

# DEKALB COUNTY DRAINAGE BOARD MEETING

August 26, 2021

## **Drainage Commissioners Present:**

Randall J. Deetz, Chairman  
Michael E. Krehl, Vice Chairman  
William L. Hartman, Member  
Michael V. Watson, Member  
Bruce Bell II, Member

## **Others Present:**

Nathan Frye, First Deputy Surveyor  
Michelle Lassiter, Sec. /Drainage Board Admin. Asst.  
Shannon Kruse, Attorney

## **Guests:**

Mary Jo Diehl  
Bill Presley  
Ted Custer  
Diane Culler

## **Absent:**

Michael C. Kline, County Surveyor

Chairman Randall J. Deetz called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m.

## **APPROVAL OF MINUTES**

A motion was made by Mike Watson to approve the Minutes of August 19, 2021 as the standard minutes of the DeKalb County Drainage Board. The motion was seconded by Bill Hartman, the motion carried. Mike Krehl abstained due to his absence from the meeting.

## **REQUEST FOR QUALIFICATIONS FOR ENGINEERING SERVICES – LEVI O. DENNISON DRAIN NO. 317-00-0**

RFQs for engineering services were discussed. Three firms had submitted Qualifications, Christopher B. Burke Engineering, LLC, Engineering Vision, Inc. and Gensic Engineering, Inc. The members were of a consensus they preferred to use a smaller company. There was some concern regarding Engineering Vision, Inc. due to one of the principals being Mark Strong, the previous County Surveyor, and how he and current County Surveyor, Mike Kline would interact. Bill Hartman made a motion to request quotes for the Levi O. Dennison Drain No. 317-00-0 from both Engineering Vision, Inc. and Gensic Engineering, Inc. per project, not per hour, with a three week turn-around. Mike Krehl seconded the motion, motion carried. Mrs. Lassiter would type the request for quote and send it to Ms. Kruse to review prior to sending it to the firms.

Mr. Deetz then asked Mr. Hartman and Mr. Watson if there would be COVID stimulus money available for the reconstruction of the Levi O. Dennison Drain No. 317-00-0. Mr. Watson stated they were waiting on a reply from Baker Tilley as to whether the project would qualify for the funding use. Baker Tilley were the consultants the County Commissioners were using for guidance with the funds. If the project qualifies, the County Commissioners would need to vote on whether to allow the funds to be used for the project, and County Council would need vote on allowing the funds to be used for the project as well.

Mr. Frye stated that he would prefer to use the regular processes of assessing the watershed landowners for the reconstruction project and stimulus funds to hire a firm like Christopher B. Burke Engineering to conduct a drainage study for the communities along the Saint Joseph River, as those areas have some pretty severe issues that have not been addressed. Mr. Watson asked Mr. Frye to email the information to him for submission to Baker Tilley for consideration.

**INTERLOCAL AGREEMENT: DEKALB COUNTY / CITY OF AUBURN – FRED GROSCUP JR DRAIN NO. 335-00-0**

Ms. Kruse asked the County Commissioners had discussed the interlocal agreement for the reconstruction of the Fred Groscup Jr. Drain No. 335-00-0. Mr. Hartman said the Commissioners wanted the language in paragraph 7 to read not to exceed 10% of 117,000.00. Mike Watson moved to approve the interlocal agreement with the City of Auburn for the reconstruction of the Fred Groscup Jr. Drain No. 335-00-0. Bruce Bell, II seconded the motion, motion carried.

The Board signed the signatory page, Ms. Kruse was to make the changes to paragraph 7 and deliver the document to the County Auditor to have the agreement placed on the next County Commissioners agenda.

**SURVEYOR'S REPORT**

Mr. Deetz asked for the Surveyor's Report and Mr. Frye presented the following:

**Indiana Michigan Power Company:** *Warren A. Mason Drain No. 70-00-0; Warren A. Mason Lateral 4 Open Drain No. 70-04-0; Warren A. Mason Lateral 1 Spur 1 Tile Drain No. 70-01-1; and George Packer Open Drain No. 146-00-0:* Indiana Michigan Power were reconstructing their utility along County Road 63 north of County Road 34, all work would be above ground replacing poles and wire. Mike Krehl moved to approve the IMP Utility Permit request for County Road 63. Mike Watson seconded the motion, motion carried.

**Indiana Michigan Power Company:** *Evans Collins Open Drain No. 81-00-0:* Indiana Michigan Power were re-routing a line along County Road 24 between State Road 1 and County Road 71 from in fields behind houses to the south side of the County Road 24 road right-of-way and would be in the right-of-way easement of the *Evans Collins Open Drain No. 81-00-0*. Bill Hartman moved to approve the IMP Utility Permit request for County Road 24. Bruce Bell, II seconded the motion, motion carried.

**BREAK 8:55 A.M.:** At this point Mr. Deetz called for a five minute break prior to beginning the Public Hearing for reconstruction of the C.B. Kagey Drain No. 225-00-0.

**PUBLIC HEARING: C. B. KAGEY DRAIN NO. 225-00-0 RECONSTRUCTION**

Mr. Deetz called the Public Hearing for reconstruction of the *C.B. Kagey Drain No. 225-00-0* to order at 9:00 a.m.

The landowners were notified via first class mail on July 23, 2021, with a corrected notice being sent out via first class mail on July 29, 2021, both sent in five-day return envelopes. A legal notice was published in The Star newspaper on August 6, 2021.

Mr. Frye presented the written Surveyor's Report: Mr. Phil Brechbill submitted a petition on behalf of Harold and Mary Jo Diehl on August 31, 2017. The drain's location was in township 35 North, Range 12 East, Richland Township, Section 16 & 17, and crossed County Road 7.

The drain was established a regulated drain in 1890, prior to that it was an unregulated private drain. The drain was placed on maintenance on August 24, 1995. The drain contained 385 linear feet of 15 inch tile, and 2,630 linear feet of 12 inch tile, and laid within a 182.69 acre watershed. The drain fund balance was \$3,892.06, and last collected \$1,099.32 in 2021 at a rate of \$5.00 per acre for agricultural use, \$10.00 an acre for residential use, \$15.00 an acre for commercial use, with a \$10.00 minimum per parcel. Engineer's cost estimates were: \$107,734.75; + 10% \$118,508.23, and cost per

acre \$589.71; +10% per acre \$648.68. The watershed was 84.99% agricultural use, 12.45% residential use, and 2.5.7% commercial/road right-of-way use. Mr. Frye also presented the proposed assessment roll.

The drain contained cracked and broken tile with a section of tile being exposed. Areas of wetland were developing due to the non-functioning status of the tile. Some of these issues had developed due to the tile being too small in size for the amount of water in the watershed. Mr. Frye noted the wetlands (PEM1A; PSS1/EM1C; PF01C) and soil types (BaB2 – Blount silt loam, 1 to 4 permit slopes, eroded; HW – Houghton much, drained; Pe – Pewamo silty clay; RE – Rensselaer loam; GnB2; MrD3; MrC3; Wa).

Mr. Frye stated the Surveyor's Office was recommending the tile be reconstructed with an outlet located further south into the John Diehl Drain No. 45-00-0 on the South side of County Road 36, adding a lateral (Lateral 1), running North from the outlet up to the existing tile and stopping West of the County Road 7 right-of-way. Tile sizes proposed were 652 linear feet of 12 inch tile and 2,717 linear feet of 18 inch tile. Mr. Frye wanted to increase the drain maintenance rates to a base rate of \$10.00 per acre agricultural use, \$20.00 per acre residential use, and \$30.00 per acre commercial use, with a minimum two acre assessment.

Mr. Deetz asked Mr. Frye if all lands within the watershed had been assessed, if all benefits assessed were not excessive, and if costs, damages, and expenses of the reconstruction were less than the benefits accruing to the landowners benefited by the reconstruction. To which Mr. Frye responded yes, to all.

Information that came out of the technical question portion of the hearing were:

- The main line would be reconstructed, with laterals reconnected, and landowners responsible for private tiles in need of repair or replacement.
- Mr. Ted Custer's (743 County Road 36) issues with front yard flooding due to culvert issues on County Road 36 would be private matter to be addressed by the property owner either by requesting to tie a private tile into the drain or other means. The drain reconstruction would not be located in Mr. Custer's front yard.
- Mrs. Mary Jo Diel, owner of property along the south side of County Road 36, asked if the assessments could be paid in five years' time. Mr. Deetz explained that she may do so, but a 10% interest fee would be added each year per Indiana State Code. The assessments would be sent to the County Treasurer's Office after the project is deemed completed. Treasurer's Office will either bill out immediately or include it on the next property tax billing cycle, depending on the timing.
- Mr. Bill Presley, 3652 County Road 7 asked if the wet area on the east side of County Road 7 would be part of the project. Mr. Frye stated it would not.
- Mr. Presley asked why a 24 inch tile was not being used in place of the proposed 18 inch tile. Mr. Frye stated the calculations showed the 18 inch tile would be adequate and the 18 inch tile was more cost effective.

There being no one to speak against the reconstruction, no objection letters having been received, and no additional evidence being requested by Board members, Mr. Deetz asked Attorney Kruse to read the Findings of Fact.

# **DEKALB COUNTY DRAINAGE BOARD FINDINGS OF FACT**

NAME OF DRAIN: C. B. KAGEY

NUMBER: 225-00-0

THE BOARD MAKES THE FOLLOWING FINDINGS OF FACT FOR THE RECONSTRUCTION OF A DRAIN:

These are the proposed findings, which are not final until adopted by the Board:

1. The public hearing has been and is being recorded in digital form.
2. The petition previously filed for this drain is admitted into evidence.
3. The drain has been classified and previously placed on the priority list of the long-range plan of the Board.
4. There are no damages to any landowner.
5. None of the benefit factors of Section 112 of the Indiana County Drainage Board Code are excluded.
6. All landowners, sent notices of the proposed assessment, have lands within the watershed.
7. Notices by mail and by newspaper have been properly and timely made as required by the Indiana County Drainage Board Code for public hearing.
8. That any and all assessments are paid at the same base rate per acre with a reconstruction.
9. That the Surveyor's report with maps and drawings to the Board is received as evidence and approved by the Board, and the facts therein are found to be true.
10. That all lands included in the watershed are assessed.
11. That no lands outside the watershed are assessed.
12. That none of the benefits assessed against any landowner are excessively applied.
13. That no further evidence is required for the Board to make a decision.
14. That all persons desiring to speak, in person or by counsel, have been permitted to present their evidence orally or in writing.
15. That all timely objections, if any, have been heard, discussed, replied to by the Surveyor, and ruled on by the Board. No Objections have been filed.
16. That all persons present have been given adequate opportunity to ask questions of the Surveyor, the Board, or any other persons present.
17. That no person has objected to the procedure of the Board during the public hearing.
18. That the Board has jurisdiction of this drain under the Indiana County Drainage Board Code.
19. That the drain is in need of periodic maintenance after the reconstruction.
20. That any drains combined into one unit in the public hearing are done so in accordance with the following requirements:
  - (a) One or more other regulated drains in the same watershed are in need of reconstruction.
  - (b) The Board finds that no substantial injustice will result from treating the drains as a single drain.
  - (c) Notice has been given of this hearing to the landowners of land affected by the combination.
  - (d) The Board or a landowner has initiated a proceeding to reconstruct one or more of the regulated drains in the combination and recommended by the Surveyor.
21. That the drain can be made to perform the function for which it was designed and constructed and can be made to properly drain all affected land with the reconstruction.



22. That the work proposed by the Surveyor to be performed on this drain do the following: (Check the items that apply)
- A. ☐ Converts all or part of an open drain to a tiled drain.
  - B. ☐ Converts all or part of a tiled drain to an open drain.
  - C. ☐ Adds an open drain to a tile drain.
  - D. ☐ Adds a tiled drain to an open drain.
  - E. ☒ Increases the size of a tile, if any.
  - F. ☐ Deepens an open drain, if any.
  - G. ☐ Widens an open drain, if any.
  - H. ☐ Extends the length of the drain.
  - I. ☒ Changes the course of the drain.
  - J. ☐ Includes construction of a drainage detention basin.
  - K. ☐ Includes construction of a drainage control dam.
  - L. ☐ Provides for an erosion control structure.
  - M. ☐ Provides for grade stabilization structure, and;
  - N. ☐ Makes any major changes to a drainage system that would be of public utility.
23. That there has been no credible evidence presented to the Board to vacate the drain.
24. That the proposed improvement will result in the benefits to the watershed in excess of the costs of reconstruction in that it will:
- (a) Result in increased safety on public highways in or near said watershed.
  - (b) Result in longer life and fewer repairs of public highways in or near said watershed.
  - (c) Decrease the threat of insects, pests and their related diseases.
  - (d) Increase yields of farm crops from land within the watershed.
  - (e) Increase the values of land within the watershed.
  - (f) Reduce damage from flooding.
25. That there has been no evidence that the drain has been abandoned by the Board.
26. That all relevant documentation in the files of the Surveyor and the Board regarding this drain are received into evidence by the Board.
27. That the schedule of assessments as originally filed are adopted by the Board.
28. That the Administrative Assistant of the Board shall publish notice of the Board's Final Order as required by the Indiana Drainage Board Code.
29. That the Final Order form of the Board is approved for this drain, and is adopted to the extent it can be made consistent with these Findings and the Final Order of the Board.
30. The costs, damages, and expenses of the reconstruction do not exceed the benefits that result to the owners of all land benefited.
31. The damages assessed by the Board, if any, are adequate.
32. The damages assessed by the Board, if any, are only against land in the watershed.
33. The costs, damages and expenses of the reconstruction are less than the benefits accruing to the owners of the land benefited by the reconstruction.

William L. Hartman moved that the Board accept the Surveyor's Report as presented and approve the Findings of Fact, numbers 1 through 33, as submitted, seconded by Michael V. Watson. Mr. Deetz asked all in favor to say Aye, all members present responded, motion carried.

Motion was then made by Bruce Bell, II to adopt the Petition for Reconstruction of said drain, seconded by Michael E. Krehl. Mr. Deetz asked all in favor to say Aye, all members present responded, motion carried.

**FINAL ORDER OF RECONSTRUCTION OF THE  
C. B. KAGEY DRAIN NUMBER 225-00-0**

The DeKalb County, Indiana Drainage Board (hereinafter referred to as "Board") now renders its Final Order for construction of the C. B. Kagey Drain, the same being Number 225-00-0 in the records of the Surveyor of DeKalb County, Indiana.

1. Date of Filing. This drain was petitioned on August 31, 2017. The Surveyor of DeKalb County (hereinafter referred to as "Surveyor") while preparing reports in reconstruction for the receiving drain, proceeded to prepare the reconstruction report for this drain on or about August 31, 2017.
2. Jurisdiction. That the existing drain is a regulated drain and within the jurisdiction of this Board, pursuant to I.C. 36-9-27-15.
3. Report of Surveyor. That the Board referred the C. B. Kagey Drain herein to the Surveyor to prepare a report pursuant to I.C. 36-9-22(c), which report was filed and presented to this Board on August 26, 2021, in the Commissioner's Court, Courthouse, Auburn, Indiana.
4. Schedule of Assessments. That the Board then prepared a schedule of assessments and damages pursuant to I.C. 36-9-27-50, naming each landowner benefited or damages, his/her address, percent of total cost to be assessed against each tract of land based upon benefit received, showing the amount of each assessment based on the total estimated cost of improvement, and showing the amount of each owner's annual assessment based on the total estimated cost of periodically maintaining said improvement.
5. Legal Notice of Hearing. Legal notice of hearing was published pursuant to I.C. 36-9-27-52(a) as follows:
  - a. In the Star, a newspaper of general circulation in DeKalb County, Indiana.
  - b. On August 6, 2021, which date was not less than ten (10) days before the date of said hearing.
6. Mailed Notice of Hearing. Notice of hearing was sent on July 23, 2021, with a corrected notice being sent on July 29, 2021 by First Class United States mail in a five-day return envelope to each owner named in the schedule of damages and assessments as filed with the Surveyor's report herein, which notice was mailed not less than thirty (30) days, nor more than forty (40) days, prior to said hearing date, all in accordance with I.C. 36-9-27-52(a).
7. Department of Natural Resources Notice. That since the improvement proposed does not involve the construction or reconstruction of a regulated open drain, notice of said hearing was not sent to the Indiana Department of Natural Resources.
8. Objections Filed. At least five (5) days prior to said hearing; the following objections to the proposed improvements were received.

OBJECTOR

None

OBJECTION FILED

Non-Applicable

And that failure of any landowner to object five (5) days prior to said hearing to said petition, report, or schedules, thereby waived any other objections pursuant to I.C. 36-9-27-52(b).

9. Evidence Concerning Objections. Pursuant to I.C. 36-9-27-52(f) on or before the final hearing the Surveyor caused written evidence to be filed concerning the objections timely filed herein, which evidence is on file in the office of the Surveyor.
9. Evidence Concerning Objections. Letter on file.

10. Hearing. A hearing in connection with said improvement was held on August 26, 2021 at 9:00 a.m., in the Derald D. Kruse Commissioner's Court, 2<sup>nd</sup> Floor DeKalb County Courthouse, Auburn, Indiana, at which hearing the objects to said petition were heard and discussed, evidence was had and considered, the proposed improvement was explained, and certain landowners were present.
11. Disposition of Objection.
- |          |                |
|----------|----------------|
| OBJECTOR | DISPOSITION    |
| None     | Non-Applicable |
12. Amendments to Surveyor's Report. Upon the record developed, no amendments were made by the Board to the report of the Surveyor.
13. Periodic Maintenance. That said improvement will be in need of periodic maintenance and the cost of periodically maintaining the proposed improvement is \$5.00 per acre for agricultural land use, \$10.00 per acre for residential land use, and \$15.00 per acre for commercial land use per year, with a minimum of \$10.00 minimum per parcel assessment.
14. Reconstruction. That the present drain is in need of reconstruction.
15. Type of Improvement. That the proposed improvement is a reconstruction within the meaning of I.C. 36-9-27-34(a) in that: (include only those appropriate)
- A. It no longer can perform the function for which it was designed and constructed.
  - B. Topographical or other changes have rendered the drain inadequate to properly drain the lands affected without extensive repair or changes.
  - C. It involves increasing the size of tile.
  - D. It involves extending the length of a drain.
  - E. It involves changing the course of a drain.
  - F. It involves major changes to a drainage system that would be of public utility.
16. Improvement Justification. Pursuant to I.C. 36-9-27-52(i), the Board finds that the proposed improvement will result in benefits to the watershed in excess of the costs of reconstruction in that it will:
- A. Result in reclamation of approximately 5 acres of agricultural land.
  - B. Result in increased safety on public highways in or near said watershed.
  - B. Result in longer life and fewer repairs of public highways in or near said watershed.
  - C. Decrease the threat of insects, pests and their related diseases.
  - D. Increase yields of farm crops from land within the watershed.
  - E. Increase the values of land within the watershed.
  - F. Reduce damage from flooding.
17. Special Assessments. That no landowners will be specifically benefited by said improvement in excess of the benefit received by other landowners generally.
18. Damage Awards. That no landowners will be specially damaged as a result of said improvement.
19. Reduced Benefits. That no landowners who are within the watershed of the proposed improvement obtain no benefit or less benefit than other landowners.
20. Findings of Fact. After hearing all the evidence presented at the hearing for and against, the Board made the following FINDINGS:
- Findings of Fact as adopted in the Minutes Book on Page 151 in the Drainage Board Minute Book Number 16.
- NOW THEREFORE, IT IS ORDERED by the Drainage Board of DeKalb County, that:

- A. The Findings of Fact are adopted by the Board as true and accurate for this proceeding.
- B. The report of the Surveyor and the schedules filed herein shall be adopted and the improvement established. Copies of same shall be attached hereto and made a part hereof by this reference; and
- C. A periodic maintenance fund be established for the periodic maintenance of the improvement under the terms and conditions set forth in the report of the Surveyor; and
- D. Public announcement of said order is hereby made at the said hearing on this improvement; and
- E. The Administrative Assistant of the Board is directed to cause notice of this action to be published immediately in a newspaper of general circulation throughout DeKalb County, Indiana, which notice shall identify the drainage proceedings and state that the Findings and Order of the Board have been filed and are available for inspection in the office of the Surveyor of DeKalb County, all in accordance with and pursuant to I.C. 36-9-27-52(i); and
- F. If judicial review of Findings or Order of the Board is not requested pursuant to I.C. 36-9-27-106(a) through 36-9-27-109(a) within twenty (20) days from the date of publication of the aforesaid notice, the Findings and Order shall become conclusive and the Surveyor shall proceed to reconstruct the improvement according to law.

Dated at Auburn, Indiana this 26<sup>th</sup> day of August 2021

#### DEKALB COUNTY DRAINAGE BOARD

 Randall J. Deetz, Chairman


 Michael E. Krehl, Vice-Chairman

 William Hartman, Member

 Michael V. Watson, Member

 Bruce Bell II,

The Public Hearing for said drain was adjourned at 9:35 a.m.

 Randall J. Deetz, Chairman

 Michelle Lassiter, Administrative Assistant

#### INFORMATION

Mr. Deetz asked Mr. Frye if he had anything additional to discuss. Mr. Frye provided the following information:

- **Butler City Drain 200-00-0:** Perkins septic had been to the Jon Shook property at 504 Erie Street, Butler to inspect the septic tank. Perkins found a tree root wrapped around the lower end of the tank, pumped out the tank and looked inside. Perkins determined they did not believe the shifting of the tank was related to the reconstruction of the drain. In addition,



Perkins capped the second line into the tank, and the Surveyor's Office will grade and seed the area.

- Mr. Frye also informed the Board there was a section of County Road 55 washed out during a recent rain event. On inspection it appeared it was due to a culvert failure under the road that is not a part of a county regulated drain. There was a pond on the west side of the road which acted to slow the water flow. Water flowed west to east.

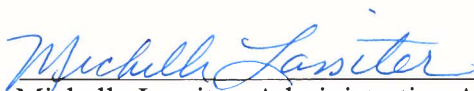
Mr. Deetz informed the Board he would not be attending the upcoming yearly Drainage School.

Mrs. Lassiter informed the Board that Mr. Frye would be on vacation Thursday, September 2, 2021 and asked if they wanted to meet without him. The Board decided to cancel the meeting.

Mr. Frye informed the Board there was a Burke drainage webinar on Thursday. He would provide the Board with the link in case anyone was interested in attending.

There being no further business, meeting adjourned at 9:43 a.m.

  
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Randall J. Deetz, Chairman

  
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Michelle Lassiter, Administrative Assistant