

AGENDA
REGULAR DRAINAGE MEETING
Wednesday December 01, 2021 9:30 A.M.
This meeting will be held electronically and in-person.
To access the meeting call: 1-(312)-626-6799, when prompted enter meeting
ID code: 820 7567 2007

You can also access the meeting online at:

<https://us02web.zoom.us/j/82075672007>

1. Open Meeting
2. Approve Agenda
3. Approve Minutes

Documents:

[11_03_2021 -DRAINAGE MINUTES.PDF](#)

4. DD 55 Div. 3 - Discuss W Possible Action - Drainage Utility Permit Application And Installation

Documents:

[UTILITY PERMIT APPLICATION ACROSS DRAINAGE DISTRICT - CURRENT - APPROVED 11-10-2020.PDF](#)

5. Discuss W Possible Action - New Work Order Requests
6. Other Business
7. Adjourn Meeting

REGULAR DRAINAGE MEETING
Wednesday November 03, 2021 9:30 A.M.
This meeting was held electronically and in-person.

11/3/2021 - Minutes

1. Open Meeting

Hardin County BJ Hoffman opened the meeting. Also present were Trustee Renee McClellan; Trustee Lance Granzow; Lee Gallentine of Clapsaddle-Garber Associates (CGA); Mike Pearce, Network Specialist; Darrell Meyer, County attorney; Ken Smith; Bill Ibeling; and Michelle Kuechenberg, Drainage Clerk.

2. Approve Agenda

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

3. Approve Minutes

Motion by Granzow to approve the minutes of Regular Drainage Meeting dated 09/22/2021. Second by McClellan. All ayes. Motion carried.

4. DD 148 - Discuss W Possible Action - Open Ditch Brush Spraying Update

Hoffman asked everyone to introduce themselves for the record. Hoffman asked Darrell Meyer to render his opinion and give some guidance. Meyer stated that he spoke with Ken Smith about it and looked over the file from two different angles, legal and equitable angle. Meyer stated that there is no legal duty on drainage district 148 to pay for the spraying because they were not a part of that arrangement with the vendor, they were their own district and Trustees at the time. Meyer stated that Smith and Ibeling were not privy to that relationship so they're at most a third-party beneficiary. Meyer added they do not have a duty; they just have a benefit. Meyer stated that is a beauty of being a third-party beneficiary. Meyer stated he is looking at it from an equitable standpoint, if they were aware that this contract was entered, and the spraying was taking place and they had the opportunity to object but allowed it to take place they would have some equitable responsibility in some compensation. Meyer stated take the profit factor out but factor in the material cost and labor expense without the profit factor. Meyer stated that from his understanding of the situation, they were not aware so they have totally clean hands and so there would be no equitable relief that you could seek against the district for that reason. Meyer stated that it is not their problem. Hoffman stated that he doesn't think there is any reason to beat a dead horse or kick the can down the road. Hoffman stated that it's just a matter of we need to pay the bill and determine what line it needs to come from. Smith asked if the contract can be canceled. Hoffman stated he would accept a motion to make sure that cancel the contract.

Motion by Granzow to remove the spraying contract off of 148 and put a note in the file. Second by McClellan.

In additional discussion on the motion, Hoffman stated now it's just a means of paying the bill. Hoffman asked Kuechenberg to add that to next weeks claims for payment. Kuechenberg stated she could do that.

All ayes. Motion Carried.

5. DD 3 - Update - Engineer's Report On Repairs & Improvements To Main Tile Of DD 3 & Supplement To Engineer's Report

Gallentine stated that he is not sure why it is on the agenda because they're not the Trustees, but we can talk about it. Hoffman stated that he was going to say the same thing. Gallentine stated that they're continuing on working on that project trying to divert that box triangle, so it doesn't go through the intersection and cost Secondary Roads a significant amount of money. Gallentine stated that's where we are at right now. Gallentine stated that the Trustees have authorized us to go forward with a report on what existing right of way is out there because that was originally an open ditch that got converted to a tile and now, we're going back to an open ditch. Gallentine stated that kind of the same thing we did for DD 56, everyone was ok with the project and wanted to know what the right of way would be. Gallentine stated that we are moving forward with that,

and another meeting is scheduled for November 29th. Granzow stated that was good to know. Hoffman and McClellan agreed.

6. Discuss W Possible Action - New Work Order Requests

7. Other Business

Gallentine stated that he has called Craig Duncan and has not heard anything back. Gallentine stated that is for DD 36 if he remembers right. McClellan stated that was interesting because he seemed like he was in a hurry to get it done.

Kuechenberg stated that we have some old warrants that were issued to Ryken in 2016. Kuechenberg stated that Ryken scanned in our maps because we do not have the equipment to do that. Kuechenberg stated that two of the warrants were issued to districts that we no longer have control of. Kuechenberg stated that we gave these districts, DD 114 and 134, to Iowa Falls in 1978. Kuechenberg stated that they have not been redeemed but they are issued. Machel Eichmeir stated the situation is that back when they were issued is that they shouldn't have been because we were not the controlling people. Eichmeir stated that the warrants were issued, and she purchased them not knowing we did not have control of these ditches, so the county is holding the stamped warrants. Eichmeir stated that one is for \$218 and the other is for \$300 with interest accruing for both. Eichmeir stated that these warrants are never going to get redeemed because the ditches are never going to be assessed to have the money collected. Eichmeir would like to get this cleaned up. Granzow asked if we should just add that to the claims for next week like the invoice for DD 148. Eichmeier stated that she just wanted to bring that to the Trustees attention. The Trustees agreed that it was a good thing, especially if the warrants are just sitting there. McClellan asked what the interest was on that last one. Eichmeir stated that through October of 31, the interest is \$83.22. Kuechenberg stated that she printed off the paperwork yesterday so as of November 02, the interest is \$83.30. Eichmeir stated that it's basically the principle of the warrant that we paid to Ryken for that mapping that we're out. Granzow asked who is in control of those districts. Kuechenberg stated that Iowa Falls in control of those districts. Kuechenberg stated that they were turned over in 1978 because the district drains were partially constructed of sewer tile, and they were needed and used by the city for sewer and storm purposes. Granzow stated that he would still request that Iowa Falls pay it, if they're not going to pay them, we need to clean the books up. Granzow stated that we should first request that they pay them. Kuechenberg stated that she would reach out to them. Eichmeir stated that we're not going to pay them because it's like it's a matter of canceling. Eichmeier stated that we already paid the bill ourselves. Granzow asked how Eichmeir preferred it. Eichmeir stated she would prefer if the city of Iowa Falls would pay the warrant even if it was just the face value and not the interest. Eichmeir stated that they didn't have any idea that this was happening so it's kind of hard to ask them to pay a bill that they did not request. Eichmeir stated that I guess when they were doing the mapping, she doesn't know how this all happened. Granzow stated that we started converting the paper maps to digital. Granzow stated that he believes the cities were notified when we started this process to see if they wanted to and they probably never responded. McClellan stated that maybe they didn't get notified. Granzow stated he could not guarantee that we did. McClellan stated that these were done years after the ditches were turned over to them. Eichmeir stated that they were turned over in the 1970s and this was in 2016. Granzow stated that as our conversation went, we'll do them all because Ryken was doing them. Granzow stated that he can't guarantee Iowa Falls was contacted but he knows we did other districts and they paid. Eichmeir stated that if you're use to dealing with other Trustees. Eichmeir stated that she doesn't know this for a fact, but these two districts might not have been in anyone's head. Granzow stated that there are two or three districts in Iowa Falls that are inactive, but they're still districts, and we just carry the paperwork for them. Granzow stated that they could've slipped through the cracks. Granzow stated that at any given point we do not know what's active and what is not, there is 200 of them. McClellan asked if we wanted someone to pursue and make a call to Iowa Falls. Gallentine stated that there was one in Alden, that did get paid. Gallentine stated that maybe just from that standpoint you would treat them all the same. Granzow stated that we could send a bill to them again. Hoffman stated that we should send them the bill and see if they would pay. Eichmeir stated that they might not know that we did it unless they were notified when the project was getting done. Gallentine stated that he thinks Tina did. Gallentine stated that some towns, like Alden paid it, and others did not. McClellan stated that maybe if we send the bill with the interest, they will see that the interest is larger than before. McClellan stated that she would attempt to bill them once more. Hoffman stated or for the first time. McClellan asked who their Trustees would be. Kuechenberg stated that the document said the districts were turned over to the city, it did not say anything about Trustees. Gallentine stated that once they're turned over to a city, he believes the city council becomes the Trustees. Gallentine asked Kuechenberg who the current holder of the warrants was. Eichmeir stated that the county purchased them. Eichmeir stated that the county purchased all of the stamped warrants. Eichmeir stated that we paid Ryken right away and then purchased the

warrants. McClellan asked Kuechenberg to send Iowa Falls the bill. Hoffman asked Kuechenberg just to keep the Trustees updated. Kuechenberg stated she would send them a letter and then in 30 days have an update.

Eichmeir stated we do have a couple of other problems. Eichmeir stated that since conversion and the turnover and everything she is just now trying to get to the nitty gritty of this stuff. Eichmeir stated that we have some warrants that were in the Trustees control that are now in private Trustees control. Eichmeir stated that the actual warrants did not get moved from the district to the proper district, we're trying to get this corrected and we'll see where we're at with that. Eichmeir stated that she is not sure what is going to happen if we're in a situation where a district will be not knowing they're that far in the negative. Granzow asked if this was done when they were the Trustees. Kuechenberg stated that this was done prior. Granzow stated that he is not worried then. Hoffman stated that they assumed all of the liability, but we need to let them know. Eichmeir stated that she does not think we want to say anything until we have it all corrected in the software. Hoffman asked how many ditches are there. Eichmeir stated that there are just two ditches. Eichmeir stated that one is only like \$4,000. Granzow asked if one of the districts was 148. Eichmeir stated yes. Granzow stated that we should've said something to them when they were still here. Eichmeir stated that she did not want to say anything until it is corrected in our software. Gallentine stated that he will say something about 148 they were fully aware that you guys were incurring engineering expenses and all that because that's what drove them to become their own Trustees. Hoffman stated that was the motivating factor. Eichmeir stated that one's almost at \$43,000. Gallentine stated that this should not be something that they know nothing about. Gallentine stated that they were attending those meetings, they knew. Eichmeir stated that was good. Gallentine stated they still might complain. Granzow stated that they didn't go ahead with the project either. Gallentine stated, yes that's true. Kuechenberg stated that at one point someone tried to move these whether it was the Drainage Clerk or whomever, but it didn't work out. Eichmeir stated that whoever it was attempted to move the warrants but moved the funds and that's where she was concerned. Kuechenberg asked if we would charge the interest that has accrued in the meantime as these warrants were sitting in the old accounts. Eichmeir stated that we still would. Eichmeir stated that these districts know that these bills existed and what work was done in the district, and they have not assessed to take care of these bills. Gallentine stated that they usually don't even probably know that they have to assess unless a drainage clerk or someone suggests it to them. Eichmeir asked if the private Trustees know the whole process. Granzow stated that Kuechenberg is still their clerk. Gallentine stated that for DD 148 all of those guys are fresh, so he doesn't think they're aware that they need to assess, they probably just assume it is automatic.

Kuechenberg stated that she reached out to John Torbert with Iowa Drainage District Association and asked if he could add that for his discussion to be voted on that Drainage Districts are recorded on abstracts, property taxes, and deeds. Kuechenberg stated that John got back to her and told her that he would look into it and get back to her. Kuechenberg stated that she did invite him to a meeting, he did not say whether he would be able to attend the meeting. McClellan stated that if nothing else just Zoom in. Kuechenberg stated that she did inform him that if he couldn't attend in person, she would send him the zoom link or phone number he could call in. Granzow stated that he is under the impression that if the IDDA can't do this, then why are we members. Hoffman stated that all we have to do is make it a legislative priority kind of like ISAC does. McClellan stated it would be nice to have the Drainage District Association spearhead that. McClellan stated that she hopes that they could back it. Granzow stated that this is for everyone. Kuechenberg stated that she let him know that it comes up quite often in the meetings, a lot of landowners have requested that. Kuechenberg stated that John is aware that it happens a lot. Granzow stated that he's sure we're not the only ones.

Hoffman stated that he was reading the editorial in the newspaper today regarding the carbon pipelines and he is disappointed that the newspaper wants to get involved in this like they did the wind turbines. Hoffman stated that it is one of those things that they start comparing those things to wind turbines and while there are some apples-to-apples comparisons there's a lot of apples to oranges there too. Hoffman asked Gallentine, with this second pipeline, if he would attend a couple of meetings that they could go together. Gallentine stated that Franklin County has already asked them for a letter of intent just like they did on the first one, so he will be there. Gallentine stated he will get Hoffman a letter. Hoffman stated he was just curious with the scope. Gallentine asked if they've seen a map for the second one. Hoffman stated nothing detailed just that 50,000-foot view. Gallentine stated that he's just seen the state map but the first one is going in a V shape this one is going straight across the county the other direction. Gallentine stated it's like a big X right across Hardin County. Hoffman asked if he missed when Heather was going to be able to give us some insight or if her written stuff was all she was concerned with. Gallentine stated that Heather Thomas has resigned, she is the new

Engineer for the City of Marshalltown. Gallentine stated that Matt Garber has experience with pipelines so he will be filling in that role. Gallentine stated that he thought that we were waiting to get like Mike Richards and Matt Garber and Mike Richards and Heather together to talk about that. Hoffman stated ok, just keep us surprised on when that pow wow goes on because updating any utility permits regarding underground pipelines probably needs to be looked at relatively soon. Gallentine stated he has not heard anything from Mike. Gallentine stated he thought the Drainage Clerk, he can't remember if it was Denise at the time or who, was going to forward Heather's comments onto Mike Richards and he was going to reach out to us. Kuechenberg stated that she did reach out to Mike, and she has not heard anything back from him. Kuechenberg stated she would email him again though. Hoffman asked Kuechenberg to email Mike again.

8. Adjourn Meeting

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



HARDIN COUNTY

1215 EDGINGTON AVE., SUITE 1
ELDORA, IA 50627
(641) 939-8108

HARDIN COUNTY DRAINAGE DISTRICT UTILITY PERMIT APPLICATION

Applicant:

Company Name

Address

City State Zip

Applicant Contact:

Name (_____) _____ - _____
Phone

Email

Utility Type:

Drainage District(s) Crossed:

Facilities Crossed (specific tile, open ditch):

Description of Work:

*(Location plan of
proposed utility must
be attached.)*

Pursuant to Code of Iowa Section 468.186, approval is hereby requested for the right, privilege and authority to construct, operate and maintain utilities on, over, across or beneath established Hardin County Drainage Districts, subject to the attached Requirements for Construction On, Over, Across or Beneath Established Drainage District. Failure to comply with said requirements shall be ground for revocation of the permit by the Hardin County Board of Supervisors.

Applicant Signature

Date

Submit Form and Location Plan To:

Hardin County Auditor's Office
Attn: Drainage Clerk
1215 Edgington Ave, Suite 1
Eldora, IA 50627
Fax (641) 939-8225
drainage@hardincountyia.gov

For Office Use Only

Application Approval:

By: _____
Board of Supervisor Chairman, Acting as Drainage District Trustee

Date: _____

APPROVED PERMIT #: _____



REQUIREMENTS FOR CONSTRUCTION ON, OVER, ACROSS OR BENEATH ESTABLISHED DRAINAGE DISTRICT

Upon issuance of a permit for utilities on, over, across or beneath established Hardin County Drainage Districts, the applicant shall be governed by these requirements and shall comply with all conditions contained herein.

SECTION I – Standard Requirements

1. The Applicant shall furnish the Drainage District, or its representative, plats showing the exact location of the proposed construction. If it is found that such locations are in conflict with the present or proposed facilities and that a more desirable location is possible, the Applicant shall review such possible alignment changes. **No construction is to commence with the drainage facility without an approved application.**
2. Upon approval of the application, and prior to the commencement of any construction, the Applicant is required to pay a prepaid inspection fee made payable to County Treasurer's Office. The prepaid inspection fee shall be equal to \$2,000 per crossing of any of the Drainage District's facilities (by way of illustration, if an application includes a scope of work that would result in crossing over the Drainage District's tile in three (3) locations, the prepaid inspection fee would be \$6,000). Within thirty (30) days after completion of the installation, the Drainage District or its designee shall remit any unused portions of the prepaid inspection fee to the Applicant, along with a statement for services rendered. Inspection fees and cost in excess of the prepaid inspection fee are the responsibility of the Applicant.
3. Applicant shall comply with Iowa One-Call requirements prior to commencing any work.
4. The Drainage District shall provide Applicant access to maps or other information regarding the location of all known drainage district facilities so that reasonable care may be taken by Applicant to avoid un-necessary damage to said drainage district facilities.
5. The Applicant shall hold the Drainage District harmless from any damage that may result to the Drainage District facility because of the construction or maintenance of the utility, and shall reimburse the Drainage District for any expenditures that the Drainage District may have to make on said Drainage District facilities resulting from Applicant's construction and installation of utilities, or their subsequent repair or modification.
6. The Applicant shall take all reasonable precaution during the construction of said utility to protect and safeguard the lives and property of the public and adjacent property owners and shall hold the Drainage District harmless from any damages or losses that may be sustained by adjacent property owners on account of such construction operations. Further, Applicant agrees to replace, repair or reimburse all damages to private property occasioned by Applicant's installation of subsequent modification or repairs.
7. The Drainage District assumes no responsibility for damages to the Applicants property occasioned by any construction or maintenance operation of said Drainage District facilities, subsequent to Applicant's installation.
8. A copy of a certificate of insurance naming the County/Drainage District as additional insured for their permit work shall be provided to the County Auditor prior to installation. The limit of liability under the insurance policy shall not be less than \$1,000,000 per occurrence.
9. The Applicant agrees to give the Drainage District twenty-four (24) hours (Saturday and Sunday excluded) notice of its intention to commence construction on any lands within the jurisdiction of the Drainage District. Said notice shall be made in writing to the County Auditor or to the designated Drainage District representative.
10. The Applicant agrees to place permanent, visible markers or monuments at locations where utility crosses Drainage District facilities. These monuments or markers shall identify the owners name, address and phone number.
11. The Drainage District Trustees may appoint a representative to inspect and approve all construction across Drainage District facilities as part of this permit. All compensation, wages, mileage and other expenses for this representative will be paid by the Applicant. It will be the responsibility of the Applicant to make all contacts with private parties (adjacent owners/operators) to determine the location of private drainage facilities. Said representative will also inspect all crossing of Drainage District facilities and may, if required, observe the crossing of private drainage facilities, and shall have the authority to require the Applicant to excavate and expose the crossing of any Drainage District facility where the representative believes it prudent to visually examine Applicants crossing of the Drainage District facility. Further, said representative has the authority to suspend construction and installation by the Applicant within any Drainage District jurisdiction by verbal order to the contractor at the site and a telephone call to Applicants contact person listed on page 1 within six (6) hours of the verbal order.



12. The construction and maintenance of Applicants installation shall be carried on in such a manner as to not interfere with or interrupt the function of said Drainage District facilities without the express written consent of the Drainage District Representative. In the event it becomes necessary to temporarily stop the flow of water, the following shall be completed by the Applicant:
 - a. If the crossing involves a tile line, the replacement of tile with approved materials, in the manner approved by the Drainage Districts designated representative, shall be performed as rapidly as possible. If the approved method of repair is impossible and the volume of water flowing in the tile is sufficient to create the possibility of crop loss or property damage, the Contractor will be permitted to temporarily block the tile line to prevent the flow of this tile water into the pipeline, or tile line ditch. In the event this tile line is so temporarily blocked, the Contractor will be expected to provide sufficient pumping equipment to pump the impounded tile water across the construction ditch to the undisturbed tile line. Such temporary blockages of said Drainage District tile lines will be removed a rapidly as possible and any tile repairs caused by this blockage will be immediately repaired at the Applicants expense.
 - b. If the crossing involves an open ditch that is carrying sufficient flow of water to make it necessary to place a temporary dam across said open ditch, such temporary dams may be constructed only upon approval from the Drainage District designated representative. The maximum elevation of this impounded water shall be determined by the designated Drainage District representative and all excess water must be allowed to flow across the construction ditch through either a closed metal culvert pipe or by pumping. All temporary dam structures are to be removed as soon as the crossing is completed. The construction and removal of these dams shall be in such a manner that the smooth and efficient function of the drainage ditch is not impaired, with all costs and damages borne by Applicant.
13. The Applicant will at any time subsequent to the commencement of construction, and at Applicants sole expense, reconstruct or replace its installation as may be necessary to conform to new grade or alignments resulting from maintenance or construction operations by the Drainage District in connection with any of its drainage facilities. Applicant agrees to do this within forty-five (45) days of receipt of written request from the Drainage District, or such longer time period as the Drainage District may specify, without cost to the Drainage District. Such reconstruction or realignment of Applicants improvements shall be made in accordance with and approved by the Drainage District or its designated representative. If the Applicant is unable to comply within the time period specified above, the Drainage District may cause the work to be done and the Applicant will pay the cost thereof upon receipt of a statement of such costs.
14. **CROSSING OF OPEN DITCH FACILITIES.** Utility crossings shall be constructed as follows, as directed by the designated representative of the Drainage District:
 - a. Passage of installation in a horizontal plane five feet (5') below design grade of drainage ditch, as established by the Drainage District representative.
 - b. The above depth to extend to a point two (2) times the design base width of ditch either side of centerline of drainage ditch (measured along the centerline of utility) unless the existing base width is greater than the design bases width. If the existing base width is greater than the design with, the depth is to extend to a point two (2) times the existing width.
 - c. The rate of slope for transition from normal utility laying depth of crossings of drainage ditches shall not be steeper than 4:1.
 - d. If such ditch crossings occur at points of outlets of Drainage District or private tile lines or within twenty-five feet (25') of said outlets, such outlets must be relocated to a point not less than twenty-five feet (25') from such crossings. Such relocations shall be at the expense of the Applicant and as directed by the representative of the Drainage District.



15. CROSSING OF DRAINAGE DISTRICT TILE LINES. Utility crossings shall be constructed as follows, as directed by the designated representative of the Drainage District:
 - a. All proposed installations must be placed under the existing Drainage District tile lines. These requirements may be waived only upon the review by and approval of the designated representative of the Drainage District. Such waiver must be in writing.
 - b. A minimum of one foot (1') clearance below existing Drainage District facilities must be maintained.
 - c. At all crossings of Drainage District tile lines with the proposed utility, one of the following must be used:
 - i. Replace Drainage District tile with reinforced concrete pipe of same or larger diameter than existing tile. Concrete pipe to be 2,000 D strength (Iowa Department of Transportation approved) with standard tongue and groove joints. Pipe to have a minimum of three (3) bolt-type connectors at each joint.
 - ii. Replace Drainage District tile with cathodic protected corrugated metal pipe. Diameter of corrugated metal pipe to be a minimum of two inches (2") larger than outside diameter of tile line being replaced. (Specifications regarding gage, cathodic protection and other details to be subject to review and approval.)
 - iii. Dual wall plastic with specific approval of Drainage District representative.
 - iv. Bore new utility installation; maintain existing tile in an undisturbed state.
 - d. The length of tile to be replaced by any of the above alternates is as follows:
 - i. Eight-inch (8") tile and smaller: Six feet (6') either side of centerline of proposed installation, measured at right angles to the centerline of installation.
 - ii. Ten inch (10") tile and larger: Ten feet (10') either side of centerline of proposed installation, measured at right angles to the centerline of installation.
 - e. At all crossings of Drainage District tile lines where the Drainage District and private tile lines are damaged by the construction, maintenance or repair of Applicants installation shall be repaired as directed by the Drainage Districts designated representative.
16. This permit is subject to existing regulations and statutes of the State of Iowa and future regulations, which may be promulgated or enacted.
17. This application is subject to revocation by Hardin County, if in its judgment it is necessary for legitimate purposes. In such event, written notice shall be provided to permit holder.
18. Applicant agrees to pay all other legitimate costs, fees and expenses associated with its crossing of the Drainage District facility, including but not limited to, publication costs, engineering costs and legal service costs. Said costs will be paid within thirty (30) days of the mailing of the statements to the Applicant.
19. Applicant agrees to provide a copy of as-built plan of the utility route and location, showing route changes that may have taken place during construction.
20. Applicant agrees to include a copy of these requirements to all bidding specifications; or if the construction and installation contract has been let by the time this permit is approved, Applicant agrees to provide a copy of these requirements to the contractor and to advise them that they are bound by the terms of these requirements.



SECTION II – WIND TURBINE REQUIREMENTS

21. This Section shall apply to commercial wind turbine applicants as defined in Hardin County Ordinance 29, Article XXIII.
22. Section I above shall also apply, but to the extent the requirements of Section II herein are incompatible with those in Section I herein, those in Section II shall apply.
23. Prior to approval and issuance of a permit, applicant first shall obtain conditional approval from the Drainage District. The conditional approval shall be for each proposed site and shall require the applicant and the Drainage District to enter into an agreement containing the following terms: (1) At applicant's expense, and at District's direction and conditions, applicant shall televise the District Tile that may be impacted as determined by the District; (2) The applicant shall enter into a damages agreement with the District, per site, that: a. allocates to the applicant a percentage of fault for resulting damages to the Drainage District facilities; b. establishes damages based on replacement cost to the Drainage District; c. establishes a damages deposit; and d. requires the applicant to pay the Drainage District legal fees related to the agreement, including enforcement.
24. No permit shall be approved or issued without first entering a damages agreement as set forth in the previous paragraph. A permit will also include the following requirements:
 - A. At District's discretion, under the District's direction and conditions, and at applicant expense, applicant shall televise the District tile before and after a turbine's construction to review tile conditions.
 - B. Applicant shall use GPS to map crane walks and ingress and egress of all vehicles and equipment with a gross weight of 8,000 lbs. or greater, and shall provide this data to the District in a format approved by the District.
 - C. Applicant shall maintain a two hundred (200) foot setback from the outside of the turbine's footing to any District facilities, including open ditches, to allow for repairs to Drainage facilities.
 - D. At applicant expense, the District shall designate at its discretion an engineer/technician that the applicant shall allow to be present to observe any and all aspects of construction. These costs shall not be passed on to the landowner or District.
 - E. Wind turbine underground accessory facilities, feeder lines and cables shall be bored under District facilities at a depth approved by the District.
 - F. Applicant shall use the District engineer and local contractors approved by the District for all work pertaining to tile televising/inspection, repair and replacement. The District shall maintain a current price list for local contractors' services and rates and shall be provided at the applicant's request.
 - G. Any time a wind turbine undergoes changes, re-powering or re-blading, or any service to the turbine that requires a crane walk, the site will need to be re-televised as required in subparagraph "A" above, as well as new GPS mapping as required in subparagraph "B" above.
 - H. The District has the authority to enter upon the land and service any District facilities at any time, with or without the consent of, or prior notice to the applicant. The applicant is responsible for any cost increase experienced by the District for service and maintenance of District facilities due to a wind turbine and turbine accessory facilities and lines.
 - I. The applicant shall pay any legal costs, including reasonable attorney fees, incurred by the District related to any disputes or enforcement of these permit requirements.
25. The term "Applicant" shall mean the permit applicant, the applicant's agents, heirs, successors, assigns, and facility owners.