

## MORGAN COUNTY DRAINAGE BOARD

*October 6, 2008  
11:00 A.M.*

DRAINAGE BOARD MEMBERS PRESENT WERE: NORMAN VOYLES (Commissioner), JEFF QUYLE (Commissioner), BRIAN GOSS (Commissioner), PETE FOLEY (County Attorney) and TERRY BROCK (Surveyor).

### BENDER LUMBER

Ross Drapalik, Drapalik Surveying and Engineering, representing Paul Bender of Bender Lumber and Kim Galloway and Jeff Oreck of Beneficial Reuse Management, was present to address the Board about the placement of coal ash on a site at the northeast corner of the railroad tracks on State Road 39 in Martinsville. Mr. Drapalik stated that Nutter Ditch runs through the Bender property and they are seeking approval for the placement of a 36" diameter storm pipe within the Nutter regulated drain easement. They have approval from IPL (Indianapolis Power & Light). In order to contain the ash, they will construct berms along the railroad right of way and have secured approval from the railroad. The berms would also be within the 75 ft. ditch right of way. They will place grass mats on the side slope. The 36" pipe would drain an area less than 3 acres in size. This is an industrial area and adding the ash will raise the area 4 to 8 feet above the existing grade. The coal ash is non hazardous but highly erodible if left open. Mr. Drapalik stated that the ash must be 95% compacted and it hardens like concrete. Terry Brock asked about contaminants if a hole is punched through the cap on the coal ash. Mr. Oreck stated that the extra precautions are put in place so that water does not migrate through the fill. Bill Dials, Morgan County Stormwater Coordinator, stated that he talked to Purdue University about the fly ash and the areas of concern would be if there is leaching into soils causing selenium, arsenic, and other metals to appear in the soil. Terry Brock, Morgan County Surveyor, stated that his office is concerned that the pipe is secure and stable and at a 90 degree angle, there is a prior consent agreement, and that there is a hold harmless agreement with the county regarding maintenance of the easement. Jeff Quyle made a motion to grant approval of the request for the infill at the site adjoining Nutter Ditch provided that the 36" storm pipe drain at a perpendicular angle approved by the Surveyor's Office, that there is a hold harmless agreement for any structures placed within the easement, and that there be prior consent required from the county for any permanent structure located within the county easement. Seconded by Brian Goss. Motion carried 3-0.

### STATE ROAD 144/ROOKER ROAD DRAINAGE ISSUE

Terry Brock stated that the state has added additional impervious area by Neil Armstrong Elementary School and this is causing a drainage issue to homes in the area. Mr. Brock has requested a meeting with the state to discuss the issue.

### ADAMS ADDITION DRAINAGE ISSUE

Norman Voyles stated that the county highway department was in the Adams Addition a week ago and re-ditched the south side of Adams Drive and replaced some pipes. Water used to drain south across the lot on the corner, but the ditch has been filled in and another ditch runs between the corner property and the next property. This is causing problems between the neighbors. The water needs to return to its original course, before the ditch was filled in; several property owners have given their consent for this. Terry Brock recommended that the county have a written agreement with the property owners before proceeding.

### SAND CREEK KNOLL

Terry Brock: Sand Creek Knoll, which is located out on 252 has a working permit which has been approved. It had a stop work order on it, which has been lifted because they fulfilled our requirements. Missy Shaber, who is our IDEM stormwater specialist, inspected it on August 26, 2008. In her letter, she stated that she saw no major issues with the site and no sediments leaving the site. That's when we pulled the stop work order.

Linda Ragsdale: Thank you for allowing me to come today, but I have a question in reference to what your information is Terry. What changed from the standpoint of it qualifying that the stop work order was issued?

Mr. Brock: They fulfilled everything we asked them to do; they stabilized the banks, they repaired the banks. We did a site inspection in July, after the storms; we told them what needed to be fixed and they repaired it.

Ms. Ragsdale: Ok, how closely does this Missy Shaber work with Tim Holtz?

Mr. Brock: Tim Holtz has to do with landfills and mining, but it is a branch of IDEM I believe. I don't know Mr. Holtz. I do not do landfills and mining. Missy Shaber is our district stormwater specialist for our area; she reviews all our Rule 5. That is who controls Rule 5 and Rule 13 – this IDEM Office.

Ms. Ragsdale: So, when the inspection was made that allowed the work order stoppage to be lifted, what happened to all the sand that went down the creek that ended up on our real estate entotalling the rip rap that was put on the center dam around the rain garden's drainage ditch? Its on our real estate, we now have anywhere from 2 to 4 foot of sand on our real estate. Witnessed and pictures taken by IDEM. How does one come to the conclusion that it has been corrected?

Mr. Brock: Have you got documentation from IDEM? Have you produced the documentation?

Ms. Ragsdale: On our paperwork from IDEM, Morgan County offices were copied.

Brian Goss: Did you get this when we got the big flood?

Ms. Ragsdale: This happened before the flood.

Mr. Brock: In our inspections we noted that one of the dams, in the flood, this was in the flood, there were some issues and that's why we put the stop work order on it. But the issues were taken care of. During the flood, one of the dams went over the emergency spillway, but that's what it was designed for. The lakes as designed, held an at least 500 year flood and they were designed for a 100 year flood. So they were way above what we asked them to design these lakes for. As far as the sediment, which basin are you talking about?

Ms. Ragsdale: I'm talking about the valley between the Warner property and the Shuler property.

Mr. Brock: Ok. Mr Dials did an inspection for me Friday, correct Mr. Dials? Friday morning?

Bill Dials: Yes.

Mr. Brock: Let's have Mr. Dials explain what he saw on the site.

Mr. Dials: Friday afternoon, when I went out and looked at the site I basically looked at the four dams and the embankments that hold them and they were stable. I walked downstream and there was very little new sedimentation or deposits from sediments being placed into the gully or ravine area. There was one pond . . . from the west working around to the east; but at the bottom there is a small diameter, like 12" tile that comes out from the top of the pond and there was probably a 10' X 10' washout probably 2' deep around some rip rap and that may be one area that needs to be addressed by the contractor or developer. But other than that, as far as down stream sedimentation, that is no new sedimentation stockpiled.

Mr. Brock: There is one scouring at the bottom of the pipe and we will have them stabilize that. As you see in Missy's letter, she stated that she saw no major problem and no sedimentation leaving the site. I highlighted that on the letter for you.

Ms. Ragsdale: When can we show you progressive pictures of damage from day one?

Mr. Brock: You can supply that anytime you'd like to.

Ms. Ragsdale: Well we need to have it in a meeting, because when before the day that the equipment was started, she was in the woods with her daughter, taking water samples. There was no defined creek at all. Within a month, documented by pictures, there was a creek . . . (Janet Wilson speaking.)

Norman Voyles: Janet, why don't you come up where we can get you recorded.

Janet Wilson: When I showed John Drapalik, this is prior Shuler ownership, the pin that is about 5 foot from your drainage pipe at basin three, there was a defined creek bed. It was approximately, and John Sr. is not here, but, it was approximately this deep. We were walking down the creek bed because at that time there was no water in it. And now, if you look at it, we were back there in May and due to foliage we haven't been back because we can't see from our property unless we go down in the valley and cross the property lines. Now there is no creek bed. The stuff that perceived or not perceived, debris that left the Shuler property out of the drains or

out of subsurface erosion, filled that creek bed up. So now what you see is a flat valley and that goes past the second dam going west. Third, second, that valley after you go west of that second dam, you will start seeing the creek channel come back. And that's what she says we have documentation of pictures that shows the progression of sediment leaving the property and onto our property.

Mr. Goss: So you're saying that got filled up before it was flooded.

Ms. Wilson: It was filled up by, I'm not gonna give a date. I've got the pictures dated. I hesitate to give a date right here off the top of my head but it was filled up way before because what we had NRCS tony Bramham look at out there in March was completely separate from Shuler, it was erosion on the back side of our field. We walked him around to that and it looked like the valley was running full of water and it looked like that because there was no channel for the water to feed through because the sand had filled the channel up. Now that is the documentation that we've seen over time and progression and that's the reason why I took pictures when I started seeing the changes like I said in the permitting stages, we will document with pictures, we will document with water samples being tested and that's where that came from.

Mr. Voyles: What did Tony tell you about the situation? Anything?

Ms. Wilson: He really didn't offer any situation other than he said he had seen problems from 252 driving by it and had concerns in March but that was the only thing that we saw. I took him over there because I wanted him to see A.) if this valley isn't protected what he was looking at on the south side of the field was going to be on the north side of the field. And that was when he said today would be a good day. His exact words were today would be a good day to start taking pictures and I had my camera phone so I just took pictures there, but that was March (talking to Ms, Ragsdale) so that was well before the Junes floods. In my letter that I had sent was detained by proofreading and highlights by our attorney, but you received it in July I believe, after the flood and like I said then, I can't go back there and look from our property and see with the foliage on what's going on in the valley and that's what I hoped what this office would take care of because past the June flood we've had several large events and water running off that site uncontrolled it's just, I mean we've seen it all over the county, erosion and Bob O'Neal set I think where Mr. Foley is and asked me in those preliminary meetings, what are you most concerned of, drainage or erosion. You can't take one without the other and now we're seeing it. The landfill, the old county landfill site has no trickle across the top, but the bottom washed out of it. That's a whole nuther issue but when sand starts moving from underneath, you don't control it and that's what happening. You don't see a trickle place where it starts, but you go 20 foot in the woods and you see a shear bluff where there used to be a gradual slope and that's movement underground, it's not something trickling off the top. And that was my concern when this was being preliminary approved.

Ms. Ragsdale: The erosion has come off the subdivision down the ravine between the Warner farm field and the developed Shuler field. Is coming right down that channel and has all ended up on our property and has blown out a dam.

Ms. Wilson: Well, the dam isn't ours, it's Stanley Whetstone's dam.

Ms. Ragsdale: No, the dam isn't ours, it's Stanley Whetstone's.

Mr. Brock: I don't think erosion would blow the dam out, it had to be the water.

Ms. Ragsdale: It was done before then.

Mr. Brock: Erosion would not blow a dam out.

Ms. Wilson: The movement, the force.

Mr. Brock: It has to be the water.

Ms. Wilson: Right, right. But see when you change, when you fill up creek beds with sand, that water has nowhere to go. That that stream was an intermittent creek, never ran water, up until...

Mr. Goss: Do they have sediment fences up?

Mr. Brock: Oh yeah, oh yeah.

Ms. Ragsdale: Do what?

Mr. Goss: Do they have sediment fences up?

Mr. Brock: Do you mean silt fences?

Mr. Goss: Silt fences, yeah.

Mr. Brock: In the areas they needed it they did. They've had bales, they've had coconut matting.

Ms. Wilson: Where does that leave us?

Mr. Brock: . . . it's all seeded, we have a good coverage on it now. The water is designed, through Holloway Engineering and Surveying, designed it so the water would come off in a ten year event at a 100 year – so if you had a 100 year event, the water would come off that site as slow as a 10 year event. So there should be less water coming off the site.

Mr. Voyles: Those pictures that you wanted to present in a meeting, do you have them today?

Ms. Ragsdale: No, we've got to pull them off of three different computers and hard copies.

Ms. Wilson: I don't know where you're saying that there's been . . . ok, I'm not saying that there's not up on the hill, I'm not saying that there's not hay bales along the roads in the subdivision, the proposed subdivision, but I'm not concerned about the property of theirs that doesn't affect us. I'm concerned about what is in the valley today that wasn't there in December of 2006.

Mr. Brock: The whole issue is the drainage area and all drainage area goes to that big ravine.

Ms. Wilson: Right, but there's nothing in that ravine to protect it, nothing.

Mr. Brock: The ponds above it protect that ravine.

Ms. Wilson: No it doesn't Terry.

Mr. Brock: Yes it does because there's structures in the ponds that let that water out at a slower rate. All the water is collected in the ponds and it goes out at a slower rate. We only had one pond that went over the emergency overflow. One.

Ms. Wilson: How many times have those ponds been dipped out?

Mr. Brock: They've been dipped out twice because we've been out there.

Ms. Wilson: Ant they've not even sold the first lot.

Mr. Brock: No they haven't, I agree. But that's what the ponds are designed for. They're designed to take that sediment and control the sediment. They take it and they dip the ponds out, that's what they're designed for – to do that and they did exactly what the engineers designed it for.

Ms. Wilson: I thought they were designed for, the way I understood it, is that you were initially going to put a depression in the ground and put the hardware, the concrete hardware and the drainage pipes in the ground to take care of it, but then on top of that, you were going to put a loamy soil and put plants to infiltrate, how do you keep plants in there if you have to dip it out every six months?

Mr. Brock: Once construction is done, that sediment will quit collecting in there at the rate it's collecting now. Once there is coverage on the land, there's no place for that sediment to come from.

Ms. Wilson: Underground is where it's coming from.

Mr. Brock: Underground can't get to those ponds.

Ms. Wilson: But underground can get to that valley.

Mr. Brock: But we have no control underground. We just deal with surface water.

Mr. Goss: This is the same . . . you're getting that sand down there, I mean when I worked at the county 15 years ago, we used to have to clean that bridge down there.

Ms. Wilson: What bridge?

Mr. Goss: Right there – is it Leonard Road?

Ms. Wilson: There's a Leonard Road bridge and a Lenvoil Road bridge.

Mr. Goss: Leonard Road, right there at the foot of the hill down from the state highway garage. That whole thing all the way up through there backed up with sand. All the time. It's not like this has caused a whole new . . . I'm not saying it's not maybe added a little bit to it, but every time it rained, every year or two we were out there trying to get that thing out and we still done it before this ever started. It's not like this new addition has caused the whole thing. When that farmer came out and plowed the field and disked it, I'm sure you got run off then too.

Ms. Wilson: It never looked like this until now. That's what I asked Tony when he came and looked on our south side, I said nothing has happened, we haven't moved dirt on top of the ground, the only thing prior to Shuler moving dirt was Kenny Costin timbering that hill, which is an impervious surface, sandstone cap, water can't get through it. Ok, could that have opened it up? I don't know, I'm not an educated person in that area. But the development and the compounded development, you're concerned as a Drainage Board, about impervious surface where water can't get through, but if you're dealing with underground that is as we all know it's sand, sand moves, and that's what we're dealing with.

Pete Foley: If I may interject something here, to the extent that the issue is the jurisdiction of the board, which is the surface water, which is the erosion control and the permit that is on file and everything that went with that permit, and whether those measures, those requirements, those regulations that are within that permit are being followed, I think that Terry has stated that in their opinion, they have, and the stop work order has been lifted. There is maybe one area in one of the ponds where they're going to have them come back and address. We have an inability as a board, jurisdiction wise, to address things that are not within our jurisdiction, not within the permit. I'm not an engineer, I can't tell you, but I think I know the answer to the question to the extent the complaint is the subsurface shifting of the sand, that's not, unless it's a violation of the permit, there's nothing we can do.

Mr. Brock: No, there's nothing we can do about subsurface.

Mr. Foley: Ok, so then we move on to the issue of whether or not there are violations of the permit. There was a suggestion of a meeting. My suggestion would be to get you folks to organize the photos, you said you were going to have them dated and tell what they are, and list out concisely and succinctly the nature of the perceived violation or the existing condition on the land that proves the violation, submit that to Terry's office; they will review it, have an ability to look at it compare it with their documentation and whatever observations or work they have to do, and then I would leave it to Terry's office an option to either submit a report to this board on that complaint or call a meeting with you to discuss it if there's questions, but I think the most efficient way to move forward with this is to have all of those complaints that you have about violations of the regulations that this board controls to be put in writing so we draw it all together in a succinct way so that Terry's office can go through it and have A, B, C, D, whatever you want to do as exhibits that say this shows violation, or this shows XYZ condition; submit it to them so they can look at it and determine whether or not, in their opinion, any of this is a violation of a permit or not.

Ms. Wilson: Ok, would the letter that you have in July and the letter that you received earlier in March stand as that request, because I haven't heard anything from either one of them.

Mr. Brock: First thing, you need to make sure that you get the letters to my office.

Ms. Wilson: They were delivered and signed for by registered mail.

Mr. Brock: But not to my office.

Ms. Wilson: Yes sir, they were.

Mr. Brock: No.

Ms. Wilson: Plan Commission, County Commissioners, and Drainage Board.

Mr. Brock: Ok, but my office is the Surveyor's Office.

Mr. Foley: Get it to the Surveyor's Office.

Mr. Brock: It's got to come to the Surveyor's Office.

Ms. Wilson: (To Ms. Ragsdale) Do you have the signed cards?

Ms. Ragsdale: I don't have them with me.

Mr. Foley: I don't want to go back, I want to go forward.

Mr. Brock: We need your photos.

Ms. Wilson: You can't get a full statement until you go back.

Mr. Foley: If you want to incorporate something you said in a letter from January or something you said in July, incorporate it. But to move forward with this, it is my recommendation that you put all of your complaints in a concise, succinct manner so they can use them. Complaints that are directed to specific regulations they control.

Ms. Wilson: Is Indiana Code, is that what you want? Cuz it's in that letter.

Mr. Brock: That's Rule 5, if you just state what you have, we'll compare it to our ordinance and we'll compare it to Rule 13.

Ms. Wilson: Is there someone in your office right now that we can run down there and . . .

Mr. Brock: I don't know if the secretary is at lunch right now or not.

Mr. Foley: You say you've got photos. So attach the photos, color copies that say this is the location, this is the date, and what we're suppose to be looking at.

Ms. Wilson: Do you want the water test also?

Mr. Foley: If you believe that shows a violation, I say put it in there. So we don't have to come back and talk about it later.

Mr. Brock: But with the water test, we really have no jurisdiction unless it's surface water that is causing the issue.

Ms. Wilson: Well the surface water would be what is in the creek. And if what is in the creek is over what they closed Geist Reservoir down or Monroe for full body contact, then that's would that be part of what you want to know?

Mr. Brock: If you feel that it would help your position, yeah.

Ms. Wilson: I don't know that I have a position to prove. If you had a problem in your front yard that was caused by your neighbor, you would want it to be corrected.

Mr. Foley: You have to break it down, fundamental, there is a permit, this board only has authority to do things that are in violation of that permit. If you have evidence that proves a violation of that permit, we gotta have it or we can't do anything.

Ms. Wilson: Ok.

Mr. Foley: If you are complaining about violations of the permit, then you have to say, however long your list is, these are the violations, this is the evidence we have.

Mr. Goss: Prove it.

Ms. Wilson: What was that, I'm sorry.

Mr. Foley: You have to demonstrate what you're talking about. I'm not doing this for any other reason because that is the only way they can effectively do their job.

Ms. Wilson: That was what I was hoping when I . . . and I'm not beating a dead horse, when we sent the letters when we have a problem, I asked the board, who do we come to, this was way back when, before they ever moved dirt, who do we come to when these problems start happening? And it was a letter of June 2007, your statement said, it would be us, we are the Drainage Board. We would be responsible for rectifying problems. So that's why we're here. I didn't perceive these problems to happen so soon, but they have.

Mr. Foley: I understand. The Surveyor's Office is the enforcement regulation department for the Drainage Board.

Ms. Wilson: And that's the reason why we're here, cuz I had sent letters and had made a couple of phone calls and hadn't heard anything so we came here because you are the Drainage Board.

Mr. Foley: Sure.

Ms. Wilson: I'll just go downstairs and find a letter.

Mr. Brock: We're upstairs.

Ms. Wilson: Pardon me?

Mr. Brock: We're upstairs.

Ms. Wilson: Oh, you're upstairs. Where are you at now?

Terry: We're in the Planning Commission. We were flooded out downstairs.

Ms. Wilson: I'll find a letter.

Ms. Ragsdale: So basically then even though Rule 5 says no erosion is to leave a job site and go to adjoining property owner, we don't even have to deal with that and you've already got the paperwork so it that where we're at in this?

Mr. Foley: I don't understand the question.

Ms. Ragsdale: That's what Rule 5 says. In a subdivision, erosion can not cross property lines. That's what Rule 5 says.

Mr. Brock: All I can tell you is that their inspector has cleared it. If you have an issue with IDEM you need to contact IDEM. We can get you that information.

Ms. Ragsdale: Didn't you just say that you adhere to Rule 5 and 13?

Mr. Brock: Yes we do, and she is the inspector for Rule 5 and she gave us a clear on Rule 5.

Ms. Ragsdale: That's only because she didn't see it in the beginning. Ok, we'll bring our paperwork. Do we do it in a meeting like this?

Mr. Foley: No, no, no. I said submit what you've got in writing to the Surveyor's Office with all the exhibits so they can review it, get an opinion about what is or isn't there, what may or may not be a violation, they can formulate that opinion. If they need a meeting with you, they'll call it, it they need a site visit, they'll go do it, and then they're going to report back to this board on what findings are there or not.

Ms. Wilson: Can you tell me who "they" is?

Jeff Quyle: The information goes to the Surveyor's Office.

Mr. Brock: It will be myself and Bill.

Ms. Wilson: So you two will be the faces.

Ms. Ragsdale: Thank you.

Mr. Brock: Thank you.

#### MINUTES

Brian Goss made a motion to approve the June 3<sup>rd</sup> and August 29<sup>th</sup> minutes. Seconded by Jeff Quyle. Motion carried 3-0.

#### STORMWATER UPDATE

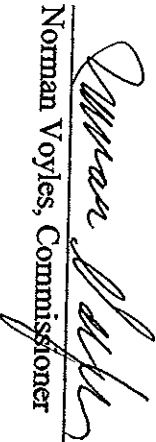
Terry Brock handed out notes from the IDEM co-permitting meeting. Mr. Brock also handed out an interlocal agreement from Tippecanoe County and Mr. Brock stated that they are going to adjust this to fit Morgan County. Mr. Foley stated that he would have a draft of this for the next meeting. Mr. Brock outlined the procedure for the upcoming MS4 audit and good housekeeping meeting.

#### ADJOURNMENT

Brian Goss made a motion to adjourn. Seconded by Jeff Quyle. Motion carried 3-0.

#### MORGAN COUNTY DRAINAGE BOARD

  
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Terry Brock, Surveyor

  
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Norman Voyles, Commissioner

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Jeff Quyle, Commissioner

  
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Brian Goss, Commissioner

ATTEST:

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Brenda Adams, Morgan County Auditor