

DEKALB COUNTY DRAINAGE BOARD MEETING

September 19, 2024

Drainage Commissioners Present:

Bruce Bell, II, Chair
James A. Miller, Vice-Chair
Sandra M. Harrison, Member
Michael V. Watson, Member
William L. Hartman, Member

Others Present:

Tyler Lanning, Lead Survey Tech
Shannon Kruse, Attorney
Glenn Crawford, County Surveyor
Troy Bungard, Survey Tech
Katie Rutan, Office Clerk
Rebecca Wright, Office Manager

Guests:

Dan Noll
Leon Steury
Todd Payne
Joe Sarll
Joe Herendeen
Vicki Eckert

Mr. Bruce Bell called the meeting to order at 8:30 AM

Approval of Minutes

Bruce Bell introduced the first item of business, the approval of the minutes of the September 5, 2024, meeting. Jim Miller made the motion to approve the minutes and Sandy Harrison seconded the motion. The motion carried.

Approval of October Attorney Claim

The next item on the agenda was the approval of the October attorney claim in the amount of \$1295.00. Bruce Bell asked if there was a motion to approve the claim, and Mike Watson made the motion. Sandy Harrison seconded the motion, and the motion was carried with no discussion.

Plats and Subdivisions

The third item on the agenda was a plat called This Is The Way, Parcel #01-09-27-200-014 at County Road 11A, Garrett, IN, in the NE ¼, of Section 1, of Butler Township on the Frank Yarde County-Regulated Drain No. 27-00-0 in the Cedar Creek Watershed No. 470-00-0. Joe Herendeen with Sauer Land Surveying was present to discuss the subdivision. He offered to answer questions Drainage Board Members had over the subdivision. Mr. Tyler Lanning explained that the subdivision was a single-family subdivision with just over 10 acres. Bruce Bell asked for a motion to approve the minor subdivision at County Road 11A, Garrett, IN, in the NE ¼, of Section 1, of Butler Township on the Frank Yarde County-Regulated Drain No. 27-00-0 in the Cedar Creek Watershed No. 470-00-0. Sandy Harrison made the motion, Mike Watson seconded the motion, and the motion carried.

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Contracts

Next, the Drainage Board discussed the contract for the reconstruction of the Levi Dennison County-Regulated Drain No. 317-00-0 won by Pankop Excavating. Mr. Bell asked for a motion to accept the contract with Pankop Excavation for the Levi Dennison Drain No. 317-00-0 Reconstruction in the amount of \$58,473.25. Mr. Jim Miller made the motion to approve the motion, and Mr. Bill Hartman seconded the motion. The motion carried.

Utility Permits

Mr. Bell then introduced a utility permit filed by Pearce Services for Frontier Communication. The permit was for West Walnut Street between Bassett Rd & West Street in Waterloo, IN, on the J. Harris Reed County-Regulated Tile Drain No. 263-20-0. Todd Payne and Joe Sarll with Frontier Communications were present to discuss the project and offered to answer questions anyone might have. Mr. Lanning explained that the project would need to cross the J. Harris Reed Regulated Tile and there was also an overhead crossing of a county-regulated ditch that would need to be hydrovaced prior to Frontier crossing it with cable. In addition, The Surveyor's Office would need to be present on the day of boring, so Frontier did not punch through the county-regulated tile. Bruce Bell asked for a motion to approve the utility permit for Frontier. Mike Watson made the motion and Bill Hartman seconded it. The motion carried.

Variances

Finally, Mr. Bell introduced a variance for Ms. Shannon E. Kruse of 6688 County Road 31 in Auburn, IN 46706. The variance was for the NE Quarter of Section 29 in Township 33 North on the Daniel Hursey South Lateral 1 Regulated Drain No. 48-81-0, the Daniel Hursey South Regulated Drain No. 48-80-0, and the Daniel Hursey Regulated Drain No. 48-00-0. Shannon Kruse was present to discuss the variance but recused herself from advising the board in any question or decision regarding the variance. The variance was for a concrete driveway, and it would be poured over the tile.

Mr. Bell asked for a motion to approve the variance for Ms. Shannon E. Kruse of 6688 County Road 31 in Auburn, IN 46706 for the NE Quarter of Section 29 in Township 33 North on the Daniel Hursey South Lateral 1 Regulated Drain No. 48-81-0, the Daniel Hursey South Regulated Drain No. 48-80-0 and the Daniel Hursey Regulated Drain No. 48-00-0. Jim Miller made the motion. Sandy Harrison seconded the motion. The motion carried.

As the Melissa Kelly County Regulated Drain No. 30-04-0 Reconstruction hearing was set to begin at 9:00 AM, the Drainage Board Members agreed to take a break from 8:50-9:00.

9:00 A.M. Public Hearing**Melissa Kelly Lateral 4 Regulated Drain No. 30-04-0 Reconstruction Hearing**

Mr. Bruce Bell called the Reconstruction hearing to order at 9:00 AM. He stated that the hearing was for the purpose of receiving evidence on the reconstruction of the Melissa Kelly County-Regulated Drain Number 30-04-0. He continued that the hearing would include the surveyor's report, petitions, objections, questions, and answers.

Landowners were notified via first class mail on August 12, 2024, in a five-day return envelope, and a notice appeared in *The Star* newspaper on September 5, 2024.

Mr. Glen Crawford presented The Surveyor's Report which stated, "the Earliest record of the drain was 1923. The Existing tile by record measured 2,432 feet and was of a 12-inch diameter No. 31-00-0. The records were first updated in 1923. There were 1,100 feet of 10-inch diameter No. 31-00-0, updated in 1923. This accounted for 3,532 total feet of tile. The drain needed reconstruction in the Surveyor's opinion because:

- (1) It will not perform the function for which it was designed and constructed;
- (2) It no longer conforms to the maps, profiles, and plans prepared at the time when the legal drain was established and;
- (3) Changes have made the drain inadequate to properly drain the lands affected without extensive repairs or changes.

"The drain was installed in the late 1800's, has deteriorated to a non-working condition, and was not designed to handle the present amount of drainage from the watershed.

"With the increase in rainfall due to increased intensity of storm events, with the age of the tile and the deterioration of the tile and collapsing due to tile failure, with the poor grade and slope of the tile which decreases the water carrying capacity of the tile, with missing and incomplete portions of the drain, and with the general poor condition of the tile system, the Melissa Kelly Lateral 4 Drain No. 30-04-0 is in need of reconstruction. There were 101.39 total acres in the tile watershed and 7 total land parcels in the watershed.

"The proposed reconstruction for the Melissa Kelly Lateral 4 Drain No. 30-04-0 system would consist of installing the following: 1100 feet of 10-inch Dual Wall Tile; 1893 feet of 12-inch Dual Wall Tile; and 750 feet of 15-inch Dual Wall Tile for a total of 3,743 feet total of tile with all the fittings and parts necessary for a complete system.

"The total engineer's estimate for pipe, fittings, stone, installation, and restoration was \$98,400.01. The cost per acre is $\$98,400.01/101.39$ acres = \$970.51 per acre. The final cost to the landowners will be determined by the final cost of the project.

"Bids will be taken for pipe and fittings, stone backfill, installation of pipe and stone, and restoration of the site. The bids for the project cannot exceed the engineer's estimate by more than 10% or the project must stop and be rebid."

Mr. Crawford respectfully asked the Drainage Board to approve the reconstruction of the Melissa Kelly Lateral 4 Drain No. 30-04-0.

Ms. Shannon Kruse asked if a petition had been filed to reconstruct the drain. Mr. Tyler Lanning stated there had been no petition filed. Mr. Crawford confirmed that The Surveyor was recommending the Melissa Kelly Lateral 4 be reconstructed.

Mr. Bell asked if anyone had questions about the technical aspects of the report. There were none.

Mr. Bell asked Mr. Crawford if all lands within the watershed had been assessed, if all benefits assessed were not excessive, and if the costs, damages, and expenses of the reconstruction was less than the benefits accruing to the owners of the land benefited by the reconstruction. Mr. Crawford answered yes to all of Mr. Bell's questions.

Mr. Bell asked if there was anyone present in favor of the project who would like to speak. Vicki Eckert stepped forward. She stated that she was for the reconstruction project and was excited to see things move forward. She explained she owned one of the farms in the watershed and leased it to a farmer. She said that he couldn't farm 8-10 acres of the land due to water retention. She handed out pictures of the flooded acres to the board (one is retained for the record). She explained she could not take a picture when it was fully flooded because the water was too high to get close enough to the problem areas of her farm to take pictures. The picture included was 3 weeks after the last significant rain fall. She went on to say that the farmer did not like "to let ground go," but because the land was such a problem, he was leaning that way. Ms. Eckert explained she lost 12-15% of her farm's income per year. She said it was the equivalent of someone asking every six years for everything she made on the farm. She asked The Drainage Board for a solution. She said, "I just need help."

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From: Vicki svmbme@gmail.com
Subject: IMG_0901-preview.pvt
Date: Aug 23, 2024 at 7:48:51 AM
To: E E svmbme@gmail.com



Sent from my iPhone

From: Vicki svmbme@gmail.com
Subject: IMG_0905-preview.pvt
Date: Aug 23, 2024 at 7:48:35 AM
To: E E svmbme@gmail.com



Sent from my iPhone

From: Vicki svml@me@gmail.com
Subject: IMG_0904-preview.pvt
Date: Aug 23, 2024 at 7:49:44 AM
To: E E svml@me@gmail.com



Sent from my iPhone

Mr. Bell then asked Mr. Crawford if the Office had received any written objections to the reconstruction. Mr. Crawford indicated it had received one. Mr. Bell asked Mr. Crawford to read the timely written objection received by The Surveyor's Office from Edward Samuel Steury. He stated the Board would approve or deny the objection at a later point in the proceedings.

DEKALB COUNTY SURVEYOR
RECEIVED

JUL 11 2024

COURTHOUSE
AUBURN, IN 46708

Drain Reconstruction of
Melissa Kelly Lateral 4
Drain No. 30-04-0

In regards to the proposed Drain Assessment for \$15,000. We don't feel we're getting anything back in return. Nearly all of the 15 acres will not benefit from the new tile. All of the 15 acres will still get the majority of the run off on a normal or heavy rain, ending up, exactly where it does now. By putting the tile through our farm ground, we will likely lose 1-2 acres for 1-2 years until settling + compaction problems get back to normal. Most of the 15 acres is between the new tile & ditch. If you look at the map, this is obvious. The majority of our water will not enter the new tile.

With high interest rates, higher real estate taxes, grain prices below the cost of production, and currently in drought conditions, now is not a good time to add additional expenses to the all ready stressed farm budget. Our economy is in a mess to say the least.

When talking with other landowners, we have agreed this just didn't happen overnight, it's been this way for 40-50 yrs. The high cost and poor timing, should either wait, or go into some kind of built up fund down the way.

Thank You
Chase Consider
Mark Paul Steury

Mr. Bell asked if anyone was present in opposition to the reconstruction who would like to speak. Mr. Leon Steury of 6824 CR 64 stepped forward. He stated he owned property with his brother, Ed. He said that if The Board looked, "at the watershed, all of our water goes to the east. The new tile will not benefit us any. The section of the tile that is currently working, we have maintained that and put new tile in. We constructed a bowl at the edge of the woods as a retention pond and

then it drains into the current 12' tile." He stated that the runoff water would run through their woods as water runs downhill. He referred to Ms. Eckert and the open ditch and said that her farmer trespassed on his property to dig out the drain tile and made an open ditch to drain her property. He said the farmer did all of it without the permission of the Steurys. He said the former landowner of Ms. Eckert's farm gave him this information. He reported that he had spoken to "three other people in the watershed that are being charged. Two of them are elderly people on fixed incomes. One is on dialysis. The other is permanently in a wheelchair. They are not in favor of it. To the very north, that landowner has passed and it has gone on to their sons which that is currently being sold and they are not interested in doing anything at this time."

He asked about tile further east, but Mr. Troy Bungard explained that the project did not extend further east. Mr. Lanning clarified that the blue shaded area on the map that was projected for the meeting and was included with the information the landowners received was the area that would benefit from the reconstruction as it was serviced by the Melissa Kelly Lateral 4 Drain No. 30-04-0. Mr. Lanning redirected the discussion to the benefited acres from the project. Mr. Steury then asked where the ditch was located on the map. Mr. Bungard pointed out the area of the map where the ditch was located. Mr. Steury stated that the tile running "through the north, runs down through there to the old tile." He said it did not drain to the county-regulated tile. He stated the only water that would drain into it would be from the woods to the tile, while everything else drained to the north, downhill. Mr. Steury stated that the 12" tile and open bowl that were there worked: the Steurys had fixed it and put in the bowl and put in at least 100 feet of 12" tile.

Ms. Shannon Kruse asked if the Surveyor's Office wrote a response to the letter. Mr. Lanning stated it had, and he read The Surveyor's Office response which is included on page 429 of the Drainage Board Minutes.

He clarified for the board the primary reason for the reconstruction and stated that on the north side where the old tile ran at the woods, a bowl had been created and the tile was missing through the woods because someone had dug it out and removed it. There was "single wall tile" laying on the ground as if there was a plan to bury it, but it did not belong to The Surveyor's Office, and The Surveyor's Office did not remove the old tile or create the bowl. Mr. Lanning stated that the office had no record of approving any landowner to remove tile from the parcel in question. There was tile through the field on Miss Eckert's property, but the missing tile was the cause of the flooding on her property. There was tile in her field, but it was not properly outletted. Mr. Lanning went on to explain that rerouting the tile on the west side of the woods would gather the water in the woods which was flowing to the west. He pointed out the watershed boundary lines on the map for The Drainage Board so they could also identify the directional shifts the water would take which supported Mr. Lanning's contradiction of Mr. Steury's assertion that the water flowed north toward the open ditch. He said the water flowed west. He explained that Lidar data created the map. Mr. Steury stood up and questioned the original placement of the tile. Mr. Lanning answered that the tile was placed to the west because the water flowed west, and the water went into the tile. Mr. Bungard explained the concept of Lidar data and how it created the map. Mr. Steury said, "I absolutely disagree with that totally... You're running water uphill." Mr. Lanning asserted the lowest point was in the woods and beyond that, the water flowed west.

Mr. Bell asked Mr. Steury if he thought all the water would flow to the ditch without a tile. Mr. Steury stated that the tile flowed through the woods to the bowl and the overflow water would follow the tile. Mr. Bell restated his question and asked if the water would flow to the ditch without a tile because of its natural flow. Mr. Steury said, "Yeah." Mr. Bell asked why they put a tile in

the ground originally. After some thought, Mr. Steury answered, "To drain the fields in the back....Water will not go into a tile they put deep in the ground."

DEKALB COUNTY SURVEYOR'S OFFICE
220 East Seventh Street, Suite 130, Auburn, IN, 46706
Phone (260) 925-2222; Fax (260) 927-4746



GLENN M. CRAWFORD
DeKalb County Surveyor

September 19, 2024

MELISSA KELLY Lateral 4 Drain No. 34-04-0 - REBUTTAL TO LETTER OF OBJECTION

Points Of Objection

1. "Most of the 15 acres is between the new tile and ditch. If you look at the map, this is obvious."
2. "The majority will not enter the new tile."
3. "When talking with other landowners, we have agreed this just didn't happen overnight, it's been this way for 40-50 years."

Objection Explanation/Rebuttal

1. Correct, the majority of the 15 acres in question is between the proposed tile location and the open ditch.
2. Lidar data shows that the water from that 15 acres will be flowing towards and into the proposed tile rather than to the open ditch because of higher elevations on the open ditch side and lower elevations on the proposed tile side. Additional watershed from those 15 acres in the northeastern most portion of the benefitted area in question will drain through what remains of the existing tile into the proposed tile as an unregulated lateral connection.
3. While the timeline of the removal of the existing regulated drain is not known, it stands irrelevant to the fact that roughly 1,100 feet of drain is missing, resulting in continual flooding of several acres of agricultural field upstream of the removed tile.

Glenn M Crawford

Mr. Lanning refocused the discussion on the watershed and reconstruction area, rather than outside of the benefitted acres. He added the area in question was on the west side of the tile which was a significant area that would flow into the reconstructed tile. Mr. Crawford added the reconstruction plan did not follow the old tile due to cost. Mr. Lanning stated it would be costly to go through the woods. The Surveyor's Office was aware of cost concerns and wanted to make the reconstruction practical and affordable.

Mr. Jim Miller asked if the tile would be solid from the bend in the woods to the owner on the south. Mr. Lanning answered that it would. Mr. Bell asked Mr. Steury about his letter and said he understood from the letter that he was against the timing rather than the project. He asked if he understood correctly. Mr. Steury answered that with the economy and cost of grain, he did not support the project. Mr. Bell asked again, wondering if it was the timing or whether the project should be done ever. Mr. Steury said that with so many landowners being against it, he didn't see it happening.

Mr. Miller asked Ms. Kruse about the idea that Mr. Steury had talked about other landowners without them being present. Ms. Kruse answered that The Board could accept that he was providing that evidence, but they needed to weigh whether it was enough when they made their decision. She confirmed there was nothing else on the record for The Board to consider.

Mr. Bell then asked for a motion to approve or deny the objections by Samuel Edward Steury. Before anyone made a motion, Ms. Kruse reminded the board of the reasons why they would approve or deny the letter. Mr. Miller clarified with The Surveyor's Office that with the new tile on the north end, Mr. Steury would be able to drain his farm. Mr. Lanning said he would.

Jim Miller made the motion to deny the letter based on the fact that the vast majority of the landowners would have an improved drainage system. Sandy Harrison seconded the motion. By a vote of 4-1, the motion was carried with Bill Hartman dissenting.

Mr. Bell then stated that The Board would begin the decision-making process. He asked the Board a series of questions: Did any member of the board desire any further evidence in order to make a decision; should the hearing be adjourned and reconvened to another date in order to obtain further evidence; and should the schedule of reconstruction assessments be changed in any way. The Drainage Board Members all answered no to all the questions. Mr. Bell then asked if The Drainage Board should approve the Surveyor's Report as presented. They all answered yes.

Bruce Bell asked Shannon Kruse to read the Findings of Fact.

DEKALB COUNTY DRAINAGE BOARD FINDINGS OF FACT

NAME OF DRAIN: Melissa Kelly

NUMBER: 30-04-0

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

These are the proposed findings, which have been adopted by the board:

1. The public hearing has been and is being recorded in digital form.
2. There was no petition previously filed for this drain to admit 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, except:
 - (1) The watershed affected by the drain to be maintained.

- (2) The number of acres in each tract.
 - (3) The total volume of water draining into or through the drain to be reconstructed, and the amount of water contributed by each landowner.
 - (4) The land use.
 - (5) The increased value accruing to each tract of land from the reconstruction.
 - (6) Whether the various tracts are adjacent, upland, upstream, or downstream in relation to the main trunk of the drain.
 - (7) Elimination or reduction of damage from floods.
 - (8) The soil types; and
 - (9) Any other factors affecting the reconstruction.
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.
 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. The drain is not in need of combination.
 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. X Increases the size of a tile, if any.
 - F. ___ Deepens an open drain, if any.
 - G. ___ Widens an open drain, if any.
 - H. X Extends the length of the drain.
 - I. X 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 reclamation of agricultural land.
 - (b) Increase yields of farm crops from land within the watershed.
 - (c) Increase the values of land within the watershed.
 - (d) 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.

Mike Watson moved that the Board approve the Findings of Fact, numbers 1 through 33 as submitted, and the motion was seconded by Bill Hartman, and the motion carried without further discussion.

Bruce Bell asked for a motion to approve the petition for the reconstruction for the drain. Shannon Kruse asked the record to show the petition was made by the Surveyor's Office. Jim Miller made the motion to adopt the surveyor's report and order the reconstruction of said drain, subject to the jurisdiction of The Board. Bill Hartman seconded the motion. Mr. Bell asked if there was further discussion. Bill Hartman said that while he understood Mr. Steury's concerns, Ms. Eckert was going to pay a considerably higher amount, \$32,725⁰⁰ and if The Board didn't reconstruct the drain, what would she do? The pictures she handed out were dated August 23, 2024, but the area had not seen much rain in August. What would be her recourse? He felt he needed to take that into consideration when he voted. Mike Watson agreed with him and said he appreciated how Mr. Hartman stated his opinion.

Mr. Bell asked for a vote, and The Board voted unanimously to approve the petition for reconstruction of the Melissa Kelly Lateral 4 Drain No. 30-04-00.

**FINAL ORDER OF RECONSTRUCTION OF THE MELISSA KELLY DRAIN
NUMBER 30-04-0**

The DeKalb County, Indiana Drainage Board (hereinafter referred to as “Board”) now renders its Final Order for construction of the Melissa Kelly Drain, the same being Number 30-04-0 in the records of the Surveyor of DeKalb County, Indiana.

1. Date of Filing. No petition was filed. 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 July 1, 2024.
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 Melissa Kelly 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 September 19, 2024, 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 September 5, 2024, 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 August 12, 2024, 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. 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

1. Edward Samuel Steury

OBJECTION FILED

the costs, damages, and expenses of the proposed reconstruction will exceed the benefits that will result to his land.

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.
10. Hearing. A hearing in connection with said improvement was held on September 19, 2024, at 9:00 a.m., in the Derald D. Kruse Commissioner’s Court, 2nd 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
Samuel Edward Steury	Denied

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 \$ per year.

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.

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 # acres of agricultural land.
- B. Decrease the threat of insects, pests and their related diseases.
- C. Increase yields of farm crops from land within the watershed.
- D. Increase the values of land within the watershed.
- E. Reduce damage from flooding.

17. Special Assessments. None.

18. Damage Awards. None.

19. Reduced Benefits. None.

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 434** in the **Drainage Board Minute Book Number 17.**

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

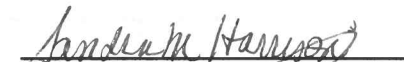
- D. Public announcement of said order is hereby made at the said hearing on this improvement; and
- E. The Administrative Assistant of the Board is directed to cause notice of this action to be published immediately in a newspaper of general circulation throughout DeKalb County, Indiana, which notice 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 19th day of September 2024
 DEKALB COUNTY DRAINAGE BOARD


 Bruce Bell, II, Chairman


 James A. Miller, Vice-Chairman


 William L. Hartman, Member


 Sandra M. Harrison, Member


 Michael V. Watson, Member

Mr. Bell adjourned the Melissa Kelly Lateral 4 Drain Reconstruction Hearing at 9:40 AM.

Mr. Bell thanked all those who attended and voiced their opinions.

Surveyor's Report

Mr. Glenn Crawford said the John Ketchum Reconstruction Project was wrapping up. The retention pond looked good and was draining appropriately. Mr. Lanning stated the office still needed to bill the state for its portion which included crossing State Road 8 as well as another section of the project. In addition, the reconstruction needed to be certified and then The Office would have to wait the 60-day period before officially closing the project.

Mr. Lanning said that there were other small projects the office was working on. Fry Excavating worked the Singray Lateral to the Frank Yarde 27-49-0 on CR 68. He was pleased with how it turned out. Fry Excavating also worked on the Ernest Warner 454-00-0 after a landowner reported a problem. The Office would know more about the success of the repair after a hard rain.

Bill Rychener checked several times on the pond related to the Higbea Reconstruction reported at the last Drainage Board Meeting. He observed it had not dropped more than an inch since the last meeting. The office intended to keep an eye on it.

Miller Pipeline also installed gas line at the Bemenderfer Regulated Drain No. 49-00-0. Mr. Lanning said that Mr. Rychener reported Miller went above and beyond in communicating with the office.

Discussion

Jim Miller asked if the Surveyor's Office was going to wait on a landowner's project, and Tyler Lanning said he would like to. Since crops would be off in the next 4-6 weeks, he thought it would be best to wait to begin.

Mr. Crawford asked if waiting until spring to begin the Melissa Kelly Reconstruction would benefit the farmers in the watershed as it might offer grain prices the chance to recover. The board answered that the trend in grain prices contributed to their decision in the Melissa Kelly Reconstruction. From their experience and research, they did not anticipate grain prices to recover in the next 3-5 years and possibly even seven. Mr. Crawford hoped the hearing had helped correct any misunderstandings about the reconstruction. Ms. Eckert had to suffer and lose a large amount of her income due to the flooding, and the board felt it was incumbent on them to address the broken and missing tile causing her field to flood.

There being no further discussion, the Board voted to adjourn the meeting at 9:45.



Bruce Bell, II, Chairman



Rebecca Wright,
Drainage Board Secretary

DEKALB COUNTY DRAINAGE BOARD

NO.	NAME	PHONE (HOME)	PHONE (CELL)	EMAIL ADDRESS	MAILING ADDRESS	PETITION OF INTEREST
1	Don Wall	260-602-5134		Steelers 6615@gmail.com		4324 Winding Way Ok. Wf. 40835
2	Leon Steury	260-750-3457		LeRoy Clark Sr. Joe		
3	Todd Payne	(812) 639-3483		todd.payne@fr.com		This is the way
4	Joe Sarril	574-526-0723		JOSEPH A. SARRIL@FR.COM		
5	JOE HERENDEEN	260-469-3300		Joe Smersurvetting.com		This is The Way
6	VICTOR EVERT	317-374-1290		SMERME@gmail.com		Melissa Kelly
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DATE
09/19/2024