

**REGULAR DRAINAGE MEETING**  
**Wednesday, September 30, 2020 9:30 AM**

**This meeting was held electronically and in person due to Covid-19 concerns.**

9/30/2020 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson Lance Granzow opened the meeting. Also in attendance were Trustee BJ Hoffman; Trustee Renee McClellan; Lee Gallentine of Clapsaddle-Garber Associates; Michael Pearce, Network Specialist; Charlene White, Vice President of Real Estate for Unite Private Networks (UPN); Clark Lundy, Regional Vice President of Operations for Unite Private Networks (UPN); Jay Hanke of South Front Networks; Ryan Meints of Olsson Associates; Raymond Spangenberg, Construction Manager of Iowa Regional Utilities Association; Bernie Oleksa, Manager of Customer Operations for Interstate Power & Light Co./Alliant Energy; Mike Richards of Davis Brown Law 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 Hoffman to approve the minutes of Drainage Meeting dated 9-23-20. Second by McClellan. All ayes. Motion carried.

4. Discuss W Possible Action - Drainage Utility Permit Process

Introductions were made and attendance verified. The Trustees have invited the Drainage Utility Permit holders here to discuss the Drainage Utility Permit process, issues with existing permits and how to create a path forward with new permits. Granzow stated he would like to start with the outstanding permits, Smith provided a list of outstanding permits to review one by one, these utilities would have received the letter with the invitation for today's meeting. Smith stated Alliant has one outstanding permit they are here to discuss today, Alliant has one other open permit, that Gallentine has received contact from an Alliant representative with notice of construction.

Granzow invited Bernie Oleksa to discuss the open permit, Oleksa apologized for missing the requirements of the permit, Alliant did start work in May. Contractor Q3 did line work along Co. Hwy S-57, started on May 8th and completed on May 15th, Alliant's operations crew started work near Iowa Falls on My 15th and completed work on June 17th. McClellan asked if work was complete. Oleksa stated yes, there are some poles along Co Hwy S-55 that have to be removed but are waiting until after harvest to do that. Granzow stated our permitting process is that the Utility needed to notify the Drainage Clerk or Drainage Engineer Gallentine, disclose their depth of district tile crossing and or share pictures, and also make sure their crossing is underneath district tile. Gallentine stated the permitting process is supposed to coordinate through CGA the measures they are taking to ensure that the tile for district facilities is protected, namely that it is exposed and located so we can come out and shoot it, and shoot their installation and verify they are not in conflict. Granzow asked how would we like to proceed with this permit, have Alliant dig it up and expose it, or send one of our guys out and expose it and send Alliant the bill. Hoffman would like to see what Oleksa has to say, and give the original permit holder a chance to remedy the situation, let's treat them like grown adults and responsible business owners until proven otherwise, Hoffman will let Oleksa explain his suggested means of remedy. Oleksa stated, we want to make it right so if the County would like us to expose anywhere we have crossed tile we will do that, and hydro-vac any crossings and open that for inspections. Hoffman stated that Alliant will coordinate with Clapsaddle-Garber Associates to get that done, what kind of a time frame can we expect, Hoffman knows contractors are very busy this time of year, what would be reasonable. Oleksa stated 4 to 6 weeks would be reasonable and will have to check with the Construction/Project Management groups to see when we have resources available to do that. Hoffman asked Smith to verify that this would be for Permit #2020-4, Smith stated that was correct. Hoffman asked Gallentine if that sounded like a reasonable tie frame. Gallentine stated yes that is totally reasonable, the only thing Gallentine asks is that Alliant gives CGA at least a day or two notice before going out to open the location. Oleksa stated he would coordinate that with Gallentine.

Granzow asked to move on the next permit for discussion. Smith stated we have Aureon with 3 outstanding permits #2019-1, #2019-2, #2019-4. Granzow asked if we had Aureon on the line with us today, Smith stated we have Ryan Meints in attendance from Olsson Associates who filed the permit on behalf of Aureon. Smith asked Meints if he had any comments for us. Meints stated he has been in text contact with his Aureon contact, and it sounds like they have been in contact with Smith providing contact information with regards to their contractor and the person that they had spoken to regarding the permits. Meints provided some background that once Olsson gets the permit, all of the construction is on Aureon and their contractor, Olsson does not get paid to do any observation, and Meints is here to hear what is going on and to pass on any information acquired on to Aureon. Smith stated that CGA had some information and contact with Aureon on one of these open permits but not on the other two. Gallentine stated we had contact on a partial open permit, and is not clear on what actually got built, but essentially they started on the west county line on old Hwy 20, coming from Hamilton County heading east. The contractor contacted CGA for the first two or three districts they crossed, and then after that we never heard anything more from them, so CGA is unclear as to how far east they went or what more they crossed. Hoffman asked if Gallentine was referencing Permit #2019-4. Gallentine asked if that was the DD that includes Big 4. Hoffman stated yes it was and was reading the narrative. Gallentine asked Meints that this may be all the construction that happened that maybe it was just this couple of miles in Hardin County, Gallentine does not know, because that information does not appear on the permit. Meints stated that entire plan set was a major backbone line, so he would assume that they built the entire thing they just didn't notify you. Gallentine stated that may be possible, it was just odd that they contacted us great for the first couple miles and then after that we never heard another word, they may have switched out crews, Gallentine doesn't know. Meints stated that may be a possibility too, he does not know, he can touch base with Aureon. Hoffman stated so the record reflects the correct numbers on the permits, we are discussing permit #'s 2019-4, 2019-2, 2019-1, Hoffman asked if Meints could do some research and get back to us in the next 14 days, to research and find out what has and hasn't been completed, and would Aureon be willing to do the same as Alliant, and expose those tile crossings and coordinate with Lee and go back and get those properly shot and make sure those installs are correct. Meints stated what he can do is pass this on to Aureon and let them or their contractor handle it, Meints stated Olsson handles zero aspect of construction. Hoffman asked once the permit is pulled then Olsson hands it off to Aureon, is that correct, Meints stated that was correct. Hoffman stated so maybe in the future to avoid liability that Aureon is creating and having you here today, maybe Olsson Associates should have Aureon pull their own permits from now on, so you are not held with being the bad guy from now on. Hoffman stated he does not think that Meints is a bad guy, it just seems that someone else dropped the ball and Meints is taking the spanking for Aureon, Hoffman thinks Meints's firm does good work. Meints stated the permits are filed under Aureon's name, but were sent in by Meints and that is how he got involved in this, but the permits should all be under Aureon. Hoffman stated that Meints is just the messenger that got caught in all of this today. Meints stated that is correct. Hoffman apologized for that, and stated as long as we can get to a resolution with Aureon in a timely manner that is more than fair. Granzow stated that we asked Aureon to contact us back within 14 days, if they do not contact us what is our action. Hoffman stated a cease and desist order would be his recommendation, McClellan stated we have had to do that before and does not like to do that. Granzow asked if we would go out and expose the crossing, verify and charge Aureon. Hoffman stated the cease and desist would be needed, but Hoffman classifies these drainage district facilities as critical infrastructure, these affect the life and livelihood of our agriculture producers, by not doing it, we are not doing our fiduciary duties as Drainage Trustees. Hoffman stated we have had landowners that are concerned with neighbors not utilizing proper agricultural processes, how can we tell one and not hold another responsible. Hoffman thinks if we don't get any results, we need to go out and do it and bill it. Meints asked if the correct contact person Aureon should reach out to would be the Drainage Clerk. Gallentine stated the correct contact person would be the Drainage Clerk, Denise Smith, Gallentine stated that CGA really steps in when it is time to do the work in the field, and Smith has really been the contact person for this and has taken the bull by the horns and is managing these well. Granzow stated attorney Mike Richards is on the phone with us, and asked Richards for any comments. Richards stated Aureon is actually a Davis Brown Law firm client, so this would be one of the ones he can't comment on, Richards communicated that this morning, and the suggestions you have made today are within your rights and compliant with the rules and the law. Richards can't make a comment either way on this particular entity, but what the Trustees have said are reasonable alternatives compliant with the law.

Granzow asked for the next open permit on the list. Smith stated next would be Century Link and they have one open permit, #2018-11 through Drainage District 3, Smith's contacts were Sean Hostetter and

Robinson DePenning, neither are in attendance today, and Smith has had no reply from Century Link on the invitation to today's meeting. Hoffman asked attorney Richards if this was something that our verbiage in today's agenda would allow us to take action on today, and send out a cease and desist in this situation and then send out one of our contractors to locate, shoot and work with CGA, would that be allowable in today's meeting. Richards stated you could send them a letter on cease and desist but if you are going to take any additional action, you would probably need to put it on your agenda. Hoffman asked if putting it on next week's agenda formally would work. Richards stated that would be correct. Hoffman asked if Granzow as Chair would accept motions on these permits individually. Granzow replied yes.

Motion by Hoffman to instruct Smith to submit a cease and desist to Century Link for work in Hardin County Drainage Districts that are Trustee managed. Second by McClellan.

In additional discussion, Granzow stated Smith can add this to next week's agenda for discussion. Hoffman stated that Smith can agenda this next week to complete some type of work on the project.

All ayes. Motion carried.

Granzow asked for the next permits to be discussed. Smith stated next we have the Iowa Regional Utilities Association (IRUA) and the IRUA has 4 open Drainage Utility Permits: #'s 2018-1, 2018-2, 2018-6 and 2018-7. Granzow asked if work was complete on these projects. Spangenberg stated we provided a list of which projects were open and which were completed, 2018-6 is incomplete, we have not done all of that along with #2018-7 has not been completed either. Granzow asked if the other two have been completed and if we have GPS coordinates on those. Spangenberg stated those are complete and we have sent GPS coordinates to the Clerk, and we worked with Gallentine and CGA came out and GPS'ed some of it, Spangenberg knows there is some that there are still questions on, and is willing to send a crew out to expose IRUA's water mains or the tile where we need to, some of the tile is pretty deep. Spangenberg stated that to him it is impractical to dig some of them up as their water mains may be in the the bottom of the waterway and are defeating the purpose of not digging in the waterway, but they are willing to go dig outside the waterways and expose them. Gallentine interjected that he would never require someone to dig up their utility in the bottom of an open ditch, we just need the depth on each side of an open ditch. Spangenberg stated one of IRUA's concerns is the cost that goes along with this, it would be if there was a flat fee that we knew we would have to pay before they come out to do the inspections, GPS or when they would come out and even when they came out to do the locate if they would located the tile for us, and give us a general area of where they think the tile is, there is a lot of them they don't even know for sure where the tile is at. Spangenberg understands that we have to look for them but if they could come out and actually flag, we know between this general area we have a tile, there is a concern. Gallentine commented that it would be nice to have a flat fee up front and that would be a better system to just charge the utilities up front, they would know the cost, as afar as knowing where the tile are or are not, some of them we do know where they are at and those that we do know we did stake them out for IRUA.

Granzow stated moving forward on this, we are looking at changing some of the permitting process, and we have talked about different methods, and one of those would be a flat fee, one would be that we would go locate with our crews instead of the utility doing the locate, and then the flat fee may be less or more expensive but on average we should be pretty good. Hoffman asked if IRUA had a time-line on Drainage Utility Permit #'s 2018-6 and 2018-7. Spangenberg did not have a time-line on these two permits because we had received a cease and desist order, the customers keep calling IRUA and want to get the work done, but we are on hold. Gallentine stated there is still a concern with the town of Buckeye, a lot of data was provided for out in the country connecting Buckeye with the town of Radcliffe, but for the work in Buckeye, the amount of information that IRUA submitted was minimal at best, kind of a blanket statement that we feel most of the tile were 7' deep and we were shallower than that so we should be fine. Gallentine stated our records for that show depths are all over the place, so Gallentine still has concerns about the interior of Buckeye itself. Hoffman asks if Gallentine is talking about incorporated boundary of Buckeye, Gallentine stated yes. Spangenberg stated we did locate the tiles only where there were intakes, and we did take those elevations of the tile to build our system accordingly to miss them but we are willing to go back and expose them and show you where our water main is at. Gallentine stated that is a great start, that is one of the toes we do have quite a bit of tile located, and we could have staked out had we known and IRUA had contacted us on that one.

Hoffman asked if this would be one of those things where we could remove the cease and desist to get #2018-6 and #2018-7 completed in a certain time frame. Granzow stated we could. Hoffman stated he is looking for solutions. Spangenberg stated some of those are within the city limits of Buckeye, a lot of people don't understand that the city limits extends outside of town about a mile, some of these projects are what Spangenberg would consider rural but are within the city limits of Buckeye. Hoffman stated within the legal descriptions they are within the city limit. Spangenberg stated if we are to go back and do these projects, we coordinate to go back and verify some of the tile districts. Hoffman asked for Spangenberg's suggestion on what would be needed to wrap these up, Hoffman does not know how busy IRUA is right now. Spangenberg stated realistically, that to get that project finished up we would be looking at springtime before we can get back and finish it up, and we could maybe have a crew start exposing a tile on some of the other districts that are in question yet this fall, but to bring out the actual installation crews to finish up going out to Vierkandt and some of those others, Spangenberg does not see that happening yet this fall, IRUA just has too many other open projects this fall. Granzow is ok with the time-line and cease and desist, there is still a matter of a check that has never been cashed yet. Smith stated yes we are still in possession of the check. Granzow asked if we can cash that check. Spangenberg stated yes you can cash that check. Granzow stated we were asked to hold the check. Spangenberg asked if that came from the IRUA's office. Granzow stated there was a check for services to CGA. Gallentine stated it is his understanding that the check was issued to the County instead of to CGA and they had asked the County to hold that check until the Trustees accepted their submitted results as being final and correct and not requesting any more work from IRUA and then cash it. Spangenberg stated with that being said will we be charged any additional charges beyond those costs when we go back to expose those tiles in that tile district under the existing permits. Gallentine stated that is how the permit is set up, the permit holder pays for the fees not the district because it is your installation not the districts. Spangenberg stated that is where we have the hang up on these fees, they just keep going on and on, there is no end to it, it is an open checkbook and it is not fair. Gallentine stated once your utility is installed and you are in compliance there is nothing left to do.

Granzow stated here is the problems we have, whether it has been the IRUA or someone else, Granzow won't say who they are, and they have broken structures throughout the years, utilities have gone through our tile lines, and for years we have been battling, no matter where they put them at, the destruction that they incurred, may not show up for years. Granzow stated when it shows up it is very expensive and it backs up a lot of ground, so what these permits are here to do are to verify that your utility is not part of the problem. Spangenberg agreed with that. Granzow stated if something was damaged, and we don't know where your work was done, who is responsible, us as Trustees for allowing it to happen, you are only responsible for the spot of damage, but what about the 80 acres that it backed up. Spangenberg stated we have had to pay crop damages due to missed tile or failed repairs in the past, not to the tile district but to actual property owners, and understands those issues completely and appreciates the opportunity for someone who knows where the tile are at so that we can avoid the tile. Spangenberg stated a lot of times when we are on private property, the property owner does not know where his tile are located at, we find a lot of tile that they didn't know where they were at. Granzow stated there are a lot of landowners that don't know they are in drainage districts. Spangenberg stated they have found that as well, Granzow stated that some of these districts have not been touched in 100 years, so we may have a whole generation unaware of district tile in that district, but our purpose is to protect that facility for all people of that district. Granzow stated he knows that what we are asking is tough, but as we look at our permitting process maybe we can make that a shorter process, but this is the permit that was filed for. Spangenberg does not have a problem pulling a permit, it is just like any other county or state permit, usually you are just paying a flat fee, they come out and do the inspection as part of that flat fee, but it seems like these permits the costs just keep going on and there is no end to it. Spangenberg stated that as we talk about the importance of the infrastructure, and knows we have talked about this in the past, is to register those tiles and districts with Iowa One Call. Spangenberg stated so you can do that whenever a utility company does any digging, by state law, they have to call Iowa One Call to get the locates done, then you would be notified that there is something being done within that area and then you can work with those who are not aware of your permit process or that they are even within a tile district, because as Granzow said there are landowners here who are even unaware they are in a drainage district. Spangenberg stated if they call in a locate you are not even getting a notification that they are within a tile district or that they are near a tile within that district.

McClellan stated that if you look at our county map, it may be easier to notify someone of where there is not a drainage district, McClellan referenced the Hardin County map that shows every color shaded area is a drainage district. Gallentine stated he is not disagreeing with that approach of registering with One Call,

the only concern he is if we register with One Call as drainage districts, a contractor that calls One Call and we don't come out and locate the tile, typically this would be a utility, it is the utility's problem if something gets broken, and Gallentine does not know what this does to the district's liability, but it is an interesting concept. Spangenberg stated if we do damage a tile that we didn't know was there, it is the same thing, at least your getting some initial notification that someone is doing work in the area. Granzow stated but we are getting that from the Drainage Permits by making a utility apply. Spangenberg stated we were guilty of that as well, we had applied for your actual permit through the Hardin County Engineer's Office, but we were not aware of a tile district permit that needed to be pulled until after we had already started the project and we get a letter from Hardin County pointing out that hey you need to get a permit, and we said we do have a permit, you don't have a drainage permit, but no one within the County told us we needed to file another District Permit. Spangenberg stated you even have homeowners within the county that don't even know it. Gallentine stated he would not argue any of those points with Spangenberg, but the Hardin County Permit is a result of what is in Iowa Code and it is a State law that your company needs to get an easement from the district, whether Hardin County has a permit or not the obligation is on the utility company per Iowa Code. Spangenberg stated there should at least be a process to let the public know that you need to get a tile district permit. Granzow stated when you get your county permit now they notify you if you need to file a Drainage Utility Permit. Spangenberg stated that was correct now, but before when we filed for a County Utility Permit, we were not notified of the additional permit. Gallentine stated prior to Hardin County having the official Drainage Utility Permit, how did the IRUA follow the State Code requirement of getting easements across drainage districts. Spangenberg stated we have always gotten easements from the property owners, but it doesn't always show up that this is a drainage district. Gallentine stated he is specifically referencing drainage districts, how did you go about obtaining easements from the drainage districts. Spangenberg stated he can't really answer that question, but used Story County as an example, their tile districts use One Call, we call One Call and they come out and locate the tile, let us know there is a tile district there, and when we pull our Story County permits, it states on there you will have to work with the tile districts in regards to it. Spangenberg stated when we pull our Story County permits, it states on there we must work with the tile district, and when we apply for that initial permit with Story County we are asking for that easement as well, Spangenberg stated he thinks that is how that works. Gallentine was just curious how other counties handle it. Granzow stated Story County doesn't deal with it as much, as they don't have very many drainage districts. Spangenberg stated that would be correct, but they do handle it, Story County has a full time tile guy that does locates and a lot of their repairs within the county, that is his number one job, they have a crew that goes out and fixes them. McClellan stated with all the districts we have, she did not think we could even keep up with the repairs and clean-outs.

Hoffman stated part of it that we need to verify is that if you get a permit out of the Engineer's office, there should be a box that states there is a separate Drainage Utility Permit, we could probably do better public education. Granzow asks how do we want to proceed with Buckeye, are they going to go out next spring but the costs will keep going if they go out there. Gallentine suggested that if IRUA is willing to go out there and expose the tile and water main where they have already installed, that would be a great first step, why don't we see how that goes and then you can think about releasing the cease and desist. Spangenberg stated he was ok with that, and going back to the notification process, if you call One Call they will go out and do locates, but they will also forward IRUA a letter by email or fax back to the locate ticket that we need a stand by, and provides the phone number and contact info for who we need to contact with 24 hour notice, it could be the same thing for the tile district, before you cross you need a stand by. Hoffman stated part of the reason we are meeting today is to improve the process, Hoffman thinks we have good people, and a good process that can always be improved, we are always looking for a way to make things better, we can make daily improvements and that is today's goal. Granzow stated One Call sounds like a great program, but if you call One Call and expect a crew out there within 24 hours to locate, that is difficult, detecting tile does not mean detecting metal. Spangenberg stated when you call One Call for a locate they give you 48 hours, but if you can't make it within 48 hours, you contact whoever the contractor is making the request, and let them know we do have a tile there within this general area, but we won't be able to make it out there within the 48 hour window. Gallentine stated if we have to go out and dig to locate the tile, we will not make the 48 hour notice because our contractor would have to call One Call himself. Spangenberg stated this goes back to the communication, this is what we have to deal with every day with other locating services, we go out and locate our water main, if you call it in, we have 48 hours to get to it, if we are not going to make it within the 48 hours, then we are contacting whoever called that locate in.

Smith stated there may be some education portion we could address on our website, currently when

utilities look at the Utility Permit process through the County Engineer's department, it does not necessarily show that there may be an additional Drainage Utility Permit necessary, you have to look at the Drainage Districts Project Page to find that Drainage Utility Permit. Smith stated maybe we can do some cleanup on the website as well to make that process clearer for the person who is going to initialize any permit. Spangenberg stated we don't mind filling it out, even if there might be a tile district in the area where we are going to dig, if we filled it out then you have already verified that they will be in this area and we don't have any tile there, you shouldn't just fill out whenever this is a tile district, then we are all on the same page together. Granzow stated he got a call from a IRUA customer who is getting rural water installed, this customer stated that IRUA is reporting that Hardin County has a cease and desist. Granzow stated Hardin County does not have a cease and desist order with IRUA, the Drainage Districts we are in charge of have the cease and desist, this customer stated the answer they got from the IRUA was that we can't do anything in Hardin County as the County has a cease and desist. Spangenberg stated it might be one of those that we are working on near Buckeye, possibly Vierkandt, that we can't run the rural water to because of the cease and desist. Spangenberg stated he was aware that Vierkandt had called their office wanting to get connected. Granzow stated if the install does not cross a drainage district facility, you would still follow the permit and then it is not that we can't do it, we only have a cease and desist on wherever you are crossing a drainage district facility, but the communication was that IRUA can't do it in Hardin County because of the Board of Supervisors. Spangenberg stated he is only referring to the tile district. Hoffman stated someone in IRUA's office, whether that is customer service or a new employee, is communicating that to the customer wanting service. Granzow stated this customer called him and wanted Granzow to authorize the install, but the permit still needs to come from IRUA, Hoffman stated this person wasn't very happy with him either and explained the different hats we wear, at 9:00 AM Hoffman is a County Supervisor and at 9:30 we put a different hat on and Hoffman is a Drainage Trustee, the authority is different. Hoffman stated he owns about 80 square feet in a drainage district and until he received his first assessment, he would not have known he was in a district, some people don't know, when people buy property they may not know they are in a drainage district, that does not appear on an abstract. Hoffman does not know how to best publicly educate our real estate attorneys or land brokers on this, Smith stated there is no law in Iowa requiring a realtor or landowner must disclose that land lies within a drainage district. Hoffman states a lot of what we can agree on is that public education is something we all need to work on.

Gallentine stated his goal at the end of the day is for the utilities to get their installation in and that drainage facilities aren't impacted, just to make sure that utilities can get their installs done and farmers don't have a bill come due on assessments for work they did not choose to do. Spangenberg stated we also have to provide insurance to the district to cover any costs that may occur that we are not willing to take care of, we are more than willing to come out and fix any tile or make repairs to the waterways, whatever it might be, and we are not going anywhere, these people are our customers, and the water will keep flowing to them. Gallentine asked if the IRUA would coordinate this fall with the Drainage Clerk, when you are willing to have crews come back out and complete locates. Spangenberg stated he would notify the Drainage Clerk, that might be best, and she can coordinate that with CGA. Gallentine stated if you can provide me with a list ahead of time, which ones you plan on locating, since you were out there originally we may actually have locates done on some of the ones we have worked on since then.

Granzow asked if we will allow these two projects to go forward. Spangenberg stated that Gallentine had indicated to wait until we locate these and then move forward, Spangenberg is fine with that. Hoffman asked if that was permits #2018-6 and #2018-7. Gallentine stated for all four permits, whatever they have installed, IRUA can go out and locate this fall, and then we can see how that goes and whatever construction is left for next spring we can talk about before then and hopefully remove the cease and desist, and get IRUA and us back on the road. Spangenberg asked if CGA could provide an hourly rate so that they will know what the cost of inspections will be. Gallentine stated he can submit a copy of their hourly rates to Spangenberg. Spangenberg asked if Gallentine could tell him verbally, Gallentine stated he would look it up. Hoffman asked if Gallentine would like to look that up and we can move on to the next two utilities. Spangenberg stated these are costs we have to be upfront with our customers about, Spangenberg was contacted by a gentleman who was hauling water, and he is paying only \$2,500 to get hooked up, but if IRUA has to assess him another \$1,000 for these tile district fees, then we need to let him know that up front. Hoffman asked if Gallentine could research that while we move on to South Front Networks. Gallentine stated he could email the Clerk their current hourly rates and Smith can pass it on to the utilities. Hoffman asked if Smith has those rates on hand and could provide a copy today. Smith stated she should have a copy in her office and could provide a copy after the meeting today. Spangenberg said that would work for him.

Smith stated up next is South Front Networks with one open permit, #2018-12. Smith stated that Jay Hanke from South Front Networks had discussed this and Hanke noted that permit #2018-12 could be closed as no construction was completed in Hardin County, South Front utilized a line to the north in Franklin County, so we didn't actually have any construction done in Hardin County. Smith wanted Hanke on the line to hear this conversation from the Trustees, so that he would be aware in the future of any requirements noted in the permit. Gallentine interjected that he did have one concern that Hanke could address, Gallentine understands that South Front went on the north side of the county line, but up around straight north of Iowa Falls where the highway comes north out of Iowa Falls, on HWY 65 and it curved back to the east. Gallentine noted that if the route followed that curve back to the east on HWY 65, the route would have crossed at least one district tile. Gallentine stated we had emailed Hanke about this before and asked for his thoughts. Hanke stated we did not construct the path to the east at all, we took strands inside the Aureon cable, that goes across the road and to the north, if you look at that curved intersection the path actually goes across to the west side of 65 and then north to the NW corner of the intersection, and across and so we are in the Aureon cable for that. Gallentine asked if they followed more of a straight line, a straight corner versus following the curve. Hanke stated that was correct, they ran into a problem crossing the railroad tracks, so that is how we ended up in the situation, we were intending to build and the railroad doesn't actually own the right of way, it is owned by a land company, and so we had trouble crossing the tracks. Gallentine stated if you did not follow the curve right outside of Iowa Falls, CGA does not have any issues with it. Hoffman asked if this was an install for Black and Veach by chance, Hanke stated no this is actually a long haul internet path that connects Minneapolis and Davenport. Hoffman stated he knows there was another proposed fiber connection between a CWEC that was going to follow that same path that Black and Veach an engineering firm out of Denver, Colorado approached Hoffman about, about that same time. Hanke stated we operate a data center at that corner so actually there is quite a lot of fiber comes in to that spot, so we installed extra conduits when we did the initial install 2-1/2 years ago with WCTA to avoid having to dig that area up again, so if anyone needs things there, we can help with that. Gallentine stated he remembered the WCTA install and they exposed the tile and cleared it just fine. Hoffman stated so we can close 2018-12, Hanke agreed.

Motion by Hoffman to close Drainage Utility Permit 2018-12 submitted by South Front Networks as presented. Second by McClellan.

In additional discussion on the motion, Hoffman stated he appreciated Hanke's time and discussion and appreciates knowing there is extra conduit out there.

All ayes. Motion carried.

Smith stated, we have UPN, Unite Private Networks up next, Smith has been in contact with Charlene Whit of UPN and Gallentine has been in contact with Clark Lundy of UPN, there was some work done on a 2014 permit, that was originally submitted as a Regular Utility Permit through the Engineer's office, Smith was unaware of that existing permit, and White shared that with Smith yesterday. Smith stated it was not in her scope of knowledge, as Smith has only been here about a year, that the Drainage Utility Permit did not come into being until 2016 or 2017, so that being said, UPN did operate under that regular County Permit to do that crossing, however there was damage done to a district tile and a repair done. Smith stated Gallentine had some concerns with how that repair was done, and maybe that repair is what needs to be discussed today, not the fact that they did not have a Drainage Utility Permit back in 2014, this would have been for work done in Drainage District 143. Gallentine stated that this is the one that has been out there for a while, and landowner Calvin Hiland has had issues with this on the north road ditch of Hwy 175. It was Gallentine's understanding that the subcontractor, Price Electric, went out and did the repair, we detailed that back to the Trustees, it looked like the repair was done with plastic tile which the permit doesn't allow, it wasn't clear whether it was dual wall or single wall, in either case it wasn't rock bedded, and didn't meet the general permit requirements for the repair. Gallentine visited with Price after that, and Price was supposed to request getting on the agenda and that never happened. Granzow asked if the original permit was filed through the County or the State. Smith stated it was filed through the county Engineer's Office, at that time the Drainage Utility Permit did not exist as a separate permitting process, so they had a regular permit approved and signed and that covered the original scope of work.

Granzow stated this was hard to track when the Drainage Permit wasn't in place. Gallentine stated that may be true but we did provide them with a copy of the repair standards, and they need to meet those

requirements for repair. Lundy stated what he would like to do is contact CGA and give you or one of your guys out there a time we do the re-repair to make sure everything is done to your standards before we go ahead and backfill, that is how we would like to proceed. Gallentine stated that would be great, that is how the process should work. Lundy stated that would be great and he will try to give CGA at least a couple of days notice before we go out there and we will coordinate with CGA's schedule too. Gallentine stated that would be great, we appreciate it. McClellan asked for a time frame on that. Lundy stated 2 to 4 weeks, we will move it our urgency scale here since as Gallentine mentioned this has gone on for awhile, we would like to get this repaired correctly and put to bed. White asked do we need to file the new Drainage Utility Permit since we did have the old permit. Smith stated she will leave that up to the Trustees on that question. Granzow stated that he would have said yes as we notified you and we sent you the new Drainage permit, Granzow would say yes, we would like you to file that so it is on record and we can move forward. White asked if the Drainage District is a separate entity from the County. Hoffman stated yes, the Drainage District is housed within the County, but according to Iowa code it is a separate entity. White stated she would provide the Clerk with an updated Certificate of Insurance, Smith thanked White and Lundy for their assistance.

Smith stated the only other open permits she had were for Midland Power Cooperative, and they were unable to attend today, so they requested a different date, Smith stated she spoke with Casey Huff of Midland who stated she would be available next week but not this week. Granzow instructed Smith to put Midland on next week's agenda. Smith stated the only other permits you have outstanding are those that were in compliance with the original permit specifications, and those are all currently being worked on or addressed, Smith stated there was one from Radcliffe Telephone and Minerva Valley Telephone, and that they have been in contact with Gallentine and we had a couple with Heart of Iowa we had absolutely no issues with.

Hoffman asked if the Trustees would like to address come CWEC things with attorney Richards while he is on the line, Granzow stated we have to, Hoffman asked that we would recess for a short period for Smith to provide rate documentation and then we can reconvene. The Trustees thanked everyone for their attendance and appreciated their participation. McClellan stated this has been very helpful for us and hoped it had for everyone else in understanding the process. Spangenberg stated the 811 program has been so successful, that it has been drilled into everyone's head, that if you are going to be in underground excavation, call 811. Hoffman stated, you have my word, that Hoffman would like to integrate with them and see what that process would look like, McClellan agreed.

Hoffman motioned to recess. Second by McClellan. All ayes. Motion Carried.

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

Smith asked attorney Richards for direction on the check we are still holding from the IRUA for the CGA fees, Smith asked if you would like to wait and see how things go with the IRUA to see how their follow through goes, and then cash it. Richards stated the check said don't cash it until the work is completed and compliant. Smith stated she believed that was the original communication and intent for that check, but if the IRUA still has corrections that need to be made yet, on the two permits in Buckeye, then maybe work isn't complete yet. Gallentine stated it was hold this check until our work is complete and see if it is good and then cash it, so essentially here is our report and we will hold this over you until we do. Richards stated in the short term, it's ok if we see that they are going to do what they say they are going to do, but the next step would be to send them a letter and let them know our intent is to cash this check but the IRUA is still obligated to provide the additional services and pay for them until there is compliance, you don't have any legal authority to require us to wait. Richards stated in the short term, let's see if they comply, in the long term they may not have any grounds to hold that check over you. McClellan stated that on a couple of these permits they won't even get to until next spring. Granzow asked if the check was still good, Smith stated the check has been re-issued once as they are only good for 6 months, they sent us a new check and Smith returned the expired check to the IRUA, it should be expiring again soon, Smith would have to check. Gallentine stated the whole thing is odd, the whole process is the IRUA was supposed to pay CGA directly, and it was like they didn't want to do that so they gave it to the Trustees instead. The Trustees were appreciative of the open dialogue with the IRUA today. Richards asked if the check was supposed to come back to Gallentine for CGA's services. Gallentine stated that was correct. Richards stated we could send the check back to the IRUA and direct them to pay CGA directly, which

may not work, Richards inclination is to wait to see their follow up and if we have to elevate it we can. Gallentine stated he was happy to hear that they are willing to go back out and show us they were in compliance, that is great news. McClellan stated she wondered if Alliant stating they would go out and uncover their installs helped set the bar today. Gallentine stated he imagined having customers out there that want their service but they can't provide it and that means they are missing out on revenue too.

Smith asked if the Trustees would like to cover the possible changes to the drainage utility permit while we have attorney Richards on the line. Granzow stated they would, Hoffman stated they should limit their conversations regarding CWECS, that may need to happen with attorneys Meyer and Richards in a closed session drainage meeting, as Hoffman had concerns about the NDA if it applied to him as a Supervisor or a Drainage Trustee. McClellan recommended that they choose another time when the attorneys are available for a closed session. Richards concurred we need to have that notice before we can do that, so that should be on a future date. Granzow stated as for Hoffman's question, it is you, so it would be for both. Hoffman stated he would be very comfortable discussing just the Drainage Utility Permit.

Granzow asked if Smith had their list of questions available, Smith did have the list, and stated some of those included changes to the Drainage Utility Permit to include a application fee or a bond prior to the utility doing any construction, Smith asked for Richards thoughts on that. Richards stated you could have either one, it is common to have an application fee, it is less common to have a bond, but you could have either one. Richards stated legally speaking you could do it, it just depends on if you are interested in doing it. Smith asked at what amount would the Trustees be interested in setting an application fee at, Smith cited examples shared from Scott and Louisa Counties, which both have a \$1,000 application fee with any remaining funds leftover that were not used to be returned to the utility and any overages to be billed to the utility, there is a thought process there that maybe that is not a bad way to look at things. Smith stated IRUA had mentioned a flat fee, but Smith was not sure that would be sufficient, we would need feedback from Gallentine on that. Granzow stated they would not like the overages. Smith stated they would not like the overages but if a utility were to sign that application, they would be bound to that fee and stipulations. McClellan asked what do other counties charge. Smith stated the examples she found were Scott and Louisa Counties, who had very similar applications, and they charge a \$1,000 fee upfront. McClellan asked what Hardin County currently charges, Smith replied zero, we do not have a fee. Richards stated why it is set at that amount, is that you can't have an application fee set so high that it could be challenged for being arbitrarily or capriciously high, so you would have to have an amount that would be reasonable for a broad scope of projects, Richards went on that you can't set it so high to cover the highest paid or highest exposure project.

Granzow asked if the application fee could be set per crossing, not just per district. Richards stated you would have to be real cautious about your accounting and return any funds that are still there, after the work is completed if there is any remaining funds. Richards stated, that would be right if you say a \$1,000 and you have to pay any excess fees, that would be in the permit, then you can bill them for it, if they don't pay you for it, then you would be in violation of their permit. Richards stated that the \$1,000 application fee is in line with what he has seen and is pretty common. Gallentine stated if the district decides to go out and start locating tile ahead of time, and uses that application fee to cover some of those costs to get a contractor to do so, you could easily run through \$1,000 trying to find a tile, a safer amount might be \$1,500 or \$2,000. Gallentine stated if we have a backhoe out there running at \$250 an hour and doing some digging, you can shoot that \$1,000-\$1,500 pretty easily, that is if your intention is that the district goes out there and finds the tile for the utilities, and then these utility contractors don't have to go out there and find them on their own. Gallentine stated that seems to be the big issue with 811 One Call, contractors are so used to wherever there is a flag, that is where there is a utility, and I don't have to worry about anything else and I can't find anything else. Richards stated he would not have any heartburn with \$1,500 or \$2,000 either, if you start getting up in to the \$5,000 range, that is too high in his opinion. Gallentine stated if you have their insurance and you are covered in case there is damage, Gallentine does not think \$5,000 is necessary, for \$2,000 you could pretty much locate any tile, and that would be \$2,000 per crossing, not district.

McClellan asks if Gallentine sees these as having CGA go out and locate prior to them showing up at a job site, where maybe the utility contractor would maybe use their own equipment while they are there. Gallentine stated he liked the new attitude of the IRUA, and the problem gets to be we hear how helpful they will be when they would rather pay an upfront fee, when they are already complaining about the fees

they are paying, Gallentine does not know if IRUA thinks an upfront fee will be significantly less, but does not know how an upfront fee will be significantly less than what they are already paying. Granzow stated he thinks they would like to pass it on to the consumer and pass it on to us. The Trustees concurred that was the impression they had as well. Gallentine stated the nice thing about having the district being in charge of locating the tile, after a while we would have most of them located and you wouldn't have to have contractor going out there every time digging it up, you could just send a survey crew back out and they could spend a little bit of time and stake it. Granzow stated that is our intent down the line. Gallentine stated we can already do some of that with those ones between Buckeye and Radcliffe right now, in that case that \$1,500 would be more than enough, it would just be until we get those initial ones uncovered. Granzow asked what the Trustees think, Hoffman would rather err on the side of having to refund money than having to beg for more, \$2,000 seems more practical and realistic at this point. Granzow asked if that was per crossing. Hoffman stated yes. Granzow stated that what we are saying is if they are running rural water here and our tile line comes across at an angle, they may cross the same tile line three times to get where they are going, that would be a \$6,000 deposit to get to where they are going, that would be a \$6,000 deposit to get to one place. McClellan stated that would be three different tile locates, Hoffman stated that would mean three different holes in 3 locations. Smith stated there are permits on file that we looked at today that cross multiple district facilities, for instance the Aureon permit crosses 8 different facilities within 8 different district. Granzow stated he understands that and each district would have it's own fee, but it depends on where you are going as to how many times you will cross that tile. Granzow stated there may be multiple tiles they are crossing in the same district, both laterals and tiles and when you say you are not comfortable with too high of an application fee, we could be talking about a high application fee if we look at each crossing for a project. Richards asked if this would still mean one application filed for multiple crossings. Smith stated it would be filed in one application. Richards stated you will run into a problem if the application talks about pre-paid fees based on the amount of crossings, we have to be mindful of not planning for the worst case scenario in this situation because if it gets too high, you can't support it on your average application that is coming in you could have a problem. Granzow stated that is why we would specify \$2,000 per crossing because you might have 4 crossings in one district. Gallentine stated the problem is that when these utilities apply, the application is based on their plan set, so if they are going all the way across the county and they cross through 4 different districts they just put in one application, we are talking about wanting a fee per crossing because they would fill out a permit for each district, and each district may have multiple crossings. Gallentine stated they are really not making it easy to manage either, Gallentine doesn't know if the answer is to require each district have it's own application fee, but that gets cumbersome also.

Richards asked when we talk about an average locate fee for crossing, what would that be. Gallentine stated it would be \$1,000 to \$1,500 per crossing for the initial time we have to have a contractor on site to go out and dig it up and figure out where it is at, once we figure out where it is we would have GPS coordinates, and then it could be \$500 or less. Richards asked if there were any economies of scale, where it would go from \$1,500 to \$500 to \$250, if you are all in the same general area. Gallentine stated no, not much, you may get an economy if you have two in the general area versus just one, you may save some dollars but you would not save a huge amount. Gallentine stated the other option would be if the Trustees wanted to be pre- on it, you could go out, get everything located on it along your highways, as that seems to be where most of the permits are, and then have that sitting there, and as people apply for permits use that fee to pay back the cost of those locates, but that is a debt system, and I don't know if you really want to go that route. The Trustees stated they did not want to go that route, and agreed that would be a whole lot more bookkeeping. Smith stated that would be a whole lot more bookkeeping for the Clerk, and until we get to the point where did a County wide assessment on all districts to cover administrative costs, we are not ready for something like that. Granzow stated if we were to do something like that we might as well locate all the tiles, that would be something for fifty years down the road, like the locate service to be on that 811 plan, we would hopefully have them all located by then. Gallentine stated if you do charge \$1,500 or \$2,000 if that would be allowable, we may have a route that crosses a tile three times, and you may have a \$6,000 fee, they may look at redesigning and say this isn't worth crossing, and say let's go to the other side of the road, or let's go through the field, knowing that you would be using that flat fee ahead of time it may change the utility's design. Granzow stated they deal with private tile all the time. Smith stated it was interesting that IRUA mentioned that they had paid crop damages on private tile in the past and they didn't have a problem with it, but if we are looking at it that way why would you have a problem with our fee, if our fee will help you prevent paying crop damages in the future by preventing you from hitting a district tile you didn't know it was there, is it six of one and half dozen of another, Smith stated this fee would not be any more expensive than paying private crop damages. Granzow stated they hit his private tile and denied it

after the fact, Smith stated a landowner would not have any other recourse than to go to legal. Gallentine stated the IRUA said they have insurance to take care of anything they can't fix, and we are all aware that is a possibility but that is a long process, Gallentine would just as soon avoid anything on the front end.

Granzow asked if there were any other questions on our list for Richards. Smith stated the Trustees had mentioned having a stipulation that project work must be completed within 30 days unless otherwise specified and approved, the thought was that some of the utility projects may be larger in scope and may not be complete in 30 days, but by placing the 30 day validity in the permit it might encourage more urgency in compliance. Granzow asked if we should make it more than 30 days, possibly 90 days. Hoffman stated he liked 30 days, and would rather put on the permit that if the utility thinks it will be more than 30 days, please provide a narrative as to why, that way if a project is going for 12 miles then tell us that, Granzow stated or if we can't get to it until spring. Hoffman stated if we can't get to it until crops are out, we would just like to have an explanation, the utility wrote this, this was your logic. Smith stated you can include in that permit language that the window would be 30 days unless otherwise specified and approved and that would entail that narrative then. Richards stated that was the draft the he saw, and you can include that language, that would be fine.

Smith stated one of the biggest struggles she has had is the follow up, and making sure the utility's work is completed to permit requirements if the utility doesn't follow through with their notice to us, we have no consequence to the utilities if they don't follow this process. Smith stated that was the struggle in tracking down where the utility is at in their work once the permit is approved and issued, there is no review process of a permit once it is issued until today. Granzow stated if we have an expiration date on a permit and they have not contacted us, is it an automatic cease and desist. Richards stated if you have a specific date when it is going to expire, you could have a standard letter that goes out a week before that date, your permit is going to expire, give us an update, otherwise you need to have a better system that these dates are inputted into a calendar entry, and if they haven't provided us the information, we can send them a cease and desist, if they are contractually obligated to do it, then you can either sue them for failing to do it or give them a cease and desist. McClellan asked if there would be a problem with sending them out a letter a week before the permit expires, with mail delivery now, it might be like a week to 10 days. Smith doesn't have a problem with setting a calendar reminder and sending out a letter it is just that currently there is no disincentive for the utility to follow the permit, there is no teeth to it. Granzow stated the utilities have subcontractors that do the work they would have to follow up with to get back to us. Smith stated perhaps there needs to be a better application process than how it works now, right now the Engineer's Office receives a Utility Permit application, the Engineer's office shares that with the Drainage Clerk, who reviews that application for location on the drainage maps to see if that location will be within a drainage district, if it is in a drainage district, Smith reaches out to the utility applicant and notifies them that they need to fill out this form additionally. Smith stated once she has reached out to the utility, she has no way to know if the utility has shared that permit with their subcontractors, no way to know that there is a follow through because there is no deadline, so perhaps that deadline could be a way for them to say we know we have to comply or we are going to get a letter from the Drainage Clerk again. Richards stated the application process states we need to have this on file and comply before the utility commences any construction, Richards asked if there is no follow up to confirm that they have not submitted an application. Smith stated the follow up to that is for her to reach back out to the utility and say we haven't received your application, but once Smith has received their application, Smith has no way to know if the utility's work has been completed if they don't reach out to her or Gallentine for observation or 24 hour notification of construction, if the permit holder does not follow the permit language to do any of those following steps once their permit is issued and approved, Smith does not know when the work was done or when it is completed because CGA has not been there to do an observation report for us. Richards stated you could have a standard provision in there that states if work is supposed to be completed within 30 days, but you could have some provision if the work is not completed through a prior approved agreement that they have to give you an update every 30 days, but again your going to have to keep track of the dates somehow in some type of tickler system. Smith does not have a problem with that, it is just making sure the utility follows up with us. Gallentine stated the biggest problem he has heard from subcontractors a lot is that they don't get the whole permit from the utility company, the utility company signs the cover, and does not even know if they read it, the utility will forward that front page on to the subcontractor, and the sub will not have any idea what the permit requirements even are. Gallentine stated he does not know how you can educate a utility to be made to read the entire agreement before they sign it.

Smith stated she is having IT share the screen with the Permits and Application page of the website, all they will see is this page which states a Utility Permit is necessary for telecommunications, electric, gas, water and sewer utilities. Smith stated the Drainage Utility Permit is on another page, this page doesn't mention anything about a Drainage Utility Permit. Hoffman stated we need to put both of them on the Permits and Applications page of the website and on the Drainage Page of the website. McClellan stated you may want to add that a Drainage Utility Permit may also be required, Smith stated if the Trustees would like to motion that at the end of the discussion that would be great, as she is comfortable updating the Drainage Page of the website but does not want to make changes to anyone else's area of operation. McClellan stated perhaps we could just ask Secondary Roads to update that page and let them make that change. Smith will reach out to Secondary Roads to make that change.

Smith stated that this covers a lot of the changes we discussed in her email with Richards, and asked if the Trustees would like to authorize a draft of changes to be made to the application based on today's discussion. Richards stated going back to the application fee, if the Trustees would like to look at \$1,000 or \$1,500 per crossing on the application fee, that is not so outrageous that it would be deemed arbitrary or capricious, it will be interesting to see if people are paying it, you don't want to have an application fee so high that you don't want them to go out and do the application and they just cowboy it. Gallentine stated if they don't pay the fee, the permit would not get approved. Granzow asked a question which rural water pointed out to them, why does the first utility permit holder have to pay to have it located but the next utility that comes along in that area has it located for free. Hoffman stated that is the cost of doing business, and Gallentine pointed out the utility permit holder is the one doing the work. Granzow stated if the first time is \$1,500, the second time we have them located and it is only \$500, for the next company that comes through, it is a race to pay. Richards did not see anything problematic from a legal perspective on that, it is just the reality of the situation. McClellan stated if it has already been done, we can't charge again for that. Richards stated you would have to refund any fee because you wouldn't have to do the locate. Granzow stated so IRUA has told us that we the Trustees should have a locate for every tile we have that should be out of our pockets. Richards stated that is a great idea if we had the time and money to do it. Gallentine stated they would like us to be like Story County, we just magically show up and locate it and not charge them anything. McClellan stated compared to Story County, they don't have nearly as much tile as we do. Gallentine stated he would still like to know how Story County is paying that, through Rural Services or a drainage district.

Granzow asked if the Trustees would like to put a fee to the permit.

Motion by Hoffman to have the Drainage Utility Permit Fee be \$2,000 per crossing. Second by McClellan.

In additional discussion on the motion, Smith asked who the Trustees would like to draft that language. McClellan asked if the Trustees thought \$1,500 would not be sufficient. Hoffman stated it would be easier to have the utility issued a bit if a refund for unspent funds than to get additional funds. McClellan asked for clarity if this was per crossing. Granzow stated Richards should draft this language, and we will refund any funds we don't use and we the utility will be responsible for any additional costs beyond \$2,000. The Trustees concurred. Granzow asked if Richards had caught all of that, and Richards replied he had and asked Smith to send him the most recent version of the document with his previous comments inserted. Smith will do so. Granzow asked for any further discussion. Hearing none, Granzow asked for the vote.

All ayes. Motion carried.

Granzow asked if there were any other items on the list for discussion. Smith stated most of the other remaining items on the list were more tailored for a discussion on CWECs that needs to happen at another time. Smith asked if Gallentine had any other input on the discussion. Gallentine stated no he had no other input other than you are going down the right path by taking the utility out of the driver's seat, because that is how the utility permit was originally set up, the utility company were previously in the driver seat, the utility needs to find the tile, they need to notify us, and that is part of the reason these permits hang out there, they just got ignored. Smith stated in the future maybe part of the conversation that needs to happen is how those GPS coordinates and locations are stored and the Trustees mentioned going down that 811 path in the future, Smith stated we encountered that recently with the DD 22 project, with how those new route locations and those GPS points are inputted into the system, and Smith thinks that is maybe a conversation for further down the road. Granzow stated we need to input them every time we get them and

after 50 years we would have them all located or have them all done. Smith stated she just does not have that knowledge, but working with Jessica Sheridan maybe we can get that accomplished.

Granzow asked if we had any more questions for Richards. Hearing none, Granzow thanked attorney Richards for his participation and would let him know when we can get a closed door session scheduled. Richards thanked the Trustees.

#### 5. DD 82 - WO 301 - Discuss W Possible Action

Connie Eklund reported this washout, Smith stated there is a large area of washout that is cutting into the field, Eklund reported that this land had been in CRP for decades and Eklund recently inherited the land from her father and would like to farm it next spring, and they were unaware of the issue until they got into the field to look this fall. Eklund requests investigation and repair.

Motion by Hoffman to send CGA out to investigate and report their findings back. Second by McClellan.

In additional discussion on the motion, Hoffman stated on the last few of these we have had these go directly to the lottery so unless there is something dramatic found in the investigation, it can go directly to lottery. Hoffman called for the vote.

All ayes. Motion carried.

Motion by Hoffman, that unless this is something significant, Gallentine contact someone in the lottery and get the repair made in a timely manner. Second by McClellan.

In additional discussion on the motion, McClellan asked if this was just on this permit, Hoffman stated yes. Gallentine stated they will go out and investigate and get this on the lottery and if nothing significant has been found. Hoffman called for the vote.

All ayes. Motion carried.

#### 6. Other Business

Work Orders - Granzow stated we should make the work order approval process more standard, as this may delay work by up to another week. Hoffman stated we never know when a local contractor may be in the area, and we would hate to have them drive by it and then have to come back a week later, so the sooner we can initiate a process the better off we are. Granzow asked if this is something we can contact the Drainage Clerk on, who can send it to the Trustees for review, and if no one has a problem with it that would require bringing it back to the meeting, the Clerk should be able to okay that. Granzow stated if we are not responding than it's a go, but if you have a concern, let the Clerk know. McClellan stated rather than making that a process like that for every work order, Gallentine would let the Clerk know if there is a reason it needs to come back, so we are only addressing things once. Hoffman has confidence that Smith does that now, she reaches out when in doubt. Granzow stated he thinks the Clerk is already authorized to spend so much money on these calls, we did that back when Schlemme was Clerk, and asked if Gallentine recalled the amount. Gallentine did not recall but though it may have been \$500 to \$1,000, it is in the minutes back when Schlemme was here. Smith stated she can review the policy book, she did a good job of keeping up with that. Granzow stated the Drainage Clerk is authorized to spend so much per project, if it is a quick fix, let's fix it, Granzow stated if there is something to bring back, then we will bring it back for review. Gallentine stated this resulted from times when a contractor was out in the field, and may have found a problem on his own, and she could say go out and fix that and he didn't have to stop the contractor and have CGA come out. Granzow stated that CGA would still have to come out and verify that they did it correctly. Granzow stated we never really used that policy a whole lot. Smith asked if the Trustees would like her to review the policy and bring it back on next week's agenda. The Trustees concurred they would like to review the policy. Smith stated it would be good for her to know and have the Trustees feedback. Granzow stated it is a waste of time to send the contractors out there and then waste our time for a week if we know it is a quick fix, that is why we have a Drainage Engineer. Smith asked for Gallentine to send her a copy of his 2020 rates, Smith noted we had a 2019 copy on file. Gallentine stated he has emailed that to

the Drainage Clerk.

Hoffman stated that Brent Perry had asked Hoffman to bring up a concern in the Drainage Meeting, that if there are district drainage issues, and for whatever reason, someone in the district damages the facility, for example if a landowner crushed a tile with a manure tank or or damaged a tile just through bad management practices takes out a waterway in a way that would remove cover, Perry asked how we can make that someone else's cost and not spread that to the landowners through an assessment, Hoffman would like to have that discussion on who is actually liable for that. Hoffman thinks Perry brings up a good point, Granzow stated this has been brought up quite a few times. Smith asked is there is language for that in Iowa Drainage Code, Smith would have to review that. Gallentine stated there is something in code that talks about who is responsible, if it was done on purpose it may be double or triple damages, you may want to check with Mike Richards on that. Hoffman stated some of it may not be malicious but poor farming practices can lead to those things. Granzow stated in some cases we have put a waterway in and established that as a district waterway, instead of allowing them to keep tilling it because it was poor farming practice, and now they are responsible to maintain that waterway whether they like it or not because we have already bought that easement. Gallentine stated there have been times if the tile route was shallow, they say we are not farming over it, on the flip side they allow trees to grow in that area and then all of a sudden the tile is plugged and we still have to replace it. Gallentine understands Perry's concerns.

McClellan stated when we had the last issue of paying crop damages, as we had to remove the trees once and went back and took more trees. Granzow stated we had to go outside the easement and take a larger area of trees. McClellan stated it may be due to a landowner not maintaining something the way they are supposed to. Granzow stated it is everyone in the district's responsibility to be a caretaker of the district, so even if you are not the landowner and you are the neighbor, you can still turn in a work order as part of the district. Hoffman stated unfortunately when it comes to damages and stuff like that and you have a higher assessment than your neighbor, and are not the cause of the damage, you are going to be paying for their bad decision. Granzow stated we are dealing with this in the golf course in Radcliffe and in Radcliffe itself. McClellan stated she is not so sure the farmers should be paying the majority of those expenses for the trees in the city of Radcliffe. Granzow stated as the landowners in the district they could have had their own trees removed, and Hiland was right when he asked us to do that, we are doing that. Hoffman stated we are doing that in a systematic process, maybe not as fast as they would like, but we are doing it. Hoffman stated Perry stopped him and asked that it be brought up in a meeting. Granzow stated it would be best if he has a particular issue he bring it to our attention, if he sees something that needs a waterway added bring it to us because it is shallow and they are working t it, because if it is within district we can force a waterway in there, Granzow asked Gallentine if that sounded correct. Gallentine stated it seems like we had one case with George Iorger and we replaced a tile and we told him he couldn't farm over it. Granzow stated we have done that and some in New Providence and Hubbard where we told them they can't farm over it anymore, so it is our easement and we can still control the practices above it, but we have to know it is being done. Gallentine stated most producers and landowners are really good, they care about the land and they pay attention, just once in a while when you get some absentee owners, and they get rent and switch renters every year or two, they don't have that history of the tile on hand. Granzow stated that may be with acreage owners also. Gallentine stated that happens too. McClellan stated if it is someone who has never farmed that farm before, they may not be aware of the district tile. Hoffman stated again it is not on the deed or the abstract and it should be listed there just like a well, if you have to list a well or an abandoned well, this should be the same. Granzow stated that if you are in a drainage district it should be recorded on your abstract. McClellan stated as an example look at the guy that bought a farm near Garden City that bought land and wasn't aware that an open ditch was going to be built through it. Hoffman says when someone brings it to me, if I were not to bring it here then I am not doing my job, Hoffman would be more than happy to talk to Perry about it, if you see something, say something, that may be the best thing. Granzow stated we are not the owners, we are Trustees, we are not there every day, we rely on the landowners who are there every day to bring it to us, and if they are intentionally destroying our district, for example the pond that was dug in the ditch. Granzow asked if we had an update on that. Smith stated she would reach out to legal for an update and bring it back on an agenda, the Trustees had directed Smith to reach out to Richards and he was to check his records and Smith does not think he ever got back to us, Smith will reach out for an update.

## 7. Adjourn Meeting

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