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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: NORTHWEST OF ZEELAND DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 10:00 a.m., on Tuesday,
November 30, 2021, at the Zeeland Charter Township Hall,
Zeeland, Michigan, held before Marjorie A. Covey, CSR-2616,
RPR, Certified Shorthand Reporter and Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Ms. Marie Snyder, Secretary
- Mr. Chris Machiela, Drain Inspector

- Mr. Bill Cargo, Board Chairman
- Mr. Rich VanderKlok, Board Secretary
- Mr. Todd Wolters, Board Member

- Mr. Dan Fredricks, Engineer, LRE
- Mr. Drew Stoffel, Engineer, LRE

- Mr. Tom Oonk, Zeeland Township Supervisor

- Mr. Jerry Olman, Ottawa County Road Commission

1 Zeeland, Michigan

2 November 30, 2021 - 10:00 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Well good morning,
5 everyone. It's a little bit after 10 o'clock. Welcome to
6 the Board of Determination for the Northwest extension
7 branch. This is a BOD that happened to be that we got a
8 petition in my office from Zeeland Township. And this is
9 kind of the proceeding on how this works for becoming a
10 county drain.

11 We're talking today about an orphan drain system,
12 it's a branch of one of the county drains that's a natural
13 stream. And it was not too long ago we got a petition and
14 this is why we're here at the township.

15 When we got the petition, I appoint three
16 gentlemen. And these three gentlemen are appointed by me who
17 is, again the water resources commissioner, also known as the
18 drain commissioner, same office, different title. But it's
19 the same department.

20 This is just a little bit of what I do on a daily
21 basis. I don't have BODs everyday but I have a lot of them.

22 What this really means is this is a determination,
23 when I appoint three gentlemen that have no affiliation with
24 the properties that we're talking about. They do not live in
25 the township. They don't own property in the said drain

1 district.

2 Everybody lives in a watershed. Everybody lives in
3 a drain district. Somewhere, somehow, your water sheds
4 somewhere.

5 When we first get a petition we notify everybody in
6 the drain district that we're holding a public hearing. This
7 is a legal part of Drain Code, of state law. This is what I
8 have to do in order to be able to work on something, if this
9 board determines this project.

10 We call it a project, we don't have a project. We
11 don't even know what the scope of the project is. We don't
12 know the cost. We don't know anything except we know there
13 is issues out here that have been going on for about three
14 years.

15 We know that it is an orphan system, and being an
16 orphan, I ask, how do we fix something that's an orphan?
17 Well petition by the people, petition by the road commission,
18 petition by MDOT, or petition by the township.

19 I received a petition by the township to see if
20 this board would move it forward or decline it. It's totally
21 up to this board.

22 And again, this board has nothing to do with
23 Zeeland Township board, planning commission, has nothing to
24 do with the politics of Zeeland Township, period.

25 And when I appoint these gentlemen or women, there

1 have been women before, they know Drain Code. They know
2 drainage, and they know a lot about the township ordinances,
3 zoning and just law in general, especially natural drain law,
4 they know quite a bit about it.

5 These three gentlemen have been on a lot of my
6 Board of Determinations, a lot of them, they get it. So when
7 I appoint them, those are the criteria, that it's not just
8 somebody off the street that has no idea about drainage and
9 what today's proceedings is for.

10 Today isn't to say, you're going to have a project,
11 we're going to assess these people and here is what we're
12 going to do. They don't have anything to do with the
13 assessments, the assessment roll is strictly by me. I make
14 the apportionments, I do the rolls.

15 Their job and task today is just to say, Joe, we
16 see a problem out here, move forward with a project. You
17 determine the scope of that by an engineering firm and
18 working with the people out there, the property owners.
19 That's why we're here today.

20 There has been a lot of issues in the last three
21 years out there in this particular area that we're going to
22 talk about today, out of my jurisdiction. It's out my
23 wheelhouse. I don't have any control, I have no easements.

24 Every drain is a legal body. It can be sued or sue
25 the drain district, but the drain district has to have a

1 route and course, and it has to have easements on it. I
2 don't have either one of those on this branch we're talking
3 about, zero.

4 So when I was talking to the township, I'm like,
5 hey, petition, that's the way to start the proceedings.
6 Again this is a legal situation. That's why I wanted
7 everybody to sign in.

8 Every meeting has a court reporter. So Margie is
9 here today. This is not required by state law. I have this
10 to protect everybody involved, whether you're here as a
11 public, or if you're here as the BOD, or if you're here as
12 the township, road commission, and myself, the county.
13 Everything is court recorded word for word, and I've been
14 doing this since I started when I got elected.

15 I said, you know what, we need good minutes of
16 every BOD. You can always go back and reference anything you
17 want at any point, what Joe said, what the BOD said, what was
18 determined, was it determined necessary or not.

19 So everything I'm saying is word for word. There
20 has been a lot of accusations out there that I said this,
21 said that. It's word for word today. So I'm hoping
22 everybody gets up and talks today. If you got problems, if
23 there is issues, if there is flooding, let us know about
24 them.

25 When there is a petition, it opens up the whole

1 drain. So not only the branch we're talking about, it
2 actually opens up everything downstream. But the engineer
3 will give a report. We've been cleaning the Northwest of
4 Zeeland Drain out for many years. Since I've been elected,
5 we've pretty much cleared that whole drain out. Is there
6 issues? Let us know about it, we'll go out there and fix it.

7 So we always have a court recorder at everyone of
8 these. Today being the situation, I even invited my legal
9 counsel here.

10 So Steve Koski has been involved with drains for as
11 long as he's been with the firm out of Lansing. That firm
12 actually represents the Michigan Association of County Drain
13 Commissioners, which I was the president of for the past
14 three years, not any longer. But three years, my max term
15 limit. Actually two but I stayed an extra year.

16 So I'm no longer the president, but the firm is
17 still the firm for MACDC, and you work for probably 40
18 different county commissioners across the state. So they
19 know drainage and drain law better than anybody in the state
20 is sitting right here, and your firm. There are several that
21 have been doing it for 25 years.

22 BOARD MEMBER BILL CARGO: What firm?

23 ATTORNEY STEVE KOSKI: Fahey, Schultz, Burzych,
24 Rhodes.

25 WATER RESOURCES COMM. JOE BUSH: And I will go

1 ahead and do introductions and name the three gentlemen that
2 are my BOD.

3 We have Bill Cargo, we'll go from left to right,
4 Bill Cargo is the superintendent or manager of Grand Haven
5 Township.

6 In the middle is Rich VanderKlok, and he was the
7 township board member for many, many years at Georgetown
8 Township, has since retired. And he does a lot of BODs.
9 He's very familiar with the process and how it goes.

10 And then we have Todd Wolters who is still the
11 current supervisor in Olive Township. And he's been on a lot
12 of these BODs as well.

13 So these are the three gentlemen that I appointed.

14 Once I give them the oath, they'll run the meeting.
15 All the questions, be sure to ask them.

16 Everybody has a chance to talk to today, but be
17 sure -- once I give them the oath, they're running the
18 meeting. But I'm sure there will be some questions and
19 answers, that's up to the board. They run their meeting how
20 they want to run it, not how I want to run it because I'm
21 neutral in this. I just appoint them and let them run with
22 it.

23 These three gentlemen don't even know the issues
24 out there. I haven't called them, you can't accuse me of oh,
25 I'm sure they know everything. Nope. They haven't even

1 visited the site, nor have they been called. I haven't
2 talked to them.

3 The only thing we do is my secretary will ask them,
4 do you want to be on the BOD. That is it, and that's
5 recorded. So they have not been called, they don't know
6 anything about what's going on out there. And I like it that
7 way. It's your guy's -- this is your guy's Board of
8 Determination.

9 So after I give them the oath, I'll sit down and
10 they'll run the meeting. And make sure you speak your name
11 loud and clearly when you do give public comment, so again
12 Margie can get it.

13 A couple of the other introductions. We have Jerry
14 Olman from the road commission. We have Tom Oonk, supervisor
15 of Zeeland Township. My staff, my secretary, Marie, she's in
16 the back.

17 Then we have two guys, engineers from LRE who I
18 kind of did a brief synopsis of, hey, go out, get some
19 photos, get some idea of what's going on out there,
20 water-wise, right. That's what we're here for is water and
21 flooding and issues.

22 So Dan Fredricks, he is one of the owners of Land
23 and Resource Engineering, with Drew, one of the engineers who
24 has actually been in the field and done the field inspection.

25 Then we have Chris Machiela, my drain inspector.

1 He's been out there I don't know how many times. I probably
2 have myself 20 hours invested in this situation.

3 Jerry has been out there, I'm sure he'll give
4 public testimony later.

5 And I will be more than happy to give my side, if
6 it needs to be, after everybody talks, if the board decides
7 they want that.

8 So, gentlemen, please rise. Raise your right hand.

9 Do you each solemnly swear that you will faithfully
10 perform and discharge the duties imposed upon you as required
11 by law as members of the Board of Determination, appointed by
12 the Ottawa County Water Resources Commissioner, to determine
13 the necessity to maintain and improve the Northwest of
14 Zeeland Drain located in Zeeland Charter Township and Blendon
15 Charter Township in said county, gentlemen?

16 BOARD MEMBER BILL CARGO: I shall.

17 BOARD MEMBER RICH VANDERKLOK: I will.

18 BOARD MEMBER TODD WOLTERS: I will.

19 ATTORNEY STEVE KOSKI: And you see the testimony
20 cards that are up there, if you want to give public comment,
21 we just ask that you put your name and fill out the
22 information on them so that we have those; one, so that they
23 can be part of the record, and two, if the drain office needs
24 to follow-up with anybody, they'll have your information and
25 whatever issue you have.

1 BOARD MEMBER BILL CARGO: Thank you.

2 First thing we need to do is do the election of a
3 chair and the election of a secretary.

4 Do I have a motion for the election of a chair?

5 BOARD MEMBER RICH VANDER KLOK: I make the motion
6 that Bill Cargo serve as chairperson.

7 BOARD MEMBER TODD WOLTERS: Support.

8 BOARD MEMBER BILL CARGO: Motion by Rich, supported
9 by Todd that Bill Cargo be the chair.

10 All in favor, say aye.

11 BOARD MEMBER RICH VANDERKLOK: Aye.

12 BOARD MEMBER BILL CARGO: Aye.

13 BOARD MEMBER TODD WOLTERS: Aye.

14 BOARD MEMBER BILL CARGO: All opposed?

15 Then I'll make a motion that Rich VanderKlok be
16 chosen as secretary for this board of review.

17 Do I have support?

18 BOARD MEMBER TODD WOLTERS: Support.

19 BOARD CHAIR BILL CARGO: My motion is supported by
20 Todd.

21 All in favor, say aye.

22 BOARD MEMBER RICH VANDERKLOK: Aye.

23 BOARD CHAIR BILL CARGO: Aye.

24 BOARD MEMBER TODD WOLTERS: Aye.

25 BOARD CHAIR BILL CARGO: And, Rich, you are the

1 secretary for this board of review.

2 Now we do talk about rules of the public hearing.
3 And typically we have a motion to limit public comments to
4 three minutes. I will be a little bit flexible on that, but
5 quite frankly you can summarize War And Peace in three
6 minutes. And we're simply here to determine if there is a
7 problem or not.

8 So I will make a motion that the public testimony
9 or public comments be limited to three minutes.

10 Do I have support on that?

11 BOARD SECRETARY RICH VANDER KLOK: I'll support
12 that.

13 BOARD CHAIR BILL CARGO: I have a motion on the
14 floor, supported by Rich.

15 Any comments?

16 If not, all in favor, say aye.

17 BOARD SECRETARY RICH VANDERKLOK: Aye.

18 BOARD CHAIR BILL CARGO: Aye.

19 BOARD MEMBER TODD WOLTERS: Aye.

20 BOARD CHAIR BILL CARGO: And again that passes
21 without objection.

22 That said, I'm going to ask for some presentations,
23 first of all from the engineer.

24 Dan, do you have a presentation you can make on
25 this drain?

1 ENGINEER DAN FREDRICKS: Yes, I have a PowerPoint
2 right here.

3 Again my name is Dan Fredricks with Land and
4 Resource Engineering. We were asked by the water resources
5 commissioner to go out and take a look at some of the areas
6 of concern along the Northwest branch, or within the drainage
7 district, I should say, and we're going to kind of go over
8 those today quick.

9 So just a brief overview, we're going to reiterate
10 why we are here, give a brief overview of the drain and some
11 of its history, and then we'll go into some of the drainage
12 issues we're seeing out there, and what's going to happen
13 next.

14 So as Joe alluded to, the water resources
15 commissioner received a petition from the Zeeland Township
16 under Chapter 8 of the Drain Code for maintenance or
17 improvements to the drain. As Joe indicated, it's part of
18 Drain Code. They have to hold a Board of Determination to
19 determine whether the petition is necessary or not, that's
20 why we're here today.

21 And the board is going to hear all testimony, and
22 then make a decision based on public health, welfare,
23 convenience and whether or not the project is necessary, or
24 petition is necessary.

25 So -- oops, sorry. This is the drainage district,

1 which is the, basically the watershed that contributes to the
2 Northwest of Zeeland Drain. The drain itself was established
3 back in 1909. It's just over -- almost 11,000 feet in
4 length, flows along New Holland Street to the north, and then
5 kind of heads to the southwest where the legal terminus is at
6 96th Avenue.

7 There is also a branch which was constructed after
8 that drainage district map was made, which is about 3500 feet
9 long, within section six of Zeeland Township.

10 It's the -- I guess one thing to note here. So the
11 drainage district itself here, the contributing drainage area
12 to this drain goes from 96th on the west side to east of 80th
13 on the east side, and then from about Quincy Street or a
14 little north of Quincy, up to New Holland. So it's just
15 under two square miles. So that kind of gives you an idea of
16 the watershed that contributes to this established county
17 drain.

18 This is a more updated map. Again, the red line
19 here delineates the drainage district. That was done back in
20 1984. It hasn't been updated since then. But that's the
21 drainage district that contributes to the drain here which is
22 shown in blue.

23 Now the area of concern is within the drainage
24 district, but it is not a part of the legally established
25 county drain. And that's this watercourse shown right here

1 in green, which is a natural, private watercourse, basically,
2 at this time.

3 So that's, again, this kind of area of concern,
4 that's kind of highlighting, again, this yellow line right
5 here, or green line, I guess it is.

6 Just to reiterate, right now this is a tributary to
7 the drain, but it is not part of the legally established
8 drain, which means the drain commissioner, the water
9 resources commissioner has no jurisdiction over that
10 watercourse right now.

11 And then that's why we're here with the petition,
12 because the petition, if there was going to be any work or
13 improvements or modifications made to this waterway, it would
14 first have to become part of the established county drain.
15 And the only way it can do that is through a petition
16 process, if it's found necessary, then it could be. Even if
17 we go forward and determine the petition is necessary, it
18 does not necessarily mean that this will become an
19 established drain. It just means it could be potentially.

20 As Joe had indicated, there has been a lot of work
21 continually done along this drain. So originally, like we
22 said, it was established back in 1909. Several petitions,
23 most recent one was back in 2005, which included that
24 3500-foot long branch that we talked about.

25 And then since Joe has been in office, there has

1 been numerous maintenance work, primarily brush removal and
2 corn silage will get clogged up in the drain and have to be
3 removed.

4 BOARD CHAIR BILL CARGO: Dan, can you go back to
5 the slide before that? Are you saying there has been
6 maintenance on the green portion?

7 ENGINEER DAN FREDRICKS: No, no. The established
8 drain.

9 BOARD CHAIR BILL CARGO: So there has been nothing
10 don on the green portion because you don't have any
11 easements, and you don't have any legal authority to do that?

12 ENGINEER DAN FREDRICKS: No legal jurisdiction.

13 BOARD CHAIR BILL CARGO: Okay. I just wanted to
14 clarify that.

15 ENGINEER DAN FREDRICKS: No, a great question.

16 So from our understanding of what's been conveyed
17 to us, the -- one of the main issues along this natural
18 drainage way, this point of contention, is property owners
19 north of Ransom are complaining about the amount of flow
20 that's being generated south of Ransom, and discharging onto
21 their properties.

22 So one of the things, it's my understanding that
23 wants to be done, is they want to block off the natural flow
24 of drainage at Ransom Street. And I think Jerry Olman will
25 probably talk a little bit more about that.

1 But one thing to note here is that there is a fair
2 amount of topography, just from 80th Avenue to downstream of
3 Ransom Street, this short little section, this is the
4 700-foot contour here up at 80th, and going into this field.

5 And then you already get to 690 there. And then as
6 you keep going there is another almost 20 feet of fall from
7 Ransom Street to 4th. So there is a fair amount of drainage,
8 of gradient in this area.

9 This would be -- and there is a county road culvert
10 at 80th Avenue. There is a county road culvert, county road
11 at Ransom Street. And there is a county road culvert at
12 84th.

13 BOARD CHAIR BILL CARGO: And again, Dan, a question
14 for you, is blocking the natural flow of a watercourse legal?

15 ENGINEER DAN FREDRICKS: No, under the natural
16 drainage law, that's like --

17 BOARD CHAIR BILL CARGO: So that's not an option,
18 is what I just wanted to clarify.

19 ENGINEER DAN FREDRICKS: No.

20 BOARD CHAIR BILL CARGO: I understand. I just
21 wanted -- because you said that's what they wanted to do, I
22 wanted to know if it was legal.

23 ENGINEER DAN FREDRICKS: That's my understanding.
24 That's my understanding.

25 BOARD CHAIR BILL CARGO: But it's not legal to do

1 that, that is not a solution?

2 ENGINEER DAN FREDRICKS: I would say, yes.

3 BOARD CHAIR BILL CARGO: Okay, that's all.

4 ENGINEER DAN FREDRICKS: So then, again, from the
5 board's perspective here to look at public health, welfare,
6 convenience.

7 Some of the things just kind of looking at this
8 area of concern in general is that we noticed that there have
9 been some land use changes in the past 20 years. We did note
10 some areas of erosion that were contributing sediment and
11 nutrients to the actual drain itself, the established drain
12 itself. There is some undersized culverts or potentially
13 undersized culverts that we noticed along the watercourse
14 here.

15 And then within the drain itself, as we mentioned,
16 this is within the established drain, there is a lot of --
17 it's prone to getting corn silage and different obstructions
18 in there. That seems to be kind of a routine maintenance
19 concern.

20 So one area of development that's happened, this is
21 this watercourse here (indicating) this unestablished drain
22 watercourse, starting from New Holland, that would be the
23 downstream end of it, and then going upstream to the
24 southeast across Ransom and to 80th Avenue.

25 These are some historic aerials. You'll see this

1 property right here, this former ag area, in '97 nothing was
2 built there. And then in 2021 aerial there has been the
3 Sylvia Lane cul-de-sac put in there, and several properties
4 including one property that has a driveway culvert that goes
5 through that watercourse in dispute, the area in concern.

6 This is just kind of a blowup of -- this is an
7 aerial from a few years ago, and then this is -- the house is
8 relatively new here but you can see here is the watercourse,
9 and the driveway is being filled over that, and we've got
10 some photos of the actual culvert itself.

11 Some other things that -- so again there has been
12 some development along the actual water course. There is
13 also just -- I want to get you guys familiar and show you a
14 couple photographs of the area.

15 So this is kind of the downstream end of the
16 watercourse as it flows basically across a field that's
17 actively worked. It's my understanding that the landowner
18 ideally would like to be able to farm all the way through
19 that waterway.

20 And now, there is a lot -- because there is so much
21 frequent flow through it, it's hard for them to basically
22 farm through that waterway like they would want to. So
23 that's a point of contention.

24 It is also, when you do have farming practices like
25 that, you're obviously, there is no buffer. You're going to

1 get sediment and nutrients running off from that farm field
2 into the drain, and ultimately outletting into the
3 watercourse which ultimately outlets into the established
4 drain along New Holland Street.

5 We also noticed on that same field there another
6 waterway, where sometimes it will divert and go almost due
7 north to New Holland Street. And you can see like a gully
8 type cut happening here, where we're getting erosion which is
9 contributing directly into the main drain along New Holland
10 Street.

11 And then another area that we saw of erosion is
12 just -- so this is 80th Avenue. This is looking downstream,
13 along this curve right here, which would be bending up
14 towards Ransom. And at this point, the water -- there is a
15 36-inch culvert at 80th Avenue, and then there is this grass
16 waterway which is, I don't know, it's a foot or more at least
17 above the culvert inlet.

18 And it looks like there may have been -- right now
19 there is a new tile, like a ten inch, I believe, that goes
20 under that and can take some of that water there. But we
21 also noticed a few sink holes, so there may be an old clay
22 tile in there too.

23 UNIDENTIFIED SPEAKER: They're muskrat holes.
24 There was no tile ever in there.

25 ENGINEER DAN FREDRICKS: Okay. All right. Well

1 there you go. Then we got muskrats to blame for that one.
2 We can let that one go then.

3 BOARD MEMBER TODD WOLTERS: That picture was
4 upstream of --

5 ENGINEER DAN FREDRICKS: This one is just
6 downstream of 80th. So there is -- right here there would be
7 a 36-inch culvert. And then there is this grass waterway
8 which would take more the surface runoff from the actual
9 property itself. Or if the water gets high enough, like in a
10 larger flood event, it will flow through that.

11 But the normal subsurface drainage that's being
12 conveyed across 80th goes into a 10-inch tile which is in
13 this little basin right here that goes under that and it's
14 conveyed.

15 BOARD MEMBER TODD WOLTERS: So the flow is coming
16 our way from here this direction?

17 ENGINEER DAN FREDRICKS: No. It's deceptive, but
18 the flow is actually -- correct me if I'm wrong, Drew, but
19 it's actually going this way.

20 UNIDENTIFIED SPEAKER: Going north.

21 ENGINEER DAN FREDRICKS: And then a couple of the
22 other things we noted along here were some undersized tiles.
23 Again, it's potential drainage impairments along the drain
24 itself.

25 So just to -- just upstream, or to the east of 84th

1 Avenue here -- 84th has a 48-inch corrugated metal pipe
2 culvert. And then several hundred foot section of the
3 watercourse has been enclosed in a 15-inch tile.

4 So you got this whole -- the watercourse goes here,
5 then it has to go through a 15-inch tile to get into the
6 48-inch culvert that goes across the road. So that would
7 appear to be undersized.

8 BOARD CHAIR BILL CARGO: Again the flow is going to
9 go back --

10 UNIDENTIFIED SPEAKER: The water goes over the top
11 of that.

12 BOARD CHAIR BILL CARGO: If you could give me the
13 flow on that previous picture.

14 ENGINEER DAN FREDRICKS: The water is going -- this
15 would be the outlet of it.

16 BOARD CHAIR BILL CARGO: Okay.

17 ENGINEER DAN FREDRICKS: And then this is the
18 upstream end, which is submerged. And then that's the
19 watercourse coming through the back side there.

20 So this is looking upstream again from the inlet to
21 that.

22 BOARD CHAIR BILL CARGO: So these drainage pipes
23 have been put in there by the property owner? Their private
24 pipes?

25 UNIDENTIFIED SPEAKER: The one that's --

1 THE REPORTER: I just need to know who's talking.

2 UNIDENTIFIED SPEAKER: Don Boersen.

3 THE REPORTER: Thank you.

4 MR. DON BOERSEN: That pipe was put in there long
5 before we bought that property just to get rid of the excess
6 water. The majority of it flows over the top.

7 ENGINEER DAN FREDRICKS: Okay. So during a high
8 rain event when you get a flood flow, it would just overtop
9 this --

10 BOARD CHAIR BILL CARGO: Okay.

11 ENGINEER DAN FREDRICKS: -- and go downstream.

12 This is a picture of the twin -- there is a 12-inch
13 and a 15-inch culvert that was put in a little further
14 upstream. This is at that driveway crossing that we showed
15 that was put in across the watercourse at Sylvia Lane.

16 Again, just something to note is that directly
17 downstream of that there is a 48-culvert and we have a 12 and
18 a 15 there.

19 So again, I guess kind of what we've seen in there
20 is some areas of erosion, some potential undersized culverts.
21 That's basically as far as going out there and looking at
22 some of the drainage issues, that's what we're seeing out
23 there.

24 Obviously, at this point we'll open up to hear the
25 public testimony because that's what the BOD is here for.

1 If the petition is not found necessary, then you
2 can't file a petition for at least another year.

3 If it is found necessary, and work was going to be
4 done somehow along this watercourse to establish it as part
5 of the drain as a branch or an extension of the existing
6 drain, then there is easements that have to be done.

7 You cannot establish a drain without easements, so
8 easements would have to be done. Any work that's done along
9 that, because it is a natural watercourse right now, will
10 have to get permits from the state, from the Department of
11 Environment, Great Lakes & Energy, formerly the Development
12 of Environmental Quality.

13 So you have to get permits, easements. Obviously
14 do an engineering study and survey out there to determine
15 what would need to be done. And then ultimately bid the
16 project out to qualified construction contractors to actually
17 complete the work.

18 So with that, I thank you for your time and I'll
19 turn it back to the board.

20 BOARD CHAIR BILL CARGO: Okay. Appreciate that.

21 We also have Jerry from the road commission here,
22 the Ottawa County Road Commission.

23 Jerry, is there any comments you would like to make
24 regarding this?

25 ROAD COMMISSION JERRY OLMAN: Yes. As far as the

1 culverts go, as Dan mentioned we have culverts under 80th,
2 Ransom, and 84th. All three are in good to fair condition,
3 seem to be functioning fine.

4 Around the middle of October I did receive a phone
5 call that the Ransom Street culvert was plugged. So I went
6 out to investigate and the downstream end had a bunch of
7 debris plugged, shoved in it by someone. It wasn't naturally
8 by the flow of being plugged. It was rock and other debris
9 that was shoved in there to block the flow.

10 So we had to take resources away from, you know,
11 men and equipment away from other projects to come out and
12 spend money to remove that debris to get it functioning
13 again.

14 I did -- since I had no idea who did it, I sent a
15 letter to the immediate downstream property owner. And I got
16 a call back a couple days after sending the letter, and we
17 had a good conversation. And I trust that he's not the one
18 that plugged it up. So somebody in the area downstream did
19 that.

20 But the point is, you know, not only we had to take
21 resources away from other projects to do that, that never
22 should have happened to begin with. It could also be a
23 problem for the road if we do get a heavy rain and it's
24 plugged, it could blow out the road and cause even a bigger
25 problem.

1 BOARD CHAIR BILL CARGO: Jerry, are the culverts
2 under those three roads, do you believe they're undersized or
3 are they sized properly?

4 ROAD COMMISSION JERRY OHLMAN: I believe they're
5 probably sized appropriately. I don't see -- a good
6 indication is if there is a lot of scour on the downstream
7 end.

8 BOARD CHAIR BILL CARGO: Okay.

9 ROAD COMMISSION JERRY OHLMAN: And we don't have
10 that. So I would say that they're probably appropriately
11 sized.

12 BOARD CHAIR BILL CARGO: Okay, appreciate it.

13 Any other questions from the board members to the
14 engineer or to the road commission?

15 BOARD SECRETARY RICH VANDER KLOK: None at this
16 time.

17 BOARD MEMBER TODD WOLTERS: The downstream flow
18 near 96th Avenue has been able to handle the flow of what's
19 coming in that direction right now?

20 ENGINEER DAN FREDRICKS: The drain itself?

21 BOARD MEMBER TODD WOLTERS: Yes.

22 ENGINEER DAN FREDRICKS: From my understanding,
23 yes. We haven't done any hydrological or hydraulic counts to
24 see what the capacity is; but, yeah, anecdotally.

25 BOARD MEMBER TODD WOLTERS: Okay.

1 BOARD CHAIR BILL CARGO: At that stage we're going
2 to take public comments. I'd simply ask that you stand where
3 you are, and give us your name, give us your address, and
4 then you can share whatever comments you have, either that
5 you think there is a problem because of A, B or C; or you
6 don't think there is a problem at all. And that would be
7 helpful for us.

8 So what I'm going to do is I'm going to start from
9 my left, and the first row, just go through this. And then
10 I'll do the same with the second row.

11 So I'll start out with the individual at the end.
12 If you want to make a comment, give your name and address.

13 MR. HEATH WESTRA: My name is Heath Westra.
14 Address is 4520 80th.

15 So this all started with the very beginning of the
16 green up there is a building. And for some reason the
17 proposed drain comes out of the back of the building.

18 And there is no pictures of, it would be the south
19 side of Ransom where there is eight-inch tiles, three of them
20 put together where the land, I'll show you, the land is
21 illegally tiled.

22 So there is 45 acres here (indicating) and 30 acres
23 here (indicating), that's all concentrated, and you seen the
24 green valley all dry. Underneath that is all the water
25 concentrated on everybody else's land. It's illegal. You

1 know that.

2 BOARD CHAIR BILL CARGO: A question. With the,
3 when they put tile on private property, is that an illegal
4 drain? I'm not familiar with that.

5 ATTORNEY STEVE KOSKI: No. I think it's important
6 to understand that the drain overview here shows you the red
7 is the drainage district, and the drain commissioner, while
8 the water resources commissioner has jurisdiction over the
9 blue, the legally established, which the drainage district is
10 all of the lands that contribute water to the blue. But that
11 doesn't mean that the water resources commissioner has
12 jurisdiction over every type of drain that falls within that
13 drainage district.

14 You have legally established county drain, but then
15 you also have road commission drainage and you have private
16 drainage.

17 And so that's what this is right now. This is
18 predominantly a private drainage issue. And so there are --
19 like Dan talked about the Natural Flow Doctrine, in general,
20 in Michigan, you have a right to have water, surface water
21 flow from your property, especially one property to a lower
22 elevation property. You have the right to have that not be
23 impeded.

24 BOARD CHAIR BILL CARGO: Okay.

25 ATTORNEY STEVE KOSKI: In the same respect, you

1 don't have the right to collect and like, you know, make --
2 contribute a ton of excess water by building other things,
3 but that doesn't mean that you can't tile your property and
4 do other things to prevent pooling of water on your property.

5 BOARD CHAIR BILL CARGO: Okay. I appreciate the
6 clarification. Any other --

7 MR. HEATH WESTRA: It's illegal to tile
8 agricultural land, concentrated on other people's property.
9 Correct?

10 UNIDENTIFIED SPEAKER: It's also --

11 UNIDENTIFIED SPEAKER: Well the --

12 THE REPORTER: Wait a minute. I can only take one
13 person at a time. I apologize.

14 BOARD CHAIR BILL CARGO: So your question to the
15 attorney is --

16 MR. HEATH WESTRA: My question is is it illegal to
17 tile agricultural property, concentrated over others?

18 ATTORNEY STEVE KOSKI: Well and I know that this is
19 a current legal action, and so I don't know the facts -- we
20 haven't seen any studies about -- I can't stipulate to the
21 fact that this is being concentrated and being put on.

22 Generally, like I said, you can't add a bunch of
23 water and dump that onto the lower estate, that's not part of
24 the natural flow.

25 BOARD CHAIR BILL CARGO: So there is a legal case

1 ongoing as to whether this constitutes concentrating the
2 water from their land and putting it on -- but that's a civil
3 action, correct?

4 ATTORNEY STEVE KOSKI: That's my understanding is
5 there is a civil action going on right now. Because like I
6 said, this is -- for all intents and purposes, this is a
7 private drainage matter right now. In which Dan and Joe both
8 were alluding to the fact that while this is within the
9 drainage district, this is not something that is currently
10 under his jurisdiction.

11 BOARD CHAIR BILL CARGO: Okay.

12 Any other comments you'd like to make?

13 MR. HEATH WESTRA: Yes, I'd like to say Joe Bush
14 said this all started three years ago exactly when said
15 neighbor illegally tiled.

16 BOARD CHAIR BILL CARGO: Okay.

17 MR. HEATH WESTRA: So let somebody else talk.

18 BOARD CHAIR BILL CARGO: Appreciate it.

19 MR. HEATH WESTRA: Oh, one more thing.

20 BOARD CHAIR BILL CARGO: Yep.

21 MR. HEATH WESTRA: The landowners will not grant
22 easements. The majority of the landowners will not grant
23 easements for this project.

24 BOARD CHAIR BILL CARGO: Okay.

25 Gentleman next to him? Would you like to stand up

1 and give your name and address, and then you can make your
2 comments.

3 MR. WESLEY WESTRA: Wesley Westra, 4570 80th
4 Avenue.

5 So I farm, my dad and brother, this section here
6 (indicating), which we never had much problems with until it
7 was probably about five years ago that this piece here got
8 tiled (indicating). Then about two years ago, this piece got
9 tiled (indicating).

10 BOARD CHAIR BILL CARGO: Okay.

11 MR. WESLEY WESTRA: So it's been flooding ever
12 since. That's why it's under legal action right now.

13 BOARD CHAIR BILL CARGO: Now do you have private
14 tiles on the acreage that you farm? Do you have private
15 tiles there?

16 MR. WESLEY WESTRA: No.

17 BOARD CHAIR BILL CARGO: Okay. So you just have
18 open drain at that location?

19 MR. WESLEY WESTRA: Just open drain.

20 BOARD CHAIR BILL CARGO: Okay, thank you.

21 MR. WESLEY WESTRA: And the next farmer down,
22 Boersen farms this and he's had no problems until this tile
23 was put in also, you know. So that's why we're all here
24 basically.

25 BOARD CHAIR BILL CARGO: Okay. I appreciate it.

1 And the gentleman next, if you'd stand and give
2 your name and address.

3 MR. MARLIN WESTRA: Marlin Westra, 4570 80th
4 Street.

5 And I'm going to repeat the same thing, basically.
6 I'm the owner of the land that the tiles are being drained
7 on.

8 So I'm right here. And when Mr. Slagh tiled all
9 these, he's supposed to have a county drain to put it in.
10 He's running it over all private property here. It goes
11 through this, and that's why we've had trouble.

12 For 170 years this ground has been farmed from the
13 time it started. Nobody has ever complained once until they
14 tiled this all.

15 Not only does he tile, but he put the tile
16 underneath by that road that he shows collects all that extra
17 water. That water comes flowing so fast underneath, that
18 makes it all the worse here (indicating).

19 BOARD CHAIR BILL CARGO: So he's installed -- did
20 he put in a tile or did he put in a tile and an under drain?

21 MR. MARLIN WESTRA: You seen that green waterway?

22 BOARD CHAIR BILL CARGO: Um-hum.

23 MR. MARLIN WESTRA: And that catch basin, he
24 catches all the water from the field across the road. It
25 goes through there, comes flying through that, which is

1 illegal to do because he's speeding it up. He's collecting
2 more water. Plus all the tiles.

3 We have no trouble -- if he shuts his tiles down,
4 we wouldn't be here today.

5 That water runs through here, 365 days a year.
6 Otherwise the only time is when it rains, the next day it
7 dries right up, we have no problem.

8 We used to hay this here. Fact is Don Boersen
9 would come and I would cut this hay in this ditch. Now it's
10 wet 365 days a year because of his tiling.

11 BOARD CHAIR BILL CARGO: Okay.

12 MR. MARLIN WESTRA: And we're working with Farm
13 Bureau right now. And Farm Bureau ladies were here a couple
14 summers ago, said it was totally illegal, and now we're
15 working with them. And they're going to -- we're going to
16 have to get a lawsuit. That's all it is and they're going to
17 be working with us.

18 BOARD CHAIR BILL CARGO: Have you started a lawsuit
19 at this stage or not?

20 MR. MARLIN WESTRA: I don't know. I think so.

21 UNIDENTIFIED SPEAKER: Yes, they did.

22 BOARD CHAIR BILL CARGO: Okay. I appreciate it.
23 Thank you.

24 And, madam, your name and address?

25 MS. MARY WESTRA: Mary Westra, 4570 80th.

1 So I wanted to say that the word that, key word for
2 me was the man talked about the drainage, was this is a
3 natural waterway. This was a natural waterway, that green
4 line, for over 170 years, like Marlin has said. And there
5 was never any trouble with water draining.

6 Now after Mr. Slagh put his tile in, if you stand
7 by the road in the spring when all the spring rains come,
8 that water is rushing through there. And it gains speed.
9 This is flowing -- it's flowing north. But as it flows from
10 the start of that green line, it's going downhill, as you
11 said before, and it is gaining speed.

12 And as it gets to the end, it does more and more
13 damage. The time it goes through our land, then it goes to
14 Don Boersen's land. By the time it gets to Don's land, what
15 used to be a ditch, they showed a picture of it, is now a
16 small river if you watch it in the spring. You would just be
17 amazed how that water is just rushing through there.

18 And it's all because of the tiling done on Mr.
19 Slagh's land. That never did that before.

20 BOARD CHAIR BILL CARGO: Okay. Appreciate it.

21 I have a question for the engineer.

22 Between Ransom Street and New Holland Street,
23 they're talking about the tiling that occurred to the south
24 of Ransom Street. Is there any tiling that has occurred or
25 exists between Ransom Street and New Holland Street?

1 ENGINEER DAN FREDRICKS: That's all private, I
2 don't know.

3 BOARD CHAIR BILL CARGO: Okay. You didn't take any
4 pictures? So the pictures you have --

5 ENGINEER DAN FREDRICKS: The -- I mean the photos
6 that we were showing there where, you know, this is -- I
7 don't know if this is a tile. It's a 12-inch PVC pipe that
8 looked like more of an enclosure I would call it.

9 BOARD CHAIR BILL CARGO: Okay.

10 ENGINEER DAN FREDRICKS: And then same with, like,
11 the driveway culvert, I would consider those more culverts
12 than necessarily tiles.

13 I mean you can see the grids of the tiling south of
14 Ransom. But we didn't look in particular to figure out if
15 there were any other --

16 ENGINEER DREW STOFFEL: Dan, I was out in the field
17 and I didn't see any indication of subsurface field tiles.
18 Most of the drainage patterns looked like they were on top of
19 the surface and went into the watercourse.

20 BOARD CHAIR BILL CARGO: Okay. I appreciate it.

21 BOARD MEMBER TODD WOLTERS: Referring back to that
22 15-inch tile, it really isn't blocking up the flow because of
23 the fact that the landowner has it allowed to go over the top
24 of the ground if it gets backed up there, if it starts
25 flowing that heavily?

1 ENGINEER DAN FREDRICKS: It would overtop that,
2 sure. But does that mean that it's as efficient as if it was
3 wide open? I would say no.

4 Because it's got to -- there is some level of fill
5 over that pipe, right? So it has to stack up to that level
6 before it's even going to overflow.

7 BOARD CHAIR BILL CARGO: Appreciate it.

8 The next gentleman, if you'd stand up and give your
9 name and address.

10 MR. KEVIN BUSSCHER: My name is Kevin Busscher,
11 9090 New Holland Street.

12 All things considered, what I'm hearing, this
13 branch extension seems like a fantastic solution.

14 What I'm concerned about is downstream, the
15 established Northwest Zeeland Drain is very, very flat. And
16 there is a series of obstructions in there including 92nd
17 bridge abutments that they abandoned years ago, those are
18 still in there.

19 And it's very, very slow moving. So if we keep
20 adding more water into it, we're going to create more
21 problems.

22 Those -- the corn silage is coming off Sagman's
23 field which just floods and just collects. And if we put
24 more water in there faster, it's going to cause more problem.

25 So I don't know if this is the time or place, but I

1 would love to see some two-stage ditches designed into this,
2 some floored storage somewhere, I'd like to see Northwest
3 Zeeland Drain completely cleaned out, not just obstructions,
4 and even down into the number 20 where it -- where the
5 confluence ends, that really needs to be cleaned out all the
6 way down, substantially cleaned up.

7 BOARD CHAIR BILL CARGO: Okay. Appreciate it.

8 Again, stand up, and name and address, if you'd
9 like.

10 MS. MAGGIE BUSSCHER: Maggie Busscher, 9090 New
11 Holland Street.

12 And I'll just second what my husband said.

13 BOARD CHAIR BILL CARGO: Okay. Next?

14 ZEELAND TOWNSHIP MANAGER TOM OONK: Tom Oonk,
15 Zeeland Township.

16 We petitioned, you know, for this mainly because
17 over the last three, four years there have been numerous
18 issues. We've expended a bunch of time as Joe has into the
19 issue.

20 So the petition is for you guys to determine
21 whether or not this is something that the drain commission
22 should deal with, or is this something between landowners.

23 So we just wanted to move this process along to try
24 to eliminate the ongoing issues that we continue to have. So
25 that's the reason.

1 BOARD CHAIR BILL CARGO: Appreciate it.

2 Now I'm going to start in the back row on the far
3 left side. If you want to speak, stand and give your name
4 and address.

5 MR. GLENN EMMERT: I'm Glenn Emmert, 4455 Sylvia
6 Lane.

7 As was stated earlier, this flooding hasn't been an
8 issue prior to the tiling of that field. I have to say that.

9 I've lived there since -- I actually live in the
10 subdivision there and I've been there since 2009. And it has
11 not been an issue.

12 So I think all this does relate back to that
13 underground tiling that was put there. So maybe blocking it
14 off would take care of this matter.

15 BOARD CHAIR BILL CARGO: Well we know that's not an
16 option.

17 MR. GLENN EMMERT: The underground tiling would be.

18 BOARD CHAIR BILL CARGO: Next gentleman, if you
19 would stand and give your name?

20 MR. MIKE BAUMAN: Sure. Mike Bauman, 4545 Sylvia
21 Lane.

22 And I would just like to state if there is any
23 pending legal action about work done south of this drain
24 area, I wouldn't want to see a decision made today that would
25 have financial ramifications for me being that that work was

1 done outside of this district.

2 BOARD CHAIR BILL CARGO: That's a valid point. I
3 understand what you're saying.

4 MR. MIKE BAUMAN: That's all I have to say.

5 BOARD CHAIR BILL CARGO: Next gentleman? Name and
6 address, please.

7 MR. DON BOERSEN: Don Boersen, my address is 11114
8 New Holland Street. I don't live on the location, I just own
9 the property.

10 It cuts dead center through my property, 40 acres,
11 cuts it right in half. And I'm totally against making it an
12 established county drain.

13 The water issue, the biggest thing is you get a
14 heavy rain, it floods, it's like a river runs across it.

15 We've got a tile line that runs along both sides of
16 that waterway through our property. So most of it will dry
17 off after a few days, after the rain is done.

18 But we do get more rain and water through it than
19 we used to, plus mother nature don't help, she's been dumping
20 a lot of water. But I'm totally against it.

21 BOARD CHAIR BILL CARGO: Okay. Appreciate it.

22 UNIDENTIFIED SPEAKER: No public comment.

23 BOARD CHAIR BILL CARGO: Next?

24 MR. DERRICK HUIZENGA: Derrick Huizenga, 4296 80th.
25 I'm at the very start, it goes across my property.

1 Used to -- around 80th, I lived there for eight
2 years now. It used to puddle when it rained, it used to
3 puddle on the east side of 80th. And Mr. Slagh added tiles,
4 and dried it all up and put that -- made that, made the water
5 get to the ditch faster.

6 And then behind -- I don't think it's necessary to
7 extend it much further east than 80th. I don't have any
8 water issues. There is always a natural ditch there, and it
9 just flowed from that.

10 I know behind me there is some springs and high
11 water table, and that's dryer now, since this tiling has been
12 done, and I don't complain about that. Less mosquitoes.

13 So that's about it.

14 BOARD CHAIR BILL CARGO: I apologize for my phone,
15 I forgot to mute that. So thank you.

16 The next individual? Do you have any questions or
17 comments?

18 UNIDENTIFIED SPEAKER: No.

19 BOARD CHAIR BILL CARGO: Gentleman next?

20 MR. BRUCE SLAGH: I got a couple things. I'm --

21 BOARD CHAIR BILL CARGO: Your name --

22 MR. BRUCE SLAGH: -- Slagh --

23 BOARD CHAIR BILL CARGO: Okay.

24 MR. BRUCE SLAGH: -- 7776 Ransom Street.

25 I am the person that did tile these fields. There

1 is 15 acres here, 35 acres here. It aint like I tiled the
2 fields and then asked for forgiveness afterwards. I had
3 called and talked to Chris Machiela, talked to him about it.

4 BOARD CHAIR BILL CARGO: And who is Chris Machiela?

5 MR. BRUCE SLAGH: Ottawa County Drain Commission.

6 BOARD CHAIR BILL CARGO: Okay.

7 MR. BRUCE SLAGH: And I also talked to Jerry Oonk,
8 he asked me to call him and talk to him because what I wanted
9 to do is there is pictures that shows that there is a 10-inch
10 tile that runs from here over to there (indicating). And I
11 ran that underground, and I wanted to farm across the top of
12 it.

13 And Jerry said, no, we need an open waterway there
14 so that if we do get a lot of rain, that it does run through
15 there.

16 BOARD CHAIR BILL CARGO: Okay.

17 MR. BRUCE SLAGH: And when it does rain hard, it
18 does, that 10-inch culvert does not keep up. So that grass
19 waterway does get used which I didn't think it would.

20 A 24-inch culvert goes underneath the road, runs
21 here, back in Sylvia Lane. It's undersized there.

22 And there is also water right here that goes
23 underneath 80th that also picks up. So there is another
24 drain that picks up in there.

25 We had talked one time in Joe Bush's office, I can

1 go through and get all the dates and who all was there, but
2 I'm giving you a light summary.

3 BOARD CHAIR BILL CARGO: Okay.

4 MR. BRUCE SLAGH: And they came up with, well maybe
5 we'll put a 12-inch restricter on there on that.

6 I called Jerry Olman and talked to him and he said,
7 absolutely not. He said, we'll put a 24-inch culvert
8 underneath the road because that's what we need to carry the
9 water.

10 That 24-inch culvert, I've never seen it where it
11 has not kept up ever except the one time it was plugged here
12 back in October here, just a couple weeks ago.

13 So -- and then over here, so we got small culverts
14 here. And this ditch here, waterway, whatever you want to
15 call it, just that has not been cleaned out for years.

16 We get over here and there is a 48-inch culvert.
17 And they have two small culverts or tiles that run underneath
18 there. But I mean they're trying to farm just a little ways
19 from that 48-inch culvert.

20 And if you get back in Google maps, I think it's to
21 '97, yeah, 1997, there was a ditch that ran through this
22 field. And when I say ditch, it talks about it in the
23 paperwork from the attorney that there were sides on it,
24 there were some small trees on it. They did not drive
25 through it, they did not farm it, they farmed it as two

1 separate pieces.

2 I understand that to be to be a pain. I'd hate to
3 do that myself. Well it's farm shut now and they farm
4 through it.

5 BOARD CHAIR BILL CARGO: So there is a drain
6 underground there?

7 MR. BRUCE SLAGH: No, there used to be a ditch.

8 BOARD CHAIR BILL CARGO: Okay. So now the water
9 flows over?

10 MR. BRUCE SLAGH: There used to be a ditch where
11 the water used to run 150 years ago through there, and they
12 ended up farming it shut.

13 BOARD CHAIR BILL CARGO: Okay.

14 MR. BRUCE SLAGH: If you go back to pictures, it
15 shows that there was a ditch with side banks and everything
16 else.

17 BOARD CHAIR BILL CARGO: Let me ask Dan a question
18 then.

19 When he talked about farming it shut, is he saying
20 that the ditch is now filled and the water flows over the
21 ground?

22 ENGINEER DAN FREDRICKS: Well the water cuts its
23 way through. I mean --

24 MR. BRUCE SLAGH: You had a picture.

25 ENGINEER DAN FREDRICKS: Well there is your '97

1 photo, and actually you can see that. You're right.

2 In '97, you can see a clearly defined waterway
3 channel there. I can see ditch side slopes on that right
4 there, so he's right.

5 That would have been a really defined ditch at that
6 time. So this is 84th right here. And then we got a couple
7 photos.

8 BOARD CHAIR BILL CARGO: Can you go back --

9 ENGINEER DAN FREDRICKS: So that's what it looks
10 like now.

11 And I believe, Joe, you had some photos too where
12 when it's dry, they'll actually -- you'll try to plant this
13 whole field.

14 But then mother nature is going to -- she's got to
15 build up the water to be able to convey it across 84th to the
16 Northwest of Zeeland Drain. It kind of carves itself a
17 little channel through the field.

18 BOARD CHAIR BILL CARGO: Understand. Go back to
19 the '97 photo real quickly.

20 Now when you look where your pen is right now --

21 ENGINEER DAN FREDRICKS: You can still see the
22 ribbon of the water through there too.

23 BOARD CHAIR BILL CARGO: Okay. Thank you.

24 Now has that been a forest that's been cleared, or
25 woodland that's been cleared north of the circle there? Or

1 is that just -- if you go on the '97 picture, immediately to
2 the north of that, did that used to be woodland and now it's
3 been cleared? It looks like woodland there is what I'm
4 saying.

5 ENGINEER DAN FREDRICKS: I think there is some
6 trees still there right now, aren't there, along the ditch?

7 ENGINEER DREW STOFFEL: Along the ditch there are,
8 but it could be just a different soil type, or when they took
9 the photo they recently tilled and that's why you see
10 different gradients of color in the fields.

11 BOARD CHAIR BILL CARGO: Okay, thank you.

12 MR. BRUCE SLAGH: And there was a lawsuit on April
13 24, 2020, paperwork that I got from Marlin Westra and --

14 BOARD CHAIR BILL CARGO: So there is ongoing action
15 right now?

16 MR. BRUCE SLAGH: Well I ended up doing a water
17 study and getting quite a few people involved, Lakeshore
18 Environmental. And it would take me a bit to find my notes
19 here.

20 And Lakeshore Environmental and -- it really don't
21 matter, it was somebody else. And they ended up doing a
22 water study and we ended up putting water meters in the
23 ground to find out where the water and the level was and
24 everything so did an actual study on it because I wanted to
25 know myself, am I really the one that's causing all this or

1 not or what's going on. So we ended up doing that.

2 Two months later the attorney ended up getting back
3 with, Mr. Hill is their attorney, on April 24, 2020, and we
4 didn't hear nothing back.

5 So October 7, we figured it was closed and done.
6 It wasn't going to go nowhere.

7 And then in October 20, Marlin Westra called the
8 Ottawa County sheriff to have me arrested for illegally
9 dumping water on his property, which of course did not happen
10 but he still made the phone call. And then it slowed down
11 for awhile.

12 And then this October the tile was plugged with a
13 bunch of rocks, silage bags, and a bunch of things of that
14 nature which Jerry talked about earlier.

15 BOARD CHAIR BILL CARGO: Okay.

16 MR. BRUCE SLAGH: And I just, seeing like for the
17 last couple two-and-a-half years, I've been trying to do what
18 I can. I went into legal counsel, with the lawyers, that's
19 fine, if we need to go to court.

20 BOARD CHAIR BILL CARGO: Okay.

21 MR. BRUCE SLAGH: If we can't get things figured
22 out, we'll do it that way. And it just seems like it never
23 ends.

24 And now I got a phone call from a lady from, a
25 Sarah Brock or whatever from Michigan Department of

1 Agriculture is coming out to look at my practice of farming.

2 BOARD CHAIR BILL CARGO: Okay.

3 MR. BRUCE SLAGH: Which I get no money from the
4 state so I don't know what she can even do on anything.

5 BOARD CHAIR BILL CARGO: Okay. It's probably about
6 the Right to Farm Act, but that's not why we're here today.

7 You've given me enough information for the time
8 being, so I appreciate your time.

9 MR. BRUCE SLAGH: Thank you.

10 BOARD CHAIR BILL CARGO: That said, I don't think
11 anybody else needs to -- there is no other public here.

12 So at this point, since everybody has had the
13 chance to make comments, I'm going to close the public
14 comment portion of this public hearing. And we will begin to
15 have some dialogue among ourselves as to the issues here.

16 Todd, I'll start with you, do you have any
17 questions or do you have any comments that you'd like to
18 make?

19 BOARD MEMBER TODD WOLTERS: Tough situation on this
20 one.

21 BOARD CHAIR BILL CARGO: It is.

22 BOARD MEMBER TODD WOLTERS: I see both sides of it.
23 And some of the practices have changed downstream have
24 definitely, I think, hurt the overall flow.

25 Like I say, when you start farming through

1 something that wasn't existing, I think there is an issue
2 there. But there again, according to Mr. Busscher mentioned
3 about the fact that downstream, we have enough water flow
4 going downstream so there is probably a need there to look at
5 that to potentially clean up downstream water flows.

6 What contributed to this, what the practice is
7 legal or illegal, really isn't for us to say, you know.

8 That's -- so at this point in time, I'm kind of
9 leaning towards the fact that there is a little bit of a need
10 for Joe to get involved here to help track this one.

11 BOARD CHAIR BILL CARGO: Okay. Rich? Do you have
12 any comments?

13 BOARD SECRETARY RICH VANDER KLOK: I agree with
14 what Todd said. There is a lot of variables involved here
15 which make this -- makes it difficult.

16 I know that -- I believe that it was Mr. Busscher
17 who said that the branch extension sounds like a good idea.
18 And yet there are, in the comments, and I made notes on some
19 of these, on all of them, as a matter of fact, and there is
20 disagreement with that decision, if we would make that
21 decision.

22 But it seems that this is an issue that has to
23 be -- it has to be addressed. And one of the ways to do that
24 would be through seeing the necessity to proceed.

25 BOARD CHAIR BILL CARGO: Okay. Typically these are

1 more, my perspective, fairly open and shut. I do have some
2 questions I'd like to push towards legal staff.

3 One question we have is the issue has been raised,
4 if there is ongoing legal civil action, is it suitable to
5 bring this into a county drain with that background? Is this
6 ripe to become a county drain with pending civil action? And
7 so I'd like to have your comments on that.

8 ATTORNEY STEVE KOSKI: Well from the perspective of
9 the drainage district, which is, you know, the entity that
10 we're all here for and that's the entity that Joe is the
11 fiduciary for, right. So that would be the drainage district
12 would be coming into a situation that does have an ongoing
13 dispute in relation to the water that's currently flowing.

14 It is a separate issue. There is nothing stopping
15 you from finding a necessity on it, but it is a complicated
16 issue. And it's further complicated by the fact that, as Joe
17 and Dan have both said, the only way that the drainage
18 district can do anything about this, working on the existing
19 drain isn't going to do anything where the petitioners are
20 having issues, or the property owners are having issues.

21 So establishing that as part of the drain is the
22 only issue, and that requires easements from all property
23 owners. It's going to require a buffer on that, right, a
24 drainage easement, and that is -- that adds a whole other
25 element to it.

1 So, in some sense, it could resolve the private
2 dispute because it turns into a property that is the drainage
3 district.

4 But on the other hand, you might add another layer
5 of complexity to it because then that kicks off that whole
6 other process.

7 BOARD CHAIR BILL CARGO: Let me ask another
8 question.

9 The people who are claiming harm from the tiles
10 that have been installed to the south of Ransom Street are
11 saying that they do not want this to be a drainage district,
12 and they testified or they made public comment that they
13 would not grant easements.

14 If you have property owners refusing to grant
15 easements, is that common? And if they do refuse to grant
16 easements, what would the solution be?

17 ATTORNEY STEVE KOSKI: So under the Drain Code,
18 which is, Joe has referred to, it's the law that dictates
19 everything related to drains, when you're establishing a
20 drain, or establishing a branch of a drain, the drainage
21 district has a right to the easement on that property.

22 But in order to exercise that, if you can't come to
23 an agreement on an easement, then the drainage district would
24 have to go through condemnation proceedings.

25 BOARD CHAIR BILL CARGO: That's what I was

1 wondering. Eminent domain would step up at that stage.

2 ATTORNEY STEVE KOSKI: Correct.

3 BOARD CHAIR BILL CARGO: Okay. What confuses me on
4 this one is that the people who are claiming harm, are the
5 ones who are saying they don't want a district.

6 The person who put in the tile, would like to have
7 the district, but he's not being harmed at this stage by the
8 water that's flowing. I mean his property is fine.

9 And that makes it difficult for me because the
10 people who are being harmed are saying they don't want it.

11 BOARD SECRETARY RICH VANDER KLOK: Right.

12 BOARD CHAIR BILL CARGO: The person who they claim,
13 and I'm not sure if it's a correct civil claim, that's why
14 they have to go to court, is harming them, is saying, yes, I
15 think it would be a good solution because it would convey
16 this storm water here.

17 And that's where I'm stumbling here to say I don't
18 see anybody who is claiming harm asking for the drain
19 district.

20 And, Joe, maybe I'm missing something. If you
21 could expound on that, I'd appreciate it.

22 WATER RESOURCES COMM. JOE BUSH: Well, again, this
23 has been going on for three years.

24 To give a little history, I got Farm Bureau
25 involved right away. I had Laura Campbell, I know these

1 gentlemen have called Laura Campbell, Sarah Bronkema, they're
2 calling everybody in Lansing and of course those folks call
3 me because we have a great relationship.

4 I did get call a phone call from Heath Westra,
5 probably October 22, and I got a voicemail I'd like to have
6 for the record, because he said he's going to put me in the
7 lawsuit, with the State of Michigan.

8 So I have to be very careful because here is what
9 I'm afraid of; number one, they don't want to grant an
10 easement, fine. I don't care if you have that as a branch,
11 I've got over 1300 drains. One branch isn't going to break
12 me, right? I'm busy enough.

13 The other issue is if they want to sue me, that red
14 district is sued. He doesn't sue me, this sues the district.
15 Everybody in here who lives in there, well pay for that
16 lawsuit, whether I go get easements or whether Mr. Heath
17 Westra wants to sue me.

18 BOARD CHAIR BILL CARGO: Okay.

19 WATER RESOURCES COMM. JOE BUSH: But I want a
20 voicemail -- I want it recorded. So if I can play it, Mr.
21 Chair, so you guys can see the voicemail and hear it, because
22 he knows what he's talking about.

23 BOARD CHAIR BILL CARGO: Okay.

24 WATER RESOURCES COMM. JOE BUSH: I did call him
25 back.

1 BOARD CHAIR BILL CARGO: I would ask that you then
2 just enter that in for the record without any further
3 comments. You can give that to us now, if you want to play
4 that, I'll listen to it. I just don't want to have the
5 commentaries to go with it.

6 WATER RESOURCES COMM. JOE BUSH: It was only
7 because I don't want to be taking over a drain --

8 BOARD CHAIR BILL CARGO: I'm asking to share that,
9 that is public. We'll enter that in the public comment, I'm
10 just going to take it as it is.

11 (AUDIO RECORDING: Joe, this is Heath Westra
12 calling on Friday around 3 o'clock. Would you give me a
13 call if you get a chance next week please. My number
14 is 437-9826.

15 A long time ago we sat by you in your office and
16 there was a lot of us witnessed that you were going to
17 have the county cap off or limit the water that was
18 going under Ransom from Bruce Slagh. Must be maybe
19 you're good friend that's paying you off or something.

20 We don't quite understand it, but so we'll need
21 some time next week a phone call from you and the county
22 that that will happen, and then we'll leave your name
23 off of the suit that's coming from the state of
24 Michigan.

25 We don't want to waste your time, but we just feel

1 that you're -- you and your company, or I should say the
2 drain commission is doing whatever Bruce wants. And
3 we'll have that part of the suit.

4 So I want word that that will be capped off within
5 the month, within 30 days, or we will include you in
6 that.

7 I look forward to your call next week, thank you.

8 END OF AUDIO RECORDING.)

9 BOARD CHAIR BILL CARGO: Okay. From what I
10 understand, that's when you were talking about putting a
11 restrictor on; you talked to the road commission, and they
12 said absolutely not.

13 WATER RESOURCES COMM. JOE BUSH: That was three
14 years ago, that's what he's referring to.

15 BOARD CHAIR BILL CARGO: Okay. And the road
16 commission said, absolutely not --

17 WATER RESOURCES COMM. JOE BUSH: That is correct.

18 BOARD CHAIR BILL CARGO: -- because they're
19 concerned with the base of the road being undermined if you
20 put a restrictor there.

21 WATER RESOURCES COMM. JOE BUSH: And at that time I
22 made the recommendation for Bruce Slagh to hire Lakeshore
23 Environmental, Kurt Koella to do a study. And I think Bruce
24 paid 30 or \$40,000 for that water study.

25 And since then I've been out of the loop. I didn't

1 hear anything pre-COVID. So a year-and-a-half went by and I
2 didn't hear anything. And then I got a phone call from
3 Heath.

4 That same day, I believe, Jerry Olman called me
5 because he got a phone call from Marlin, correct me if I'm
6 wrong, Marlin said it was Don Boersen, he thinks, might have
7 plugged the culvert downstream.

8 BOARD CHAIR BILL CARGO: That's one of the things I
9 don't want to get into is that because that is not going to
10 make any difference to our determination, as to who plugged
11 it, who didn't.

12 That's a legal matter that's not really in front of
13 us today.

14 Is that fair?

15 BOARD SECRETARY RICH VANDER KLOK: I agree.

16 BOARD CHAIR BILL CARGO: So I appreciate having
17 background as to why the restricter wasn't put in, that makes
18 perfect sense.

19 Jerry, I'm going to recognize you briefly if you
20 have any questions on -- or thing on the restricter.

21 ROAD COMMISSION JERRY OHLMAN: Yes. Going back to
22 that, we didn't want anything attached to the culverts
23 because it ends up being something else that the road
24 commission has to maintain eventually and take care of and
25 replace, whatever.

1 So I told Joe and the property owner upstream that
2 if they wanted to do some kind of retention or restricter
3 from their tiles coming out, that that's their business, they
4 can do that outside of the road right-of-way. And it's
5 theirs to maintain, not the road commission's.

6 BOARD CHAIR BILL CARGO: Because as you testified
7 earlier, you believe the tiles underneath the road are
8 properly sized.

9 ROAD COMMISSION JERRY OHLMAN: Right.

10 BOARD CHAIR BILL CARGO: Okay, thank you.

11 Todd, do you have any comments?

12 BOARD MEMBER TODD WOLTERS: Well like I said, the
13 civil lawsuit that's involved here right now is -- it really
14 tears this thing apart. And you say, okay, do you wait
15 another year, do you petition it in another year? Once
16 that's resolved, hopefully it would be resolved within a
17 year, if there are still issues after that.

18 BOARD CHAIR BILL CARGO: And that's a good point.
19 Because again, the people who are claiming harm are the ones
20 saying they don't want this.

21 And if you wait a year, it's not going to make a
22 difference to the person who they say is causing the harm,
23 but maybe at that stage you'd have a decision or at least
24 some clarification.

25 But I also understand that, and right now I'm

1 leaning in that direction, but I'm not certain because I just
2 want to have a comment.

3 I notice because questions were -- because your
4 name was raised in this, I'm going to have you stand up
5 again, give your name and you can give one more comment.

6 MR. MARLIN WESTRA: When we were going through
7 this, Joe Bush called a meeting, we had it right by the
8 field. And he was suggesting -- he knew that it was wrong,
9 what they were doing with the tiles running through our
10 ground.

11 So he suggested that Bruce put in a reservoir there
12 to catch all this tile water and then pump it on the other
13 side of his field is a county drain. That's what Joe was
14 actually proposing for Bruce to get rid of this problem.

15 But Bruce has never done nothing. He's just let it
16 run and run and run. And he has the county drain right on
17 the other side of the field that he could pump that water to
18 and this whole thing would be no problems.

19 That's -- he caused it all. You wouldn't hear no
20 complaints.

21 BOARD CHAIR BILL CARGO: Okay. I appreciate that.

22 BOARD MEMBER TODD WOLTERS: I think some of the
23 other issues that potentially Mr. Busscher raised could be
24 addressed without this here part of it, just through the
25 drain commission office as well. If there are some other

1 issues downstream that would alleviate it, that has nothing
2 to do really with this extension, that I think they could
3 work with the drain commissioner to look at some of those on
4 another basis.

5 BOARD CHAIR BILL CARGO: Yep.

6 Rich, any last comment from you?

7 BOARD SECRETARY RICH VANDER KLOK: I agree with
8 your observation. And it's been stated that the people who
9 are being harmed are not in favor of this.

10 Therefore my feeling would be, based on that, plus
11 the fact that the lawsuit, or the potential lawsuit may be
12 settled within a year, and they can make another -- the
13 township or whoever could make another -- submit another
14 petition, therefore, I'm inclined to say that I would not
15 necessarily be in favor at this point of moving forward.
16 That's my opinion.

17 BOARD CHAIR BILL CARGO: I'm going to echo that
18 opinion.

19 My opinion is the fact that the people who are
20 claiming harm, and I'm not saying it is harm by any legal
21 definition, and that's why they'd have to go through the
22 lawsuit. The people who are claiming harm don't want the
23 drain.

24 And the person who they claim is causing the
25 problem, may want the drain, but the people who are claiming

1 harm aren't going to cooperate with the drain commissioner,
2 the water resources commissioner, meaning that based on their
3 testimony, they'd have to go through eminent domain which is
4 a very difficult and long process.

5 I tend to agree that I think that if this is a
6 civil action, let them run the civil action through, and that
7 may give us a clearer definition of whether this drain is
8 ripe for development or not.

9 And so I'm actually going to make a motion -- I
10 will make a motion that the proposed maintenance and
11 improvement of the Northwest of Zeeland Drain, as petitioned
12 on November 2nd, 2021, is not necessary and conducive to the
13 public health, convenience, and welfare.

14 BOARD SECRETARY RICH VANDER KLOK: I'll second that
15 motion.

16 BOARD CHAIR BILL CARGO: And again, now we can have
17 a discussion of the proposed motion.

18 And again, I just want it to be very clear for the
19 record that I'm doing this because the people who are
20 claiming harm, are the ones who say they don't want the
21 drain.

22 And the person who they claim is harming them,
23 although he may want the drain, I think that we should have a
24 clearer answer by the courts as to whether what is being done
25 is legal or not, because that may impact future -- the future

1 of this potential drain.

2 BOARD MEMBER TODD WOLTERS: The Sylvia Lane folks,
3 was there any flooding in that subdivision, or not to speak
4 of?

5 WATER RESOURCES COMM. JOE BUSH: I haven't heard
6 from anybody prior to today's meeting.

7 BOARD CHAIR BILL CARGO: Except the drain -- the
8 culverts underneath the driveway are probably undersized, but
9 again those were put in by private individual.

10 Anymore comments, Todd, from you?

11 BOARD MEMBER TODD WOLTERS: Nope.

12 BOARD CHAIR BILL CARGO: Rich, any comments from
13 you?

14 BOARD SECRETARY RICH VANDER KLOK: Nope.

15 BOARD CHAIR BILL CARGO: I'm going to -- I don't
16 normally do this, but I'm going to ask the lawyer, are there
17 any pitfalls that I'm not aware of that I should be aware of
18 with this motion? Do you have any comments?

19 UNIDENTIFIED SPEAKER: I think there is.

20 BOARD CHAIR BILL CARGO: I'm talking to the lawyer
21 and I'm going to leave it there.

22 ATTORNEY STEVE KOSKI: No. I think you all
23 understand the basis of your decision, right? Your decision
24 here is to determine not only whether there is an issue, but
25 whether the drainage district is the best solution for this

1 issue.

2 So it's perfectly reasonable for you to think that
3 this is potentially -- this is currently a private drainage
4 issue, and it's my understanding from your discussion that
5 you think maybe the issue could be resolved in a private
6 manner without going through this process.

7 So that's a fine basis for you to make your motion,
8 if that's how you choose.

9 BOARD CHAIR BILL CARGO: Okay. I think that adds
10 some clarification. And I don't think anything you said is
11 contrary to what we're saying up here.

12 So at that point I'm going to call a vote.

13 All in favor of saying this is not necessary, say
14 aye.

15 BOARD SECRETARY RICH VANDER KLOK: Aye.

16 BOARD CHAIR BILL CARGO: Aye.

17 BOARD MEMBER TODD WOLTERS: Aye.

18 BOARD CHAIR BILL CARGO: Okay. Opposed?

19 And again, that passes without objection.

20 That said, what we're going to do now is we're
21 going to turn this over to Joe who will talk about the appeal
22 process.

23 I don't think there is an appeal process at this
24 stage.

25 WATER RESOURCES COMM. JOE BUSH: There is.

1 BOARD CHAIR BILL CARGO: Oh, there is an appeal
2 process even for denial?

3 WATER RESOURCES COMM. JOE BUSH: Correct.

4 BOARD CHAIR BILL CARGO: If you could explain that,
5 I would appreciate it.

6 WATER RESOURCES COMM. JOE BUSH: So if anybody
7 wants to file an appeal, you can through circuit court on
8 today's decision and today's meeting only. You have 10 days
9 from today to do that, through circuit court in Ottawa
10 County.

11 BOARD CHAIR BILL CARGO: And with that, I'll make
12 a -- without objection, we will adjourn the meeting.

13 There is no objection, the meeting is adjourned.

14 (Board of Determination adjourned at 11:16 a.m.)

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1 CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

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4 STATE OF MICHIGAN)

5) SS

6 COUNTY OF OTTAWA)

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8 I certify that this transcript, consisting of 62

9 pages, is a complete, true and correct record of the Board of

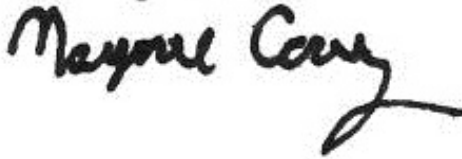
10 Determination - Northwest of Zeeland Drain, held on November

11 30, 2021.

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14 DATE: December 8, 2021

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Notary Public Expires: October 14, 2027, Ottawa
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