

**DRAINAGE BOARD MEETING
FOUNTAIN COUNTY COMMISSIONERS
May 6, 2019
10:00 a.m.**

The following Drainage Board Members were present at the meeting:
Craig Stalter, Don Hesler and Tim Shumaker.

Also in attendance: Roger Azar, Deckard Engineering; Kent Minette, County Attorney
and Brenda Hardy, Auditor.

Elmer Coats Drain

The Commissioners on April 22nd voted to reclassify the Elmer Coats Drain that was in need of reconstruction. A public hearing notice needs to go to the newspaper as soon as possible in order to have the hearing on May 20th at 6:00 p.m.

Roger reported that after talking with Jim Coffing there has been work done on this drain in the past without the Commissioners knowledge and that has affected the study that has been done on this drain. Roger needs the approval of the board to investigate and to proceed to update the records on this drain which will have an impact on the cost to reconstruct the drain. The assessment is correct in the watershed study but, a new cost estimate is needed before a public hearing can be set.

A motion was made by Don Hesler and seconded by Tim Shumaker to investigate and to proceed. Vote: 3-0

Mud Run Drain - Watershed Study prepared by Roger Azar

Currently 45 parcels which equals 1,132 acres was being assessed for 2017 pay 2018. A re-defined Mud Run watershed of 67 parcels which equals 1,049 acres are affected. Engineer's classification report regarding Mud Run Drain is recommended for reclassification and is in need of reconstruction. A public hearing notice will need to be done once it is decided to proceed to the next step on this drain.

Edward B Hughes Drain

Roger Azar updated the Commissioners and discussed their next step with the following findings:

On Friday April 26, 2019; our field team conducted a site visit to the Edward B. Hughes legal drain for the second time, to compare possible discrepancies between what we have mapped based on historic information and what was identified in the field. We were able to identify the location of the Edward Hughes legal drain and the drain's outlet point. The outlet point was at a location different than what was historically shown on County maps and based on County available descriptions. When we complete our report for the Edward Hughes drain, we will indicate the updated changes and location in the report.

We also met with Mr. Troy Tuggle, the local farmer that would like some work done on what he thought was the Edward Hughes Legal Drain. As it turns out, there is another 24-inch outlet and drain (not identified as a county legal drain) just to the west of Edward Hughes. We identified the location of the drain, observed some major failures within the drain coverage area, and identified the outlet for that drain. This newly identified drain runs parallel to the Hughes drain but is not part of the legal drain. Mr. Tuggle was under the impression that the failing drain was part of the Hughes legal drain.

Path forward: The commissioners may request that we look further into the new drain (call it the Tuggle Drain, for now) and assess the physical repair/replacement requirements to the existing line, and report back to the commissioners. If the County chooses to, a petition can be filled by the local farmers affected by the Tuggle Drain. That petition would be filed to list the Tuggle Drain as a Legal Drain that the county would take over responsibility for and do assessments on. The farmers would essentially petition the County to request that the Drainage Board take jurisdiction of a mutual drain. The petition request would conform to the requirements of the Indiana Drainage Code, 36-9-27-18 and 36-9-27-19 that state:

IC 36-9-27-18 Private and mutual drains; conversion to regulated drain; procedure upon request by all owners Sec. 18.

(a) Whenever all of the owners affected by a private or mutual drain request the board in writing to assume jurisdiction over the private or mutual drain, the board shall refer the request to the county surveyor, who shall determine whether the private or mutual drain meets the standards of design and construction established under section 29 of this chapter.

(b) If the surveyor determines that the private or mutual drain meets the standards of design and construction, he shall make a written report of that fact to the board, which shall issue an order granting the request. The drain becomes a regulated drain when the request is granted.

(c) If the surveyor determines that the private or mutual drain does not meet the standards of design and construction, he shall make a written report of that fact to the board, which shall deny the request. As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.276-2001, SEC.12.

IC 36-9-27-19 Mutual drains; conversion to regulated drain; procedure upon request by single owner Sec. 19.

(a) Any owner affected by a mutual drain may file a written request with the board to make the mutual drain a regulated drain under this chapter. Upon receipt of such a request, the board shall fix the date, time, and place for a hearing, which may not be less than thirty (30) days after receipt of the request.

(b) At least twenty (20) days before the date of the hearing, the owner making the request shall give the owners of all land affected by the request notice of the date, time, place, and purpose of the hearing. Service of the notice shall be made in the manner set forth in section 58 of this chapter or in the manner summonses are served in civil actions.

(c) Any owner affected by the mutual drain may, on or before the date of the hearing, file with the board written evidence for or against the granting of the request. At the hearing the board shall consider all of the evidence filed, and if it finds that:

(1) the owners of more than fifty percent (50%) in acreage of the affected land will be benefited if the drain is made a regulated drain under this chapter; and

(2) the benefit to owners benefited is likely to be greater than the damages to owners damaged by reason of the mutual drain being made a regulated drain; it shall make written findings to that effect and issue an order granting the request.

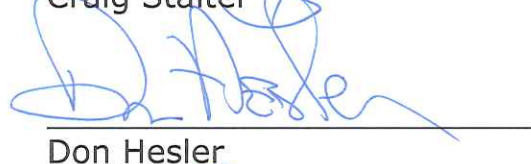
(d) Before adjourning the hearing, the board shall announce its findings and order. This announcement constitutes notice to all affected persons, and, if judicial review is not requested under section 106 of this chapter within twenty (20) days after the date of notice, the findings and order are conclusive. As added by Acts 1981, P.L.309, SEC.1

McDonald Drain – The Commissioners on April 22nd voted to authorize the Site Investigation Report and to proceed with the permits since it involves wetlands, etc.

Roger updated the Commissioners and discussed their next steps for the McDonald Drain regarding a Wetlands Delineation Water Report that will need to be done with a cost of \$6,500. No motions were made.


Attest-Brenda Hardy


Craig Stalter


Don Hesler


Tim Shumaker