

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

AUDIT REPORT

OF

COUNTY SURVEYOR

HENDRICKS COUNTY, INDIANA

January 1, 2008 to December 31, 2011



**FILED**  
01/17/2013



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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Surveyor	David L. Gaston	01-01-07 to 12-31-14
President of the County Council	Larry R. Hesson	01-01-11 to 12-31-12
President of the Board of County Commissioners	Eric Wathen	01-01-11 to 12-31-12



**STATE OF INDIANA**  
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TO: THE OFFICIALS OF HENDRICKS COUNTY

We have audited the records of the County Surveyor for the period from January 1, 2008 to December 31, 2011, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Result and Comment. The financial transactions of this office are reflected in the Annual Report of Hendricks County for the year 2011.

STATE BOARD OF ACCOUNTS

November 19, 2012

COUNTY SURVEYOR  
HENDRICKS COUNTY  
AUDIT RESULT AND COMMENT

**USE OF MAINTENANCE FUNDS**

For the last several years, each Drainage Maintenance Fund that was assessed was only credited with 70 percent of their assessment. The remaining 30 percent of the assessment was posted to a separate sub account within the Maintenance Fund. These remaining monies were set aside to pay for various expenses of the Surveyor's office such as salaries, supplies, fuel, and equipment. These items were not identifiable to a particular drain or combination of drains. Operating expenses of the County Drainage Board, including operating expenses related to drainage duties performed by the Surveyor's office, are payable from the County General Fund under a budget adopted for that purpose. Additionally, the expenditures from this sub account were not approved by the Drainage Board.

We reviewed expenditures from January 1, 2008 through December 31, 2011, and have identified the following activity for this separate sub account within the Maintenance Fund.

Year	Beginning Balance	Receipts	Disbursements	Ending Balance
2008	\$ 463,617	\$ 286,460	\$ 71,930	\$ 678,147
2009	648,147	629,863	328,110	979,900
2010	979,900	505,855	376,567	1,109,188
2011	1,109,188	539,031	355,727	1,292,493

A review of the disbursements identified that most of the disbursements were paid for maintenance related expenses; however, they were paid from this separate sub account instead of being expensed to a specific drain and the disbursements were not approved by the Drainage Board. The non Maintenance Fund expenses are allowable expenses of the Surveyor's office that should not have been paid out of the Maintenance Fund. A review of the disbursements identified the following:

Year	Non Maintenance Fund Expenses	Percentage
2008	\$ 54,568	75.86%
2009	9,761	2.97%
2010	89,984	23.89%
2011	959	.26%

Indiana Code 36-9-27-44 States in part:

"(a) A maintenance fund is established for each regulated drain and for each combination of drains established under section 41 of this chapter. A maintenance fund consists of:

COUNTY SURVEYOR  
HENDRICKS COUNTY  
AUDIT RESULT AND COMMENT  
(Continued)

- (1) money received from annual assessments upon land benefited by the periodic maintenance of a drain;
  - (2) penalties received on collection of delinquent annual assessments made for the periodic maintenance of a drain; and
  - (3) money received from any person as compensation for damages suffered to a drain.
- (b) The county auditor shall:
- (1) set up a separate ledger account for each regulated drain or combination of drains whenever the board fixes an annual assessment for the periodic maintenance of the drain or combination; and
  - (2) extend the assessments upon the ditch duplicate in each year that the assessments are to be made. . . ."

Indiana Code 36-9-27-45 states:

"A maintenance fund established under section 44 of this chapter is subject to the use of the board for the necessary or proper repair, maintenance, study, or evaluation of the particular drain or combination of drains, which may be done whenever the board, upon the recommendation of the county surveyor, finds that it is necessary. The payment for all such maintenance work shall be made out of the appropriate maintenance fund. However, if:

- (1) a maintenance fund has not been established for the drain or combination of drains; or
- (2) a maintenance fund has been established but it is not sufficient to pay for the work;

the general drain improvement fund shall be used to pay the cost of the work or to pay for the deficiency, and the general drain improvement fund shall be reimbursed from the appropriate maintenance fund when it is established or becomes sufficient."

Indiana Code 36-9-27-11 states:

"All expenses of the board shall be paid from money appropriated from the county general fund. Claims for expense reimbursements and per diem must be:

- (1) accompanied by an itemized written statement;
- (2) approved by a recorded motion of the board; and
- (3) allowed as provided by statute."

COUNTY SURVEYOR  
HENDRICKS COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on November 19, 2012, with David L. Gaston, Surveyor, and Cinda Kattau, County Auditor. The Official Response has been made a part of this report and may be found on pages 7 through 11.

State Board of Accounts

Re: Response Letter based on the State Board of Accounts Report

This letter is my official response to the State Board of Accounts (SBA) audit and closing report of the Hendricks County Surveyor's Office from 2008 through 2011. This comprehensive audit uncovered one general item that the SBA had issue with and therefore put into their report. This issue was with the use of the maintenance funds in paying various expenses that I felt were directly associated with the maintenance of regulated drains.

Back in 2005 I had asked a former SBA field auditor if I could pay salaries and other expenses in my office that could be directly attributed to the maintenance of regulated drains. My reasoning was that if Hendricks County did not have any regulated drains then the surveyor's office would not need the employees and other expenses that were directly attributed to the maintenance of regulated drains. Also, many Hendricks County citizens were not receiving or could not receive any benefit from those employees that could only work on regulated drain issues. He agreed with my analysis. After reviewing the different options with the Hendricks County Auditor, I decided the simplest approach was to take a percentage from each drain to put into a newly created sub-account within the maintenance fund that would then have a line item to be used to file claims against, which would include salaries, insurance, fuel, vehicles, office supplies, and other expenses. 30% was used as a starting point to create this new line item fund. This fund would then be appropriated each year by the county council.

During his audit, the SBA field auditor, Larry Tippin, brought to my attention the fact that this fund had been built up over time and that the 30% appeared to be too high a percentage to take out of each fund. I agreed with him and told him that I should have been reviewing the amount of money that was accumulating in this sub-account. We discussed appropriate ways to refund the separate maintenance fund accounts. In my exit audit meeting with Larry Tippin and District 1 supervisor Sommer Cannon, we again discussed different options of how to appropriately reimburse these accounts and we all agreed that I would provide them of my plan for reimbursement before the next audit period.

The report also mentions that *"These items were not identifiable to a particular drain or combination of drains. Operating expenses of the county drainage board, including operating expenses related to drainage duties performed by the surveyor's office, are payable from the county general fund under a budget adopted for that purpose."* The budget adopted for that purpose was an ordinance that the County Commissioners adopted called the Surveyors Office Operating Fund which was appropriated each year by the County Council.

The report points out that *"the expenditures from the sub account were not approved by the drainage board."* Unfortunately, I was mistaken when I assumed that the County Council had the ultimate authority to approve expenditures from all accounts and did not believe that the drainage board had that authority. In the future I will seek drainage board approvals on all expenditures as well as the County Council so that there is no question about an action taken or expenditures involving maintenance funds.

The report states: *"A review of the disbursements identified that most of the disbursements were paid for Maintenance related expenses; however, they were paid from this separate sub account instead of being expensed to a specific drain and the disbursements were not approved by the drainage board. The non-maintenance fund expenses **ARE** allowable*

expenses of the surveyor's office that should not have been paid out of the maintenance fund." Obviously, the audit and the report found that all of the disbursements were legitimate expenses within the surveyor's office but the SBA thought that they should have been paid out of a different fund. The graph shows the following non-maintenance fund disbursements which I will discuss and dispute on a per year analysis. In consideration of space I have only provided my response in regards to each of the major purchases below for each year.

**2008**

**\$54,568**

**Item**

**Cost**

Leica Geosystems, Inc.	\$54,519.82
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**Response**

This item was for Global Positioning System (GPS) surveying equipment and the Continuously Operating Reference System (CORS) which was installed on the roof of the Government Center and used by the National Geodetic Survey (NGS) in Washington D.C. as a National Geodetic Reference Station. The GPS was purchased as part of our continuing plan to map all of the regulated drains in Hendricks County for maintenance. All of the original court drains were established between 1880 through 1950 and the legal descriptions and the plan and profiles of these drains are antiquated and are in desperate need of modernization. The legal descriptions are not accurate and cannot be mapped on the GIS accurately. I determined that the GPS was the most modern equipment and could be set on state plane coordinates therefore, will never need to be updated again. This purchase was discussed in the drainage board meetings with the drainage board members in agreement with this purchase. Unfortunately, I did not seek a formal approval of the equipment just a consensus and the former secretary to the drainage board and my former employee did not reflect these detailed discussions in the minutes. Also, "The county surveyor is the technical authority on the construction, reconstruction and maintenance of all regulated drains or proposed regulated drains in the county and he shall:

- (1) Investigate, evaluate and **SURVEY** all regulated drains or proposed regulated drains and prepare all reports, plans, profiles and specifications necessary or incident to any proposed construction, reconstruction or maintenance or regulated drains;
- (2) Prepare and make public standards of design, construction and maintenance that will apply to all regulated drains and their appurtenances, taking into consideration in preparing these standards the published recommendations made by Purdue University, the American Society of Agricultural Engineers, and American Society of Civil Engineers, the United State Department of Agriculture, the Department of Natural Resources, the United States Army Corps of Engineers and other reliable sources of information;
- (3) Supervise all construction, reconstruction and maintenance work performed under this chapter;
- (4) Catalog and maintain a record of all surveying notes, plans, profiles and specifications of all regulated drains in the county and of all mutual and private drains when available; and
- (5) Perform the functions set forth in Section 67 through 69 of this chapter concerning all urban drains under this jurisdiction."

According to the above referenced IC 36-9-27-29, it is the county surveyor's responsibilities are to inspect, evaluate and survey as well as supervise all work involved with the maintenance of all regulated drains and to maintain all records of these regulated drains. In Hendricks County that is almost 2,000 miles of regulated drains.

IC 36-9-27-29 does not define the term "survey" but does state in IC 36-9-27-29 (4) that the county surveyor is to "catalog and maintain a record of all surveying notes, plans, profiles, and specifications of all regulated drains in the county and of all mutual and private drains when available." Therefore, one could come to the conclusion that the code refers to the practice and discipline of land surveying. Merriam-Webster dictionary defines survey as: *to determine and delineate the form, extent, and position of (as a tract of land) by taking linear and angular measurements and by applying the principles of geometry and trigonometry.* Also, they define surveying as: *a branch of applied mathematics that is concerned with determining the area of any portion of the earth's surface, the lengths and directions of the bounding lines, and the contour of the surface and with accurately delineating the whole on paper.*

Using the above definitions, it would be impossible for the county surveyor to comply with IC 36-9-27-29 that requires surveying all of the regulated drains for maintenance without collecting field data on those regulated drains. As a professional land surveyor with over 30 years of surveying experience, I can, without hesitation, state that there is absolutely no way to survey the regulated drains without collecting field data without said surveying equipment.

**2009**

**\$9,761**

<b><u>Item</u></b>	<b><u>Cost</u></b>
Dell Marketing, LP	\$5,826.10

**Response**

This item was for computers and monitors that was ordered through the County IT Department and paid for out of maintenance. These computers were purchased for the maintenance of regulated drains for managing, collecting, organizing, and disseminating all of the information on regulated drains as well as being compatible with AutoCAD and surveying software information for the GIS. Therefore, it is my opinion that this cost can be attributed to the maintenance fund according to IC 36-9-27-29.

**2010**

**\$89,984**

<b><u>Item</u></b>	<b><u>Cost</u></b>
Cannon IV, Inc.	6,640.

**Response**

This was a purchase of a plotter which is extensively and almost solely used by the inspectors to plot out aerial photos of the regulated drains when working on them for maintenance. Therefore, it is my opinion that this cost can be attributed to the maintenance fund according to IC 36-9-27-29.

<u>Item</u>	<u>Cost</u>
DLT Solutions, Inc.	\$5,726.56

**Response**

This item is for AutoCAD software that is used for the survey data collection and plan and profile designs as well as maintaining and modernizing the old court drains (1880-1940) surveys and legal descriptions. The AutoCAD software is also used for maintaining and utilizing the GIS which is used for maintaining accurate records and information about the regulated drains. Therefore, it is my opinion that this cost can be attributed to the maintenance fund according to IC 36-9-27-29.

<u>Item</u>	<u>Cost</u>
ESRI	\$8,910.00

**Response**

This item is for the GIS system for the mapping and maintenance of all the regulated drains in Hendricks County. ESRI is the GIS software program. Therefore, it is my opinion that this cost can be attributed to the maintenance fund according to IC 36-9-27-29.

<u>Item</u>	<u>Cost</u>
Leica Geosystems, Inc.	\$9,961.03

**Response**

See same response for Leica Geosystems in 2008 above.

<u>Item</u>	<u>Cost</u>
Seiler Instrument & Mfg. Co.	\$37,945.80

**Response**

This item is for surveying equipment that is designed to help survey the regulated drains in compliance with IC 36-9-27-29. See response to Leica Geosystems above.

**2011**

**\$959**

Negligible therefore no response is provided.

I understand that every penny that is spent in the Hendricks County Surveyor's Office must be accounted for and that each claim shall be appropriated and approved by the Drainage Board, County Commissioners and or the County Council depending on the fund. I can assure the State Board of Accounts that I have tried to follow those guidelines. It was never my desire to spend money from any fund that was not appropriated and without the proper approvals and guidance. The biggest challenge over the last 10 years has been paying for the Federal EPA and State IDEM "clean water mandate" and most of the separate funds that were set up were a way for us to pay for this mandate without increasing

the tax burden on the citizens of Hendricks County. Also, the only reason that I went to State Board of Accounts field auditor Ron Astin about paying for the regulated drain portion of the Surveyor's Office out of the maintenance funds was to help the Hendricks County Council in a time of budget constraints and the fact that it was not fair for citizens of the county to pay for services that would only benefit a small portion of those citizens. That seemed very unfair and my evaluation of the regulated drainage system had a public utility function and foundation.

If my interpretation of IC 36-9-27-29 is correct, then most of the expenses that were labeled as non maintenance will then fall into the maintenance category and the percentages of the non maintenance funds become almost negligible for all of the years audited. I believe that this is in fact the case.

Sincerely,

David L. Gaston

Hendricks County Surveyor