

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

AUDIT REPORT

OF

COUNTY DRAINAGE BOARD

PORTER COUNTY, INDIANA

January 1, 2006 to December 31, 2006



FILED

11/30/2007

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Surveyor	Kevin D. Breitzke	01-01-05 to 12-31-08
President of the Drainage Board	Joseph Harrison	01-01-06 to 12-31-07
President of the County Council	Daniel Whitten	01-01-06 to 12-31-07
President of the Board of County Commissioners	Robert Harper	01-01-06 to 12-31-07



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TO: THE OFFICIALS OF PORTER COUNTY

We have audited the records of the County Drainage Board for the period from January 1, 2006 to December 31, 2006, 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 Results and Comments. The financial transactions of this office are reflected in the Annual Report of Porter County for the year 2006.

STATE BOARD OF ACCOUNTS

September 10, 2007

COUNTY DRAINAGE BOARD
PORTER COUNTY
AUDIT RESULTS AND COMMENTS

CONDITION OF RECORDS

Two ledgers are maintained to account for the individual drain activity. One ledger maintains the activity of the Drain Maintenance Fund (90), while the second maintains the activity of the Drain Improvement Fund (91). Generally, for each drain requiring maintenance, an assessment is established and billed to the property owners affected by the drain. The assessment should be sufficient to cover the cost of the maintenance of the drain. The assessments billed, collected, and maintenance costs are accumulated by individual drain and in total in the Drain Maintenance Fund Ledger. If funds are not sufficient to cover the costs of maintenance of such drains, then the costs of maintenance of the drain is accounted for in the Drain Improvement Fund Ledger. The costs are also accumulated in the Drain Maintenance Fund Ledger as an amount payable to the Drain Improvement Fund; thus, the Drain Improvement Fund in this respect acts as a bank loaning funds to the Drain Maintenance Fund.

The County has set up exact replicas of the prescribed Drainage Fund Ledgers in a commercially purchased computer software program, Microsoft Excel (Excel). The activities have been posted in the prescribed record and in Excel files for the past two years. The balances recorded in the Excel files for the Drain Maintenance Fund for the assessed balances due did not agree to the balances reported in the prescribed record for many of the drains. The differences observed were significant.

The assessments posted for 2004 as "billed" for some drains were not correct based upon the assessment rolls. Some assessments posted were double the amounts per the assessment rolls, only a few were correct. For example, the Reeves - South Drain total assessments for 2004 were approximately \$62,105; however, the computer generated report of assessments billed for this ditch was \$125,925.14, and this is the amount that was posted by the Auditor as assessments billed. No one reviewed the records to compare to prior and subsequent years billings posted, or the discrepancies may have been discovered and resolved. Thus, the current unpaid assessments balance is inaccurate for most of the drains.

When drain maintenance is performed and paid for from the Drain Improvement Fund, due to the lack of funds available in the Drain Maintenance Fund, the cash balance in the Drain Improvement Fund for that drain is negative. This negative cash balance should agree to the "Due to the General Drain Improvement Fund" accounted for in the Drain Maintenance Fund ledger; however this is not true for the County due to posting errors. For example, the Auditor is reporting a Due to the General Drain Improvement Fund in the Drain Maintenance Fund of \$30,242.53 for the Breyfogle/Kithcart Drain, but the deficit cash balance of the Breyfogle/Kithcart Drain Improvement Fund is \$19,089.34. Amounts paid for from the Drain Improvement Fund are not always being posted against the "Due To" in the Drain Maintenance Fund. Amounts being transferred from the Drain Maintenance Fund to repay the Drain Improvement Fund were not always posted against the "Due To" balance maintained in the Drain Maintenance Fund. For example, a transfer of \$12,000 was made from the Breyfogle/Kithcart Drain Maintenance Fund in 2006 to the Breyfogle/Kithcart Drain Improvement Fund. The \$12,000 was correctly posted to the Drain Improvement Fund, but it was not recorded as a repayment of the \$30,242.53 Due to the General Drain Improvement Fund balance in the Drain Maintenance Fund.

COUNTY DRAINAGE BOARD
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

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:

- (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."

COUNTY DRAINAGE BOARD
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

ASSESSMENTS NOT ESTABLISHED

The following is a list of drains, the balance indicated as Due to the General Drain Improvement Fund in the Maintenance Fund, and the cash deficit balance indicated for the drain in the General Drain Improvement Fund for which assessments have not yet been established.

Ditch	Due to Drain Improvement Fund	Deficit Cash Balance in the Drain Improvement Fund
Cook - Dahl	\$ 68,355	\$ 19,400
Flint Lake/Garden Terrace	3,535	3,535
Kankakee River Basin Commission	4,430	6,084
Koselke North	6,000	6,000
Peterson	16,279	16,279
Phillips - Cornell	9,161	9,161
Smith	2,589	2,589
Smith Koselke	58,834	58,834

Indiana Code 36-9-27-39 states:

"When the board receives a maintenance report under section 38 of this chapter, it shall prepare a schedule of assessments that includes the following items:

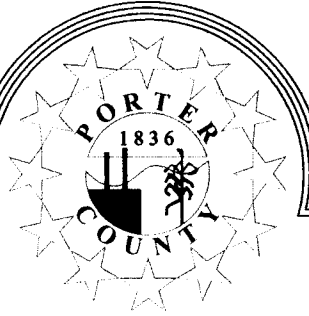
- (1) A description of each tract of land determined to be benefited, and the name and address of the owner, as listed on the county surveyor's report.
- (2) The percentage of the estimated cost of periodically maintaining the drain to be assessed against each tract of land. The percentage shall be based upon the benefit accruing to each tract of land from the maintenance, and must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.
- (3) The amount annually assessed against each tract of land for maintenance."

COUNTY DRAINAGE BOARD
PORTER COUNTY
EXIT CONFERENCE

The contents of this report were discussed on September 10, 2007, with Kevin D. Breitzke, Surveyor; and Joseph Harrison, President of the Drainage Board. The official response has been made a part of this report and may be found on pages 8 through 10.

COUNTY OF PORTER

PORTER COUNTY SURVEYOR
KEVIN D. BREITZKE, P.E., L.S.



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September 18, 2007
Bruce Hartman, State Board of Accounts
Porter County Administration Building
155 Indiana Ave.
Valparaiso, IN 46383

Subject: Porter County Drainage Board Unassessed Accounts/2006 Audit

Dear Mr. Hartman,

Michelle Janowski from your staff in Porter County met with Joe Harrison, Drainage Board Chairman, and myself the morning of September 10, 2007. Of the two pages, the first page and one-half on Condition of Records is under control of the Auditors Office; however, as always, we will work with that staff person to help with any recommendations. Apparently and possibly due to the very late tax collection in 2004, the Auditor's office made a double entry for drainage assessment collections in a column of questionable significance (i.e., it should not have been in the book) in their ledger during 2004, but only one column was considered and the appropriate tax bill went out in the October 2004. Only one entry appears on the monthly reports given to the Surveyor's Office by the auditor. This office reviews the monthly reports, which continue to appear to be okay with the correct balances throughout.

We continue to resolve issues and we believe that your citation of unassessed costs fails to recognize the fact that this sum is largely "unpaid but assessed" ditch accounts. This comment addressed possible excessive use of the maintenance monies and under-assessment of the ditches affected. It is important to remember that many, if not most, of these systems had little or no maintenance prior to 1996. The GDIF is a borrowing fund, which has been faithfully used to accomplish its purpose: maintenance of our ditches. The GDIF had been under-utilized to the point that in 1996 the State Board of Accounts had the Commissioners declare an excess of \$350,000 due to interest collected in order to repay the County General Fund for the original loan from Porter County Government. Of the twenty ditches identified, sixteen will pay back the borrowed amounts in less than two years. Two of the ditches with no further expense will be paid in full in three years. The final two of the twenty ditches, Krull Ditch and Casbon Ditch should be paid in full in about four years. Since 1996 or in the last ten years, we have assessed 155 square miles of watershed for ditch maintenance purposes to supplement the 36 square miles that were done in the previous thirty years.

We concur with your findings of unassessed drainage costs, which appeared in the books between 1984 and 1994 and as stated in previous audits. As you may recall, we remedied five (**Casbon, Krull, Phillips-Cornell (1 of 2), Pleasant Township, and Pope-O'Connor**) of nine ditch accounts identified in the 2000 audit, their amounts and the individual methods of repayment to the General Drainage Improvement Fund during 2001. In 2004, **Friday Ditch** (-\$1013.64) and **North Stimson**, AKA North Stimpson, (-\$270.93) were resolved by use of the emergency provisions of the statutes.

Four ditches are actively being considered for assessment to cover their arrears, but other ditches became higher priority for specific maintenance needs and are in force including Grieger Ditch (Reeves North), Crooked Creek North, Cornell Ditch and Cobb Branch of Sandy Hook Ditch. The four ditches include:

- 1) **Swanson-Lamporte Ditch** (-\$3,130.36) for which public hearings were held and assessments are being contested by a landowner through the courts since January 2006. During June 2007, we were given favorable responses on all counts, but the remonstrator appealed the Court's decision.
- 2) **Peterson Ditch** (-\$18,614.57), for which the office work is complete, but being discussed with the Towns of Porter and Chesterton since both have storm water boards with revenue streams; however, the PCDB wants the courts opinion on Swanson Lamporte before proceeding and may still consider a public hearing in 2007 or 2008.
- 3) **Flint Lake-Garden Terrace Drain** (-\$3535.00)
and 4) **Koselke North** (-\$6,000.00) are being considered for hearings later. Previous administrations during the 1980's and early 1990's had committed to do assessment roles, but lent monies without ever creating the assessments.

Markowitz Ditch (-\$9186.26) was engineered originally for private properties and was in process from 1952 to 1972, but the ditch was not constructed since it was stopped in the Courts by 1972 during which time legal fees were added to this debt burden. This land and watershed have long been owned by the National Park Service as part of the Indiana Dunes National Lakeshore, Mr. Breitzke has met with officials of the National Park Service, never received an official reply from the Solicitor of the NPS and brought it up with Superintendent Enquist again in August of 2006. At the October 9, 2007 regular meeting of the Drainage Board, we will propose a resolution to "write off the debt" into GDIF as we have exhausted all recourse to recover the money for a non-existent ditch.

Likewise, the **Smith, Koselke, Crooked Creek** study (-\$58, 834.32) was finished in 1973 and never assessed; however, the drainage board may consider apportioning the debt to the various recently assessed portions of the system including sequentially the Hotter Drain, Koselke Ditch, and South Crooked Creek.

Additionally, **Smith Ditch** owes \$2,589.46 to GDIF prior to 1985. This ditch is entirely within city limits of Valparaiso, which has a storm water management fee. We have proposed transfer of easement rights to the city; however, they have been reluctant to accept it. We will continue to explore possibilities to resolve this issue.

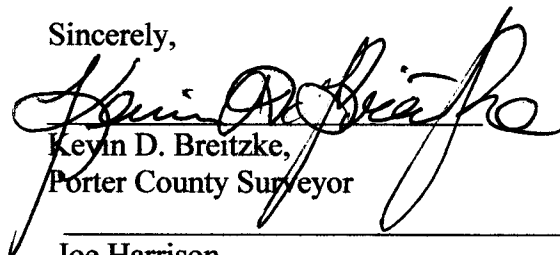
The **Kankakee River Basin Commission/ Kankakee River** (-\$6,084.43) was reimbursed from GDIF for emergency maintenance of a failing river bank around 1982 that the Porter County Drainage Board was responsible for. This was lent in anticipation of an assessment that later failed in Court during the early 1990's. Also, a proposal for the creation of a Kankakee River Authority failed to gain legislative support. It was proposed that the County Commissioners set aside \$20,000 from CEDIT for continuing maintenance of the river, but still has not been done to date.

The **Cook-Dahl** balances appear to be a book-keeping issue in the Auditor's Office, which I believe has been resolved. As of August 1, 2007, the balance in the Interest Maintenance Account #90 is in the black with \$4830.40 and the debt to GDIF (Fund #91) was \$11,762.25. Porter County made no tax collection in 2007 to date to make the annual payment to the account and LaPorte County contributes \$9976.80 annually for its share of this bi-county project.

Phillips-Cornell (#02301) debt (2 of 2, 1 of 2 was resolved) of \$9161.00 is being apportioned equally to the two existing ditch assessments, Phillips Ditch (#02300) and Cornell Ditch (#01450), by resolution in 2007 to eliminate that deficit. This was another example of work being done prior to 1985 on the premise that assessments were forthcoming.

Finally, we are making every effort to clear up the record having accomplished settlement for many long-standing issues while aggressively attending to the drainage needs of our citizens. Additionally, we will continue to make it our goal to modify these long used methods and conform to the best of our ability to the Guidelines Manual for Public Drainage Funds.

Sincerely,



Kevin D. Breitzke,
Porter County Surveyor

Joe Harrison,
Chairman, Porter County Drainage Board

KB/kdb