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July 1, 2013

Jennifer Flatter
Auditor of Clay County
609 E. National
Brazil, Indiana 47834

John Keller
Clay County Surveyor
609 E. National
Brazil, Indiana 47834

FILED

JAN 23 2015

Jennifer M. Flatter
CLAY COUNTY AUDITOR

RE: Assessment Increase for the Campbell Ditch

Dear Jennifer and John:

Attached are documents that should be on file in the Surveyor's Office for public inspection. Due to limited Surveyor office hours, I stated in letters to the property owners regarding the Campbell Ditch, that copies were available at both the Surveyor's Office and Auditor's Office.

If anyone should ask for the Campbell Ditch documents, please keep a copy available for public inspection.

Sincerely,

Eric D. Somheil

STATE OF INDIANA)
SS)
COUNTY OF CLAY)

Auditor Jennifer M Flater opened the Clay County Drainage Board meeting on January 5, 2015. Members present were Logan Wegner, Jack Knust, Paul Sinders, Tony Fenwick and Bryan Allender. Also present were Eric Somheil, Attorney for the Board. Jennifer Flater made a record of the following proceedings to wit:

Auditor Flater asked for nominations for president of the Drainage Board. Paul Sinders nominated Logan Wegner for president and was seconded by Tony Fenwick. Motion carried 5 ayes. Flater then turned the meeting over to Logan Wegner.

Logan asked for nominations for Vice President of the Drainage Board. Tony Fenwick nominated Jack Knust for vice president and was seconded by Paul Sinders. Motion carried 5 ayes.

IN THE MATTER OF OLD BUSINESS

The board discussed how much the collection rate on the Campbell Ditch should be increased to; currently it is at 1.25%. Eric Somheil stated we collected \$452.37 this year from the 11 property owners and we have a debt of \$7,271.02. After much discussion it was decided to increase the rate to 3.75%. We are required to have a public meeting to implement this change.

Motion to increase the Campbell Ditch rate to 3.75% was made by Jack Knust and seconded by Tony Fenwick. Motion carried 5 ayes.

Motion to have public hearing at the February 2nd meeting at 11:10am was made by Tony Fenwick and seconded by Paul Sinders. Motion carried 5 ayes.

Motion to withdraw the previous motion to have public hearing at the February 2nd meeting at 11:10am was made by Tony Fenwick and seconded by Paul Sinders due to state statue violation. Motion carried 5 ayes.

Motion to have public hearing at the March 2nd meeting at 11:10am was made by Tony Fenwick and seconded by Paul Sinders. Motion carried 5 ayes.

IN THE MATTER OF NEW BUSINESS

There was no new business.

IN THE MATTER OF ADJOURNMENT

There being no other business Paul Sinders made a motion to adjourn, seconded by Tony Fenwick. Motion carried 5 ayes.

Clay County Drainage Board

Attest: _____
Clay County Auditor

Tax Identification Number	Owner of Record Without Address	Mailing Address 1	Mailing Address 2	Mailing City	Mailing State	Mailing Zip	Legal Description	Calc Method	OA Rate	Benefit		Tax Due	Tax Due Pct
									Amt	Govt Owned	Acres Tax Due		
Assessment Name : CAMPBELL DITCH-CO (509)(Benefit Acreage: 361.90, Assd Value: 0, Tax Due: 452.37, Property Count: 11)													
011-00167-00	Lightfoot, Sue C & Richard L	5748 E Co Rd 100 S		Bowling Green	IN	47833	Pt W1/2 SW 19-11-5 36a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	31.96	39.96	8.8335
011-00212-00	Cochran, Sam B.	204 Bluebird Dr		Terre Haute	IN	47803	SW 30-11-5 160a (37.08a Classified Forest)	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	21.90	27.38	6.0526
011-00306-00	MOON, TERRY	1265 S CO RD 550 E		BOWLING GREEN	IN	47833	N Pt SW NE 25-11-6 14a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	11.90	14.88	3.2893
011-00392-00	Stevenson, Dorothy G & Leland Trust	37 N Co Rd 300 E		Centerpoint	IN	47840	W Pt SE NE 25-11-6 25a Dorothy G Liv Trust	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	20.40	25.50	5.6370
011-00427-00	MARCELLA J JENKINS C/o CREDIT SHELTER T	GARY K JENKINS 13759 VAN BUREN PLACE		Fishers	IN	46038	NW NE 25-11-6 40a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	10.20	12.75	2.8185
011-00605-00	Mcintyre, Betty W. & J. Wayne McInt	5394 Pinehurst Dr		Riverside	CA	92504	E1/2 E1/2 NW 25-11-6 40a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	15.30	19.12	4.2266
011-00610-00	Mcintyre, Betty W. & J. Wayne McInt	5394 Pinehurst Dr		Riverside	CA	92504	W1/2 E1/2 NW 25-11-6 40a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	90.44	113.04	24.9884
011-00716-00	SCHOPMEYER, BILLY JEAN	8655 E COUNTY ROAD 250 N		POLAND	IN	47868	Cen Pt E1/2 SE 25-11-6 50a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	49.98	62.48	13.8117
011-00830-00	TRUESDALE, THOMAS S & MELISSA C BRO	455 AVON AVE		PLAINFIELD	IN	46168	NW SE 25-11-6 40a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	27.20	34.00	7.5160
011-01001-00	Cochran, Richard L.	5118 E River Rd		Bowling Green	IN	47833	SW NW 30-11-5 40a	Drain Maintenance	1.250000 0 0.00	<input type="checkbox"/>	71.40	89.24	19.7272
509-00003-00	CLAY COUNTY HIGHWAY						EXTENDING SW 30-10-6 5A	Drain Maintenance	1.250000 0 0.00	<input checked="" type="checkbox"/>	11.22	14.02	3.0992
											452.37		

Long Term Plan for Clay County Regulated Drains

At this time the following regulated drains are in need of annual maintenance only: 1) Campbell Ditch; 2) Heine Ditch; 3) Riddell Ditch. Killion Ditch will need to be cleaned from County Road 50S to the end of the ditch and the portion North of S.R. #46 will have to be addressed at some point in the future though not a large concern at this time. Mary Porttreus Brown Ditch is in shambles and is in need of a very large amount of work. In most cases the current tax assessment collected does not come close to the amount of monies needed to maintain the Regulated Drains. I propose we address this situation in the following manner:

- 1) Heine Ditch collects nearly \$ 2500 annually currently and the estimated amount to spray this ditch in order to keep the ditch in its current condition (no new tree growth, etc) is \$831.00. In my opinion this ditch needs no new assessment at all. The only change I would like to see would be that I would like to restructure the assessment funding (if possible) and send 30% of the annual assessment to the General Drainage Fund until such time the general drainage fund is stable for all ditches to borrow against for extreme repairs.
- 2) Campbell Ditch currently collects \$ 452.27 annually and the estimated amount to spray this ditch in order to keep the ditch in its current condition (no new tree growth, etc) is \$675.00. In my opinion the assessment on this ditch should be raised 447% so that an annual assessment of \$ 2025.00 is collected. Of this amount I would like to see (if possible) 30% of this amount diverted to the General Drained Fund until such time the general drainage fund is stable for all ditches to borrow against for extreme repairs.
- 3) Killion Ditch currently collects an annual assessment of \$ 780.55 and the estimated amount to spray this ditch in order to keep the ditch in its current condition (no new tree growth, etc) is \$1050.00. In my opinion the assessment on this ditch should be raised 404% so that an annual assessment of \$ 3150.00 is collected. Of this amount I would like to see (if possible) 30% of this amount diverted to the General Drained Fund until such time the general drainage fund is stable for all ditches to borrow against for extreme repairs.
- 4) Riddell Ditch currently collects an annual assessment of \$662.78 and the estimated amount to spray this ditch in order to keep the ditch in its current condition (no new tree growth, etc) is \$ 924.00. In my opinion the assessment on this ditch should be raised 418% so that an annual assessment of \$ 2772.00 is collected. Of this amount I would like to see (if possible) 30% of this amount diverted to the General Drained Fund until such time the general drainage fund is stable for all ditches to borrow against for extreme repairs
- 5) Mary Portteus Brown Ditch currently collects an annual assessment of \$ 587.63 and the estimated amount to spray one bank this ditch in order to keep the ditch in its current condition (no new tree growth, etc) is \$ 990.00. Estimates to clear the banks and correct drainage issues are in the area of \$30,000 - \$50,000. . In my opinion the assessment on this ditch should be raised 505% so that an annual assessment of \$ 2970.00 is collected. Of this amount I would like to see (if possible) 30% of this amount diverted to the General Drained Fund until such

time the general drainage fund is stable for all ditches to borrow against for extreme repairs. This ditch will benefit from the growing of the General Drainage Fund sooner than any other County Ditch.

At this rate the General Drainage Fund for Clay County would increase by \$ 4025 annually plus any loan repayments and late fees. This combined with the current balance in the General Drainage Fund should allow for the North half of Mary Portteus Brown Ditch to be totally reworked after four years.

In eight years time depending on the economic condition of the County it should be possible to reduce the assessed amount on all ditches by approximately 30% and still keep the ditches maintained with annual spraying.

Periodic maintenance of drains; notice and hearing on surveyor's report and schedule of assessments; objections; publication of notice of final order

Sec. 40. (a) The board shall fix a date, time, and place for a hearing on the maintenance report of the surveyor and on the schedule of assessments, and shall prepare a written notice for each owner of land proposed to be assessed. The notice, which must describe the land to be assessed, must state:

- (1) the name and identifying number by which the drainage proceedings are known;
- (2) that the maintenance report of the county surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the surveyor;
- (3) that the surveyor has estimated that the annual cost of periodically maintaining the drain is in the sum of _____ dollars;
- (4) that the land of the owner is shown by the schedule of assessments to be annually assessed _____ percent of the total cost of periodically maintaining the drain;
- (5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of _____ dollars for periodically maintaining the drain; and
- (6) the date, hour, and place of the hearing before the board on the surveyor's maintenance report and on the schedule of assessments.

(b) Not less than thirty (30) nor more than forty (40) days before

the date of the hearing, the board shall mail a copy of the notice in a five (5) day return envelope to each owner named in the schedule of assessments.

- (c) The board shall publish a notice in accordance with IC 5-3-1. The notice must:
- (1) identify the drainage proceedings;
 - (2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and
 - (3) state that:

(A) the maintenance report of the surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the county surveyor, and

(B) a hearing will be held before the board on the schedule of assessments, specifying the time and place of the hearing.

(d) Not less than five (5) days before the hearing, any owner of land named in the schedule of assessments may file with the board a written objection alleging that he is the owner of land assessed as benefited and the benefits assessed against his land are excessive. Each objector may file written evidence in support of his objection. The failure of an owner to file an objection constitutes a waiver of his right to subsequently object, on the ground stated in this subsection, to any final action of the board.

(e) On or before the day of the hearing, the surveyor shall, and any owner of land named in the schedule of assessments may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (d).

(f) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(g) After considering all objections and evidence, the board may amend the schedule of assessments as justice may require. Before final adjournment of the hearing, the board shall issue an order adopting the schedule of assessments as originally filed or as amended, mark the order filed, and publicly announce the order at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must 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 county surveyor.

(h) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the order becomes conclusive.

(i) The notice required by subsections (a) and (b) for each owner of land proposed to be assessed is not required for a joint board that includes three (3) or more counties in a drainage basin that exceeds

eighty thousand (80,000) acres, except that when the proposed assessment affects land owned by a public utility or railroad the requirements of subsections (a) and (b) shall be met as to the public utility or railroad. *As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.76; P.L.370-1983, SEC.1; P.L.239-1996, SEC.1.*

IC 36-9-27-41

IC 36-9-27-42
Increases and decreases in assessments for periodic maintenance of drains; procedure

Sec. 42. (a) The board may at any time increase or decrease the amount annually assessed for periodic maintenance of a regulated drain if the board finds that the county

surveyor's estimate of the cost of maintaining the drain was insufficient or excessive.

(b) The board may decrease the amount annually assessed without notice to the affected owners if the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board.

(c) The board may increase the amount annually assessed once without notice to the affected owners if:

(1) the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board; and

(2) the increase does not exceed twenty-five percent (25%) of the amount initially established.

(d) If the board:

(1) finds that the percentage of benefit assigned to any particular tract or tracts of land should be increased due to a

change in land use or for any other reason; or

(2) proposes an increase or decrease that would affect all of the lands assessed for the maintenance of the drain and that is not exempted from the giving of notice under subsection (b) or (c);

the board shall mail a notice to the owner or owners of the land. The notice must state the proposed change in the assessment, and specify a date, time, and place, not less than ten (10) days after the notice is mailed, when the board will hear objections to the change. An owner may file written objections to the proposed change on or before the date of the hearing. At the hearing, the board shall consider all objections and evidence filed and shall enter an order as justice may require. The board shall mail a copy of its order to the owner or owners affected. If an owner does not request judicial review of the order under section 106 of this chapter within twenty (20) days after his receipt of the copy of the order, the order becomes conclusive.

(e) A joint board that includes three (3) or more counties in a drainage basin that exceeds one hundred thousand (100,000) acres shall publish notice in accordance with IC 5-3-1 instead of mailing notice to the owner or owners of land as required by subsection (d).

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.25; P.L.370-1983, SEC.2.

IC

36-9-27-73

General drain improvement fund; establishment; composition; appropriations; disposition of surplus money

Sec. 73. (a) There is established in each county a general drain improvement fund, which shall be used to pay the cost of:

(1) constructing or reconstructing a regulated drain under this chapter; and

(2) removing obstructions from drains under IC 36-9-27.4.

In addition, if a maintenance fund has not been established for a drain, or if a maintenance fund has been established and it is insufficient, the general drain improvement fund shall be used to pay the deficiency.

(b) The general drain improvement fund consists of:

(1) all money in any ditch or drainage fund that was not otherwise allocated by

January 1, 1966, which money the county treasurer shall transfer to the general drain improvement fund by January 1, 1985;

(2) proceeds from the sale of bonds issued to pay the costs of constructing or reconstructing a drain;

(3) costs collected from petitioners in a drainage proceeding;

(4) appropriations made from the general fund of the county, or taxes levied by the county fiscal body for drainage purposes;

(5) money received from assessments upon land benefited for construction or reconstruction of a regulated drain;

(6) interest and penalties received on collection of delinquent

drain assessments and interest received for deferred payment of drain assessments;

(7) money repaid to the general drain improvement fund out of a maintenance fund; and

(8) money received from loans under section 97.5 of this chapter.

(c) The county fiscal body, at the request of the board and on estimates prepared by the board, shall from time to time appropriate enough money for transfer to the general drain improvement fund to maintain the fund at a level sufficient to meet the costs and expenditures to be charged against it, after allowing credit to the fund for assessments paid into it.

(d) There is no limit to the amount that the county fiscal body may appropriate and levy for the use of the general drain improvement fund in any one (1) year. However, the aggregate amount appropriated and levied for the use of the fund may not exceed the equivalent of fifty cents (\$.50) on each one hundred dollars (\$100) of net taxable valuation on the real and personal property in the county.

(e) Whenever:

(1) the board finds that the amount of money in the general drain improvement fund exceeds the amount necessary to meet the expenses likely to be paid from the fund; and

(2) the money was raised by taxation under this section; the board shall issue an order specifying the excess amount and directing that it shall be transferred to the general fund of the county. The board shall serve the order on the county auditor, who shall transfer the excess amount to the general fund of the county.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.371-1983, SEC.1; P.L.206-1984, SEC.6; P.L.239-1996, SEC.2; P.L.240-1996, SEC.1; P.L.2-1997, SEC.87.