DEKALB COUNTY / NOBLE COUNTY JOINT DRAINAGE BOARD
February 28, 2022

Drainage Board Commissioners Present:
Noble County:
Gary Leatherman, Chairman
David Dolezal, Member

DeKalb County:
Bill Hartman, Vice-Chairman
Bruce Bell II, Alternate Member

Steuben County:
James Crowl, 5th Member

Others Present:
DeKalb County:
Mike Kline, Surveyor
Michelle Lassiter, DB Admin. Assist.
Shannon Kruse, Attorney

Absent:
Noble County Surveyor, Randy Sexton

Guests:
Mike Krehl
Annette Wible
James Deetz
R. D. Wolheter
Denny Weber

Chairman Gary Leatherman called the February 28, 2022, DeKalb County / Noble County Joint Drainage Board meeting to order at 2:34 p.m.

APPROVAL OF MINUTES:
A motion was made by Dave Dolezal to approve the Minutes of December 30, 2021, as presented with correction of "not" being changed to "no" in the fifth from the bottom, seconded by Bruce Bell, II, motion carried.

PUBLIC HEARING WILLIAM BICKEL DRAIN NO. 133-00-0 RECONSTRUCTION PHASE II:
Mr. Leatherman called the Public Hearing of the reconstruction of the *William Bickel Drain No.133-00-0* to order.

The landowners were notified via first class mail on January 21, 2022, sent in five-day return envelopes. A legal notice was published in both The Star and the News Sun newspapers on February 11, 2022.

Mr. Kline presented the surveyor's report stating that Phase I of the drain reconstruction had been completed in 2020. Phase II had been approved on October 21, 2021, had the drain skirting potential wetlands and had an estimated cost of $221,851.93. The bids were opened on December 16, 2021, labor bids were Knott's Excavating bidding $99,454.08 and J & L Excavating bidding $140,257.50. Materials bids were Baughman Tile $87,413.20 and Core & Main $81,723.75. This put the bids over the cost estimates by more than the 10% permitted by State Code. This left the Board with the options to either rebid the project hoping for bids to come in lower and within an acceptable amount, or to vacate the current approved plans and draw up new plans.

Mr. Hartman explained he believed the costs could be reduced by changing the route of the reconstructed drain, using solid pipe through the potential wetlands, which would reduce the distance and the amount of tile needed for the project.

Mr. Kline highlighted the approved route and Mr. Hartman's proposed route. The proposed route would entail some extensive clearing of trees and vegetation. Mr. Kline explained that the Surveyor's Office had requested a 368 meeting with the Army Corps of Engineers, Indiana Department of Environmental Management (IDEM),

Indiana Department of Natural Resources (IDNR). IDEM and IDNR will not do anything until Army Corps determines if the area is Jurisdictional Waters of the U.S.

If Army Corps does not take jurisdiction, then according to an email from IDEM the area may be an isolated wetland and would require a wetland delineation. Either way there more than likely would be permits required from one or both of the entities. In addition, permitted work within a wetland required rubber-tired heavy equipment or wood mats for the equipment to drive over. This would increase the time required for the project and would increase the labor costs. Mr. Kline explained it was because of these processes and costs the approved route was chosen by him and his staff.

Mr. Kline also cautioned the Board that IDEM and Army Corps may not permit for the tile to be reconstructed through the potential area as an inspection showed a concrete structure similar to a highway structure had been installed, with the south end having been opened up. There were piles of dirt and pieces of tile where tile had been torn out. With the tile removed IDEM and the Army Corps would not permit tile to be re-installed into the wetlands, due to their rules stating if a tile is removed and not replaced within five years, it is no longer a drain. In addition, the dirt and tile left in piles will need to be removed, as neither IDEM nor Army Corps permitted fill to be left in a wetland.

Mr. Kline explained that until Army Corps inspected the site his office was unable to determine the route and estimated costs for the project. Army Corps would not inspect a site while there was snow and the ground was frozen. Army Corps personnel need to see the vegetation to help determine a wetland and the type of wetland. Mr. Kline stated that due to the weather he was not sure of the timing for an inspection by Army Corps. In addition, the timing would be determined by the backlog of work the Army Corps had.

Mr. Kline stated he would recommend vacating October 21, 2021, hearing approval, and setting a new public hearing date after the Army Corps inspection when a route and new plans can be determined.

Mr. Leatherman informed the Board a letter had been received from David and Alice Frazie regarding the reconstruction project.

DEKALB COUNTY SURVEYOR
RECEIVED
FEB 22 2022
COURTHOUSE
AUBURN, IN 46706

February 17, 2022

DeKalb County Drainage Board
100 South Main Street
Auburn, IN 46706

Dear Commissioners,

We understand that on February 28th the Drainage Board will discuss a new reconstruction design or decide to dismiss Phase II of the Bickel Reconstruction Project.

As I informed Nathan this past October, we are diligently working to cut down trees that have grown over the last 15 years in the area where the ***original Lateral 1 Spur 1*** shows on your diagram.

Instead of running the tile Southwest of Wolheter's property down through our property to Spidel's; we would like to again propose that the **tile run straight across, arching down to where the original Lateral 1 Spur 1 is on our property and then go into Spidel's Lateral 1 Spur 1.** Wouldn't this be a win-win? (Less tile)

All we have asked for (and have been promised since January 2020) is that our side of Lateral 1 Spur 1 be taken care of (***not 40 feet North of the original tile***). The **original tile is located in the lowest ground**. As you move North or South of the original tile, the ground continues to get higher. We find it extremely disheartening that the county does not have a problem tearing up our land to run new tile to the original Lateral 1 Spur 1 on Spidel's property, which is **NOT** 40 feet away from mature trees.

In closing, we appreciate your consideration of this matter should the Drainage Board decide to move forward with a new reconstruction design. If not, we are fine with dismissing the Phase II Reconstruction, as the present proposal offers little, if any, improvement to our current drainage, as the proposed cost far out ways any benefit.

Sincerely,

David & Alice Frazie

David and Alice Frazie

10601N 1200E-57
Corunna, IN 46730

(260) 347-2653

Mr. Mike Krehl, Mr. Jim Deetz, Mr. Denny Weber, and Mr. R. D. Wolheter spoke regarding the project. The following information came out of their input.

- The distance between a wetland and an area farmed was determined by soil types.
- Mr. Kline preferred to put a drain inlet structure at the edge of an existing wetland boundary to prevent wetland growth. Farming could take place up to an inlet structure.
- NRCS called tiled, previously drained land "farmed wetland".
- Army Corps up until two years ago would not accept NRCS determinations. Currently, the Army Corps would accept NRCS determinations. However, if the land was not farmed for five years, it lost its exemption with Army Corps.
- Mr. Deetz gave a brief history of the area of the drain, stating the petition for reconstruction was submitted in 1977, which was before 1985.
- Mr. Deetz and Mr. Wolheter both questioned whether the reconstruction had to abide by the wetland rules due to a law signed by Governor Holcomb. Mr. Kline explained that the rules have reverted to the 1986 rules due to court decisions that have been passed voiding the Trump administration's environmental rules, which had voided the Obama administration's rules. This overturned Indiana's new laws.
- Mr. Weber asked if he could tie a private lateral back into the reconstructed drain. Mr. Kline stated hopefully so, but it would depend on the new route approved by IDEM or Army Corps. Mr. Weber stated if necessary, he would install a pump and send the water on his property over the top.
- Mr. Krehl stated the past was the past. He wanted to do what was permitted currently, and move forward.

During a brief Board discussion, Ms. Kruse stated the reconstruction could be done in phase, in response to Mr. Hartman asking if the drain could be reconstructed up to the point where it entered the wetland and finished after the Army Corps inspections. Mr. Bell voiced concern there might still be wide discrepancies in future bids for the project. Mr. Crowl voiced a desire to vacate the October 21, 2021, approved plans. Mr. Hartman moved to vacate the current plans and ask the surveyor to put together a new plan up to the wetland area, along with the associated assessments. Mr. Crowl seconded the motion, motion carried.

The Board agreed by consensus to meet on March 28, 2022, at 2:30 p.m. in the DeKalb County Commissioners' Court on the second floor of the DeKalb County Courthouse. The DeKalb County Surveyor was asked to have a list of assessments and the surveyor's report to review. It was hoped the Army Corps inspection might be completed by that time.

The public hearing was adjourned at 3:57 p.m.

Bill Hartman moved to adjourn, seconded by Bruce Bell, II, motion carried. Meeting adjourned at 3:48 p.m.

Gary Leatherman, Chairman

Michelle Lassiter, Administrative Assistant