

DRAINAGE MEETING  
DISTRICTS SHERMAN #83 & WARREN #11  
MARCH 14, 2023

The Story County Drainage District Trustees met in the Public Meeting Room of the Story County Administration Building in Nevada, IA to consider requests to replace damaged tile in Drainage District Sherman #83 and to repair a collapse of the open ditch bank in Drainage District Warren #11. Members present were Latifah Faisal, chair, Lisa Heddens, and Linda Murken. Also present were Story County Engineer Darren Moon, Drainage Clerk Scott Wall, Communications and Media Intern Bryce Garman, and Steve Johnson of Hertz Farm Management representing a landowner in Sherman #83.

Faisal called the meeting to order at 8:33 a.m.

Heddens moved, seconded by Murken, to approve the agenda. Motion carried unanimously (MCU).

Moon spoke about the situation in Sherman #83. The project is pretty straightforward but Moon wants to establish how similar projects will be handled moving forward. Hertz Farm Management had a tile crew on land they managed and uncovered problems with the 8" district tile. On investigation the 8" tile was in reasonably good shape but there is a 12" tile downstream that is in poor condition. Replacing the existing district tile with single-wall tile would cost \$14,000. The tile is relatively shallow, making it prone to damage from heavy equipment. Moon contacted Tyler Conley at Bolton and Menk for advice. Moon and Conley met with Hertz and Hertz pushed for single-wall tile which both Moon and Conley said was not acceptable. They recommended dual-wall tile which has a smooth interior or concrete pipe. Replacing the original clay tiles with 12" corrugated tile will reduce the tile capacity by 30%.

They reached a compromise with a new product, 12" dual-wall flexible tile. Moon was at a conference recently and learned of another county that had used plastic tile to replace original clay tile in a project almost identical to this one. The clay tile came in short lengths and allowed water to enter at the joints. Plastic is continuous and you lose the joints so the landowners are now suing because the tile isn't working properly. That project had used an engineer to design it and, once the landowners realized that suing the district was suing themselves, they filed suit against the engineer. That worries Moon if we do not use Bolton and Menk or another firm for design of larger projects as it would open the County Engineer up to lawsuits for drainage. He favors use of the district watchman program for this reason plus drainage district engineering is really outside the purview of his department.

The new estimate for the repair is \$28,000 which includes an 8" branch tile that needs to be at least partially replaced. They estimated 500' of 8" tile for \$6,000 but they may not have to replace that much of it. Moon is not comfortable approving a project with this large a cost without trustee approval. He also has concerns about how projects of this size will be financed. Secondary Roads covers drainage district repairs they perform out of their budget and are reimbursed when the districts are levied but they have never paid for a project this expensive. The legislature is raising the limits on how much road departments can spend on drainage projects which will put more pressure on Moon's department to do more of these kinds of projects in-house because they are less expensive than private contractors. In the past the trustees would meet on any project over \$10,000 but the state has been raising that limit (see attached sheet) to match the competitive bid threshold which is currently \$196,000. Moon just wants the trustees to be aware of the current thresholds.

Moon said larger projects like this will require the inspection services that Bolton and Menk's district watchman service can provide. Conley's assistance in dealing with Hertz has already been a big help in negotiating on Sherman #83. He recommends approving the bid (attached) by Hill's Backhoe & Tiling for

\$28,519.00 Moon noted that Sherman #83 is a small district with very few landowners (8-10) to share the costs.

Faisal asked for confirmation that the landowners would pay for this work.

Moon said that, ultimately, the landowners will pay but Secondary Roads pays from their budget and it takes 6 months to a year for them to be reimbursed by the district.

Wall said, assuming we can levy this district in May, the assessments are not due until September 30 so Secondary Roads will not be reimbursed until October. Because we have an estimate and Hertz wants the work done before planting begins it should not be a problem to have the numbers needed to levy the district this year.

Murken asked about Secondary Road's funding of the project.

Moon said he had a concern about the legality of his department paying for work that they were not doing themselves. This is the part that makes him uncomfortable about the cost. While they can absorb the cost of this project there will probably be more and drainage projects are becoming more expensive due to the aging infrastructure.

Murken asked if Moon had an estimate for the watchman services.

Moon did not. They've never paid for watchman services before though this should be a relatively simple, brief project. It will not include any engineering design fees but the next topic today, Warren #11, will also utilize the watchman service and will need some engineering design work.

Murken asked if the agenda for this meeting had been posted. She'd had some issues that led her to ask.

Wall said it was not posted on line but had been posted in this building last week. It was his error that the on-line posting was not done. Steve Johnson at Hertz had not been able to find the agenda which is how the error was discovered and Wall had emailed Johnson the agenda so he could join the meeting and he was showing up as being on-line now.

Murken moved, seconded by Heddens, to use Bolton and Menk, Inc.'s District Watchman Program for the Sherman #83 tile replacement project as described by the County Engineer. MCU.

Murken recommended that the trustees seek legal advice on what is an appropriate use of Secondary Road funds to cover claims from outside contractors for drainage district repairs until Secondary Roads can be reimbursed by the districts.

Moon spoke about the issue in Warren #11. A landowner, Alan Twedt, had in late February or early March complained that the berm of the open ditch south of County Road E18 and east of S14 had collapsed, allowing water from the ditch to flood his land and leave behind refuse from upstream (sand, rock, tree limbs). Moon met on site with Tyler Conley last week and the damage was much worse than he'd expected. Secondary Roads had repaired the ditch bank in this area 6-8 years ago but now it was worse than the first time. Conley suspects there is something in the soil, a sand pocket perhaps, that makes it highly erodible. Secondary Roads had been reluctant to make localized repairs to the open ditch because an Engineer's Report was done in August 2010 recommending a cleanout and repair of the entire ditch and nothing has been done on those recommendations due to landowner objections. The Code of Iowa does not allow large projects to be broken down into smaller ones to avoid the \$50,000 threshold above which engineer's reports and project bids are required.

In this case Moon believes an exemption can be made as this is an emergency repair unrelated to the broader issues of siltation and trees in the open ditch but it still raises questions of how much more his department can do in Warren #11. This is another project for which Moon recommends Bolton and Menk's watchman service be utilized.

Because of siltation and trees in the open ditch there will be more and more situations like this if nothing is done so the issues in the larger district need to be addressed in the near future.

Faisal asked if an engineer's report is needed.

Moon said not for this repair though there will be some engineering design work necessary. We do have engineering reports on this district.

Wall said we have an August 2010 report from Fox Engineering. By Code, reports are valid for 10 years so there would have to be a new report done for Warren #11. Hopefully, Bolton and Menk would be able to use the 2010 report as a starting point, reducing their costs.

Moon and Wall both said that before any money is spent on engineering for the entire district there should be a meeting with the landowners to see what progress they've made with legislation or dissolution of the district. If there had been progress with legislation in 2022 we would know about it since they wanted to change the way properties in drainage districts are assessed.

Wall said the last meeting with the landowners was in 2021 and they were given until June 2022 to pursue legislative changes or dissolve the district. Obviously, we are well past that deadline and we haven't heard from the landowners.

Faisal asked if a landowner meeting was something Conley could assist with.

Wall said if the trustees want him to be present he could certainly facilitate any discussion.

Murken asked if this repair to the ditch bank could be seen as violating the intent of the Code section prohibiting spot repairs?

Moon said that was a concern but the trustees are also obligated to maintain the district and this is an area that could rapidly get worse if nothing is done.

Murken asked when the last report was done.

Wall said it was dated August 2010 and was presented to the landowners in January 2011.

Murken said by requesting that the report be updated the trustees would be showing that it is not their intent to circumvent the Code.

Moon said they can also point to the current damage as an example of what can be expected to continue to happen if the open ditch is not repaired in its entirety. In the long run repairs like this will cost more than a complete repair.

Wall said the landowners' biggest objection to the ditch repair has been the way properties are billed in drainage districts. They want the cost to be spread equally over every acre in the district but the legislature has not addressed that in 2022 or this year and the Iowa Drainage District Association will

fight any such proposal that is put forth. The only way to change assessments currently is reclassification and that carries no guarantees that any individual's benefits to drainage will be lowered.

Murken asked if the landowners can request reclassification.

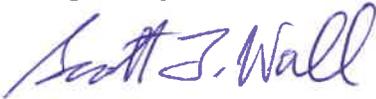
Wall said they can but he does not expect that to happen as they are well aware that they will pay for it and they don't want to pay for anything unless the cost is billed on a per acre basis.

Heddens moved, seconded by Murken, to approve the use of the Bolton and Menk, Inc. District Watchmen Program for an emergency repair to the open drainage ditch in Warren #11 as discussed today with the County Engineer. MCU.

Murken moved, seconded by Heddens, to direct Bolton and Menk to update the August 2010 Engineer's Report by Fox Engineering on the condition of the open ditch in Warren #11. MCU.

Murken moved, seconded by Heddens, to adjourn. MCU. Meeting adjourned at 9:00 a.m.

Respectfully submitted,



Scott T. Wall

**History of Changes to Cost Thresholds for Bid Lettings, Public Hearings, Remonstrance Rights, Requirements for Engineer's Reports and Secondary Roads Department Involvement for Iowa Drainage Districts**

Note: Where there are two criteria to choose from the applicable one is the larger. 2015 is the exception. See its text. "CBT" means "Competitive Bid Threshold". See its definition in Iowa code sections 468.3 and 314.1B. It is a threshold intended for vertical infrastructure.

Code of Iowa Year	Threshold for Required Formal Bid Letting	Threshold for Required Hearing for a Repair Project	Repair Cost Threshold for Required Engineer's Report	Maximum Repair Cost Allowed for Secondary Roads Equipment	Threshold for Required Hearing for an Improvement Project	Threshold for an Improvement Remonstrance
1946	\$0	50% of total of prior improvements	\$0	\$0	25% of total of prior improvements	No remonstrance available
1950	\$0	50% of total of prior improvements	\$0	\$500	25% of total of prior improvements	No remonstrance available
1954	\$0	50% of total of prior improvements	\$0	\$500	25% of total of prior improvements	No remonstrance available
1958	\$0	50% of total of prior improvements	\$0	\$500	25% of total of prior improvements	100% of total of prior improvements
1962	\$0	50% of total of prior improvements	\$0	\$500	25% of total of prior improvements	100% of total of prior improvements
1966	\$2,500	50% of total of prior improvements	\$0	\$500	25% of total of prior improvements	100% of total of prior improvements
1971	\$2,500	75% of total of prior improvements	\$0	\$1,000	25% of total of prior improvements	100% of total of prior improvements
1983	\$2,500	\$10,000 or 75% of total of prior improvements	\$25,000	\$5,000	\$5,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
1983	\$2,500	\$10,000 or 75% of total of prior improvements	\$25,000	\$5,000	\$5,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
1985	\$5,000	\$10,000 or 75% of total of prior improvements	\$25,000	\$5,000	\$5,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
1989	\$5,000	\$10,000 or 75% of total of prior improvements	\$25,000	\$5,000	\$5,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
1995	\$10,000	\$10,000 or 75% of total of prior improvements	\$25,000	\$10,000	\$10,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
2005	\$10,000	\$15,000 or 75% of total of prior improvements	\$25,000	\$15,000	\$15,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
2007	\$15,000	\$15,000 or 75% of total of prior improvements	\$25,000	\$15,000	\$15,000 or 25% of total of prior improvements	\$20,000 or 100% of total of prior improvements
2009	\$15,000	\$20,000 or 75% of total of prior improvements	\$25,000	\$20,000	\$20,000 or 25% of total of prior improvements	\$25,000 or 100% of total of prior improvements
2011	\$20,000	\$20,000 or 75% of total of prior improvements	\$25,000	\$20,000	\$20,000 or 25% of total of prior improvements	\$25,000 or 100% of total of prior improvements
2015	Unclear. Probably CBT then \$135,000	\$50,000 for Code Chapter 468 Hearing Laws, CBT then \$135,000 for Code Chapter 26 Hearing Laws.	Unclear. Chapt 468 matches the \$50,000 hearing threshold. Chapt 26 requires engineer with no threshold.	Unclear. It could be either \$20,000 or CBT then \$135,000.	\$50,000 for Code Chapter 468 Hearing Laws, CBT then \$135,000 for Code Chapter 26 Hearing Laws.	CBT then \$135,000 or 100% of total of prior improvements
2016	CBT then \$135,000	\$50,000 but no mailed notice up to CBT then \$135,000.	\$50,000	CBT then \$135,000	\$50,000 but no mailed notice up to CBT then \$135,000.	CBT then \$135,000 or 100% of total of prior improvements
2019	CBT then \$139,000	\$50,000 but no mailed notice up to CBT then \$139,000.	\$50,000	CBT then \$139,000	\$50,000 but no mailed notice up to CBT then \$139,000.	CBT then \$139,000 or 100% of total of prior improvements
2022	CBT then \$139,000	\$50,000 but no mailed notice up to CBT then \$139,000.	\$50,000 or CBT, then \$139,000, whichever is larger.	CBT then \$139,000	\$50,000 but no mailed notice up to CBT then \$139,000.	CBT then \$139,000 or 100% of total of prior improvements
2023	CBT now \$196,000	\$50,000 but no mailed notice up to CBT now \$196,000.	\$50,000 or CBT, now \$196,000, whichever is larger.	CBT now \$196,000	\$50,000 but no mailed notice up to CBT now \$196,000.	CBT now \$196,000 or 100% of total of prior improvements

Note: The IDOT and Counties use the Horizontal Infrastructure Competitive Bid Threshold, for road bridges and culverts. This Bid Threshold was in 2015-16 \$93,000, in 2017-18 \$87,000, in 2019 \$89,000, in 2020-21 \$93,000, in 2022 \$100,000, and in 2023 is \$120,000.

**EXHIBIT 1**

Hill's Backhoe & Tiling

110 Progressive Ave  
 P.O. Box 3  
 Roland, IA 50236

# Estimate

Date	Estimate #
1/25/2023	46

Name / Address
Hertz Farm Management Attn: Steve Johnson 415 S. 11th St. PO Box 500 Nevada, Iowa 50201

Project

Description	Qty	Rate	Total
12 inch flex dual wall	1,300	14.68	19,084.00
1 Man Track Hoe	8	205.00	1,640.00
fittings	1	1,000.00	1,000.00
8 inch flex dual wall	500	12.87	6,435.00

<b>Subtotal</b>		\$28,159.00
<b>Sales Tax (7.0%)</b>		\$0.00
<b>Total</b>		\$28,159.00