

WATERWAYS

A Quarterly Publication of the Iowa Drainage District Association

Volume 1, 2009

Monona County case goes before Administrative Law Judge

On January 21 and 22, a state administrative law judge heard the New Farmers Drainage District Case out of Monona County.

The history of this case is as follows. In the fall of 2007, the district (NFDD is a trustee run district) hired a contractor to kill weeds in one of their ditches. While the weeds were being sprayed, someone called the DNR to investigate. When the DNR field people arrived on site, some dead fish were found in the ditch. DNR concluded that the chemical being sprayed killed fish. The DNR came to the conclusion that the value of the fish was almost \$15,000. The DNR then presented the contractor and the district with a consent order. That order contained a penalty provision of \$10,000 plus the value of the fish. Further, the district would have to “develop a vegetation control plan the prevent fish kills and submit that plan for DNR approval.” Further, NFDD would have to notify the DNR field office in Atlantic at least 72 hours prior to the application of herbicides within the drainage district for two years.

Both the district and the contractor refused to sign the consent order. The contractor is being represented by an attorney provided by the manufacturer of the herbicide. The NFDD has retained the services of Bob Brinton out of Clarion to represent them – upon recommendation of IDDA. IDDA, through action of its governing board, has also agreed to assist the county financially in its legal defense. The board voted to allot up to \$5,000 from the Mutual Protection Fund to help the district out financially.

John Torbert, IDDA executive director, was

one of the witnesses called on behalf of the drainage district to testify at the hearing. Torbert commented that “I don’t think that any reasonable person who sat through that hearing and listened to the testimony could reach a conclusion that the sprayer or the drainage district did anything wrong. This case is an example of where a decision was reached (that the spraying of the weeds killed the fish) and everything that has been done since then has been an attempt to justify and backfill to that decision. I know that administrative law judges generally side with the state but this case has no merit and should not have gotten this far.”

A ruling is expected sometime this spring. ♣

New Officers Elected for IDDA

The IDDA board met in mid-January and elected officers for 2009. Harlan Hansen, Humboldt County supervisor, was elected President. Ralph Christiansen from Pocahontas County who had served as President of the board since 1994 lost his bid for reelection so had to leave the IDDA board. Elected Vice President was Myron Amdahl, county supervisor from Wright County.

In other action, the board moved to fill Christiansen’s place on the board. Under the bylaws, his re-election loss creates a vacancy on the board which is filled by board appointment – not membership election. The board appointed Paul Beneke from Pocahontas County as the new board member. Beneke will fill out the remainder of the term and then have to stand for election to the board at this year’s annual conference.

Waterways is a quarterly publication of the Iowa Drainage District Association. Comments can be directed to the association at:

Iowa Drainage District Association

www.iowadrainage.org

3775 EP True Parkway, #124

West Des Moines, Ia. 50265

515/221-1961 (phone)

515/225-1504 (fax)

515/707-7451 (cell)

jtorbertidda@mchsi.com

“Working for the mutual protection and benefit of Iowa Drainage Districts”

President	Harlan Hansen Humboldt County Supervisor
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Board Members	Paul Beneke Pocahontas County Supervisor Ken Chalstrom Clay County Supervisor Phil Condon Webster County Supervisor Don McGregor Kossuth County Supervisor Ron Smith Emmet County Supervisor
Staff	Julie Fridolfson IDDA Secretary/Treasurer John T. Torbert, CAE, Executive Director

CREP Field Specialists – Dennis Barrick, Charlie Kiepe, Jay Lynch, Lannie Miller, Bob Powers, Eddie Peterson, Ike Petersen and Mark Sandvik. (CREP field specialists work for IDDA under a contract administered by IDALS).

Thank You!

IDDA board passes resolution honoring Christiansen

At their January board meeting, the IDDA board unanimously passed the following resolution honoring Ralph Christiansen and his service to the board.

Whereas, Ralph Christiansen has served the IDDA Board of Directors with distinction and honor since 1994, and

Whereas, Ralph Christiansen has been a tireless advocate in protecting and preserving drainage interests in the state of Iowa, and

Whereas, Ralph Christiansen has served the citizens of Pocahontas County with equal distinction and honor as a member of their Board of Supervisors

Now, therefore be it resolved that the Board of Directors of the Iowa Drainage District Association does proclaim and confer upon Ralph Christiansen the title of “Honorary President for Life” and further confers upon him lifetime membership in the association.

This resolution approved unanimously by the IDDA board of directors on January 14, 2009 in Pocahontas, Iowa.



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IDDA membership approves legislative priorities

At the annual meeting on December 5 in Ft. Dodge, the IDDA membership approved the following legislative priorities.

- 1) **Crep/Wetlands Funding** – The IDDA supports an increased state appropriation from the “Environment First” fund for the Crep/Wetlands program. Every dollar appropriated by the state is able to leverage four federal dollars. The current state appropriation level is \$1.5 million. IDALS has requested that the appropriation increase to \$2 million. The program currently has a waiting list of interested landowners. An increased state appropriation would allow increased construction of nitrate removal wetlands providing increased protection for Iowa’s water.
- 2) **Regulation of Wetlands** - The IDDA opposes any legislative proposal to empower the state of Iowa to regulate the dredging or filling of isolated wetlands. The dredging or filling of the majority of these isolated wetlands is already subject to review and regulation under provisions of the farm bill or local subdivision approval and building permit authorities. The state of Iowa cannot afford and ought not to divert precious resources toward creation of a needless regulatory bureaucracy.
- 3) **Wetland Structures** – Under the CREP program, landowners install wetlands to assist in the removal of nitrate from tile drained water. The CREP program requires that the landowner assume maintenance of these structures, once built. This responsibility has been an impediment to landowner participation in the CREP program. IDDA supports legislation that would allow drainage districts, on a voluntary basis, to enter into agreements with landowners that would provide for the maintenance of these or

similar facilities. Such agreements would also provide for the allocation of converted wetland credits and the disposition of the facilities once the agreement was terminated. These facilities would be an “improvement” under drainage law and would have to meet all the applicable statutory requirements.

- 4) **Ag Drainage Well Closure** – There are currently about 140 Ag drainage wells in active use – acting as direct chemical pipelines into drinking water supplies. IDDA supports an increased state appropriation for the Ag drainage well closure program. The state is requesting \$1.48 million for this program.
- 5) **Drainage/Flood Prevention** – The state is looking at a number of initiatives that involve drainage and flood control issues. These initiatives include; a) Research farm to understand the flow of water on certain practices - \$300,000 b) Cost share monies in targeted watersheds to build up and increase capacity in water retention basins and terraces - \$1.5 million c) Hydrology experts to assist with understanding and planning of water flow - \$150,000 d) Use of LIDAR technology for watershed and water management planning - \$300,000 The total cost of this initiative is \$2.25 million. IDDA supports this initiative.



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Private Owners of Farms to spend all but \$60,000,000 of the sum To Reclaim Swamp Lands

Values will be increased by millions of dollars making the state one of the richest for agriculture

Editors Note – The following article appeared in the Sept. 22, 1906 edition of the New York Times. It details the installation of Iowa's drainage system and what it will mean to the state. In some cases, portions of the article were very difficult to read as the copy is of extremely poor quality. The numbers were the most difficult items to read. In some cases, I guesstimated the number. I have literally stared at portions of the article through a magnifying glass to try and discern what some of the words and numbers were. Where I am in doubt, I have indicated that.

Burlington, Iowa, Sept. 22 – So quietly that the fact has not become known widely, Iowa farmers have been arranging for drainage improvements in their low lands at a cost that will come within \$85,000,000 of equaling the expense of building the Panama Canal. The general public has little conception of the extent of the enterprise which will increase the value of Iowa lands by millions of dollars

The total expenditures now planned in Iowa in these improvements is figured at \$307,000,000. This service will result in reclaiming thousands of acres of the most valuable land in the world, and carry out

in good measure the policy urged by James J. Hill of making every use possible of the swamp lands of the west. Much of the work has been started already in the various river counties of the state and some has been finished. When completed, Iowa will be among the richest agricultural states in the world. (Note – the reference to James J. Hill I believe refers to a Canadian/American railroad executive who was known as “The Empire Builder”.)

Already cost \$7,488,847

In five years since 1901, the public drainage ditches in fourteen of thirty Iowa Counties have actually cost \$7,488,847, and the reported cost in the remaining sixteen counties will be between \$7,000,000 and \$8,000,000. This gives a total of \$15,000,000 which have been expended on drainage ditches in thirty of the ninety-nine counties. And the same work is being done in all the remaining counties and extended in these thirty counties.

These improvements in thirty counties have been made on about 3,000,000 million acres at an average cost of \$5/acre. The result will be the reclaiming of swamp and flooded lands which are now worth from \$75 to (number cannot be determined) and acre.

The total estimated final cost of the public drain ditches will be \$60,000,000. The remainder of the \$307,000,000 will be spent by private owners, much of which has already been spent in tiling the farms and digging open drains. The estimates of these totals were made by the State Conservation Board and are considered to be conservative after an investigation of conditions.

The Lowest Cost

The lowest cost per acre for public drainage is found where only the large open ditches have been built. The lowest cost for these is about \$2.87 an acre and the highest is \$10 per acre. The highest average cost is where both open ditches and the sub-districts or large tile laterals have been built.

An investigation shows that in the development of drainage in Iowa, the large open drains are first built, then the tile laterals and then the small tile under the

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farm under the farm acres, some of these tile being laid as closely as four rods and as small as four inches in diameter.

Where crops have been good, the drainage system has developed rapidly, and farmers are aware that that perfect drainage will increase the productivity of his land. In many cases the total cost has been an average of \$25 an acre, and in many estimates the farmer has spent \$75 and acre to drain and tile his farm. Such improvements as these have been made at private expense.

There are thirty so-called wet counties where the land is low and the streams flood. The average acreage of each is about (number cannot be determined). Twenty of these counties require drainage over their entire area and the remaining ten over half their acres. The estimated cost per acre is \$10. This is for public improvements alone, not including the laterals and general tiling.

The total area of the twenty all-wet counties and ten half-wet counties which need drainage is 9,210,000 acres. At \$10 an acre, the total would \$91,150,000 for public ditches but to be conservative, this is reduced a third, leaving the cost at \$61,140,000. This is merely what the big ditches will cost when completed, and does not include the laterals or tiling which will be done by individuals.

Engineers in the various counties estimate that the average cost of the private laterals will be from two and a half to three times greater per acre than the cost of the public open ditches or outlets. By this estimate, the private cost will be \$245,700,000 which makes the grand total of \$807,000,000. ♣

Unattributed Wisdom

If nobody wants to come,
you can't stop em.

Calhoun County sued over railroad drainage structure

The Chicago Central and Pacific railroad is suing the Calhoun County Board of Supervisors (in this case acting as drainage district trustees) to recover the cost of a repair made by the railroad to a drainage structure. The lawsuit is for \$15, 891.64 which includes \$11,003.28 to cover the cost of the actual repair and \$4,888.36 in "train delay costs." IDDA has agreed to assist the county financially in contesting this case.

A drainage structure under a railroad track failed which means the trains could no longer use that portion of track until a repair was done. A request was made of the Calhoun County board of supervisors to order and pay for the repair. They declined to do so on the basis that the structure was on railroad right-of-way and not a drainage district responsibility. The supervisors were relying on Section 468.111 of the Iowa Code which states that "The cost of building, rebuilding, constructing, reconstructing, changing or repairing, as the case may be, any culvert or bridge,

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ACWA to install bioreactors in Raccoon River Watershed

Agriculture's Clean Water Alliance (ACWA), a group of 16 ag retailers organized to reduce nutrient loss from farm fields in the Raccoon and Des River watersheds, is supporting a tile line bioreactor project in the Raccoon River watershed.

The project is being conducted in collaboration with ACWA's farming partners and an emerging partnership with USDA, Soil and Water Conservation Districts, the National Soil Tilth Laboratory, Agri Drain and the Ag Drainage Management Coalition.

Nitrogen is highly water-soluble so as water moves off the farm landscape, it carries nitrogen with it. There are practices that capture and filter water at the surface (such as wetlands and retention ponds) but they can be costly and require land to be taken out of production. One alternative filtration practice gaining interest is bioreactors.

Bioreactors are essentially underground trenches filled with a carbon source (commonly wood chips), through which tile water is allowed to flow. The carbon source provides material within which microorganisms can colonize. Using the wood chips as a food source, the microorganisms begin breaking down the nitrate through a denitrification process, and expel the nitrate as a gas.

The systems are easy to construct, relatively inexpensive, take little or no land out of production and are believed to require little maintenance. There are no adverse effects on crop production, and they can be designed to not restrict drainage. Early research has found nitrate removal efficiency averaging between 25 to 35 percent.

Dr. Richard Cook, Associate Professor of Agricultural Engineering, University of Illinois, is a leading researcher of bioreactors. Dr. Cooke says the systems work, but we don't know why. "The bioreactor system, although effective, is not

well understood. The identity and community dynamics of microorganisms participating in denitrification in tile drain bioreactors is unknown, apart from our findings that both bacterial and fungal species are important to the process. We surmise that the fungi break the cellulose in the wood into smaller organic molecules, which the bacteria then use in their metabolic processes."

The initial bioreactors to be installed by the ACWA will be placed in the West Buttrick Creek/Hardin Creek areas of Greene County. The Greene County District Conservationist is interested in working with ACWA and there are several farmers who are willing to demonstrate the practice.

ACWA is looking at specific installation sites using GIS and aerial imagery. Once installed, the units will be tested for effectiveness. ACWA will be observing nitrate levels in its water monitoring network above and below each site to evaluate the performance. If the bioreactors are proven as a practice in the Raccoon River watershed, they could become one of several integrated solutions for improved water quality. ♻️ *Source – ACWA news release*

Membership Approves Bylaws Changes

The IDDA membership unanimously approved bylaws changes at the annual meeting in December. The changes were designed to keep the bylaws document current with current management and administrative practices of the association. The revised bylaws are posted on the IDDA web site – iowadrainage.org

In other association business, two board members were reelected for new three year terms – Harlan Hansen, Humboldt County supervisor and Myron Amdahl, Wright County supervisor.

Executive Director Notes

It is hard to believe that we are almost a month into the new year and the legislative session.

The 2008 annual meeting proved to be a success. I heard many positive comments about the speakers and the topics they covered. The weather also cooperated. Although it was quite cold, conference attendees did not have to drive through a winter weather “event” to attend the meeting. You may want to mark your calendars now for the 2009 Annual Conference which will take place on December 4. It is my expectation that we will be back at the same facility but that has not been confirmed yet.

I continue to make my membership visits and hope to hit all members sometime this year – weather and health permitting.

On a personal note, it was with great sadness that I witnessed the departure the Ralph Christiansen from the IDDA board. Ralph served as President since 1994 and has been the only President I have known – as I was hired in 2001. Ralph is the kind of guy that the more you know him, the more you like him. He was the quintessential public servant, doing what he was supposed to and working hard to represent his county. I know, for example that he spent many long hours sitting in his pick-up truck and observing as wind turbines were being installed in his county to make sure that drainage facilities

were protected and the landowners he represented had someone watching out for them. If you asked Ralph to do something, you knew it would get done. When IDDA asked Ralph to serve on an advisory group that was helping revise the Iowa Drainage Law Manual, I knew that Ralph would read every single word. He did.

I never once heard Ralph raise his voice, utter a gruff word or speak ill of anyone. Ralph was never extremely vocal when he was at meetings but you learned quickly that if he said something, you should be listening because it was always right on the mark.

I have been in the business of non-profit association management for most of my adult life. I have worked for many many different types of Presidents. You find out very quickly in this business that some President’s will do everything possible to shy away from controversy and if things get “sticky” they will hang staff out to dry. Ralph was never that way. You could always count on his support and his word was always good.

I do not mean to take anything away from the individual who defeated Ralph in his re-election bid. I have never met him. The citizens of Pocahontas County spoke and decided that a change was in order. That is our system and it works pretty darn well.

Ralph – thank you very much. You will be missed.

John Torbert

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when such improvement is located at the place of the natural waterway or place provided by the railroad company for the flow of the water, shall be borne by such railroad company **without reimbursement therefor.**”

The railroad company went ahead and made the repairs and then requested that the county reimburse them. A hearing was held before the board of supervisors on November 25, 2008 and which time the railroad formally requested to be reimbursed. At the conclusion of the hearing, the board of supervisors voted to deny the request. The railroad company was notified of that decision on December 17.

The railroad then filed an administrative appeal to the Iowa District Court – in effect asking the court to force Calhoun County to reimburse the railroad. Calhoun County has hired James Cramer out of Ft. Dodge to represent them. He will be assisted by the Calhoun County drainage attorney – David Wollenzien.

IDDA was contacted by the Calhoun County auditor, Judy Howrey and by Mr. Wollenzien asking if IDDA could assist them financially with dollars from the Mutual Protection Fund. The mutual protection fund was established by the IDDA board of directors in the 90’s to have a source of funds that could be drawn upon to help fight legal or administrative issues that would set a negative precedent for drainage districts.

John Torbert presented the request to the IDDA board at its January meeting and the board decided that this was a case where the Mutual Protection Fund should be involved. They voted to assist the county with \$5,000 to help defray Calhoun County’s legal expenses in the case. In presenting the case, Torbert indicated that “the law is very clear that this expense is a railroad expense. The railroad is trying to intimidate the board of supervisors and get them to back down so that they can establish a precedent that would pass these costs onto landowners in drainage districts instead of the railroad company where they rightfully belong.”



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