

**WARRICK COUNTY-VANDERBURGH COUNTY
JOINT DRAINAGE BOARD
MARCH 28, 2018**

The Warrick County-Vanderburgh County Joint Drainage Board met in session this 28th day of March, 2018 at 2:01 p.m. in Room 307 of the Civic Center Complex with President Marlin Weisheit presiding.

Call to Order

President Weisheit: Okay, we'll call the Warrick County-Vanderburgh County Joint Board meeting here on March 28, 2018, 2:00 to order.

Pledge of Allegiance

President Weisheit: We'll start out with the Pledge of Allegiance. If everyone would stand.
(The Pledge of Allegiance was given.)

Approval of the November 15, 2017 Joint Drainage Board Meeting Minutes

President Weisheit: Has everybody had a chance to review the minutes from the last meeting on November 15, 2017?

Commissioner Ungethiem: I make a motion to approve.

Commissioner Shoulders: I will second.

President Weisheit: All in favor.

All Commissioners: Aye.

President Weisheit: The minutes are approved. Thank you.

(Motion approved 4-0)

Discussion of Pigeon Creek

President Weisheit: Okay, we'll move on to discussion of Pigeon Creek. I know we had a few letters here, letter to DNR concerning declaring Pigeon Creek a navigable waterway through Warrick County to the Ohio River. Who wants to discuss that issue? Mr. Harrison's not, yes he is, he's here today. I'm sorry.

Joe Harrison, Jr.: Well, you know, I probably should have sent, the letter I sent to DNR to INDOT, but anyway, the letter sent to DNR, I have not heard back from them. But, you've got a copy of the letter, and, but I did not get a response. That letter was sent out on January 26th. I also sent the same day, a letter to INDOT regarding the possibility of, oh, an alternate route, you know, for the flow of Pigeon Creek as a part of the I-69 bridge, wherever the bridge may go. I did receive a response back from them, they basically said it would not be feasible to consider changes to the drain as part of the I-69/Ohio River Crossing Project, because Pigeon Creek falls outside the project limits. But, what they did say that, yeah, I'm not too sure I agree with, is Pigeon Creek is an unregulated drainage ditch that does not fall under jurisdiction of INDOT. Well, I know it doesn't fall under the jurisdiction of INDOT, but I probably should have given them some more information in my letter, like I did to DNR. They probably are unaware that part of it is regulated, and I tend to believe all of it's navigable based upon the action by the County Commissioners back in 1991. But, be that as it may, they basically indicated that they would not be able to do anything. As far as DNR's concerned, maybe Representative Bacon might be able to shed some light on that issue.

Ron Bacon: Well, we did contact them, after I got notice that your letter went out and so forth, and they did contact us back, and verbally stated that, now this is INDOT, that they would work with, if there was anything they could do to help and DNR had a project and felt that there was something they could do, they would be happy to work with DNR, because they feel this is a DNR issue. That's what they've basically come back to us and said, if DNR says that there's a way that they can, INDOT would work to help them. Now that's just recent, so it's a little—

Joe Harrison, Jr.: Okay, good.

Ron Bacon: --since you've, after you got your letter, then they would be happy to work with them, within, so, whatever they can do. So, we've got that...I have not heard anything from DNR. We've contacted them again too.

Joe Harrison, Jr.: Okay.

Ron Bacon: So, we haven't gotten a response back yet, on that, so.

President Weisheit: Anybody got anything else to add to those two projects?

Joe Harrison, Jr.: Do you have any other thoughts?

Ron Bacon: Well, no, like I said, if we can get them to state that it's a regulated drain, as it said in 1991, then we can move, I mean, I still think that's our goal is to get that done from that letter.

Joe Harrison, Jr.: Yeah, DNR hasn't contested that.

Ron Bacon: They haven't contested it.

Joe Harrison, Jr.: I haven't heard anything.

Ron Bacon: So, they haven't said no.

Commissioner Ungethiem: Let me make sure I understand, the area of Pigeon Creek in Vanderburgh County, what we're trying to make sure, what we're trying to impress to DNR is that the whole section of that is a navigable waterway.

Joe Harrison, Jr.: That's our position, right.

Commissioner Ungethiem: The section that's in Warrick County is, in fact, a legal regulated drain.

Ron Bacon: Correct.

Commissioner Ungethiem: So, once we cross the boundary from Vanderburgh to Warrick, it is a regulated drain.

Ron Bacon: Yes.

Commissioner Ungethiem: So, we actually have two different positions there that we could utilize.

Joe Harrison, Jr.: Right.

Commissioner Ungethiem: One, it's a regulated drain in Warrick County; two, it's a navigable waterway in Vanderburgh County.

Ron Bacon: And, it's also a regulated drain in Gibson County. That's where we start with the whole, excuse me, with the whole issue.

Joe Harrison, Jr.: Right.

Ron Bacon: So, in both of the other two counties it is a regulated drain.

Commissioner Ungethiem: I wonder if we need to make, point that fact out that it's both a navigable waterway in Vanderburgh County, and a regulated drain in Warrick and Gibson Counties.

Ron Bacon: I'm not the expert on that.

Commissioner Ungethiem: Well, but, I don't know if that makes a difference between our legal—

Joe Harrison, Jr.: Yeah, I don't really know. I would just like to hear from DNR.

Ron Bacon: Yeah, I would too.

Joe Harrison, Jr.: I mean, I don't know what they're going to say.

Ron Bacon: Uh-huh.

Joe Harrison, Jr.: But, do you think maybe you could call them again?

Ron Bacon: Oh, yeah, I'll definitely call them again.

Joe Harrison, Jr.: Okay.

Ron Bacon: We're to the point now where they'll come back with an answer—

Joe Harrison, Jr.: Okay.

Ron Bacon: --one way or the other, but it's just, you know, how soon, because I called my LA right before I walked in the door today—

Joe Harrison, Jr.: Oh, good.

Ron Bacon: -- and he said he had not heard back from DNR, but he will be contacting them again. So, we will continue like on a daily basis until we get an answer. That's how we operate with Administration.

President Weisheit: Ron, if in that conversation, could you check to see if there is any funding that could be, through the State, available?

Ron Bacon: Sure.

President Weisheit: Because—

Ron Bacon: Yeah, I think once we get this, that's my whole point, and my goal—

President Weisheit: Yeah.

Ron Bacon: --is once we get this pointed out that what is a regulated drain and a navigable waterway, and we've got all of this there, then we'll go after what we can—

President Weisheit: Yeah.

Ron Bacon: --funding-wise and what we can do.

President Weisheit: Yeah, and if they'll pay a percentage of it, I think, us in Warrick County, we've had conversations, you know, would be willing to help with the project too—

Ron Bacon: Sure.

President Weisheit: --with some Stormwater Fees, and I'm sure Gibson County might be willing as well. I mean, that's something we would have to take back to our Boards and see—

Ron Bacon: Right.

President Weisheit: --but, you know we're willing to help Vanderburgh County with this project, if we can get a little help from the State, and mainly get in there where we can legally do it.

Ron Bacon: Right, we had, just to, and I'm not sure where that discussion is yet, because the Chamber of Commerce, the State Chamber had a water luncheon, so to speak, to talk about regulated drains and navigable waterways and I brought this up to them. That was about a week and a half before the session ended, and gave them the information

so their, it's another person I'm looking at as, because they have people in the State Chamber who are working in all different areas that have expertise in this. So, they were going to look into it also. I explained the situation to them, so hopefully we might get something else from that too.

President Weisheit: Well, Ron, I appreciate your efforts there, and, Joe, I really appreciate you sending those two letters and getting a response back from INDOT, at least on one of them. That's a big help. So, thank you very much. As far as the discussion on C here, the discussion of any retention areas, I haven't had that yet with Peabody, and I'll be honest with you, I think that's going to be kind of hard to do, because for Peabody they're trying, the only part of their mining that is close to Pigeon Creek is the Elberfeld bottoms around the Seven Hills Road area. They can't even get permission from DNR to put a haul road across there. So, they've been communicating with the county on using, you know, a county roadway, if it comes to it. They do have some good coal over there they want to mine. So, it's going to be tough to get that approved through DNR, but I'll have that discussion with Peabody to keep an open agenda when we discuss with them the next time on using the county road versus putting in a haul road. They haven't given up on putting in the haul road, because it's a lot more cost effective to mine if they can get a haul road bridge in across Little Pigeon Creek there in the Elberfeld bottoms, you might say. That's pretty far out, but any retention area might help to some degree, but that's going to be tough to accomplish when you're working with DNR on that kind of operation.

Ron Bacon: Because the creek's not anywhere near the Chandler area where they're mining now, correct?

President Weisheit: No.

Ron Bacon: That's what I thought, yeah.

President Weisheit: No, they're not going to get close to that on the Liberty Mine.

Ron Bacon: They're not going to get close to it then? For some reason I thought—

President Weisheit: No.

Ron Bacon: So, Liberty's not? Right, okay.

President Weisheit: Okay.

Commissioner Ungethiem: Is there any opportunity where the Bluegrass Wildlife area is to put in some sort of holding? Jeff may know more about that than anybody here, since I think he used to work for the company that did all that.

President Weisheit: There is a lot of water out there, isn't there, Jeff? I believe, we've got roads—

Commissioner Ungethiem: I'm thinking—

Jeff Mueller: There's 500 acres of water already in the—

Commissioner Ungethiem: What we've done with the Patoka River is made Patoka Lake, which is a reservoir that holds a lot of water back. Can we make Pigeon Lake out there?

Jeff Mueller: I don't know, because—

Madelyn Grayson: One of you guys will have to turn your mic off.

Jeff Mueller: Okay, are we good now? I don't know, are we good? It's blinking power and talk.

Madelyn Grayson: Okay.

Jeff Mueller: Alright, the final pit there is three and a half miles long. The Ayrshire Fish and Wildlife Area is 2,500 acres, 500 acres of that is water. That water elevation is about seven feet below the ground water table out there. I don't know if you would be able to actually try to raise that and then impound it. First of all, you would be talking about a really large area to try to impound. Second of all, that is a lacustrine bottom area. That

would be very hard to, actually when the mine shut down it was very hard to even try to keep the slopes of the high wall open. It's actually, you're taking a lot of water, because as Steve and I have talked about, what's happening is, is when Bluegrass overflows it overflows there around Jim Marx's property. It overflows and comes in up at a basin through there. Steve, I don't know if you were still there when we were mining that, or were you done by then? Did you, you left in '93, didn't you? Or did you leave sooner than that? You remember the pit flooded one time when you were still working there, I believe, because they almost caught the shovel in there. So, you're actually getting the benefit of storage out there right now, and a lot more than used to be. But, I don't know that you could create anymore storage without actually digging out some material. I have talked to Peabody, some people I know out there. The problem that Peabody is having is with the Corps of Engineers, that's bottom land hardwood forested area, which are considered some of the, outside of Cypress swamp water that you see on the history channel, this is the best wetlands you'll see in this area. So, anything that would be done out there, you would be having to coordinate with the Corps. That's going to be a very difficult issue, because the Corps is not going to want to give up wetlands for water. That's considered a lower use. So, that's going to be the difficulty with that. I don't know if Liberty's mining anywhere close to there or not. I didn't think they were, and I haven't, the people I knew with Liberty, unfortunately, well, one of them is sick now and I don't know if he's going to still be with them or not. So, but—

Ron Bacon: They're mining just north of Chandler—

Jeff Mueller: Yeah.

Ron Bacon: --and going, I mean, because they actually have got to go back and start towards Boonville and move back towards Chandler—

Jeff Mueller: Right.

Ron Bacon: --so, they're actually getting away from where we're at right now, but coming that direction.

Jeff Mueller: So, outside of just creating retention—

Ron Bacon: Right.

Jeff Mueller: --way outside the watershed, and the other problem is going to be, when you try to do retention in a final cut pit, you know, you've got to think about storage, and you've got to think about controlling the storage of when it's springtime or right before you've got to turn that valve down, and then when spring comes let it fill back up. You're talking about manual control and maintenance, and you're talking about putting manual controls in a spoil ground, which isn't easy to do. So, those are some of the issues that are going to be facing you out there. Yeah, but, just for the record, I was in charge of the final reclamation of Ayrshire Mine. So, I kind of knew that area like the back of my hand.

President Weisheit: Anybody have anything else to bring up under this, before we move on to new business?

New Business

President Weisheit: Does anybody have any new business today?

Zach Tischendorf: (Inaudible. Not at microphone.)

President Weisheit: Yeah, please just come up and state your name.

Zach Tischendorf: Good afternoon. Zach Tischendorf from Warrick County Soil and Water Conservation District. I've been in contact with Bob Barr, who is a Research Earth Scientist at IUPUI. He's worked on Kankakee and a few other wetlands in the State. We had had some discussions at length about storage and, well, quantity and water quality. The SWCD's, you know, our main mission is to protect soil and water resources. As far as water is concerned, mostly water quality, trying to keep sediment and nutrients out of the water. The discussions that I've had with Bob, he's basically said that, you know, the two are really linked, and we need to take a look at both. Luckily, the Highland-Pigeon

Watershed is up for, we would like to start a new Watershed Management Plan, so we could do a quality analysis, or quality study with some grant money we're trying to pursue through 319 grants, which is IDEM. Then, we could also do a hydrologic study, which is more quantity, and look at, you know, not only retention, but trying to use best management practices on agricultural land and in urban areas to increase the amount of storage on the land or, you know, in ponds, things of that sort in urban areas, just to try to, maybe not solve the problem, but at least reduce the impact, until we can come up with a more permanent solution. So, I'm just kind of putting that out there. I'm not sure what his schedule looks like. We're going to have a few more conversations about that, but definitely just something to kind of keep on your radar.

President Weisheit: Appreciate it, Zach. (Inaudible. Microphone not on.)

Commissioner Bottoms: Mr. Chairman?

President Weisheit: Go ahead.

Commissioner Bottoms: I've got a question, I was here at the first meeting, and then my fellow Commissioner, Alan Douglas, has been here, just a couple questions. You do have regulated drains in Vanderburgh County, correct? So, you're getting the Ditch Tax from those, but then Pigeon—

Commissioner Ungethiem: Pigeon is not one of them.

Commissioner Bottoms: And never was?

Commissioner Ungethiem: Never was.

Commissioner Bottoms: Okay.

Joe Harrison, Jr.: We just have a few regulated drains. We don't have a lot. We've got, I don't know—

Jeff Mueller: Vanderburgh County's got 80 miles of regulated drains. Most of those are concentrated in the northwest part of the county, the Big Creek area, which is Armstrong Township mainly. Union Township has them, and then the east side area around, essentially all of the commercial area on the east side, and then a little bit of the industrial areas there, but, we've got large areas that aren't regulated.

Commissioner Bottoms: Right.

Jeff Mueller: But, yeah, that map will show you that. Then, you know, of course, by State law, everything that we collect in a regulated drain goes to that particular regulated drain. So, there's, you know, if you started a Pigeon Creek regulated drain, the money would have to come from those people, not from the people that are already being assessed.

Commissioner Bottoms: Well, and I see that there are two here coming directly out of Gibson County that are regulated.

Jeff Mueller: Uh-huh.

Commissioner Bottoms: Okay.

Commissioner Ungethiem: (Inaudible. Microphone not on.) That one that you're seeing up there in northern Vanderburgh County goes into Big Creek (Inaudible).

Commissioner Bottoms: Okay.

Jeff Mueller: Right, but there is a small amount of watershed area that's in Vanderburgh County that goes to your regulated drain.

Commissioner Bottoms: Now are all of yours, and if you don't mind me asking that, covered by the Drainage Board? Or, do you have any of the old Ditch Commissioners? See, we still have—

Jeff Mueller: We have a Drainage Board of three Commissioners, of which the County Surveyor is the Technical Advisor to that.

Commissioner Bottoms: Okay, well, see we, of course, have that, but then we have different drainage areas that are covered by our Ditch Commissioners, and that's an old...now that's, you can't do that anymore, but once they're there, they're usually people that live in the area, know the area and so forth.

Jeff Mueller: The closest thing we have to that is in Armstrong and down in Union, each one of those areas have Township Drainage Associations, those are their own organizations, we deal with those. Eldon is President of the Big Creek one, and then Union Township also has one. So, we deal with them, and we communicate and work, I think we work really well together on needs and how we spend our money, but they are not a government group, they are their own private....I think you guys are a corporation, right?

Eldon Maasberg: Yes.

Jeff Mueller: They're their own corporation.

Eldon Maasberg: It started 51 years ago.

Commissioner Bottoms: Well, now ours are an actual government body. I mean, they, we, they spend their own money, they go to the Auditor when they spend their money. Now, we work with them, but they're not a private, they are, they're government, but that's from an old law that now you can't do that. We just kept them. I'm just curious of how yours—

Jeff Mueller: Right, I mean, those Ditch Commissioners go back, I believe to the 1800's.

Commissioner Bottoms: Yeah, right.

Jeff Mueller: The law of the 1800's.

Commissioner Bottoms: Yes, yes.

Jeff Mueller: Because those actually came about before we had the Drainage Boards and stuff. You actually had a commissioner appointed, yeah.

Commissioner Bottoms: Well, we are having, I hadn't been a Commissioner very long until I got this document from the Corps about our levee on the Wabash River. It showed the, you know, red was like terribly bad, and yellow was like really bad, and believe me there was a lot more yellow and red than anything else. Of course, so, I got a hold of the Congress, and that's Federal, but we have breaks in that sometimes. I mean, so we, I'm just saying we have, and we're borrowing money now to try to take care of our own, and because of this situation on the Wabash River, you know, we, so it's not a good situation. Of course, we collect water from the north, we don't really, we know that, it's just part of it. I think we have more bridges than almost any county, I mean, because we're collecting all of that so called, I'm not trying to, I'm just trying to figure it out and say we have got... I know we just borrowed some money, one of the Ditch Commissioners, now, again, that's not us, but we just went through a deal where they borrowed money to try to help clean it out. Of course, we just had a highway that was cut off because it blowed through it.

Commissioner Ungethiem: 68 or—

Commissioner Bottoms: 65.

Commissioner Ungethiem: 65.

Commissioner Bottoms: Yeah, right. So, I'm just bringing this up, trying to understand.

Jeff Mueller: One thing also, a difference though is that on our drainages we only look at drains, we don't, we're not in the levee business.

Commissioner Bottoms: Yes.

Jeff Mueller: So, you know, so—

Commissioner Bottoms: We're not either.

Jeff Mueller: Yeah, and so, you know, that's one of the things I always stress with our farmers, our job is to clean the ditches out, not to build levees with that dirt.

Commissioner Bottoms: Yeah, right.

Jeff Mueller: Yeah, so we're in a little bit different situation.

Commissioner Bottoms: Well, we don't either, I'm just pointing out—

Jeff Mueller: Yeah, but, yeah—

Commissioner Bottoms: --the levee situation.

Jeff Mueller: Yeah, and I remember, Steve, about the issues of, I know the levees and all of that, because I remember at Wabash we had to deal with the levees and the construction back and forth and all of that stuff too.

Commissioner Bottoms: Right, right, I worked there too.

Jeff Mueller: Yeah, I know it, a bunch of ex-coalminers running around everywhere, aren't we?

Commissioner Bottoms: Right, right. Thank you, Mr. Chairman.

Commissioner Shoulders: Thanks, Jeff.

President Weisheit: Anybody else have anything?

Public Comment

President Weisheit: Anybody from the audience want to address the Board at this time? I appreciate everybody coming today. I appreciate also ,as well, Vanderburgh County's hospitality here in doing the minutes and everything. It's a big help.

Setting of Next Meeting Date and Time

President Weisheit: Would everybody like to keep this going on a three month cycle? Like set another meeting for three months? Would that work for you, Ron?

Ron Bacon: That should be good.

President Weisheit: Okay.

Ron Bacon: As long as we get it past May.

Commissioner Ungethiem: Sometime in June?

Joe Harrison, Jr.: Late June.

President Weisheit: Late June? Somebody pick a date, this day works for me.

Joe Harrison, Jr.: Maybe the 27th?

President Weisheit: How does everybody else feel? June 27th, 2:00?

Ron Bacon: That's good for me.

President Weisheit: Would somebody like to make that a motion?

Commissioner Shoulders: So moved.

President Weisheit: Do I have a second?

Commissioner Ungethiem: Second.

President Weisheit: Alright, a motion and a second. All in favor say aye.

All Commissioners: Aye.

Commissioner Bottoms: Could we invite DNR?

President Weisheit: I would love to see them come.

Commissioner Bottoms: Because, I want that from the Board, and then I will definitely make sure, you know (Inaudible).

Joe Harrison, Jr.: It's your motion.

Commissioner Bottoms: Mr. Chairman, I'll—

Commissioner Shoulders: So moved to invite DNR.

Commissioner Ungethiem: Second.

President Weisheit: All in favor.

All Commissioners: Aye.

(Motion approved 4-0)

President Weisheit: Okay, thank you.

Commissioner Ungethiem: Is there anyone else that we should invite? Ron, should we invite some of your cohorts at the Statehouse?

Ron Bacon: I'm not sure at this point that's gonna, I mean, we can, it would be fine just to keep them up to date, if they want to. That would be fine with me.

Commissioner Shoulders: They came to the first one, I think,

Ron Bacon: Yeah, and to let them know what's going on and to keep them together, but as far as, until we get something done, I mean, get something accomplished we can't get anything, but the more of us there are to put pressure on them once we get something.

Commissioner Ungethiem: Yeah, you won't be in session then, so they should be around.

Ron Bacon: They should be around, yeah. So, everybody should be here.

Commissioner Ungethiem: Okay.

Ron Bacon: So, that would be good, yeah. If we can get DNR here to talk to us, then we could get something accomplished.

Commissioner Ungethiem: Is there any reason, at this point in time, to also invite someone from the Corps?

Ron Bacon: I think the only thing we talked about with the Corps was, I mean, they've got jurisdiction, that 5.2 miles, am I right?

Jeff Mueller: Well, they've got jurisdiction on everything, depending on what we're talking about.

Ron Bacon: Well, yeah, I understand that, but as far as we were talking about them possibly coming, trying to come in without getting on to the land, and if we could get some money to actually clear it, we would have to get their permission to go up into the mouth of the creek and start clearing, without getting on to the land. That was, you know, that was my concern about the Corps, and if we ever got anything going.

Jeff Mueller: On DNR, Mike Neyer used to be the head of the Division of Water, and Mike retired. The Deputy Director of the Division of Water is George Bowman. They just hired a new Director of the Division of Water, and I don't remember his first name, but his last name is real easy to remember, because it's Mueller, but, he's only been there a few months. I talked to him up at Road School at Purdue. I may have his contact information, if not, I do have George, but my recommendation would be that you invite somebody from the Division of Water versus going all the way up the ladder to the head of DNR, but, I mean, that's your guy's call.

Ron Bacon: No, that's fine, we need—

Jeff Mueller: Those guys are going to be the ones that can understand the water issues better than the guy that's not over water, but also the State parks and all of the other issues.

Ron Bacon: Well, what I'll do is talk to our liaison and tell him who's the best person we need. If it's the Division of Water—

Jeff Mueller: Yeah, but I—

Ron Bacon: ---that's from DNR to him.

Jeff Mueller: --Ron, I can find that, I've got his first, I've got Mr. Mueller's first name written down somewhere.

Ron Bacon: Alright.

Jeff Mueller: Then, I've got, of course, I've got George Bowman's contact. If you want, I'll just email that to you.

Ron Bacon: Okay, that would be great.

Jeff Mueller: Okay, alright.

President Weisheit: Thanks, Jeff, Ron.

Adjournment

President Weisheit: Anybody got anything else? If not, I would entertain one more motion.

Commissioner Shoulders: So moved.

Commissioner Ungethiem: Second.

President Weisheit: All in favor.

All Commissioners: Aye.

(Motion approved 4-0)

President Weisheit: The meeting is adjourned. Thank you.

(The meeting was adjourned at 2:26 p.m.)

Those in Attendance:

Marlin Weisheit
Steve Bottoms
Madelyn Grayson
Others Unidentified

Bruce Ungethiem
Jeff Mueller
Eldon Maasberg
Members of Media

Ben Shoulders
Joe Harrison, Jr.
Zach Tischendorf

WARRICK COUNTY-VANDERBURGH COUNTY
JOINT DRAINAGE BOARD

Marlin Weisheit, President (Warrick County Commissioner)

Bruce Ungethiem, Vice President (Vanderburgh County Commissioner)

Ben Shoulders, Member (Vanderburgh County Commissioner)

Bob Johnson, Member (Warrick County Commissioner)

Steve Bottoms or Alan Douglas, Member (Gibson County Commissioners)

(Recorded and transcribed by Madelyn Grayson.)