason why the board's position is erroneous.
2. The department may not begin evaluating the appeal until all necessary documentation is provided to the department by the aggrieved party. If all required documentation is not provided to the department within the statutory submission timeline, the appeal is deemed incomplete and void.

History: Effective October 1, 1988; amended effective January 1, 2015; January 1, 2023; April 1, 2026.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-32-08

89-02-04-05.1. Form and acceptance of complaint.

1. A person may file a complaint with the department if the board fails to investigate and make a determination concerning the complaint within a reasonable time as outlined in subsection 2 of North Dakota Century Code section 61-32-08. The following information is required by the department to be considered a complete complaint. Only the information below may be accepted as a part of a complaint.
 - a. A copy of the original complaint to the board and all the materials required as a part of that complaint under North Dakota Century Code section 61-32-07; and
 - b. Proof the complaint was submitted to the board, including the date the complaint was submitted to the board.
2. The department may not begin evaluating the complaint until all necessary documentation is provided to the department by the aggrieved party. If all required documentation is not provided to the department within the statutory submission timeline, the complaint is deemed incomplete and void.

History: Effective April 1, 2026.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-32-08

89-02-04-06. Department's review of board's decision.

Repealed effective April 1, 2026.

89-02-04-07. Sufficiency of information on appeal.

Repealed effective April 1, 2026.

89-02-04-08. Department's independent investigation.

1. In addition to the information required in section 89-02-04-05 or 89-02-04-05.1, the department may review the following information as a part of its independent investigation of appeals to the department regarding the board's decision and complaints to the department as a result of board inaction:

- a. Topographic information and aerial photographs of the area;
 - b. Any existing surveys of the area;
 - c. Department records;
 - d. Laws, rules, and department policies in effect at the time of the alleged unauthorized drainage; or
 - e. Publicly available information from relevant local, state, or federal agencies.
2. The department may choose to conduct a site visit under North Dakota Century Code section 61-32-08 to obtain additional information.

History: Effective October 1, 1988; amended effective January 1, 2015; January 1, 2023; April 1, 2026.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-32-08

89-02-04-09. Demand for hearing by affected landowner.

Repealed effective April 1, 2026.

89-02-04-10. Request for hearing by others than affected landowners.

Repealed effective April 1, 2026.

89-02-04-11. Appointment of hearing officer.

Repealed effective April 1, 2026.

89-02-04-12. Purpose of hearing.

Repealed effective April 1, 2026.

89-02-04-13. Qualifications of witnesses at department's hearings.

Repealed effective April 1, 2026.

89-02-04-14. Notice of hearing.

Repealed effective April 1, 2026.

89-02-04-15. Issues limited to those contained in notice.

Repealed effective April 1, 2026.

89-02-04-16. Notice of witnesses at hearing - Time frame.

Repealed Effective April 1, 2026.

89-02-04-17. Subpoena of witnesses.

Repealed effective April 1, 2026.

89-02-04-18. Prehearing conference.

Repealed effective April 1, 2026.

89-02-04-19. Order of presentation at hearing.

Repealed effective April 1, 2026.

89-02-04-20. Cross-examination.

Repealed effective April 1, 2026.

89-02-04-21. Record of hearing - Consideration by hearing officer.

Repealed effective April 1, 2026.

89-02-04-22. Recommendation of hearing officer.

Repealed effective April 1, 2026.

89-02-04-23. Decision of director on record of hearing.

Repealed effective April 1, 2026.