

Ditch Associations and Drainage Maintenance Districts

Brief History of Drainage Acts in Indiana

- 1) Drainage Laws in Indiana leading up to our current Drainage Code
 - a. Drainage Acts of 1881, 1883, 1885, 1905, 1907, 1915, 1917, 1933, 1945, 1947 and 1949
- 2) Drainage Laws that regulated the creation of Ditch Associations and Drainage Maintenance and Repair Districts
 - a. Acts of 1913 and 1949
- 3) The 1965 Indiana Drainage Code
 - a. Summary of how the 1965 Drainage Code and its amendments to date affected Ditch Associations and Drainage Maintenance Districts

(NOTE: Copies of the above drainage acts and instructions for implementing the 1965 Drainage Act as published in 1965 by AIC are available for review by interested persons)

Ditch Associations and Drainage Maintenance Districts

- 4) Examples of these drains and how we handle them in Knox County
- 5) GIS mapping recently developed for all ditch associations, regulated drains and ditch assessments in Knox County

Open discussion

- a. What additional effort is needed to complete and verify this map data?
- b. How can we use this new mapping to improve assessments for ditch associations or maintenance districts?
- c. Can inactive ditch associations or maintenance districts reactivate themselves?
- d. Should we be assessing the entire watershed?.....Can we legally add omitted lands?
- e. Should the Auditor's Office/Surveyor's Office automatically reassess lands when transferred or split and amend the assessment rolls for the ditch?
- f. Open topics.....

History of Drainage Acts

The drainage acts and resolutions of the territorial and commonwealth periods for Indiana may be grouped into four distinct classes:

1799-1883: The highway drainage acts. passed between 1799 and 1883. There were 12 highway laws providing for incidental drainage during this 84-year period.

1799-1852: The special drainage acts passed between 1799 and 1852. Every drainage project undertaken prior to 1852 was authorized and promoted by special legislation. During the 53-year period 38 acts and resolutions were passed for reclamation activities in 18 counties and thirteen small widely separated areas. Eight county drainage acts were passed for land within fourteen counties from 1827-1852.

1850-1913: The acts designed to direct state and federal aid including the redemption of Swamp Lands and the removal of obstructions from the Kankakee and Calumet Rivers.

1852-1913: The statewide drainage acts passed between 1852 and 1913. 118 acts and resolutions passed during this time. These were related to incorporated drainage associations. unincorporated drainage associations. drainage of cities. stream and natural water courses, maintenance and repair of drains, inter-state drains. protection of fresh-water lakes. and sanitary and drainage districts.

Incorporated Drainage Associations: Laws to authorize the incorporation of drainage associations for construction and maintenance of levees, drains and breakwaters and the improvement and repair of natural streams and water courses and previously constructed drains have been in operation in Indiana since 1852. In 1911 this act was restricted to apply exclusively to levees.

Unincorporated Drainage Associations: The method of reclaiming land most widely employed through 1914 was voluntary and unincorporated drainage associations. The authority to establish drainage works resides in the hoards of county commissioners and the circuit and superior courts and this authority is invoked on petition of certain public officers and of any interested person or group of persons. The administrative group empowered to authorize drainage projects falls into one of two categories. From 1863-1905 the function was performed by three disinterested parties appointed by the board of county commissioners. When a consolidation of drainage acts occurred in 1905 this method was superseded by a county drainage board consisting of an experienced county drainage commissioner, appointed biennially by the board of county commissioners, one commissioner appointed from the township in which the proposed drainage system was located and the county surveyor, who was an ex-officio member.

The Drainage Law in 1914: Under this law, all drainage enterprises, except the construction of dikes and levees, are entrusted to a commission composed according to the revisions made in the law in 1905. The commission's responsibilities are to locate and establish all drains and assess benefits and damages. Drains are established on petition of the interested owners, filed with the county commissioners. or with the circuit or superior court if the drain crosses a county line. Any proceeding may be terminated by a remonstrance signed by two thirds of the persons interested. The work of construction is supervised and the assessments are collected by the superintendent of construction who is appointed by the board. Repairs are made by the township trustee, or the county surveyor on petition of the owners subject to assessment.

Contemporary Legislation affecting drainage in Indiana includes the following:

1965: Indiana Drainage Board Act passed that governs drainage activities statewide today.

1972: Clean Water Act passed. Amended in 1977 to include language addressing wetlands as part of the nation's waters. Permits required for discharge of dredged or fill materials into wetland areas.

1985/1990/1996: Farm bills passed. Swampbuster provision requires farmers to protect existing wetlands in order to qualify for FHA farm subsidies and crop insurance.

1995: Reauthorization of Clean Water Act

1995: Indiana Drainage Code amended with 368 Early Coordination Procedure to require the county surveyor or drainage board to request an on-site field review of the proposed reconstruction or maintenance project. Review conducted by representatives of the county, IDNR, IDEM, and local SWCD. IDNR's recommendations are limited in scope and are binding on the department for two years.

References:

Latta, W.C., *Outline History of Indiana Agriculture*, Purdue University Agricultural Experiment Station and Department of Agricultural Extension & the Indiana County of Agricultural Agents Association, (First Ed.) 1938.

Kettleborough, Charles, *Drainage and Reclamation o/Swamp and Overflowed Lands*, Indiana Bureau of Legislative Information, Bulletin No. 2, Indianapolis, 1914.

CHAPTER XLIII.

AN ACT concerning drainage.

[APPROVED APRIL 8, 1881.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the Circuit Court of each county in this State, to appoint two persons Commissioners of Drainage, who shall be persons of intelligence and good judgment, and reputable citizens of the county, from six persons to be nominated by the Township Trustees of the county by ballot, at a meeting of said Trustees, one to serve one year, and one three years, and, thereafter, on the expiration of the term of office of any such Commissioner, his successor shall be appointed by the Court for the term of three years. An such Commissioners shall continue in office until their successors are appointed and qualified, unless sooner removed by said Court. The Court may remove any such Commissioner for any neglect of duty, for incompetency, or for any failure faithfully and intelligently to perform his duties.....The County Surveyor shall be ex-officio, a Commissioner of Drainage, and shall give bond as aforesaid.

SEC. 2. Whenever any owner, or owners, of lands which would be benefited by drainage, which cannot be accomplished in the best and cheapest manner without affecting other lands, shall desire such drainage, he, she or they, may apply for such drainage, by petition to the Circuit Court of the county in which the lands of the petitioner or petitioners are situated. The petition shall describe in tracts of forty acres, according to fractions of government surveys, or less tracts where they exist, and in Clark's grant and the French grant in such tracts as are owned, the lands of others which it is believed will be affected by the proposed draining, and give the names of owners thereof if known, and when unknown shall so state. It shall also state that in the opinion of the petitioner or petitioners, either that the public health will be improved, or that one or more public.....

CHAPTER XLIV.

AN ACT to enable the owners or lands to drain and reclaim them when the same can not be done without affecting the lands of others, prescribing the powers and duties of County Commissioners, and other officers in the premises, and to provide for the repair and enlargement of such drains. and repealing certain acts therein specified, and declaring an emergency.

[APPROVED APRIL 21, 1881.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Board of County Commissioners, of any county, shall have power, at any regular session, when the same shall be conducive to the public health, convenience or welfare, or when the same will be of public benefit or utility, to cause to be constructed, as hereinafter provided, any ditch, drain, or water course within said county.

SEC. 2. That before the Board of Commissioners shall establish any ditch, drain or water course, there shall be filed with the Auditor of such county, a petition signed by one or more of the land owners whose lands will be liable to be affected by, or assessed for the expense of the construction of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route and terminus, and shall give a bond with good and sufficient. freehold sureties payable to the State, to be approved by the Auditor, conditioned to pay all expenses, in case the Board of Commissioners shall fail to establish said proposed ditch, drain or water course. As soon as said petition is filed, said Board shall, if in regular session, or at their next regular session, appoint three resident freeholders and householders of the county, not interested in the construction of the proposed work, and not of kin to any parties interested therein, as viewers, to meet at a time and place specified by said Board; preparatory to commencing their duties as hereinafter specified.....

CHAPTER CXXXII.

AN ACT authorizing boards of county commissioners to straighten or change the course, direction, or location of the channel of any stream , of water; to protect, by protection wall or otherwise, the banks of any such channel from washing or cutting, by the flow of water; and to change any water-course or the flow of any stream or body of water; upon a petition of the majority of the resident land-owners along and adjacent to the line of any such proposed improvement, whose lands are to be affected by the same, authorizing them to issue bonds of the county to raise money required for that purpose and provide for the payment of such bonds by taxing land adjacent to, and affected by, such proposed improvement, and to repair and keep in repair any such improvement, and declaring an emergency.

[APPROVED MARCH 8, 1883.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of county commissioners of any county in this state shall have the power, as hereinafter provided, to straighten or change the course, direction, or location of the channel of any stream or body of water; and to protect, by protection wall or otherwise, the banks of any such channel from washing or cutting by the flow of water, and to change any water-course, or the flow of any stream or body of water within the limits of their respective counties.

SEC. 2. Upon the presentation of a petition stating the kind of improvement prayed for, and the points between which the same is asked, signed by two or more of the land-holder's whose lands ,will be assessed for the cost of the proposed improvement; and the filing of a bond, signed by one or more responsible freeholders, to whom the petitioners shall be responsible, pro rata conditioned for the payment of the expenses of the preliminary survey and report, if the proposed improvement shall not be finally ordered, the board of commissioners shall appoint three disinterested freeholders of the county as viewers, and a competent surveyor or engineer to proceed upon a day to be named by the commissioners to view, examine, lay out straighten.....

CHAPTER XL.

AN ACT concerning Drainage and repealing certain laws relating to Drainage, prohibiting; the obstruction of Drains established under the laws of this State, prescribing the penalty therefor, and declaring an emergency.

[APPROVED APRIL 6, 1885.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the Board of Commissioners of each county in this State, at their first regular session after the taking effect of this act, **to appoint a Drainage Commissioner, who shall be a person of intelligence and good judgment, and a reputable citizen of the county, who shall hold his office for two years** and until his successor shall be appointed and qualified, unless sooner removed by the Board of Commissioners. The Board of Commissioners may remove such Drainage Commissioner from office at any time, and whenever there shall be a vacancy in such office the Board of Commissioners may fill the same by appointment at any regular or special session of said Board. Every such Drainage Commissioner shall, before entering upon the discharge of his duties, take and subscribe an oath of office, and shall give bond payable to the State of Indiana, with sureties and in a penalty of not less than five thousand dollars, to be filed with and approved by the Auditor of such county, conditioned for the proper and faithful discharge of his duties, and that he will account according to law for all money that shall come to his hand as such Commissioner. The Auditor shall thereupon issue to such Commissioner a certified copy of the order of his appointment. **The County Surveyor shall be ex-officio a Drainage Commissioner,** and shall give a bond as above required of the Drainage Commissioner in addition to his ordinary bond.

CHAPTER 252.

AN ACT concerning drainage, and repealing laws in conflict.

[S. 214. Approved March 11, 1907.]

Drainage—Commissioner—Appointment.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the board of commissioners of each county in this state, at their first regular session in January after the taking effect of this act, to appoint a drainage commissioner, who shall be a person of intelligence and good judgment, and a reputable citizen of the county, who shall hold his office for two years and until his successor shall be appointed and qualified, unless sooner removed by the board of commissioners. The board of commissioners may remove such drainage commissioner from office at any time, and whenever there shall be a vacancy in such office the board of commissioners may fill the same by appointment at any regular or special session of said board. Every such drainage commissioner shall, before entering upon the discharge of his duties, take and subscribe an oath of office, and shall give bond payable to the State of Indiana, with sureties and. in a penalty of .not less than five thousand dollars, to be filed with and approved by the auditor of such county, conditioned for the proper and faithful discharge of his duties, and that he will account according to law for all money that shall come to his hands as such commissioner. The auditor shall thereupon issue to such commissioner a certified copy of the order of his appointment. The county surveyor shall be ex officio a drainage commissioner, and shall give a bond as above required of the drainage commissioner in addition to his ordinary official bond. Such drainage commissioner provided for herein and the third commissioner appointed by the court shall each receive as compensation for all services provided for in this act three (\$3.00) dollars per day, and the surveyor shall receive four (\$4.00) dollars per day, each of them being paid for the.....

CHAPTER 275.

AN ACT providing methods for the repair of public ditches and drains and repealing section ten of an act entitled "An act concerning drainage," approved March 6, 1905.

[H. 326. Approved March 12, 1907.]

Drainage—Repair and Cleaning—Petition—Township Trustee—Proceedings.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* Whenever after the passage of this act, any county surveyor of this state, shall have been petitioned so to do by any number of persons owning in the aggregate one-eighth of the lands originally assessed for the construction of any drain which may have been constructed under the provisions of this or any former act, within ten days after the granting of such petition for repairs such surveyor shall proceed to view such drain and shall determine the number of cubic yards in each station of one hundred feet thereof which will have to be excavated to repair such drain to its original specifications. He shall also estimate the total cost of excavation and the incidental costs thereof, and estimate the average cost per cubic yard for the excavation of any part or the whole of such drain sought to be repaired. And he shall view all of the lands which will be affected by such work of repairs and determine the proportion of benefits or damages that each tract will sustain by reason of such repairs, and also determine the proportionate share of excavation in cubic yards that each tract of forty acres or less should bear toward the doing of such work of repairs and the proportionate share of incidental costs that each tract should be charged with in the prosecution of such work, and he shall make a record of such estimates and assessment of benefits and damages in a book kept in his office for that purpose, which shall show the name of each land owner of the several tracts of land and the amount of the assessment of benefits and.....

CHAPTER 165.

AN ACT concerning the construction, extension, changing, improvement, maintenance or repair of levees and dikes, break-waters, dams, sewers, ditches, drains, diversion channels, creeks, water courses, pumping stations, syphons and floodgates, by incorporated associations, providing for the organization of such associations, prescribing their powers and providing for the assessment of the cost of such improvements, and expenses attending the same, upon the lands benefited thereby and for the collection of such assessment and all matters properly connected therewith, and declaring an emergency.

[S. 184. Approved March 10, 1913.]

Corporations—Levees, Dikes, etc.—Association.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any number of persons, not less than five (5), who may be landowners affected and interested in the construction, extension, changing, improvement, maintenance or repair of any levee, dike, breakwater, dam, sewer, ditch, drain, diversion channel, creek, water course, pumping station, syphon, floodgate, waste gate or in a combination of more than one of these objects or in any work deemed by them to be necessary for, or to be an aid to, the protection, drainage, reclamation or improvement of any wet or overflowed land or lands subject to overflow, or who may be interested in the extension, changing, improvement, maintenance or repair of any of such work already constructed or in the process of construction, may associate themselves together by written articles of association, signed and acknowledged by each person who may be a member at the time of the organization thereof, specifying:

First. The corporate name of such association.

Second. The objects of such association generally.

Third. The names and residences of each incorporating Member.

Fourth. The principal office of the association, which shall be in one of the counties in which the proposed work is located.

Fifth. The term of existence of such association.

Sixth. The number of directors, not less than three nor more than seven.

Such association shall have no capital stock. A seal shall not be necessary, but may be used if desired and described in the articles of association. It shall not be necessary to give the route, or a particular description of any of the work, or its location, in the articles of association; but it shall be.....

Lands Omitted—How Assessed.

SEC. 20. If at any time it shall appear to the board of directors that any lands that will be affected by the proposed work have been omitted from the assessment, or that any mistake has occurred in the assessment, they shall have power, by an order to be entered on their journal, to cause a supplemental assessment, or different supplemental assessments, to be made, by the same appraisers, for the supplying of such omissions and the correction of such mistakes. The owners of all lands embraced in and directly affected by any such supplemental assessment shall have notice of the time' and place of making the same, and of a time and place when and where they shall be entitled to be heard in respect to the same, in the manner as is provided in respect to the original assessment. Such supplemental assessments, when completed, shall be verified as the original assessment and filed for record in the same manner, and shall from that date be a lien on the lands described in them, in like manner as the original assessment.

CHAPTER 100.

AN ACT concerning the maintenance and repair of all ditches and drains, except dredge ditches, by the several township trustees.

[H. 121. Approved March 8, 1915.]

Drainage—Supervision Township Trustee.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the cleaning, repair and general superintendence of all ditches or drains that may have been, or may hereafter be, constructed under and by virtue of any law of this state, except dredged ditches, shall be under the exclusive charge and supervision of the township trustee of the township in which such ditches or drains or any part or parts thereof are located, and it shall be the duty of such township trustee to see that all such ditches or drains, or such part or parts thereof as lie within his jurisdiction are cleaned out and kept open and in proper repair and free from obstructions, in conformity with the original specifications thereof, and in such manner that they may fully and completely discharge the functions for which they were designed and intended, and such trustee shall likewise have and exercise general supervision over such ditches or drains when the work, of cleaning and repairing shall have been completed and accepted, and to make and supervise the levy and expenditure of such assessments as may be needful to keep such ditches or drains in a reasonable state of preservation and repair.

Duty to Clean and Repair.

SEC 2. It shall be the duty of the township trustee of each and every township of this state, in which any such open ditch or drain, or any part or parts thereof, are located, to clean out, and repair, and remove all obstructions therefrom, biennially. Except as otherwise provided in this act, no township trustee of any township in this state shall be authorized or required to clean out or repair any open ditch or

CHAPTER 107.

AN ACT concerning the maintenance, repair, improvement and betterment of ditches and drains.

[S. 179. Approved March 8, 1915.]

Drainage—Maintenance—Supervision of County Commissioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the cleaning, repair, betterment, improvement and general superintendence of all ditches and drains contemplated in this act, shall, except as hereinafter otherwise provided, be under the exclusive charge and supervision of the board of commissioners of the county in which such ditches or drains or any part or parts thereof are located. Under the conditions prescribed in this act, such board of commissioners shall be authorized and required to perform the following duties:

1. To see that all such ditches and drains are cleaned out and kept open and in proper repair and free from obstruction, in conformity with the original specifications thereof, and in such manner that they may fully and completely discharge the functions for which they were designed and intended.

2. To authorize the improvement or betterment of any such ditch or drain in excess of the original specifications.

3. To authorize the levy of assessments for the creation of an emergency fund to effect repairs progressively in any ditch or drain as the necessity may arise.

4. To have and exercise general superintendence over such ditches or drains when the work of cleaning, repairing, improving or bettering shall have been completed and accepted, and to authorize and supervise the levy and expenditure of such assessments as may be needful to keep such ditches or drains in a reasonable state of preservation and repair.....

CHAPTER 124.

AN ACT concerning the cleaning and repair of dredge ditches, and repealing sections 1 to 71, both inclusive, of an act concerning the organization of drainage, sanitary and reclamation districts and prescribing their powers and duties, and sections 1 to 37, both inclusive, of an act concerning the maintenance, repair, improvement and betterment of ditches and drains approved March 8, 1915.

[S. 262. Law without signature of Governor, 1917]

Ditches Constructed by Dredges—Petition for Cleaning— Notice—Objections—Order of Court.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all cases where a public ditch, or drain, has been, or shall hereafter be constructed in whole or in part by the use of a dredge, and such ditch has been established, pursuant to the order of any court or board of commissioners of any county or counties in the State of Indiana establishing such ditch and ordering the construction thereof, **not less than five owners of real estate assessed with benefits for the original construction of said ditch, lying outside the limits of any city, town or village, may file in the office of the clerk of the court where the original proceedings were had resulting in the order establishing said ditch and ordering its construction, or with the auditor of the county, if such original proceedings were had before the board of county commissioners their verified petition praying for the cleaning out and repair of any such ditch,** provided that if such ditch affects lands in more than one county and the final order establishing such ditch was made by the board or boards of county commissioners of such county or counties, then such petition shall be filed with the clerk of the circuit court of the county having the greatest length of such ditch; which petition shall describe lands originally assessed in such tracts as they were originally assessed, provided that where such tracts have since the final order establishing such ditch been

RALPH F. GATES
GOVERNOR

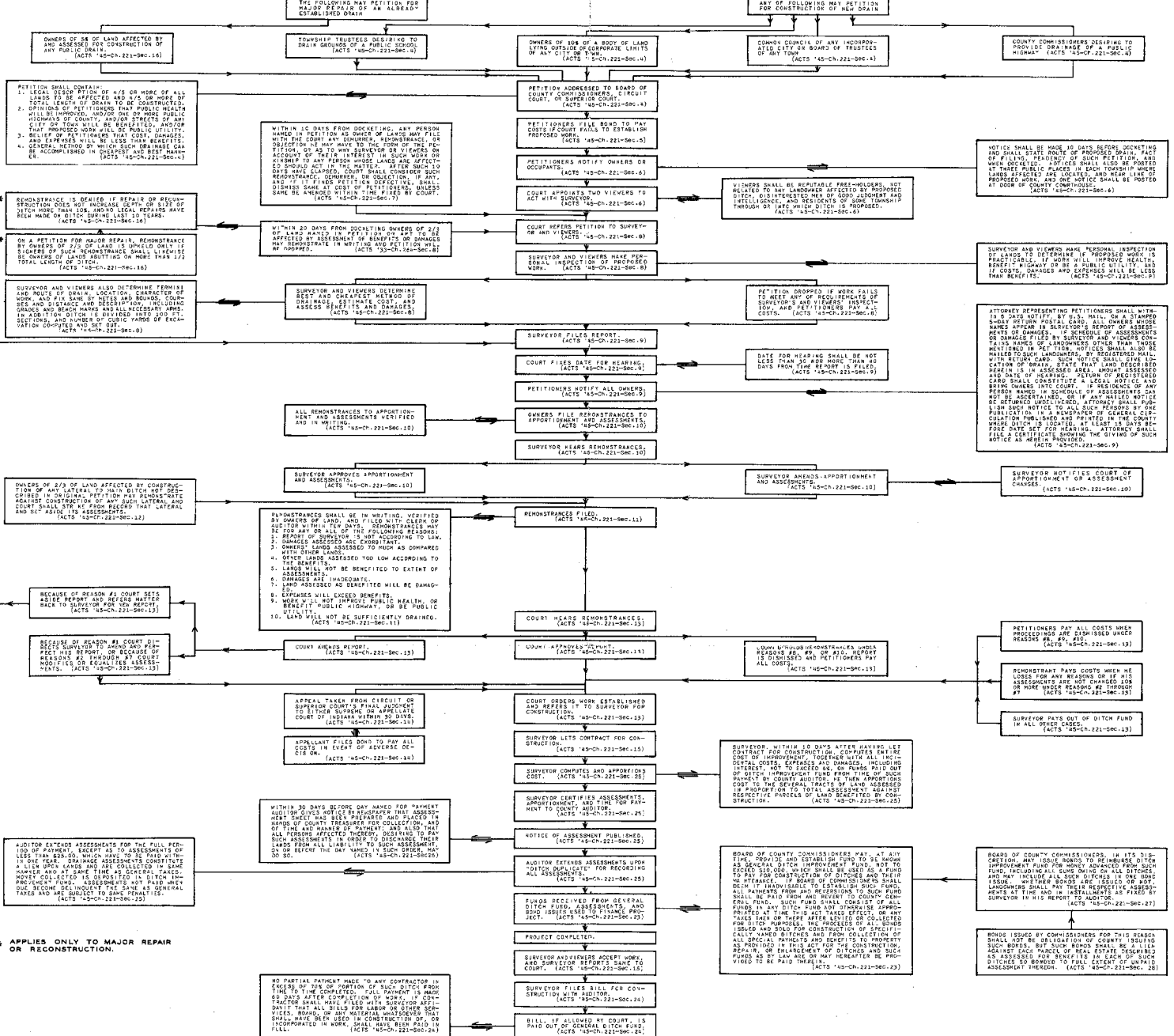
CHART OF PROCEDURE DRAINAGE LAWS OF INDIANA

ANTON HULMAN JR.
CHAIRMAN
TERRE HAUTE

SHOWING ESTABLISHMENT AND MAINTENANCE OF LEGAL DRAINS

MAJOR REPAIR

NEW CONSTRUCTION



REPAIR OF TILE DRAINS

REPAIR OF OPEN DRAINS BY ALLOTMENT



- COMMISSION MEMBERS**
- | | | | |
|--|---------------------------------|------------------------------------|--|
| RALPH ROESSLER
VICE-CHAIRMAN
MADISON | HINKLE C. HAYS
SULLIVAN | HERSCHEL D. NEWSON
COLUMBUS | CARL E. VOGELGESANG
INDIANAPOLIS |
| THOMAS W. DARTNALL
AURORA | RICHARD C. HECK
MADISON | B. A. POOLE
MADISON | RALPH B. WILEY
LAFAYETTE |
| LOUIE H. DUNTEEN
FORT WAYNE | NELSON E. KELLEY
MT. VERNON | RICHARD S. ROBERTSON
EWING | |
| EWING EMISON
VINCENNES | THOMAS G. MACKENZIE
GARY | EUGENE C. SHIREMAN
MARTINSVILLE | DAVID H. HARNER
CHIEF ENGINEER
ACTING SECRETARY
CENTERTON |
| ASHER W. GRAY
WABASH | JOHN C. MELLETT
INDIANAPOLIS | ANSON S. THOMAS
INDIANAPOLIS | |

INDIANA FLOOD CONTROL AND WATER RESOURCES COMMISSION
INDIANAPOLIS, INDIANA
OCTOBER 1, 1948

ACKNOWLEDGEMENT IS MADE TO DON HEATON, U.S.D.A. SOIL CONSERVATION SERVICE AND W. GRAY, WARREN COUNTY SURVEYOR, FOR THEIR ASSISTANCE IN THE PREPARATION OF THIS CHART.

CHAPTER 264.

AN ACT concerning drainage and repealing laws in conflict and declaring an emergency.

[H. 399. Approved March 11, 1933.]

Drainage—County Surveyor—Ditch Construction.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the county surveyor shall have charge of all ditch construction and superintend the maintenance of all ditches already constructed in his county.* When petitions are filed and the court shall have granted such petitions, they shall be referred to him, and he shall make all necessary surveys thereof, and report the same back to the court, together with maps, profiles, plans and specifications, estimated cost, and assessments of benefits and damages thereon. Such surveyor shall receive no additional compensation for his services, neither shall he be required to give any additional bond other than his official bond.

Deputies—Licensed Engineers—Appointment—When.

SEC. 2. *The township trustee[s] shall be ex officio deputies of the county surveyor for their respective townships* but shall receive no additional compensation, and shall not be required to give any additional bonds other than their bonds as township trustee. The surveyor is hereby authorized to appoint as many deputies and assistants as his work shall require, subject, however, to the approval of the board of county commissioners. If the county surveyor is not a licensed engineer, or shall be disqualified by reason of his ownership of lands affected by any work or kinship to any person whose lands will be affected, the court shall appoint a competent, disinterested licensed engineer to act in the matter, who shall have the same authority as the regularly elected surveyor, being bound by the same oath, and shall give bond as fixed by the court. He shall preserve.....

Drains and Ditches—Supervision—Maintenance—Surveyor.

SEC. 39. The cleaning, repairing and general superintendence of all ditches or drains that may have been, or may hereafter be constructed under and by virtue of any law of this state, shall be under the exclusive charge and supervision of the county surveyor of the county in which such ditches or drains, or any part thereof, are located, and it shall be the duty of such county surveyor to see that all such ditches or drains, or such part or parts thereof all lie within his jurisdiction, are cleaned out and kept open and in proper repair and free from obstructions, in conformity with the original specifications thereof, and in such manner that they will fully and completely discharge the functions for which they were designed and intended, and such surveyor shall likewise have and exercise general supervision over such ditches and drains when the work of cleaning and repairing shall have been completed and accepted.

Drains and Ditches—Cleaning and Repairing—Surveyor—Duties.

SEC. 40. It shall be the duty of the surveyor of each and every county of this state in which any such open ditch or drain, or any part or parts thereof are located, to clean out, and repair and remove all obstructions therefrom, biennially, except that tile ditches shall be cleaned and repaired in accordance with section 48 of this act. No surveyor of any county in this state shall be authorized or required to clean out or repair any open ditch or drain, or any part or parts thereof, within his jurisdiction until at least one year shall have elapsed since its construction, if newly constructed, or until one full year has elapsed since it was last cleaned out or repaired, under the provisions of any former law, and in order to equitably distribute the work of cleaning or repairing any such open ditches or drains over such biennial periods as are herein provided for, it is hereby declared to be the intent and purpose of this act that all open ditches and drains situated within any county in this state shall be divided into two groups, on the basis of the necessity or urgency for such.....

Drainage Maps—Necessity—Contents.

SEC. 54. It shall be the duty of the surveyor of each county in this state, as soon as practicable after the taking effect of this act, to make a drainage map of his county. In counties having less than one hundred miles of ditch, such map need not be made unless deemed needed by the county council; but such surveyor of such county shall, when making maps and plans for any new or reconstruction work, provide the data herein required. In counties having such a map this provision shall not be mandatory. Such map shall show by township units the names of the owners of each tract of land, by sections or fractional sections, that lie outside the corporate line of villages, towns or cities. It shall show all roads and railroads, showing the location of all bridges and culverts with reference to corners of sections or quarter sections. It shall show the location across or along each section, every stream, waterway or county ditch, whether open or tiled; if open, the width thereof, and naming such ditch as now shown of record. It shall also show the water shed of each of such open county ditches, each of such county tile ditches, waterways or streams. The cost incident to making such map shall be paid out of the fund provided in section 32 of this act. After completion of such map, the county surveyor shall furnish to the counties adjoining copies of such map.

Drains—Cleaning and Repairing—Use of Horse Power— Entry on Adjoining Lands.

SEC. 58. That whenever in the cleaning or repair of open public drains, it shall be necessary or desirable to use horse power, the person or persons whose duty it is to clean or repair such drain or any designated part thereof, shall have the right to go upon the adjoining or abutting lands within an area of not more than seventy-five feet from the center of said drain, measured at right angles from the center line thereof; *Provided*, That the area so used in annual or biennial clean-out, or in making any given repairs, shall be upon one side of such drain only; and, *Provided, further*, That where the.....

CHAPTER 197.

AN ACT concerning the maintenance and repair of dredge ditches.

[S. 20. Approved March 9, 1949.]

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. The term "ditch" or "drain" as used in this act, shall be construed to include not only a main dredge ditch, but also all the lateral ditches tributary to a main ditch, and constructed as one system of drainage by the use of a dredge machine.

SEC. 2. In all cases where a public ditch or drain has already been, or shall hereafter be constructed pursuant to the order of any circuit or superior court or board of county commissioners of any county in the State of Indiana establishing such ditch or drain and ordering the construction thereof, twenty percent in number of the owners of the real estate assessed, who would benefit by the construction of such ditch or drain, and who own not less than twenty per cent in acreage of all the land so assessed, may file in the office of the clerk of any circuit or superior court, having jurisdiction in the county wherein is situate the greatest acreage of the land originally assessed with benefits for the construction of such ditch, their petition praying for the establishment of a drainage maintenance and repair district, describing in said petition all the lands assessed with benefits for the construction of said ditch or drain; stating also therein a general description of the ditch or drain which it is proposed to keep in repair and to properly maintain; and that the maintenance and repair of such ditch or drain is a work of necessity or public utility and can be best accomplished by the organization of the district as prayed for, together with such other facts as to such petitioners shall seem important.

CHAPTER 305.

AN ACT concerning drainage; and repealing all laws in conflict therewith.

[S. 4. Approved March 11, 1965.]

Be it enacted by the General Assembly of the State of Indiana:

ARTICLE ONE CREATION OF DRAINAGE BOARDS: POWERS AND DUTIES

SECTION 101. This act shall be known and may be cited as “The Indiana Drainage Code”.

SEC. 102. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(1) "affected" means benefited or damaged;

(2) "affected lands" means lands which are benefited or damaged by the improvement and which are situated within the watershed drained by the improvement;.....

(9) "legal drain" means an open ditch or a tiled ditch, as defined in this section, or a combination of the two, which the provisions of this act make subject to the jurisdiction and control of a county drainage board;

(10) "legal open ditch" means a natural or artificial open channel for the carrying off of surplus water from the land, which channel was established pursuant to, or made subject to, any drainage statute of the State of Indiana;

(11) "legal tiled ditch" means a tiled channel for the carrying off of surplus water from the land, which channel was established pursuant to, or made subject to, any drainage statute of the State of Indiana;.....

(13) "mutual drain" means a drain running through the lands of two or more persons and established by their mutual consent and not pursuant to, or made subject to, any drainage statute of the State of Indiana;.....

(18) "private drain" means a drain located on land owned by one person and which was not established pursuant to, or made subject to, any drainage statute of the State of Indiana;.....

(20) "watershed" means an area of land from which all runoff water drains to a given point;.....

SEC. 132. (a) The board, in determining benefits to land, may give consideration to:

(1) the watershed, or entire land area drained or affected by the improvement;

(2) the number of acres in each tract;

(3) the total volume of water draining into or through the improvement, and the amount of water contributed by each land owner;

(4) the land use;

(5) the increased value of each tract of land resulting from the improvement;

(6) the location of the various tracts in relation to the main trunk of the drain, that is, whether adjacent or upland, whether upstream or downstream;

(7) elimination or reduction of damage from flood;

(8) the soil type;

and

(9) any other fact affecting the improvement.

(b) In its deliberation to determine benefits or damages to land the board may examine aerial photographs and topographical or other maps and may adjourn the hearing to the site of the improvement and personally view the affected land.

(c) In determining the percent each tract of land is benefited by the improvement the board may give consideration to the per cent of the total construction cost in the initial construction, or in any reconstruction, of the drain that each tract of land was assessed, if such information is available, but such per cent will not be binding on the board in its present determination and the board may vary therefrom as justice requires.

SEC. 506. (a) When a drainage maintenance and repair district has been established pursuant to Chapter 197 of the Acts of 1949 of the Indiana General Assembly, or when an association is formed pursuant to Chapter 165 of the Acts of 1913 of the Indiana General Assembly, the drains under the jurisdiction of such maintenance and repair district or such association shall not be subject to the provisions of this act relating to the establishing of an annual assessment for their periodic maintenance, and the performance of all maintenance and repair work on such drains shall be the sole responsibility of said district and association respectively, except when the drains under their control either directly or indirectly flow into a legal drain subject to the provisions of this act, the board shall assess all lands benefited by any improvements made by the board to the said legal drain to the extent such lands are benefited including lands within the jurisdiction of such district or association.

(b) Whenever the owners of fifty one (51) per cent in area of the lands situated within a drainage maintenance and repair district established pursuant to Chapter 197 of the acts of 1949 of the Indiana General Assembly, or whenever fifty one (51) per cent of the owners of land located within such district, shall file a written statement with the board alleging that said district is not active and not properly maintaining and repairing the drains under its control, the board may file a complaint in the court which established such district setting forth such facts and requesting the court to dissolve such district.....If after hearing the court finds the allegations of the complaint to be true, the court shall dissolve the district and in this event all drains in such dissolved district theretofore under the jurisdiction of such district shall become legal drains and subject to the provisions of this act.

(c) Whenever fifty-one (51) per cent of the members of an association formed pursuant to Chapter 165 of the Acts of 1913 for the purpose of maintaining and repairing a drain, or whenever the members of such association who own fifty-one (51) per cent in area of the lands within the jurisdiction of such association, shall file a written statement with the board alleging that the association is not active and is not properly maintaining the drain under its jurisdiction and control, the board may serve a notice upon the association of its intention to declare the said drain subject to the provisions of this act, which notice shall fix a date, time and place for a hearing thereon,.....If the board determines at the hearing that the association is not active and is not properly maintaining and repairing the drain under its jurisdiction it shall so find and shall issue an order declaring the drain to be a legal drain and subject to the provisions of this act.....

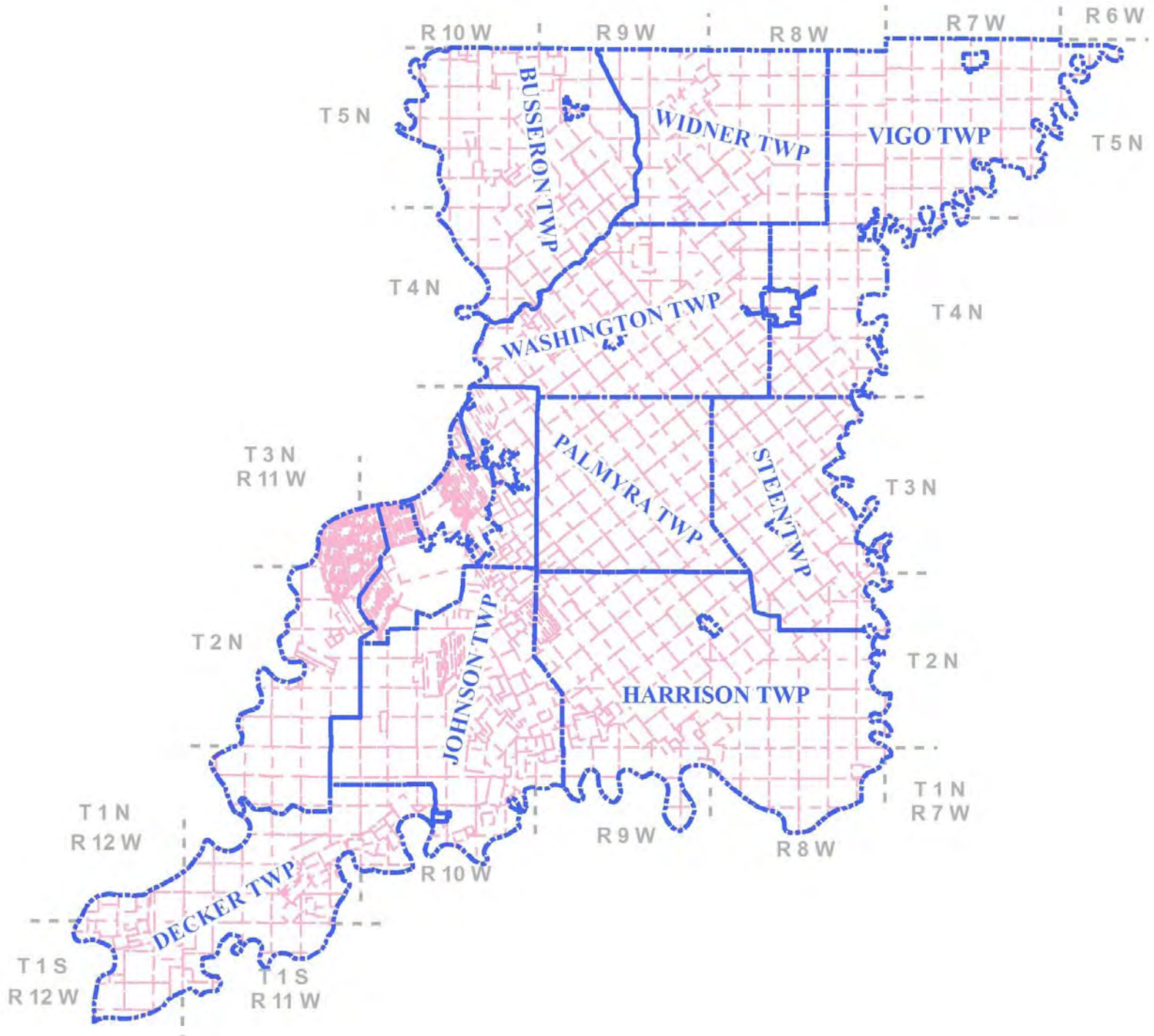
ARTICLE TEN MISCELLANEOUS PROVISIONS

SECTION 1001. If any provision of this act or the application thereof to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SEC. 1002. This act shall be in full force and effect from and after January 1, 1966.

SEC. 1003. All laws and parts of laws in conflict herewith are hereby repealed and the following laws, parts of laws and those amendatory thereof or supplemental thereto are hereby specifically repealed: Acts 1883, Chapter 132; Acts 1903, Chapter 55; Acts 1913, Chapter 355; Acts 1921, Chapter 237; Acts 1927, Chapter 205; Acts 1933, Chapter 264; Acts 1935, Chapter 225; Acts 1937, Chapter 162; Acts 1939, Chapter 68; Acts 1941, Chapter 63; Acts 1941, Chapter 73; Acts 1941, Chapter 165; Acts 1943, Chapter 50; Acts 1943, Chapter 269, ss. 2 and 3; Acts 1945, Chapter 49; Acts 1945, Chapter 221; Acts 1945, Chapter 227; Acts 1945, Chapter 228; Acts 1947, Chapter 190; Acts 1947, Chapter 212; Acts 1949, Chapter 36; Acts 1951, Chapter 100; Acts 1951, Chapter 119; Acts 1951, Chapter 147; Acts 1951, Chapter 148; Acts 1951, Chapter 150; Acts 1951, Chapter 152; Acts 1951, Chapter 169; Acts 1951, Chapter 204; Acts 1953, Chapter 243; Acts 1955, Chapter 38; Acts 1955, Chapter 217; Acts 1957, Chapter 216; Acts 1957, Chapter 332; Acts 1959, Chapter 313; Acts 1961, Chapter 111; Acts 1961, Chapter 146; Acts 1961, Chapter 230; Acts 1961, Chapter 265; Acts 1963 (Spec. Sess.), Chapter 19.

Regulated Drains in Knox County



DITCH NAME	AUTHORITY			LOCATION	DESCRIPTION		LENGTH	REMARKS
	COURT	CAUSE NO.	ESTABLISHED		BOOK	PAGE		
ARMUTH, FRED	SUPERIOR	3593	14-Dec-1936	VIGO TWP	OB 14	132	9.22 MI	
BOND, LLOYD	CIRCUIT	24160	28-Sep-1951	BUSSEY TWP	OB 132	202	5.47 MI	DRAINAGE ASSOCIATION
BONEWITZ, PETER	SUPERIOR	8031	8-Jul-1947	HARRISON TWP	OB 25	515	8.69 MI	
BROWN, HIRAM	CIRCUIT	3785	20-Mar-1916	DECKER TWP	DR 1	208	12.39 MI	DRAINAGE ASSOCIATION
CITY DITCH	SUPERIOR	1593	30-Apr-1928	CITY OF VINCENNES & VINCENNES TWP	KCS	FILE	11.05 MI	MUNICIPAL DRAIN
DELLINGER, CHESTER	CIRCUIT	22902	1-Aug-1946	HARRISON TWP & JOHNSON TWP	OB 126	452	4.59 MI	
FRICK, MARY D.	SUPERIOR	6175	23-Oct-1939	HARRISON TWP & STEEN TWP	OB 17	233	7.08 MI	SEE ALSO FILE BOX 839, DRAINAGE ASSOCIATION
GREEN, HERSHEL	CIRCUIT	23415	15-Apr-1950	WIDNER TWP	OB 128	198	7.50 MI	DRAINAGE ASSOCIATION
HILL, PETER	CIRCUIT	GREENE	15-Aug-1910	VIGO TWP	DR 3	531	7.32 MI	DRAINAGE ASSOCIATION
HOUSE, EPHRIAM	CIRCUIT	20450	6-Nov-1939	BUSSEY TWP	OB 119	431	15.53 MI	DRAINAGE ASSOCIATION
KESSINGER, C. B.	CIRCUIT	16453	29-Apr-1929	HARRISON TWP & PALMYRA TWP	OB 105	274	13.75 MI	DRAINAGE ASSOCIATION
LANKFORD, THOMAS J.	SUPERIOR	10149	22-Nov-1954	VIGO TWP	OB 34	198	1.08 MI	SEE ALSO OB 36, PG 11; DRAINAGE ASSOCIATION
LEMON, SHELBY	CIRCUIT	4535	15-Sep-1913	HARRISON TWP	DR 1	55	1.90 MI	
LINNEWEBER, G.	CIRCUIT	4094	22-Jun-1914	VIGO TWP	DR 1	233	2.13 MI	
MCALLISTER, RILEY	CIRCUIT	9426	21-Feb-1921	DECKER TWP	DR 2	208	2.75 MI	CONSOLIDATED WITH VIEKE DITCH ASSOCIATION
MESKIMAN, EARL	CIRCUIT	3765	2-Oct-1911	VINCENNES TWP	OB 79	258	3.51 MI	
MILL CREEK	KCDB	N/A	8-Nov-1971	VINCENNES TWP	KCS	FILE	2.78 MI	KNOX COUNTY DRAINAGE BOARD
PATRICK, CHARLES	CIRCUIT	24701	21-Oct-1952	STEEN TWP	OB 133	326-A	5.40 MI	
PLASS, HENRY	CIRCUIT	25002	24-Feb-1953	JOHNSON TWP	OB 133	313	4.87 MI	DRAINAGE ASSOCIATION
POLLARD, AARON	CIRCUIT	4855	20-May-1915	VIGO TWP	FB 472		10.87 MI	INACTIVE DRAINAGE ASSOCIATION
PRICE, LEMUEL A.	CIRCUIT	23205	10-Oct-1949	BUSSEY TWP	OB 129	407	1.86 MI	
ROBERSON, O. E.	CIRCUIT	16428	10-Jun-1931	STEEN TWP	OB 108	403	3.83 MI	DRAINAGE ASSOCIATION
SINGER, V. D.	SUPERIOR	1531	1-Apr-1929	VIGO TWP	OB 5	432	12.18 MI	DRAINAGE ASSOCIATION
SNAPP, EDWARD	CIRCUIT	4618	6-Nov-1914	BUSSEY TWP	DR 1	266	16.68 MI	
STEEN, EARL	SUPERIOR	12	2-Nov-1925	STEEN TWP	OB 1	371	2.37 MI	
SULLIVAN, JACOB	CIRCUIT	1803	18-Mar-1907	BUSSEY TWP	OB 71	349	3.93 MI	
THOMPSON, CHARLES	CIRCUIT	24720	9-Aug-1955	DECKER TWP	OB 136	431	2.40 MI	
TILLEY, AUGUST	SUPERIOR	8256	5-Mar-1949	WIDNER TWP	OB 28	147	4.67 MI	
VIEKE, FRED	CIRCUIT	16500	30-Jun-1930	DECKER TWP, JOHNSON TWP & VINCENNES TWP	OB 107	228 - 291	51.10 MI	DRAINAGE ASSOCIATION
WAMPLER, WENDELL	CIRCUIT	23655	10-May-1949	VIGO TWP	OB 129	461	14.20 MI	DRAINAGE ASSOCIATION
WILLIAMS, JAMES A.	CIRCUIT	22965	18-May-1946	JOHNSON TWP	OB 126	370	5.20 MI	DRAINAGE ASSOCIATION
31 Total							Total 256.30 MI	15 DRAINAGE ASSOCIATIONS

ESTABLISHED UNDER THE DRAINAGE ACT OF 1885, C.40

ESTABLISHED UNDER THE DRAINAGE ACT OF 1907, C. 252

ESTABLISHED OR LAST RECONSTRUCTED UNDER THE DRAINAGE ACT OF 1933, C. 264 AS AMENDED

ESTABLISHED UNDER THE DRAINAGE ACT OF 1965, C. 305