

BLACK RIVER INTERCOUNTY DRAIN (*Lapeer, Sanilac and St. Clair Counties*)

TO: Brady Harrington, Black River Intercounty Drain Drainage Board Chair
FROM: Clark Hill PLC
DATE: June 6, 2019
SUBJECT: Black River Intercounty Drain

Establishment of Drain

Year: 1895

Chapter: 6

Municipalities

Lapeer County: Burnside Township and Brown City

Sanilac County: Argyle Township, Bridgehampton Township, Buel Township, Custer Township, Delaware Township, Elk Township, Elmer Township, Flynn Township, Freemont Township, Lexington Township, Maple Valley Township, Marion Township, Minden Township, Moore Township, Sanilac Township, Speaker Township, Washington Township, Watertown Township, and Wheatland Township; City of Sandusky and Brown City; and Applegate Village, Carsonville Village, Deckerville Village, Melvin Village and Peck Village

St. Clair County: Lynn Township

Jurisdiction of Drain

- Drain Commissioner
- Drainage Board
- Other: _____

Records Reviewed

- Michigan Department of Agriculture & Rural Development
- Lapeer County
- Sanilac County
- St. Clair County

Petitioned Proceedings***Date/Type: 1895 Establishment Proceedings (Sanilac County only)***

Application to Locate and Establish a Drain dated February 10, 1895

Minutes of Survey

First Order of Determination dated June 3, 1895

Recorded Releases of Right of Way and Affidavits of Releases of Right of Way

Application to Appoint Special Commissioners dated October 22, 1895

Objections to Appointment of Special Commissioners dated November 23, 1895

Return of Special Commissioners dated December 3, 1895

Final Order of Determination dated December 4, 1895

Notice of Letting dated December 13, 1895

Contract After Letting dated December 31, 1895

Apportionment of Benefits

Special Assessment Roll

Date/Type: 1924-1930 Establishment Proceedings

Application to Lay Out and Designate a Drainage District dated April 15, 1924 (filed with Sanilac County; refers to Lapeer, Sanilac and St. Clair Counties)

Order of Necessity dated June 18, 1924 (signed by Drainage Board)

Application to Lay Out and Designate a Drainage District dated July 25, 1924

Order of NO Necessity dated November 20, 1924 (referring to July 25, 1924 Application; signed by Drainage Board)

Order Laying Out and Designating a Drainage District dated October 25, 1927 (signed by Drainage Board Chair)

Petition to Locate, Establish and Construct a Drain dated December 6, 1927

Minutes of Survey

First Order of Determination dated February 16, 1928 (Sanilac County – 98.54%; Lapeer County – 1.3%; St. Clair County – 0.16%; signed by Drainage Board Chair)

Recorded Affidavits of Releases of Right of Way

Recorded Return of Special Commissioners dated January 26, 1929

Final Order of Determination dated February 6, 1929 (signed by Drainage Board Chair)

Amendment to Final Order of Determination dated February 14, 1929 (signed by Drainage Board)

Notice of Letting and Day of Review dated March 1, 1929

Abutment Contract dated April 5, 1929

Contract for Bridges dated April 5, 1929

Excavation Contract dated April 19, 1929

Contract After Letting dated March 10, 1930

Recorded Return of Special Commissioners dated December 4, 1930

Apportionment of Benefits

Special Assessment Roll

Date/Type: 1938-1940 Maintenance and Improvement Proceedings (Sanilac County only)

Petition for maintenance and improvement dated December 6, 1938 (filed with Sanilac County)

Minutes of Survey

Order of Necessity dated January 31, 1939

First Order of Determination dated February 2, 1939

Recorded Releases of Right of Way

Final Order of Determination dated January 23, 1940 (signed by Sanilac County)

Notice of Letting and Day of Review dated April 13, 1940

Contract After Letting dated May 4, 1940

Apportionment of Benefits

Date/Type: 1946-1947 Maintenance, Improvement and Consolidation Proceedings – Black River Drain & Elk Creek Drain

Petition for maintenance, improvement and consolidation dated January 4, 1946 (filed with Sanilac County)

Order of Practicableness dated February 11, 1946 (signed by Drainage Board)

Order of Necessity dated December 4, 1946 (signed by Drainage Board)

First Order of Determination dated January 16, 1947 (“Black River Drain & Elk Creek Drain”; Sanilac County – 99.6%; Lapeer County – 0.36%; St. Clair County – 0.04%; signed by Drainage Board Chair)

Recorded Releases of Right of Way

1947 Opinion of Attorney General No. 630 regarding inability to combine a county drain and intercounty drain in one proceeding

*Note in File regarding no construction of Elk Creek Drain based on Attorney General opinion

Date/Type: 1948-1950 Maintenance and Improvement Proceedings

Petition for maintenance and improvement dated February 20, 1948 (filed with Sanilac County; refers to Lapeer, Sanilac and St. Clair Counties)

Minutes of Survey

Order of Practicableness dated March 31, 1948 (signed by Drainage Board)

Order of Necessity dated May 18, 1948 (signed by Drainage Board Chair)

First Order of Determination dated May 18, 1948 (Sanilac County – 98.54%; Lapeer County – 1.3%; St. Clair County – 0.16%; signed by Drainage Board Chair)

Order of Necessity dated June 29, 1948 (signed by Drainage Board Chair)

First Order of Determination dated June 29, 1948 (Sanilac County – 98.54%; Lapeer County – 1.3%; St. Clair County – 0.16%; signed by Drainage Board Chair)

Recorded Releases of Right of Way

Recorded Return of Special Commissioners dated December 29, 1948

Final Order of Determination dated December 30, 1948 (signed by Drainage Board Chair)

Notice of Letting and Day of Review dated January 6, 1949

Intercounty Contract After Letting dated March 14, 1949

Notice of Letting and Day of Review dated April 1, 1949

Intercounty Contract After Letting dated May 3, 1949

Notice of Forfeiture of Contract dated January 23, 1950

Intercounty Contract After Letting dated January 23, 1950

Special Assessment Roll

Date/Type: 1984-1988 Maintenance and Improvement Proceedings

Petition for maintenance and improvement dated March 15, 1984 (filed with Sanilac County)
Petition for maintenance and improvement dated June 27, 1984 (filed with Sanilac County)
Petition for maintenance and improvement dated July 10, 1984 (filed with Sanilac County)
Order of Practicableness dated December 7, 1984 (signed by Drainage Board)
Order of Necessity dated June 25, 1987 (signed by Drainage Board)
First Order of Determination dated March 17, 1988 (Sanilac County – 98.6%; St. Clair County – 0.1%; Lapeer County – 1.3%; signed by Drainage Board Chair)
Releases of Right of Way
Final Order of Determination dated April 19, 1988 (signed by Drainage Board Chair)
Notice of Letting and Day of Review dated April 22, 1988
Contract After Letting dated September 7, 1988
Apportionment of Benefits
Special Assessment Roll

Miscellaneous Proceedings***Date/Type: 1896-1897 Probate Court/Circuit Court/Supreme Court Proceedings***

Circuit Court March 6, 1896 Decree (enjoining project on certain parcels until valid right of way obtained)
Application to Appoint Special Commissioners dated May 12, 1896
Order to Amend Appointment of Special Commissioners dated June 1, 1896 (to reflect correct names and ages of certain minor children and to strike Watertown from list of Townships)
Application to Appoint Special Commissioners dated June 16, 1896
Objection to Empanelling of Jury dated July 8, 1896 (challenging validity of certain release of right of way due to failure of co-tenant permission)
Report of Jury as to Necessity of Drain dated July 10, 1896
Affidavit of Michael Brady in Support of Writ of Certiorari dated July 31, 1896
Drain Commissioner's Motion to Dismiss to Writ of Certiorari dated August 31, 1896 (claiming plaintiff did not seek certiorari within the 10 day period)
Order of Circuit Court dated November 16, 1896
Supreme Court Decision dated September 14, 1897 (dismissing certiorari petition and upholding validity of drain proceedings; 114 Mich 326 (1897))

Date/Type: 1941 Sanilac County Circuit Court Proceedings

Decree dated October 10, 1941 (ordering certain property out of the Black River Intercounty Drain Drainage District – the West ½ of the NE ¼, Section 20, Minden Township)

Date/Type: 1991-1992 Sanilac County Circuit Court Proceedings – Dumm v Black River ICD (File No. 91-20512-CC)

Complaint dated October 3, 1991 (alleging inverse condemnation)
Answer to Complaint dated October 24, 1991
Answer to First Amended Complaint dated November 25, 1991
Stipulated Order of Dismissal dated October 1, 1992

Date/Type: 1991-1993 Sanilac County Circuit Court Proceedings – Fraser & Son, Inc. v Black River ICD (File No. 91-21077-CK)

Drainage District's Answer to Complaint dated October 23, 1991

Drainage District's Counterclaim and Third Party Complaint dated October 23, 1991

Defendant's Motion for Summary Disposition dated November 5, 1992

Drainage District's Mediation Summary dated November 25, 1992

Order Granting Defendants Motion for Summary Disposition dated January 7, 1993

Motion for Reconsideration dated January 20, 1993

Order on Motion for Reconsideration dated February 18, 1993 (directing Amended Order of Summary Disposition be submitted)

Plaintiff's Mediation Summary dated August 11, 1993

Mediation Evaluation dated August 26, 1993

Status of Drain

Under the Jurisdiction of the Black River Intercounty Drain Drainage Board

Abandoned

Relinquished

Comments

1. The Black River Intercounty Drain is a legally established intercounty drain under the jurisdiction of the Black River Intercounty Drain Drainage Board, consisting of the Lapeer County Drain Commissioner, Sanilac County Drain Commissioner, St. Clair County Drain Commissioner and the Director of the Michigan Department of Agriculture and Rural Development.