

November 15, 2010 – 7:00 P.M. – DRAINAGE BOARD MEETING – Newton County Government Center

Present were Board Members Chr. Russell Collins, Roxanna Hanford & James Pistello; County Engineer Larry Holderly; Surveyor Chris Knochel; Secretary Debra Honn. Meeting was called to order by Chr. Russell Collins.

Minutes – Roxanna made a motion to approve the minutes from the November 1st meeting. Second motion made by Jim Pistello.

Titan Construction Report - Steve Rust, Steve Marsh and Jeff Smith, Tech Service Manager from Titan were present to discuss the addition to Adkev in Goodland IN. Plans had been given to Larry Holderly for his review. At the time the plant was originally constructed there were no requirements for storm water retention or detention. There was much discussion about the 9,000 sq. ft. of building addition along with 10,000 sq. ft. of asphalt. The proposal is to re-route the existing 10" tile and take it around and tie it into itself, then run a new 12" tile that would then run into a newly formed pond. Roxanna asked about the length and slope of the tile to which she was told approximately 365' from far south corner to the pond with a slope of 1.5%. Steve Rust stated that the pond would be dry with a size of 25' x 45' having 2 outlet pipes. The only storage capacity being built into the pond is for the additional 9,000 sq. ft. to which Jim stated is the problem. Jim asked if Rhuede had considered making the pond a little bigger and if there was room to do that. It's not all their property as another 200 acres also drain into the ditch. Everyone agreed that they appreciate Gary Rhuede expanding in Newton County and Larry stated that the calculation is good and that what he is doing is fine however the overland flow from the south is the problem and stated that the pond should be made larger. According to Larry's calculation there is a 95% runoff for the 5 acres with a pond being created for ½ acre or so. This therefore creates a problem that needs to be resolved. Jim stated that basically that may be true, but legally all we can do is make him adhere to the law as we have it today. Titan understands that there is a problem however does not feel it has anything to do with the project for which they are now seeking approval. After more discussion in regards to the regulated drain and easement, etc., it was determined that Titan Construction and Adkev are meeting the necessary requirements as it pertains to runoff etc. and that with Drainage Board approval, their next appearance would be in front of the Goodland Planning Commission. Jim made a motion to approve the plan with a second motion from Roxanna.

John R. Camblin Tile Extension – Chris dispersed to each of the board members, a diagram of the original watershed boundary for the John R. Camblin tile dated 1894 and also a surveyors report. Russ asked what the main question was in this issue. Dan Blaney stated that Chris is asking that the John R. Camblin tile be extended. Chris stated there are a lot of unknowns and that the tile and route of tile are not that revealing. Therefore as many of the assumptions as possible would have to be eliminated. He suggested that the tile be located to determine the size, etc. and if it is feasible to extend the drain into an area just North of 600 S. The goal is to drain as much sub-surface water as possible and that is the basis of the recommendation. Dan Blaney asked if the proposed extension is only for the 20 acres that the Carlson's now own (previously Protsman). Chris proposes as much as possible and would not know how much without probing the tile and determining grades. Roxanna asked from the last meeting until now what Chris has discovered or done on this project. Has any determination been made in regards to who is in watershed? Yes, however all information is speculative until field work is completed and based upon preliminary conversations, Chris stated he may be able to go further to the south. Jim asked how the tile got from the Wiseman's to Carlson's and when. Chris stated it has taken place since 1894 however he doesn't know for sure when. Larry said that the sub-surface water would flow north and the surface water south. Jim asked if that was for the complete 40 acres or only ½. Larry reiterated that all of the sub-surface water would flow north and ½ of the 40 acres surface water would flow south while the other ½ of the 40 would flow north. It had been suggested to build a dike across the south side to prevent the surface water from flowing south, however we would need to determine if this could be done legally or not. The other possibility is to extend the tile to the south but we don't know if the grade is such that we can do that. At one time we could do that but with the new tile that Carlson's have installed we don't know if we can do that and still have enough cover over the pipe. Dan suggested asking Maury Wiseman if he wanted to do this as it has to go uphill and that would therefore be up to Maury and his wife. Dan stated this is not a clear situation and as a board you would need to decide if you want to have Chris go ahead with what he is proposing. Roxanna asked when the Carlson's had placed the new private tile to which Chris stated according to the report, it was put in place after 9/22/10. Scott Carlson said they installed 8900' of tile, of which approximately 3300' are in the south 20 acres which would drain 6 ½ acres into the watershed. Tile was not installed in all 40 acres and what was installed was placed on 60' centers. Larry stated that the west side is high. Carlson's installed 2 strings the length of 500 W and 5 strings East & West. 6 ½ acres out of the south 20 will drain into the watershed and less than 15 in the north 20. Steve Ryan stated that he had been looking over the surveyors report dated November 15th and asked Chris to explain the next to the last paragraph on the surveyors report. Chris stated the paragraph means that the landowner saw fit that the area needed drained and took the initiative to drain it without surveyor involvement after 9/22/10. Chris: "That means that I have a statutory right or obligation that if a drain needs extended that I exercise that authority. Mr. Carlson has taken that initiative to drain his land and so I see fit to follow that, his initiative, with my own initiative to make a regulated or legal drain out of his initiative" Steve asked if that was just extending the Camblin watershed to which Chris responded what is there plus what Mr. Carlson added. Chris confirmed that it was his duty as a surveyor and that he didn't see anything in drainage law where he was limited – if he saw someone doing something they shouldn't be doing short of a local ordinance that he has to go out and stop them. Chris emphasized that he has no policing authority. Landowners are putting in acres and acres and acres of tile there is no way he can police that. Steve Ryan then asked Chris – "Extending watersheds is nothing new to you, is it?" to which Chris responded "no, nor to this board." Steve: "You referred to a specific statute in your report stating the county surveyor shall classify all regulated drains in the county in need of reconstruction. Now are we talking about the Camblin or the Triplett?" – Chris: "The one we are addressing tonight is the Camblin". Steve: "Then it's your feeling or belief that the Camblin should be increased to pick up the south 20 acres that used to belong to the Protsmans?" Chris: "If it is technically or mechanically feasible and I think the Carlson's have proven that it can be done." Steve: "And as far as a watershed being static, it's not true is it?" Chris: "As I understand it a watershed boundary is static when the drainage board makes its ruling, but it doesn't allow for a landowner who comes in a number of years later or who knows how long and says my water doesn't go that way – I've farmed it now for five years and my water goes another way. At that point you have to understand that a watershed boundary is not an absolute static watershed boundary and a farmer can tile and now he is sending his water a different way. He is not necessarily changing the flow, but a watershed boundary is determined based on theory and there is a hypothesis that says if you go to a high spot and you look at it you say water that fell here would go one way and if it fell here it would go another way. Then as any other theory it is not an absolute theory. There is always the technical matter, and then there is the mechanical or the natural matter. Sometimes you may be able to send it one way but you would have to cut a 20' trench to get it to go a certain way. So there are a lot of variables involved with that. So basically it is my job to decide what can and what can't and what I determine is what I extend." Steve: "If you refer back to your report it states a surveyor shall classify the drain and determine when a regulated drain is in need of reconstruction when topographical or other changes that made the drain inadequate to properly drain the lands affected without extensive repairs or changes. That would include extending the length of the drain. That's what you stated in your report, correct?" Chris: "Yes". Steve: "Now at one time and you correct me if I am wrong, at one time all 20 acres of the Protsman were in a different watershed?" Chris: "Yes, I believe the Carlson watershed was defined in 1927 to include all of the Protsman" – that whole 40 acres. Steve: "Can you tell by looking at that (map diagram)?" Chris: "Yes". Steve: "So in 1927 all of the Protsman 40 drained to the North?" Chris: "Into the Carlson watershed, yes, which the Camblin tile outlets into the Carlson and so it would be part of that watershed." Steve: "So as you stated, it is not static, it changes with land and landowners etc." Chris: "Yes, there is much ambiguity." Jim: "So in 1927 it was stated that the whole 40 drained to the north?" Chris: "Yes, it's in the 1927 watershed boundary." Jim: "So who changed it in between there if this was done in '27? Who did this? Who split this?" Chris: "I looked in 1979 it was still split so I am going to guess in the mid 50's somebody changed it." The discussion continued at great length with Dale Wiseman stating that the board was allowing the surveyor to change the watershed to which Jim Pistello responded that the board does not let him change the watershed. Surveyor brings suggestions and recommendations to the board. Roxanna asked if there was a way for the

watershed to work for everyone. She also asked Maury Wiseman how much he has lost on his land. Maury stated he had 10 acres in wetland and another 3-4 acres outside that are still wet and less productive. Dan Blaney recommended that Chris be assigned a deadline and have him investigate further. Steve Ryan wanted to know if the main concern is that Maury's ground does not drain. Roxanna asked if something was adversely affected when tile was put in. Did Maury's ground get wetter? Maury asked if this was a regulated drain, if he could someday hook into it and what the watershed meant to him. What are his options? Roxanna asked Maury what he would like to see happen to which he responded "I'm not sure I know the answer to that today". He stated he had started building a pond. He asked what the cost was going to be to the Wiseman's and others. He mentioned he doesn't want to give up the opportunity for an outlet if there is one there. Roxanna stated that if Chris suggests expanding the watershed after research that Maury will be benefitting, will gain farmable ground and that showing benefit is to be included in the watershed. Roxanna asked Maury for an idea of what he would be doing in relation to the watershed to which he responded that he is in a wetland program until after the 2012 crops are harvested. Roxanna said the board cannot just sit here and referred to the next to last paragraph that Mr. Ryan mentioned earlier stating she recommends that Chris research, develop cost estimates etc. and get back to the board. Conversation again continued until Roxanna made a motion for Chris to further investigate and secure more information on the issue. Jim made a second motion. Motion carried. Jim Lynn asked if Maury's land was permanent wetland to which Maury answered it's farmable. It was determined that Chris and others would gather evidence for the next Drainage Board Meeting to be held at 10:00 AM on Friday, December 3, 2010 at the Newton County Government Center.

Receive Proposals for Kent Morris Phase II- Sealed bids were opened with amounts as follows: Edwyn Mattox & Sons - \$20,500; Ronnie Madison - \$20,884; Josh DeYoung - \$16,790. Chris' estimate was \$26,500.10. Jim made the motion to accept the bid from Josh DeYoung at the rate of \$16, 790 as long as it meets Chris' specs. Roxanna made a second motion. Motion carried.

Sign Contract - Salisbury Open – The contractors bid and contract were signed by all three board members for the Salisbury Open.

Birch Tree Estates Obstruction– Chris stated that Mr. Garry Coleman has been sent a letter stating he does have to move the trailer based upon his permit. Mr. Coleman is on vacation and was unable to make this meeting. Russ suggested that Mr. Coleman's hearing be scheduled for 10:30 AM at the Dec. 3rd meeting.

NN Woods- Makeever West Lateral – That is the area affecting the landowners with the machinery shed. Larry had been out there and we need to do some work on the Hibler. Heyde Engineering confirmed that we can drain that water when we do the work on the Hibler. We also have the Insalaco Lateral to clean out the Otis Boyle. Roxanna asked how much of the Hibler and Otis Boyle needs to be done to see results. Heyde did recommend cleaning an area of 7-8000' of the Hibler. We need to go downstream from 500 east approx. ½ mile. Chris stated both jobs would be done at the same time. Jim asked if the ditch is regulated to which Chris answered, "the Hibler is". Could we extend the Hibler to include that? Yes, the drain will be extended to include that and is already called the Makeever West Lateral.

Other Matters–Report on Lawler Structure - It has been modified and is completed. Jim asked who pays for this. Chris is not sure. Jim asked if Rob Churchill is paying for it. No, the modification would be paid for by the landowner. We determined what height we needed for maximum flow and for the Dawson property to drain properly. Chris stated the modification allows 120% more capacity than the structure under 400W. While he can't guarantee that the house will not flood anymore, he said the culvert under 400 would restrict it first.

Deb reported that the General Drain Improvement Fund now contained \$82, 657. The decrease in this account is due to the amount of ditch work that has been done.

Roxanna asked when the work would be done on the Makeever West Lateral. Chris explained that depending on the weather, we could possibly work on it over the winter and that contracts are extended 160 days.

There being no other business, Jim made a motion to adjourn with a second from Russ. Motion carried.