

DRAINAGE DISTRICT MINUTES
DISTRICT GRANT #5
DECEMBER 11, 2018

The Story County Drainage District Trustees met in the Public Meeting Room in the Story County Administration Building to present an amendment to the Engineer's Amended Report (both on file at the Story County Auditor's Office) on Drainage District Grant #5. The Amended Report was presented to district landowners on March 20, 2018 and the original report (also on file) was presented on March 28, 2017. Members present were Rick Sanders, chair, Marty Chitty, and Lauris Olson. Also present were Story County Engineer Darren Moon, Assistant Attorney Ethan Anderson, Drainage Clerk Scott Wall, Kent Rode and Tyler Conley from Bolton & Menk, and at least 30 landowners in the district (see attached sign-in sheet).

Sanders called the meeting to order at 6:00 p.m.

Rode gave some background on how we got to where we are this evening. Grant #5 was established in 1902. Following a request by Black Dirt Farms in 2016 Rode and Conley (with I & S Group at the time) prepared a watershed study which indicated that lands to the north of Grant #5 were surface draining into the district and should be annexed. Black Dirt Farms then petitioned for an Engineering Report which was received in January 2017 and presented on March 20, 2017. The report found that the main open ditch was silting in, eroding, meandering, had trees growing within its banks, and was washing out private tiles entering the ditch. The district tile, which extends north from Lincoln Way and under the Union Pacific Railroad, was found to be undersized for the existing district. The report recommended annexing additional lands to the north into Grant #5, cleaning the open ditch, extending that ditch north under the railroad to 220th Street, and enlarging and extending the district tile north from 220th to better serve the existing district and to accommodate the lands recommended for annexation.

At the March 2017 hearing, concerns were raised about water draining to the southwest from the northern part of Grant #5 and the size of the existing culvert under the Lincoln Highway. The amended report recommended replacing the Lincoln Highway culvert with a significantly larger structure and annexing additional land to the west of Grant #5 to create a west main watershed that would drain water to a new, secondary outlet that is currently served by a private 18" tile. The report also looked at options for improving water quality. Ideally a wetland could be created somewhere in the district but there were no suitable sites for such a wetland. Other options could be implemented on an individual basis. The amended report recommended that landowners in the district contact the NRCS for wetlands evaluations of their properties. The engineer has not received many of these from the landowners in Grant #5. Penalties can be severe if a tiling project drains existing wetlands.

What is being presented this evening is an amendment to the amended report of March 2018. It takes into account development plans from the City of Ames for their Industrial annexation area and the west main tile area. The west main tile has been changed to drain more of the northern annexation area of Grant #5 which in turn has led to a reduction in tile sizes for the east main tile. The project is divided into sections which can be addressed separately or as a complete project.

Section One is the existing main open ditch repair. The trustees must address problems with the main open ditch at some point as they are required by Code to keep it functioning at its original capacity. The cost for items in section one is \$544,000.

Section Two is the extension of the main open ditch north from Lincoln Highway under the Union Pacific Railroad to 220th Street. This would replace the existing main district tile with an open ditch, enlarge the existing culvert under the Lincoln Highway, and replace the tile crossings at the railroad with a culvert.

Section Three involves the replacement of existing district tile north of 220th Street with larger tile and extending the new tile farther north to serve the proposed annexation areas.

Section Five adds a new west main tile to serve the western annexation area which is currently drained by an 18" private tile. This tile would drain part of the northern annexation area, reducing the amount of water being carried by the east main tile.

Section Six is the addition of a lateral tile draining more of the northern annexation area to the west main tile.

A landowner said he preferred to see more water directed to the east main tile, not to the west.

Rode replied that the consensus of the landowners at the March 2018 hearing was to direct more of the water in the north annexation area to the west. That is why the report recommends replacing the existing 18" tile with something larger.

Olson said the estimated costs have increased since the March 2018 hearing. Could Rode comment on that?

Rode and Conley both responded. Rode said every time the engineer is directed to amend the report and modify the plans the district incurs additional costs. Changes to the plans also alter the construction costs. Conley said cost estimates are based on construction cost tables that are continually updated based on ongoing and completed construction projects. Bolton and Menk try to keep their cost estimates current based on information from those tables.

Ron Jensen asked what would happen to the existing 18" tile in the west main watershed.

Rode said if it is still functional it can be left as is and the new tile will be laid adjacent to it. If it is not functional it will be crushed in place and buried.

Ron Jensen said if the existing tile can be left in place why should the new tile be routed around the edge of the Elwell property instead of straight through it, paralleling the 18" tile.

Rode said that could be an issue and the 18" tile might have to be re-routed if it is kept as a functional tile.

Another land owner asked about Elwell-Rueter's (Elwell's) plans for development on their land in the west main tile watershed.

Rode said the plans he has seen are very preliminary. Elwell's does not have a final plan for what might be developed on their land.

A landowner asked about existing utilities that will be in the way of proposed district improvements. He said there are two water mains south of 220th Street that would be affected by the west main tile.

Rode said utilities must defer to drainage district facilities. They will need to have easements where they cross district facilities and those utilities will have to be lowered to pass beneath the district facilities per Iowa Code Section 468.186.

Sanders asked how many acres total are to be annexed into Grant #5.

Rode didn't have the number handy but estimated about 2,000 acres (the report states there are 1,543 new acres in the east watershed and 976 acres in the west).

Sanders said, regardless of how much of this project is approved, it makes sense to him to do the annexation and install the tile to serve the west main watershed. That way the people who are burdening the district without being assessed their fair share are brought into the district and the west main tile can remove some of that burden from the existing facilities. This will not alleviate the need for work on the east main tile but it gives time to see what the City of Ames plans are for that area. The district was created in 1902 and there will have to work done on the original part of the district. Sanders doesn't feel the trustees are going to be able to do the entire improvement at one time.

Rode said improving the west main watershed will not help the east main as much as Sanders or the landowners hope it will. Regardless of what improvements get done in the west main watershed there is maintenance on the original facilities, particularly the existing open ditch, that must be done.

Sanders said, based on aerial photos from the 1930's, it appears that the flow of water has shifted away from the west over the years.

Rode said drainage districts try to take advantage of the natural course of water which can change over time. That appears to be what has happened in this area.

Several landowners said the construction of Interstate 35 is what changed the original direction of the flow of water.

Rode said we can't correct the mistakes of the past. We need to deal with what we have today.

Sanders said we have an aging drainage district, we have the potential for major development in the middle of the district, and we have ground that is benefitting from district facilities without paying into the district. This is a huge potential project and we are going to have to deal with all of it so it is time to get started. A reasonable place to begin is with annexation and creating the west main watershed.

Rode said if the annexation is done without any consensus on installing a west main tile and that project is not pursued the properties in the west annexation area would then be in the district but would have no access to district facilities. Their benefit to drainage could be set at zero but it would be irregular to create such a situation.

Anderson quoted Iowa Code Section 468.119. The trustees can annex land into an existing district, without the right of remonstrance, if they believe that land benefits from the existing district or *will benefit* from a repair or improvement contemplated for the existing district.

Sanders said he would like to see all of the areas proposed for annexation annexed into Grant #5 so the landowners in those areas have the full rights of drainage district landowners. He would also like to have a preliminary reclassification completed so we can give landowners a better idea of their share of the project cost as opposed to telling them we're going to do this project and, when it's all done, we'll let you know how much you owe. He emphasized that there is a lot of work to be done in Grant #5 and it won't all get done while all of us are still here but it will get started while we are all still here.

Rode said preliminary classifications should be looked at as being preliminary. As construction proceeds individual benefits can change. He has been involved in projects where preliminary classifications were created and where helpful.

Chitty said it sounded to him like it was time to hear from the landowners in attendance. They should have a good idea of where the trustees stand. Now it's time to learn where the people in the district stand.

Five land owners had submitted written comments/objections to the proposed Grant #5 project (see attached letters). Before those attending were asked to comment Wall read the letters and he and Rode provided comments on the objections, most of which were put in writing before the meeting and are attached with the letters.

The first letter was received via email from Joyce Cofer representing Hubbard Harvest, LLC. Wall read the letter and Rode gave his responses to each of the 10 points in the letter. Prior to reading the letter Wall stated that he had spoken with Cofer by telephone and it was apparent that, based on the letter, some of the phone conversation had not been as clear as it could have been, particularly with regard to soil compaction and crop damage compensation.

Chitty asked if the trustees only repair the existing open ditch are they shirking their responsibilities by not doing the improvement.

Rode said while repairing the open ditch is the only thing the trustees have an obligation to do, the best time to extend the ditch is now, before the land is developed. He believes the extension of the open ditch is a bigger advantage for development than it is a detriment.

Tracy Warner, Ames City Engineer, disagreed. In her opinion the open ditch is not necessary and will have a detrimental effect on the City of Ames plans for the area. The city is 95% complete with plans for sanitary and storm sewers and the proposed improvements would necessitate redoing those plans to place the intended utilities under the district facilities.

Sanders said the City of Ames does a great job of regulating runoff from developed areas but he asked Warner how the city handles water that passes through their boundaries.

Warner said water, such as that in the district tile, can still pass through unimpeded. The City regulates any water flowing into that tile from lands within the city and that water will be cleaner than the water in the tile. The proposed improvement will allow more water to drain more quickly reducing opportunities to improve the quality of that water.

Olson asked, if property in Ames south of the Lincoln Highway is developed before land north (upstream) of the road how does that affect the flow of water through the original development.

Warner said, because of the city's requirements for on-site retention of water, the downstream property would probably see a reduction in flows from the north. The proposed open ditch extension will increase the volume of water and negatively impact future land use as you can't build over an open ditch.

Chitty asked what would happen to drainage assessments if the district extends the open ditch then a new industry comes in and reroutes the ditch.

Sanders said the easement can be relocated along with the ditch if necessary at the expense of the new owner. The benefits to drainage will remain unchanged and any outstanding assessment will not be affected. Developers would be liable for the cost of any changes to the district facilities.

Chitty said he is less and less inclined to approve the extended open ditch if there is the possibility that it would have to be moved shortly after it is built.

Rode reminded the trustees that the district has an easement across the industrial annexation area and there is already a tile there that cannot be built over. An incoming industry could choose to relocate that easement and tile or open ditch at their cost.

Warner said a parking lot or driveway can be built over a tile but not over a ditch. The tile leaves an owner with more options on how to develop the land than a ditch does.

Chitty reiterated that he is unwilling to approve something that could be changed before the district is even finished paying for it.

Ron Jensen said the land in question is low and prone to flooding. If the open ditch is not extended the city will have to raise the land 3-4 feet before it is developed which will impede the water coming in from north of the railroad. He emphasized that the trustees' responsibility is to represent the landowners in the district, not to the City of Ames.

Sanders said the areas proposed for annexation need to be annexed so those people are on the assessment schedule and have the same rights to representation as those already in Grant #5.

Wall read the next letter, submitted by mail, email, and in person by Denny Elwell Company. Wall, Rode, and Anderson all contributed responses to the 9 points in the Elwell letter. Those responses are effectively summarized by Rode's written comments (see attached). On item 1 Wall stated that the Code of Iowa requires notification of a public hearing at least 40 days prior to said hearing and notice for tonight's hearing was mailed on October 30, 43 days ago.

Ron Jensen said this is the same thing as the proposed open ditch. The developers need drainage but would like the existing tile re-routed. When we try to accommodate them they complain that they don't need drainage. The new tile should go right where the existing one is and if the property is developed later the owner can pay to relocate the tile.

Chitty noted Rode's comments included relocating the west main tile to accommodate Elwell's concerns. How far would the tile be moved from the intended location?

Rode said between 400 and 500 feet. Capacity loss due to placing bends in the tile can be alleviated through design. The bends in the tile would not be as sharp as they appear to be on the plans.

Olson asked if anyone knew of specific plans Elwell had for development of their property. No one did.

A landowner asked why all the concern about developers. If they want to change the location of the district facilities when they develop their land they can do so, at their expense, so long as they do not alter the capacity of the district.

Sanders said he thought this project should be done sequentially starting with the west main watershed and working our way south. If we wait on the Ames Industrial Annexation Area and see how that develops it may be that incoming businesses will need to re-route the existing tile and maybe the district can work with them to reduce the costs to the district. At some time in the near future the trustees will have to address the problems in the existing district but let's start with a part of the whole project and see where that leads us.

Chitty expressed concerns about the added cost of rerouting the tile across the Elwell property. What are the additional costs and if the tile is moved where will it outlet? Will the district have to construct a new outlet?

Rode said the tile will outlet at the same spot it does now.

Wall read the letters from Charles Lloyd, the City of Ames, and the Union Pacific Railroad. Lloyd delivered his letter in person earlier in the day and Wall said most of his questions had already been addressed during this meeting. The City of Ames and the Union Pacific submitted their letters by email today.

Ron Jensen agreed with Sanders about doing the annexation and starting repairs/improvements at the top of the district. He believes that the west main tile could remove a significant volume of water that currently flows under the railroad. Ron again emphasized that the trustees' primary obligation is to Grant #5.

Sanders said he thinks we need to sequence this project, starting in the north and the trustees have to stop delaying and move forward with the annexation and the west main tile improvement.

Steve Jensen asked why only part of the proposed annexation area would be annexed.

Sanders said he wants all of the areas proposed for annexation to be annexed so the land owners in those areas have full rights as drainage district residents. Then we do the reclassification and the west main tile.

Rode and Anderson concurred that Code Section 468.119 gives the trustees the authority to move forward with annexation.

Rode said that a preliminary reclassification is done without district commissioners. The final classification will require two commissioners in addition to the project engineer as required by Code.

Olson asked how long it would take to complete the annexation and have the design plans and specifications ready for bid.

Rode said the annexation could be ready in spring 2019 but the design plans would be more into the fall.

Sanders said he sees us accepting a bid before the crops are out in 2019 with construction occurring over the winter of 2019/20.

Ron Jensen asked what the federal government's share in this is as they are in the district.

Rode said the lands of the NADC would be assessed just like any other property in Grant #5.

A land owner asked what her financial obligations will be. She is getting older and may be selling her farm to her children or another buyer. Will she be able to sell her land and will the assessments against the land hurt her ability to get a fair price?

Sanders answered that the assessments are paid at the same time as regular taxes and that owners can request that their assessment be spread over a period of 10-20 years. Those assessments go with the land so if it sells the new owner would take over any outstanding payments.

Olson moved, seconded by Chitty, to accept the Engineer's amendment to the Amended Engineer's Report. Motion carried unanimously (MCU).

Olson moved, seconded by Chitty, to direct the project engineer to initiate annexation of all properties proposed for annexation in the amended report, proceed with preliminary reclassification of Grant #5

following said annexation, and to draft design plans and specifications and prepare bid documents for the west main tile improvement only.

A landowner asked if what costs the east main tile would assume for the west main tile improvement.

Rode and Wall said the entire district, including the newly annexed areas, must share the cost of the engineering work done to date and the preliminary reclassification but only the properties served by the west main tile will be assessed for the cost of its design and installation.

Rode asked if the reclassification is for the district as it exists today.

Sanders said the preliminary reclassification will be for all of Grant #5, including the annexation and the west main tile improvement but not including the proposed improvement to the east main watershed.

Sanders called for a vote on Olson's motion. MCU.

Ron Jensen asked if the west main tile and lateral tile would use PVC or reinforced concrete pipe. Are there restrictions on what material is used?

Rode said he is not aware of any stipulations for either material but he prefers reinforced concrete pipe as he has seen instances of PVC buckling during installation and the cost difference between the two materials is negligible.

Chitty moved, seconded by Olson, to adjourn. MCU at 8:10 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Scott T. Wall". The signature is written in a cursive, flowing style.

Scott T. Wall

DRAINAGE ATTENDANCE SHEET
Drainage District Grant #5
December 11, 2018

<u>Name</u>	<u>Address</u>	<u>Owner/Tenant</u>
Carol Collins	58853 250th St	owner
Martha Clifford	3909 Brookdale Cir.	owner
Randy Collins	58853 250th St.	owner
Ron Jensen	21789 590th	owner
DAVE SWENSON	41523 240th	owner
Burdell Jensen	3271 340th Hillman	owner
Tim R. Hadley	1317 8th St.	Owner
Eric Harkness	155 910161	landowner
Donnel Bell	"	"
Cindy Hildebrand	57439 250th a.	owner
Randy Brekke	6020 E Linske Way	owner
Eric Hill	6797 Sunset Pr Nevada	owner
MILES MERTZ	20267 580th	NEVADA
MARK HEWZE	25345 6205 NE	owner
Brenda Dym	2554 Deer St. Ames	AGRI
DARRIN MOON		ENG.
Alex Kottava	50690 270 Ames	FARMER
Dennis P. Smith	20433 570th Ames	Farmers/owner
John Trillmann	2425 NE 126th Ave Elkhat	Agent
Ellen & Ron McEachern	Limes	owner
Roger Maddux	57439 250th St.	owner
Lynn Johnson	1377 COUNTRY CLUB BLVD, Clive, Ia	owner
Steve Shuff	Cedar Rapids	utility

Scott T. Wall

From: Donna Coe <DonnaCoe2016@aol.com>
Sent: Saturday, December 1, 2018 8:41 AM
To: Scott T. Wall
Subject: Meeting on December 11, 2018 for Drainage District Grant #5 Watershed
Attachments: Letter to Drainage District No 5 Grant 11 28 18.docx

Scott T. Wall

Joyce Cofer and I (Donna Coe) are Co-Managers of Hubbard Harvest LLC.

I know that you and Joyce have been discussing the Water district #5 current proposal and since neither I or Joyce will be able to attend the meeting , I have attached a letter.

This letter asks questions we still have and states our position on the current proposal.

I know Joyce sent such a letter for the previous meeting and it was read during the meeting. I hope this one will also be presented.

Thank you

Donna Coe
Joyce Cofer

Hubbard Harvest LLC

Letter to Drainage District No 5 Grant

We are Hubbard Harvest LLC that owns the land North of Lincolnway Highway and south of the Railroad. With the new proposal a new ditch will be constructed across our land in place of the surface drainage that is there at this time. We have the following concerns:

1. The cost our portion of the project is hard to determine for us until after completion. The chart in the engineer's report gave an average cost per section but we were told our cost would be higher because the proposed new drainage ditch runs across our land. Would you agree to buy anything you don't know the cost beforehand? We have been told our share is estimated somewhere between 30 and 87 thousand dollars. For our land this cost is high and the benefit is low. We will lose production on the 100 ft easement and a large drainage ditch will be dug diagonally across our land and a section of our farm land will be cut off from access. The ditch will not effectively improve our drainage and we lose farmable land and access caused by the ditch and the berm alongside of the ditch.
 - a. Ask engineer how we will gain access to the NE corner of our land 04-83-23
 - b. We were told that we could grow crops on the easement but if they needed access to the ditch, we would not be reimbursed for any crop damage and damage to soil. Is this true?
 - c. We were told there would be no payment for easement or loss of crop due to construction. (City of Ames is paying for easement for utilities across the south portion of this farm in addition to crop and soil damage.)
2. Even though we will be able to farm to edge of the ditch the soil condition will have been reduced due to compaction and disturbance of the soil. This will reduce production.
3. Since we live in OK and TX, we are not able to attend the meeting. If any vote is taken other than approving the existing plans or just doing the required basic return back to original levels, we will not be able to express our opinion. A vote on any amended project should be held till we can vote.
4. The addition of surrounding areas to the drainage district seems to be on hold till a plan passes. I want to know if they will be added even if the passed proposal is to only return to the basic level of drainage ditch? Do these land owners have a say if they want to be added to Grant 5 district? How will this impact the cost of the project?
5. As a land owner with the ditch coming across our land, we have to pay a higher assessment and also lose a lot of land for production because of the ditch/easement and loss of access to a section of our land. The cost is too high and we will see virtually no benefits. It will take a long time to recoup the cost and will also cause loss of future income on this land. An additional cost would be to pay for Wet Land Determination. We are also paying for 3 revisions by the engineers currently costing \$110,000.
6. We are not sure a large drainage ditch will be looked on favorably but any industry moving into the area. This land has been annexed into the City of Ames recently with plans to develop it as industrial corridor.
7. We are not pleased that the land will not be put back to original levels such as compaction. The land should be put back to original conditions instead of paying for reduced crops since the payment for the reduced crop is for only 3 years, but the compaction probably will last much longer than that.

8. The culvert under Lincolnway Highway is limiting the flow of water to the south. Without fixing this bottle neck increasing the drainage ditch south of the highway will not help anything north of the Highway. Water has flowed over the highway because of the culvert is too small to handle the current flow and improvements North of it will only make it worse. Because the water is not be able to get thru the existing culvert at the rate water is draining now, the improvements to the north will only make flooding on our land worse.
9. Will the berm on the new drainage ditch prevent surface water on our land from draining like it does now with the surface drainage? If not this will cause us additional problems with water damage to our crops.
10. Are the land owners voting on these options and if so how are votes weighted (by acres owned, or each landowner get a vote or is the district board making the decision and you are only asking for feedback?

We feel the cost of this project and the benefits are not in line and therefore we are not in favor of the existing proposed plan. We understand that they are required to update the present drainage ditch south of Lincolnway Highway to original levels but that does not require the drainage ditch across our land.

We vote no for the present proposed project.

We acknowledge the requirement to return the ditch south of Lincolnway Highway back to its original levels. We agree only to this improvement and increasing the culvert under Lincolnway highway. We also feel the culvert under Lincolnway Highway should be enlarged by the City of Ames.

Commented [JN1]:

Letter to Drainage District No 5 Grant

We are Hubbard Harvest LLC that owns the land North of Lincolnway Highway and south of the Railroad. With the new proposal a new ditch will be constructed across our land in place of the surface drainage that is there at this time. We have the following concerns:

1. The cost our portion of the project is hard to determine for us until after completion. The chart in the engineer's report gave an average cost per section but we were told our cost would be higher because the proposed new drainage ditch runs across our land. Would you agree to buy anything you don't know the cost beforehand? We have been told our share is estimated somewhere between 30 and 87 thousand dollars. For our land this cost is high and the benefit is low. Landowners pay for the drainage facility that they benefit from. The amount paid is based on the amount of benefit they receive. The total project cost and how that cost is assessed will be determined by the reclassification process at the end of construction. We will lose production on the 100 ft easement and a large drainage ditch will be dug diagonally across our land and a section of our farm land will be cut off from access. The ditch will not effectively improve our drainage and we lose farmable land and access caused by the ditch and the berm alongside of the ditch.
 - a. Ask engineer how we will gain access to the NE corner of our land 04-83-23 The ROW Appraisers will consider compensation for severance of property. That may include outright purchase of the severed area or payment for the installation of a private crossing culvert across the open ditch. Minor adjustments can still be made to the alignment of the open ditch to minimize any necessary severance of property.
 - b. We were told that we could grow crops on the easement but if they needed access to the ditch, we would not be reimbursed for any crop damage and damage to soil. Is this true? Landowners have the beneficial use of the spoil bank within the easement area so long as that use does not interfere with the maintenance needs of the drainage district. Crop damages will be considered by the appraisers at the time of ROW acquisition. Damages caused by construction activities outside of the easement area must be paid by the drainage district. However, Iowa Code does not require crop damages to be paid within the ROW easement area. The Boards that I have been working with typically pay for all crop damages caused by maintenance activities even within the ROW areas.
 - c. We were told there would be no payment for easement or loss of crop due to construction. (City of Ames is paying for easement for utilities across the south portion of this farm in addition to crop and soil damage.)
You will receive payment for the easement (ROW) across your property. The payment is determined by appraisers and considered by the Board at a Right-of-Way Hearing on the Report of the Appraisers.
2. Even though we will be able to farm to edge of the ditch the soil condition will have been reduced due to compaction and disturbance of the soil. This will reduce production. The combination of deep tillage and natural freeze thaw cycles over several years will eliminate the effects of compaction.
3. Since we live in OK and TX, we are not able to attend the meeting. If any vote is taken other than approving the existing plans or just doing the required basic return back to original levels, we

will not be able to express our opinion. A vote on any amended project should be held till we **can vote**. A vote is not taken. If any landowner objects to any portion of the proposed improvements, they **MUST** submit their objection in writing to the auditor's office at or before the close of the hearing. A right of remonstrance exists for all improvements. That means that if a majority of the landowners benefiting from the improvement object and also own at least 70% of the land area, the project improvement cannot move forward. If there is no remonstrance, the Board determines if the improvement is necessary or desirable and conducive to the public health, convenience, welfare, benefit or utility and that the cost thereof is not excessive.

However, the Board is required by the Iowa Code to keep the existing facilities in good repair. There is no right of remonstrance on the repair portion of the project.

4. **The addition of surrounding areas to the drainage district seems to be on hold till a plan passes. I want to know if they will be added even if the passed proposal is to only return to the basic level of drainage ditch? Do these land owners have a say if they want to be added to Grant 5 district? How will this impact the cost of the project?** The annexed area will be determined after the improvements are approved. Those areas that benefit from the improvements but are not currently assessed will be annexed to the drainage district. If only the repair option is approved, there would still be the need for annexation. There is no right of remonstrance for annexation. However, if they can show that their land does not drain to the facility, that will certainly be reviewed by the engineer and considered during the reclassification process. For example, sometimes landowners surface water flows into the district but their tile water flows out of the district. The cost of annexation is relatively small when compared to the other project costs.
5. **As a land owner with the ditch coming across our land, we have to pay a higher assessment and also lose a lot of land for production because of the ditch/easement and loss of access to a section of our land. The cost is too high and we will see virtually no benefits. It will take a long time to recoup the cost and will also cause loss of future income on this land.** The advantages to drainage are significant and well documented. **An additional cost would be to pay for Wet Land Determination.** Requests for Wetland Determinations must be made to the Natural Resource and Conservation District (NRCS). The NRCS will perform the wetland determinations and provide a Certified Wetland Determination for no fee. However, depending on their workload, it may take several months or more before the determination is made. Landowners are responsible for obtaining their own determinations. It is important that this occur early in the process. **We are also paying for 3 revisions by the engineers currently costing \$110,000.** The drainage district is very large and many options, alternates and revisions were investigated based on various landowner and stakeholder meetings over several years.
6. **We are not sure a large drainage ditch will be looked on favorably but any industry moving into the area. This land has been annexed into the City of Ames recently with plans to develop it as industrial corridor.** Any industry locating in this area will need and want good drainage. The open ditch will actually contain the drain flows to primarily within the open ditch banks instead of spreading out over a much larger area of the property.
7. **We are not pleased that the land will not be put back to original levels such as compaction. The land should be put back to original conditions instead of paying for reduced crops since the payment for the reduced crop is for only 3 years , but the compaction probably will last much**

longer than that. The combination of deep tillage and natural freeze thaw cycles over several years will eliminate the effects of compaction. We have utilized this process for many projects over many years.

8. **The culvert under Lincolnway Highway is limiting the flow of water to the south. Without fixing this bottle neck increasing the drainage ditch south of the highway will not help anything north of the Highway. Water has flowed over the highway because of the culvert is too small to handle the current flow and improvements North of it will only make it worse. Because the water is not be able to get thru the existing culvert at the rate water is draining now, the improvements to the north will only make flooding on our land worse.** We have had conversations with the City of Ames about replacing the existing box culvert with a much larger box culvert. They are required to replace the existing structure with a larger structure at the proper depth to accommodate the open ditch improvement.
9. **Will the berm on the new drainage ditch prevent surface water on our land from draining like is does now with the surface drainage? If not this will cause us additional problems with water damage to our crops.** The surface drainage along the open ditch will be directed into the ditch at specific locations so as not to erode the ditch banks and not damage crops.
10. **Are the land owners voting on these options and if so how are votes weighted (by acres owned, or each landowner get a vote or is the district board making the decision and you are only asking for feedback?** Votes are not taken. Written objections are counted based on number of individuals and by number of acres to determine if a remonstrance has been met.

We feel the cost of this project and the benefits are not in line and therefore we are not in favor of the existing proposed plan. We understand that they are required to update the present drainage ditch south of Lincolnway Highway to original levels but that does not require the drainage ditch across our land.

Commented [JN1]:

We vote no for the present proposed project.

We acknowledge the requirement to return the ditch south of Lincolnway Highway back to its original levels. We agree only to this improvement and increasing the culvert under Lincolnway highway. We also feel the culvert under Lincolnway Highway should be enlarged by the City of Ames.

FILED

2018 DEC 11 AM 8:29

STORY COUNTY AUDITOR

Hand Delivered

DENNY ELWELL COMPANY

Commercial Real Estate & Development

December 10, 2018

Story County Supervisors
as Drainage District Trustees
Story County Administration
900 6th Street
Nevada, Iowa 50201

Rick Sanders
Story County Administration
900 6th Street
Nevada, Iowa 50201
rsanders@storycountyiowa.gov

Marty Chitty
Story County Administration
900 6th Street
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Lauris Olson
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900 6th Street
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lolson@storycountyiowa.gov

Scott Wall
Story County Administration
900 6th Street
Nevada, Iowa 50201
swall@storycountyiowa.gov

Jessica Reynolds, Esq.
1315 South B Ave.
Nevada, IA 50201
attorney@storycountyiowa.gov

Re: Drainage District Grant #5

Dear Story County Board of Supervisors Acting as Drainage District Trustees:

I represent Elwell-Rueter LLC (“Elwell”). Based on the November 15, 2018 letter issued by Bolton & Menk, Elwell understands that land owned by Elwell is being considered to be included in one or more projects being proposed by Drainage District #5. Further, it is the understanding of Elwell that the property owned by Elwell is not currently in Drainage District #5 and has not been noticed up for annexation into Drainage District #5.

I received the letter dated October 30, 2018 from Scott Wall at the Story County Auditor’s Office stating that an Engineer’s Report was available at the Auditor’s Office. I went to the Auditor’s Office and was provided with the following: 1) “Combined Third Hearing Letter” (12 pages); 2) “Combined Maps” (6 pages), and 3) “Drainage District No. 5 Grant Drainage Improvements” (57 pages). Based upon the statements made in those documents, it appears that the property owned by Elwell will be impacted by the projected identified as “Proposed West Main Tile.”

Elwell strongly objects to the proposal for the following reasons:

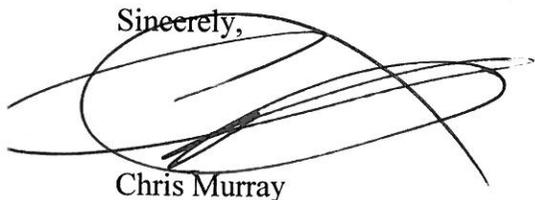
1. Notice of the December 11, 2018 meeting was not made in compliance with the requirements of the Iowa Code or due process.

December 10, 2018

Page 2

2. An Engineering Report, as required by Iowa Code, has not been provided in a form or substance that is in compliance with the Iowa Code.
3. The Drainage District Trustees are acting outside the scope of their authority by seeking “questions/comments/concerns” and proposing to take action (see Tentative Agenda for Meeting of December 11, 2018) from any landowners that are not currently contained within Drainage District #5. The authority of the Drainage District Trustees to undertake and assess for repairs and/or improvements is limited to the owners of real property located within the drainage district.
4. The Drainage District Trustees are acting improperly by not attempting to annex parcels into the drainage district prior to proposing changes or improvement to the watershed which might affect the currently unannexed properties.
5. The Bolton & Menk letter dated November 15 fails to establish a reasonable basis for the proposed changes.
6. The proposal for the Proposed West Main Tile will have the effect of diverting water from the drainage district to properties not within the drainage district in violation of the Iowa Code and common law.
7. While prior meetings have discussed the need to approach developers and the City of Ames to determine the use of properties in the unannexed areas, and the impacts such uses would have on the necessity for the Proposed West Main Tile, no such contact has been made with Elwell.
8. The artificial alteration of the flow of surface water which would be caused by the Proposed West Main Tile is unnecessary and inappropriate.
9. The West Main Tile proposal will not provide any material benefit to the Elwell properties and should not be approved.

Sincerely,



Chris Murray

(3154264.1)

Comments to Denny Elwell Company Letter dated December 10, 2018

1. Please explain further. We do not believe that to be true. This letter itself indicates notice was received.
2. An Engineer's Report was filed with the board on January 31, 2017.
An Amended Engineer's Report was filed with the board on February 27, 2018.
A second amendment to the Amended Engineer's Report was filed with the board on November 15, 2018.
3. See comment 4 below.
4. The area to be annexed depends on which improvement options are approved at hearing. It only makes sense to involve those landowners that would benefit and be assessed for the improvements in the decision as to which improvements they want. What if an area is annexed and the improvement that would have benefited them fails by remonstrance?
5. Refinements were made to the February 27, 2018 Engineer's Report at the request of landowners to direct the subsurface tile water in the current direction of a private tile that now serves that area and flows into the West Main Watershed. Please see paragraph 3 of the third amendment to the Amended Engineer's Report and dated November 15, 2018.
6. If the West Main Tile is approved at hearing by the board and there is no remonstrance by those landowners that benefit, the areas that benefit will be annexed into the drainage district.
7. Telephone conversations and emails were exchanged with Chris Murray, President and CEO of Denny Elwell Company on April 6, 2018 and more recently on December 6, 2018. Changes in alignment were performed to accommodate potential development of their property.
8. Water from the Upper Watershed flows both into the West Main and East Main areas depending on the storm events that occur. As noted above, an existing private tile follows a path from the Upper Watershed into the West Main Watershed. Surface flows will not be changed.
9. The Elwell properties will have the same opportunity as others in the West Main Watershed to connect their storm sewer and tiles into the West Main Tile.

SCOTT T. WALL
DRAINAGE CLERK
STORY COUNTY ADMINISTRATION
NEVADA, IOWA 50201-2087

FILED

2018 DEC 11 AM 9:33

STORY COUNTY ADMINISTRATION

Hand Delivered

RE: Drainage District #5 Watershed

My name is Charles Lloyd and I have land towards the south and maybe out of this watershed. The original map from what I have seen has been changed or expanded over the years. Therefore I am not sure.

I have to be away for the meeting tonight and am voicing my concerns.

My objections are the following:

1. The city of Ames is not taking responsibility by pushing any costs on the landowners.
2. They allowed construction of apartment buildings off of South Duff east of the Airport is in a known flood plain.
3. How is any assessment going to be apportioned?
4. The cost has ballooned.
5. Was this the real intent of a law passed many years ago?
6. Repair is one thing but this other is a huge overreach.
7. How can you expect a few landowners to pay for any annexation by a municipality?

Thank-you



Charles Lloyd
26606 610th Ave
Nevada, Iowa 50201

Scott T. Wall

From: Tracy Warner <twarner@city.ames.ia.us>
Sent: Monday, December 10, 2018 11:42 PM
To: Scott T. Wall
Cc: Nathan Willey; Steve Schainker; John C Joiner
Subject: Re: Grant #5 December 11
Attachments: City of Ames DD #5 Letter to Trustees 12 11 18 hearing.pdf

Importance: High

Scott,

Attached please find our letter from the City of Ames regarding the proposed improvements to Drainage District Grant No. 5. I plan to attend the meeting tomorrow evening.

Let me know if you have any questions.

Tracy L. Warner, Municipal Engineer

City of Ames
Public Works Department
Engineering Division
515 Clark Avenue
Ames, IA 50010
Desk: (515) 239-5163
Email: twarner@city.ames.ia.us

-----"Scott T. Wall" <SWall@storycountyiowa.gov> wrote: -----

To: "Tracy Warner (twarner@city.ames.ia.us)" <twarner@city.ames.ia.us>, "Nathan Willey" <NWilley@city.ames.ia.us>

From: "Scott T. Wall" <SWall@storycountyiowa.gov>

Date: 10/30/2018 11:08AM

Subject: Grant #5 December 11

Tracy & Nathan,

Attached are an agenda and a letter to landowners in Drainage District Grant #5 for a meeting to be held on Tuesday, December 11 at 6:00 p.m. The meeting is to present the latest revision of the Engineering Report on Grant #5 to landowners in the district, including the City of Ames.

Scott Wall

Drainage Clerk

900 Sixth Street

Nevada, IA 50201



Smart Choice

FILED

18 DEC 11 AM 10:14

STORY COUNTY AUDITOR

Via email

December 10, 2018

Story County Drainage District Trustees
Story County Administration
900 Sixth Street
Nevada, Iowa 50201-2087

Dear Trustees,

The City of Ames appreciates the opportunity to be a part of the process and to review the potential improvements to Drainage District Grant No. 5. City staff has met with Bolton & Menk staff, consultant hired by Trustees, to exchange and coordinate information.

As the Trustees are aware, the City of Ames has annexed 1,349.63 acres of land on north and south sides of E. Lincoln Way (east of Interstate 35) for future industrial development. The City of Ames is substantially (95 percent) complete with the design of water and sanitary sewer mains to serve this area with public utilities. Land acquisition is in the process to obtain temporary and permanent easements and a parcel of land for a lift station and future elevated storage tank. Once land is acquired, the project will go out for bid letting for a 2019 construction. The design of the proposed Drainage District Grant No. 5 channel improvements puts burden on the City to further deepen the sanitary sewer based on proposed improvement elevations.

In working through the design of the sanitary sewer and water mains, City of Ames staff and design consultant have been working diligently to coordinate our utility design with private utilities such as CenturyLink (communications), Alliant Energy (gas and electric), and Colo Telephone Company (communications/fiber). Additionally, the City of Nevada has raw well line utilities in this area. During a meeting with Bolton & Menk staff, it was stated that they have not reached out to any of these companies to coordinate the proposed improvements with the existing utility locations. This could cause significant costs to be incurred by the utility companies to relocate their facilities.

The City of Ames has extensive and progressive stormwater management requirements as areas are developed. These areas will be required to treat the water quality volume and reduce flood volumes and flow rates back to a meadow in good condition baseline (which has significantly less water flow than even agricultural runoff). If drainage district improvements are made now, as this area is developed these runoff flows will decrease. This would apply to all areas of land within the City of Ames corporate limits, including the regional commercial (E. 13th Street) and industrial (E Lincoln Way).

Just east of Interstate 35 along E. 13th Street is land zoned regional commercial that is also within the City of Ames. This area was conceptually designed, under former ownership, which included numerous stormwater best management practices including regional basins. These facilities were designed to treat water quality and detain water quantity (flood control). Even under different

ownership, proposed development will be required to meet the City's stormwater management ordinance that includes water quality treatment and water quantity controls.

As part of the proposed improvements, there is combining of subsurface water and surface water into a proposed channel south of E 13th Street. The design causes an elevation differential between the proposed channel and existing culvert under E. Lincoln Way. Additionally, this proposed channel will more rapidly carry higher volumes of water and more nutrients toward the existing culvert. The City of Ames does not agree with the statement made by Bolton & Menk that the entire cost of a new culvert replacement be the responsibility of the City. In addition to the elevation difference there is increased capacity of the proposed improvement (channel), therefore the cost of the new culvert should be distributed throughout the benefitted Drainage District.

The proposed channel south of the existing railroad (north of E. Lincoln Way) bisects a potentially large development opportunity. As the East Industrial area is being promoted for development, this area will very likely include regional stormwater management as retention/detention basins. There is a high likelihood that the proposed improvements as part of Drainage District Grant No. 5 would need to be modified or completely relocated. The regional commercial area (north and south of E. 13th Street) will also be developed with regional retention/detention basins, so at the least coordination of improvements in this area is encouraged or strongly discouraged to take place at this time.

Story County is a founding and active member of each the Squaw Creek Watershed Management Authority and Headwaters of the South Skunk River Watershed Management Authority. The Board of Supervisors have been active in reducing nutrients through projects implemented within Story County. They have also been proactive through completing countywide watershed assessments. As part of that assessment, watershed actions have been identified to improve water quality. The proposed improvements as part of Drainage District Grant No. 5 do not appear to maximize improvement to water quality within Story County and as addressed in the Iowa Nutrient Reduction Strategy. The proposed project enlarges drainage capacity, instead of reducing flows and improving water quality in the area.

The Nature Conservancy in Iowa has been looking at Drainage District Grant No. 5 as a possible model project to demonstrate state of the art green storm water and ag drainage systems. This would appear to be an avenue where Story County and City of Ames could work in collaboration to improve drainage and water quality (reduce nutrients reaching the rivers and streams) in this area, while also coordinating regional stormwater management in those areas to be developed.

Overall, the City of Ames opposes the proposed improvements as submitted by Bolton & Menk and being considered at the December 11, 2018 hearing.

Respectfully,



Tracy L. Warner, P.E.
Municipal Engineer

Scott T. Wall

From: Kasi A. Achenbach <kaachenb@up.com>
Sent: Tuesday, December 11, 2018 1:32 PM
To: Scott T. Wall
Cc: Pat R. McGill
Subject: Proposed Improvement Project
Attachments: Story County Letter.pdf

Mr. Wall,

Attached please find correspondence from Attorney Patrick McGill in regard to the above-referenced matter. Please respond to this email to verify receipt.

Thank you,

Kasi A. Achenbach
Legal Assistant
Union Pacific Law Department
1400 Douglas Street, MS 1580
Omaha, NE 68179
402-544-2158
kaachenb@up.com

**

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18 DEC 11 PM 2:03

STORY COUNTY AUDITOR

December 11, 2018

VIA EMAIL: swall@storycountyia.gov

Scott T. Wall
Drainage Clerk
Drainage District #5
Story County, Iowa
900 Sixth Street,
Nevada, Iowa 50201-2087

RE: Hearing on December 11, 2018
Proposed Improvement Project
Drainage District #5 (the "District")

Dear Mr. Wall:

Thank you for the opportunity to comment on the above project.

Union Pacific ("UP") does not object to the overall project proposed by the District.

With respect to the portion of the project on UP's right of way, please note that the project specifications are not yet developed in sufficient detail for UP to determine whether the District's intended design for the culvert or culverts crossing under UP's railroad tracks will meet UP's design, safety, construction and operating requirements. Please provide more detail so UP can determine whether the plans and specifications of the project are acceptable. UP will object to any design that does not meet UP's requirements, but UP would expect to arrive at a design that meets with the approval of both the District and UP.

Additionally, please note that once the parties have approved a design for the culvert(s) to be installed under UP's tracks, UP would like to discuss with the District whether it is more appropriate and beneficial to both parties for UP to complete the project or for the District to complete the project. Also, please note UP's readiness to install, or fund the installation of, an appropriate facility or facilities to carry an appropriate volume of surface waters across UP's track structure. To the extent the District would like the capacity of the culvert(s) under UP's track structure to exceed what is reasonably necessary, or to the extent the District has plans to make other modifications or installations on UP's property (such as a deep ditch carrying water to UP's track structure), UP does not necessarily agree UP would have a duty to fund the completion

of that work, and the District should plan accordingly. UP certainly welcomes the opportunity to discuss the project further once the District has a more detailed understanding of its proposed plan.

Please file these comments with the District before tonight's hearing.

Please also let me know if you have any questions about this letter or would like to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick R. McGill". The signature is stylized and cursive.

Patrick R. McGill