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FOREST INTERCOUNTY DRAIN
(Lapeer and Tuscola Counties)

Legal Opinion

Date Prepared: March 14, 2018

To: Brady Harrington, Joslyn & Coe Drain Drainage Board Chair

From: Stacy L. Hissong, *Esq.*

Date: March 14, 2018

Re: Forest Intercounty Drain

Municipalities Involved

Lapeer County: Marathon Township; Deerfield Township

Tuscola County: Waterloo Township

Establishment of Drain

Year: 1914

Chapter: 6

Jurisdiction of Drain

- Drain/Public Works Commissioner
- Drainage Board
- Other: _____

Files Reviewed

- MDARD
- Lapeer County
- Tuscola County

Petitioned Proceedings

Date/Type: 1913-1914 Establishment Proceedings (Drain/Lapeer and Tuscola)

Lapeer County Records

MDARD Records

Application to Locate and Establish a Drain dated April 16, 1913 (Lapeer County only)

Order of Necessity dated May 28, 1913 (Lapeer County only)

First Order of Determination dated September 28, 1914 (signed by Lapeer and Tuscola Counties but proceedings only refer to Lapeer County)

Final Order of Determination dated November 14, 1914 (signed by Lapeer and Tuscola Counties but proceedings only refer to Lapeer County)
Notice of Letting dated January 27, 1914
Contract After Letting dated December 14, 1914 (signed by Lapeer and Tuscola Counties)
Computation of Costs dated December 24, 1914 (signed by Lapeer and Tuscola Counties)
Apportionment of Tax Between Counties dated December 7, 1914 (Lapeer 90%; Tuscola 10%)

Date/Type: 1936-1942 Dam Construction Proceedings (Tuscola and Lapeer)

Tuscola County Records

Petition for the Construction of a Dam dated August 17, 1936 (North Lake Dam)
Order of Necessity dated August 19, 1941
First Order of Determination dated May 28, 1942 Lapeer 20%; Tuscola 80%)
Final Order of Determination dated June 1, 1942
Notice of Letting dated June 16, 1942
Contract After Letting dated June 24, 1942
Computation of Costs dated September 30, 1942

Date/Type: 1941-1942 Maintenance/Improvement Proceedings (Dam only; Tuscola and Lapeer)

Lapeer County Records

Petition for maintenance and improvement of dam dated July 8, 1941
Order of Practicableness dated August 19, 1941
First Order of Determination dated May 28, 1942 (Lapeer 20%; Tuscola 80%)
Final Order of Determination dated June 1, 1942
Contract After Letting dated June 24, 1942
Computation of Costs dated September 30, 1942

Date/Type: 1948 Maintenance/Improvement Proceedings (Tuscola and Lapeer)

Lapeer County Records

Petition for maintenance and improvement dated January 13, 1948
No further records

Date/Type: 1993-1994 Maintenance/Improvement Proceedings (NOT PRACTICAL)

Lapeer County Records

Tuscola County Records

MDARD Records

Petition for maintenance and improvement dated March 10, 1993
Petition for maintenance and improvement dated April 19, 1994
Order of NO Practicability dated July 27, 1994

Miscellaneous

Quit Claim Deed dated February 2, 1904 from Susan Murphy to Watertown Township, Tuscola County

Current Status of Drain

- Abandoned
- Relinquished
- Under Jurisdiction of Intercounty Drainage Board

Comments

1. Based on the information provided, the Forest Intercounty Drain is an established intercounty drain under the jurisdiction of the Forest Intercounty Drain Drainage Board, consisting of the Lapeer County Drain Commissioner, the Tuscola County Drain Commissioner, and the Director of the Department of Agriculture and Rural Development.
2. There is no established lake level under Part 307 of the NREPA of 1994, as amended, for North Lake. It appears that the Drainage Board has jurisdiction for the control structure for the lake. The Drainage Board should ensure that sufficient property rights have been retained for the maintenance and improvement of the control structure and that it is properly maintained. Alternatively, the Drainage Board should take action to enter into contracts with another entity to take complete jurisdiction and/or maintenance control of the structure.