

**REGULAR DRAINAGE MEETING**  
**Wednesday, May 13, 2020 9:30 AM**  
**This meeting was held electronically due to Covid-19 concerns.**

5/13/2020 - Minutes

1. Open Meeting

Hardin County Drainage Trustee Chairperson Lance Granzow opened the meeting. Also in attendance were Trustee BJ Hoffman; Trustee Renee McClellan; Jessica Sheridan, Environmental Health; Angela De La Riva, Economic Development; Lee Gallentine of Clapsaddle-Garber Associates; and Denise Smith, Drainage Clerk.

2. Approve Agenda

Motion by McClellan to approve the agenda. Second by Hoffman. All ayes. Motion carried.

3. Approve Minutes

Motion by McClellan to approve the minutes to Drainage Meetings dated 4-22-2020 and 5-6-2020. Second by Hoffman. All ayes. Motion carried.

4. Approve Claims For Payment

No claims for payment were presented. Claims will be on next week's agenda, due to an issue with Tyler software update, Smith was unable to process this week's packet.

5. DD 14 WO 290 - Discuss W Possible Action - Investigation Summary

DD 14 WO 290 - Gallentine stated Dave Sweeney tenant, reported on Cynthia Ioger's parcel that there was some sinkholes along the main tile route, originally there were two sinkholes reported, there are actually 3 sinkholes found upon investigation. There is cracked and collapsed clay tile at the bottom of each sinkhole. Gallentine continued that normally CGA would recommend this going straight to the lottery system, except in this case there has been 7 sinkholes and blowouts in 3 years, and one included monitoring of a road crossing instead of replacing it. Per CGA's previous recommended action, CGA recommended a large scale investigation, including televising, which would be justified if more blowouts occurred. Gallentine asked if the Trustees wanted to just do repairs or look at a larger scale investigation, if we do televise we could use the sinkholes as camera access points while CGA is there. Hoffman asked what the turn around time is to get things televised right now. Gallentine stated he would have to talk to Paul Williams, the in county contractor has now acquired a camera system about a month ago, Gallentine thought Williams could be available within a week or two. McClellan stated maybe it should be televised, Gallentine stated we should televise from the access points we have with the sinkholes, Hoffman concurred.

Motion by Hoffman to instruct CGA to contact Williams Excavation and have them televise and report back findings, in the event that Williams does takes enough equipment out, Williams can do the repair work while on site. Second by McClellan.

In additional discussion on the motion, Granzow stated he was unsure if this location is in a proposed wind turbine construction area or not, and if they are, we could have the CWEC's televise it at their expense, but that may be too distant in the future. McClellan stated the CWEC may argue that the issues were there before they were. Gallentine asked if Paul is not available to do the repair work while he televises it, would it be put into the lottery system. Hoffman stated if Williams just wants to televise and is ok with handing the repair off to someone else in the lottery that is acceptable also.

All ayes. Motion carried.

6. DD 14 WO 291 - Discuss W Possible Action - Investigation Summary

DD 14 WO 291. Gallentine stated this is also on DD 14 Main downstream of the sinkholes and blowouts

reported on WO 290. This is at the intersection of HWY S 27, and D 41, south of Buckeye, in that intersection there is some restricted drainage on the main and lateral 2. The landowners had Sheldahl's out and they could not find the source of the issue. Gallentine stated CGA recommends going out and doing some exploratory diggings to see if the cause can be isolated, and recommends putting the work order into the lottery system. Gallentine noted that this area has had several utilities run through it in recent years, rural water, and possibly Radcliffe Telephone have installed in the last few years. Gallentine stated it is unclear if those utilities may have had any impact, and that is why they recommend exploration.

Motion by Hoffman to utilize CGA's guidance and put it into the lottery system for repair with careful, implicit instructions that CGA's observer monitor for any issues with recent utility installations. Second by McClellan.

In additional discussion on the motion, Granzow asked if crops are planted in this field. Gallentine replied he believes crops have been planted and access should be able to be made from the road ditches for the most part. Granzow would hate to do a full scale investigation on a planted field. Gallentine agreed and expressed concern that if we don't do an investigation, what will be the effects on all the fields upstream of the issue. Gallentine stated part of the SE quadrant is in grass.

All ayes. Motion carried.

7. DD 167 WO 208 - Discuss W Possible Action - Repair Summary

DD 167 WO 288 - Smith provided the Trustees a paper copy of the repair summary for review as the file was too large to send in an email, so the abridged version is on our agenda documents. Gallentine stated this district is west of New Providence, in land owned by Neil Martin, in this area there are shallow tile with two parallel mains that run next to each other, instead of a singular main. We had gone through some hearings in which the landowners did not want to spend money on a large project and we did a temporary repair. Due to the size, the only material available was dual wall, so that is what we used, but it is definitely too shallow to meet the dual wall install guidelines. Gallentine stated it is repaired right now, but Gallentine's concern is that the way it is repaired right now is not sustainable. CGA recommends again the we hold a hearing concerning the Engineer's Report, but Gallentine doubts anyone's attitude has changed, so it is the Trustees call on what they would like to do.

Granzow acknowledges the recommendation, but does not know that a public hearing at this time will change anyone's mind until the tile blows out again. Gallentine respects that, and the Engineer's Report is good for ten years, the Trustees have had the Engineer's Report for at least two years, so there is still eight years left that the report is good for. Granzow stated we should put a flag once more on the Drainage Calendar for six years from now, and the Trustees at that time can make a decision, unless something changes in the meantime.

Motion by Hoffman to acknowledge the repair summary documents for DD 167, WO 208 presented by CGA on May 12, 2020. Second by McClellan. All ayes. Motion carried.

8. DD 55-3 Lat 12 WO 201 - Discuss W Possible Action - Update

DD 55-3 Lat 12 - WO 201 - Gallentine stated that he and Smith wanted to provide an update. This is the tile on Larry Hindeman's property, this is where there are some large cottonwood trees on the west side near the tracks, and there is a small tree on the east side and we have tried to televise this before and we couldn't get anything done on the televising due to tree roots in the tile. We did get a permit to jet clean the tile and then televise from the RR. The permit expires June 10, 2020 and Adam Seward is assigned to this work order, and he is planning on doing the work on May 20th of this year. Gallentine stated he spoke with Seward, and Seward was having a hard time getting in touch with someone to do the jet cleaning and televising so Gallentine put Seward in touch with Paul Williams, and they will work together on this. Gallentine stated the Railroad's paper work is a beast to get through and Seward was a little overwhelmed by it, and Gallentine does not blame him. Gallentine went on that the other thing that did not help the situation, was that the Railroad was using a wrong folder number, the Railroad was using a folder number from DD 25 on McDowell's project and thought it was this one, so the RR was talking to Seward about jack

and bore and replacing the pipe and this project does not involve any of that. Gallentine stated as of right now we are lined up to do it on the 20th, but we are brushing up tight up against that deadline.

Smith stated she had had a couple of conversations with Seward, and Seward was just very concerned about getting the paperwork done in a timely manner, especially his work plan document, which included a lot of language that just does not apply on this project. Smith stated she and Gallentine had provided clarification on that, and Gallentine has been very helpful in getting it ready for submission to RailPros. Smith stated she is glad that Seward is concerned enough to reach out and ask questions, and hoped that with this assistance he would get his documents turned in to RailPros. Gallentine stated that open communications are key on a project like this. Granzow stated he know that Seward is a different kind of contractor and is glad he is utilizing the tools around him to try and get the job done, whether that be the Engineer, Drainage Clerk, or the Trustees, and appreciated that Seward's main concern is making the work happen. Gallentine stated when he mentioned to Seward that he could use Paul Williams, and Williams is an in county contractor, Seward said he would like to support Williams, who is a close by, local in county contractor.

9. DD 122 & DD 8 Lat 2 Warranty Review - Discuss W Possible Action

DD 122 & DD 8 Lat 2 - Smith had reached out to landowner Marv Kramer to see if he had any feedback on this warranty review, but Kramer is in the field at this week, and Smith left this on the agenda in hopes she would have heard back from Kramer by the time of the meeting. If Smith does not hear from Kramer in the next few days, she will reach out to him again and put this back on the agenda. Granzow stated that Kramer may have feedback after being out in the field for observation.

10. Discuss W Possible Action - IRUA Correspondence

IRUA Correspondence - Landowner Kiele Rolph has requested service from the IRUA for rural water, Matt Mahler of the IRUA has officially requested permission on behalf of the IRUA for connection. Smith has forwarded these requests on to attorney Mike Richards, Richards has been our contact person for issues with the IRUA, Smith has not had a reply back yet from Richards. Smith wanted the Trustees to be aware of the request, there is no tile in the immediate vicinity of the install although it does lie within a drainage district. Smith asked for for direction, if the Trustees would like Smith to reply to Mahler or if the Trustees would prefer Richards contact Mahler, Smith could let Mahler know a response would be forthcoming. The landowner has emailed Smith directly as well and wants to know why we had a cease and desist order in place for the IRUA, and what can she do to get clean water for her family. McClellan stated she had someone else mention that they were waiting for a rural water connection as well. Gallentine stated it does not appear that they are crossing district tile by any means, but looking at the proposed drawing submitted by the IRUA, they are putting in a 6" line for service, which would provide service to that acreage, but that 6" line is far more capacity than that acreage needs, it looks like they are laying it down for a future larger system, which is fine, but worth noting.

McClellan stated she thinks we still need to wait for Richards reply, as this is not in litigation at this point, but at some point in the future, it could be. Hoffman stated he felt no action today is enough for him on this. Granzow does not disagree and is ok not moving forward today, but feels there is a responsibility to issue a response to the landowner, and feels the responsibility to the landowner for water, as he assumes the water has failed for a couple of years by now. Smith stated that Rolph stated she has struggled to get clean water on the acreage for awhile. Granzow stated that IRUA needs to own up to the issues they have created at some point as well, and Granzow thinks we need to look at some kind of special acceptance to this acreage because of this water quality issue. McClellan asked if this could be handled under a utility permit, that this could be reviewed and approved on a case by case basis, even if they do not impact a drainage tile. Granzow stated that he feels they could do that but perhaps a letter from the DNR regarding the water quality at issue would push him farther in that direction. McClellan respects that she does not want to deny this families access to clean water. Granzow stated that he would like to see additional documentation from the DNR or the Board of Health, rather than just the IRUA letter, it is not that he is trying to make the landowner go through unnecessary steps, but rural water installations going through drainage districts is not working well for the IRUA. McClellan asked if we could bring in Jessica Sheridan as Environmental Health/Sanitarian for her thoughts on this. Hoffman would rather be compelled by the DNR, Board of Health or Jessica Sheridan. Granzow concurs, before he even considers lifting the cease and desist order. Hoffman stated he would rather say we did thus because of the Board of Health or DNR than just because, and

feared this would find us in litigation.

Jessica Sheridan joined the meeting. Smith explained that we have had a landowner request water service with the IRUA, and the IRUA has submitted a request to us, they are not crossing any drainage districts, however we have been in dispute with the IRUA for quite some time on other work that they have done in drainage districts. Smith stated we are waiting on a reply from our drainage attorney, however we are asking for Sheridan's input on if Rolph's water can be tested. Sheridan stated she has tested Rolph's water before, and there are high arsenic levels. Sheridan did suggest to Rolph that rural water may be an option, and at the time she did testing the cost to hook up to rural water was around \$2,000. Sheridan stated the solution to high arsenic levels is to install a reverse osmosis water filtration system, and it would not take long for the landowner to reach that \$2,000 level with the instal of a reverse osmosis system especially if you take into consideration the cost of filter over the life of the system. Sheridan stated since there was the availability of rural water, she suggested it as the best option.

Hoffman asked with our cease and desist with the IRUA, if we get a statement from Sheridan or the Board of Health to compel us to allow service installs by IRUA on a case by case basis, due to health reasons, would that be adequate to approve the permit. McClellan agrees, but wonders if we should run it by Richards, and County Attorney Meyer, so as to avoid it becoming an issue for litigation. Sheridan stated the next Board of Health meeting is next month, but Sheridan could write a letter explaining the testing and test results in this case. Granzow stated it should be reviewed by the Board of Health, and recommended by the Board of Health to the Trustees. Granzow stated perhaps we should get a legal opinion, as we want to take care of our constituents, but dealing with this company at this point, may not be taking care of our constituents at all.

Motion by McClellan to have attorney Mike Richards review the matter and seek a letter from Jessica Sheridan recommending the option of rural water for the Rolph family if Richards thinks this is appropriate in this case. Second by Hoffman.

In additional discussion, Smith asked if the Trustees would like her to reach out to the Rolph family and Matt Mahler of the IRUA and let them know their request is in process, and we are waiting on a response from Mike Richards, so that their emails have been acknowledged.

All ayes. Motion carried.

#### 11. DD 52 WO 215 - Discuss W Possible Action - Claim For Crop Damages

DD 52 WO 215 - Smith received a phone call from landowner Shaun Piel, who had asked for an update on the status of tenant Tracy Below's claim for crop damages. Smith shared this with the Trustees in an email. Smith stated she explained to Piel the conversations we have had recently regarding Below's claim and that the Trustees had motioned to reseed 3.5 acres of alfalfa, Piel stated he was hoping there would be a monetary claim that he could possibly recoup some of his losses because Below was behind in his rent on the land. Piel felt that a 15% loss on the 2019 crop yield would be appropriate, and that Piel is in the process of selling the land and the new owner would likely be ok with alfalfa seeding. Smith stated she has brought this to the Trustees attention as it is a small piece in the puzzle of the larger conversation we had recently about landowner responsibility on this claim. Smith informed Piel she would present it to the Trustees for discussion.

McClellan stated she feels Piel is the responsible party for the damages. Granzow asked if Piel was aware that he would be the one paying the crop losses later as part of an assessment on the district. Smith stated if Piel sells his property before assessments are done on DD 52, then he would not pay any of the costs of the claim and would have no financial culpability for it. McClellan stated she did not feel the Trustees were responsible for paying the landowners bills on this. Smith stated if Below is behind on his rent on this parcel, it may be in part Piel's responsibility and lack of action on tree removal. McClellan stated perhaps we should have attorney Meyer draw up a letter to landowner Piel stating their position. Granzow asked what is the cost 15% of this crop, although we have set no dollar amount to it, or could we give the amount of the cost of seeding. Smith asked if this has gone on to lottery yet for reseeding, as Smith had spoken with contractor Seward on this, and Seward had spoken with Below who did not want to

reseed to alfalfa, because alfalfa on alfalfa year after year is toxic, so Below hoped for another crop to be seeded in. Gallentine stated he has not done anything with it yet in lottery. Smith stated perhaps this was just a conversation between Below and Seward. Granzow stated it is not alfalfa currently as it is still torn up, you can't interplant alfalfa, this would be reseeding on dirt. Granzow stated if this case is seeding the alfalfa or paying the tenant the cost of seeding he has no preference but the claimant would have to sign off on it, and he does not think the tenant or Piel would care, as Piel is looking for a cash value, instead of selling an alfalfa field. Hoffman preferred to stick with the original decision. Granzow stated we can either reseed it or pay the value of the cost of reseeding through a contractor in the lottery system, we pay them the value to the tenant who made the claim. McClellan stated it was Below's crop and the trees were the landowner's responsibility.

Motion by McClellan to approve paying the cost of reseeding to the tenant. Second by Hoffman.

In additional discussion on the motion, Granzow asked at what value are assigning to the reseeding to be paid to the tenant, it was agreed by the Trustees that the cost should be based on what it would cost us to reseed it through the contractor lottery, and that the tenant needs to sign off on why the reseeding was being paid in this way. McClellan asked if the acres that were damaged have been verified. Gallentine stated CGA could verify the acres that were damaged, and obtain a cost for seeding from contractor Seward as he is familiar with the project. The Trustees agreed that Seward could provide an estimate.

All ayes. Motion carried.

## 12. Other Business

2020 Drainage Assessments - Smith provided an update on 2020 Drainage Assessments. Smith prepared assessment notices, and sent them out, but missed checking a box in the process on one district so the billing number was not on those notices. Smith will have to rerun those notices so that the billing number is added and the Treasurer can use that billing number to allow landowners to make payments online. Smith had also entered the due date on Tyler software incorrectly, Smith had entered it as 10/1/2020 rather than 9/30/2020, this shows one day of interest on the totals for the Treasurer's tax list. Smith spent some time on the phone with Tyler to correct the errors, and the new notices report would not print, so Tyler is assisting to see if the report can be printed. Smith is in the process of correcting her errors, and when new notices are printed, Smith will mail those out with a letter to landowners explaining that they are not being billed twice, and the new notice is only to correct the due date and missing billing numbers, and they may disregard the new notice if they have already made payment. For the landowners who have already made their payment, the Treasurer's office is holding those payments until the new notices are sent out, so they will enter the payments all at once. Smith stated both the Treasurer, Machel Eichmeier, and previous clerk Becca Junker have been wonderful to work with and she is thankful for their help. Smith wanted to share this with the Trustees so that if they should receive calls or comments on a second notice and letter being sent out, that they know this is to correct Smith's error, and no other action should be needed. Smith stated it has been a learning curve for her, and is glad to have learned how to correct her error. Hoffman appreciated the great communication, and always feels updated for the meetings. Smith appreciated the Trustees help and them as a resource to help her learn through the process.

Performance Reviews - Granzow stated that perhaps they could do a Drainage Trustee Performance review, as this position is now full time drainage clerk, this is something different than we have done in the past, it is something we should be accounting for. Hoffman stated that many of the phone calls received by the Drainage Clerk are not good news type calls, and it is important for people to hear the good things also, be recognized for that and their supervisors hear that as well. This review would be conducted by the Trustees and submitted to the Auditor, Jessica Lara, and one on Angela Silvey as Board Secretary, conducted by the Board of Supervisors as well. Granzow would like to see this on the agenda in mid-June, and will make Auditor Lara aware of this.

DD 22 - McClellan asked if there was an update on work done for Randy Silvest's work order. Gallentine replied he does not know anything official, and had discussed with Heather Thomas of CGA some questions she had the formats of the repair summary, and thinks it may be nearly completed. Smith asked if the Trustees would like her to reach out to Heather Thomas for an update, McClellan would appreciate an update if possible.

13. Adjourn Meeting

Motion by McClellan to adjourn. Second by Hoffman. All ayes. Motion carried.

DRAFT