

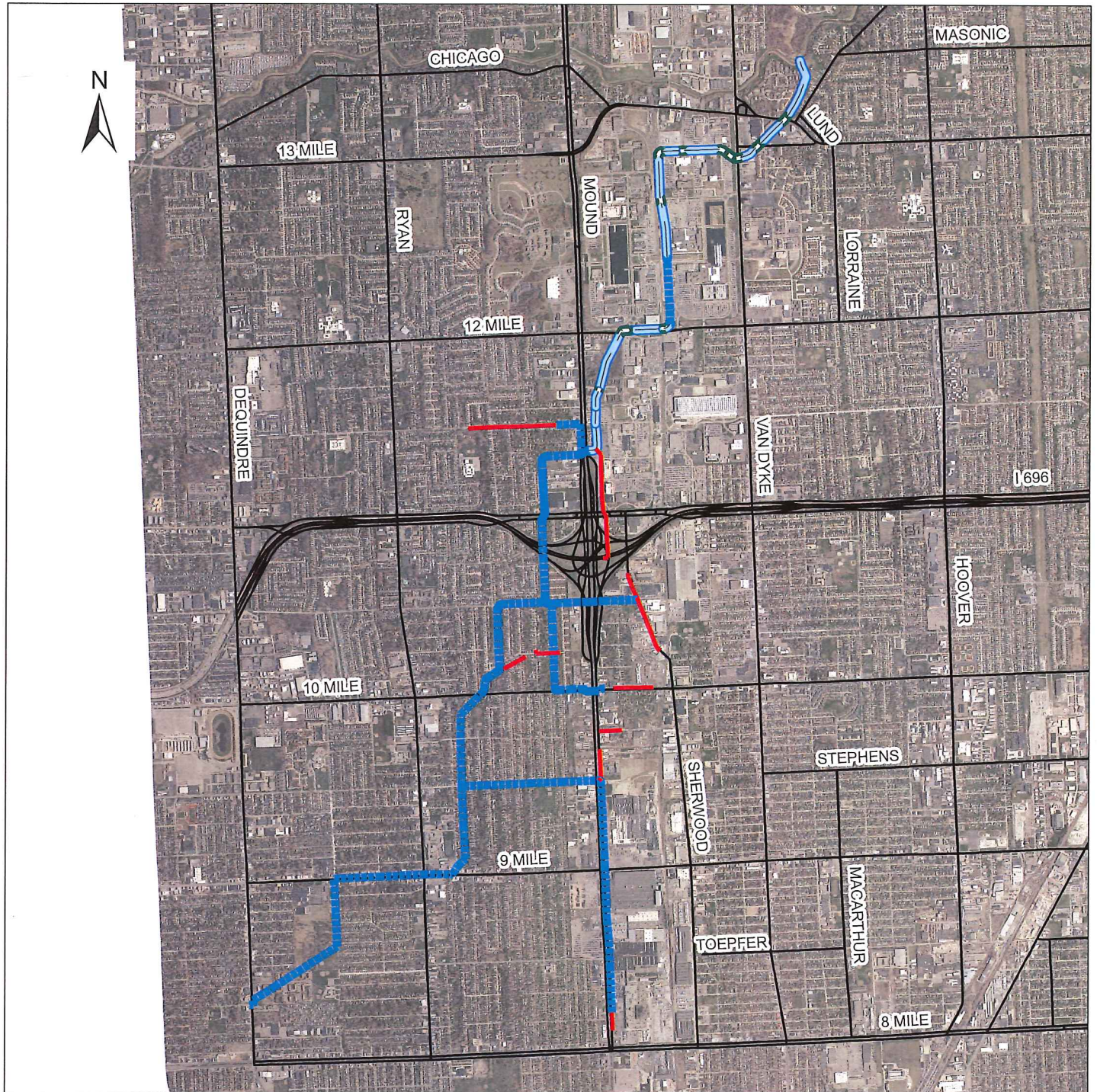
Gregg  
Miller  
Nash

BEAR CREEK  
INTER-COUNTY DRAINAGE BOARD  
JUNE 27, 2018  
10:00 A.M.  
AGENDA

	<u>Page</u>
1. Call meeting to order and roll call	
2. Approval of Agenda	
3. Public participation	
4. Approval of minutes of meeting of May 23, 2018	3
5. Progress Report Update – Jeff Bednar	6
6. Consideration for approval of invoices:	8
See attached spreadsheet	
7. Financial Update – Bruce Manning	9
8. Old Business	
Liability Insurance Coverage Proposal Update – Stephen Saph	10
9. New Business	
10. Adjourn	

# BEAR CREEK DRAIN (INTER COUNTY) & BRANCHES

## CENTERLINE/WARREN/OAKLAND COUNTY



Drain Length (Feet/Miles):  
87,023.47 / 16.48

### Legend

- |                         |                     |
|-------------------------|---------------------|
| <b>Enclosed Gravity</b> | <b>Open Channel</b> |
| < 60" Dia               | Ditch               |
| >= 60" Dia              | Pond                |
| Culvert                 |                     |

A meeting of the Inter-County Drainage Board for the **BEAR CREEK DRAIN** was held in the Office of the Macomb County Public Works Commissioner, 21777 Dunham Road, Clinton Township, Michigan on May 23, 2018.

PRESENT: Michael Gregg, Chairman  
Michigan Department of Agriculture & Rural Development

Brian Baker, Acting Secretary  
Macomb County Public Works Commissioner

Anne Vaara, Member  
Oakland County Water Resources Commissioner

ALSO PRESENT: Bruce Manning, Financial Manager, Jeff Bednar, P.E., CFM, Environmental Engineer, Tom Stockel, Construction Engineer, Barbara Delecke, Administrative Services, Office of Macomb County Public Works Commissioner; Steve Korth, P.E., Manager, Office of Oakland County Water Resources Commissioner; Erik Skurda, Sterling Heights Dept. of Public Works

The Chairman called the meeting to order at 11:25 a.m.

A motion was made by Ms. Vaara, supported by Mr. Baker to approve the agenda as presented.

Adopted: YEAS: 3  
NAYS: 0

The minutes of the meeting of April 25, 2018 were presented. A motion was made by Mr. Baker, supported by Ms. Vaara to approve the minutes as presented.

Adopted: YEAS: 3  
NAYS: 0

A condition assessment of the Bear Creek Drain branches is currently underway. Doetsch is 30% complete with its inspections. The district delineation was completed by Fahey, Schultz, Burzych, Rhodes, PLC.

A motion was made by Ms. Vaara, supported by Mr. Baker to receive and file the project update given by Mr. Bednar.

Adopted: YEAS: 3  
NAYS: 0

Mr. Stockel and Mr. Bednar updated the Board on the GM wash repair. When GM began work, there was a yellow substance leaching into the drain. GM has been in discussions with MDEQ, Macomb County Public Works, Macomb County Health Department and the City of Warren to determine what the substance is and where it is coming from. GM is testing its different systems and has found positive readings for a chemical used in their cooling water system, but did not find a direct link to this system. GM will perform an operational audit of this system to see if it is losing chemicals. If it is, the system will be shut-down and the pipes inspected. Another possibility is the building that was demolished in 2013, and used for fill may be leaching limestone into the drain. The pH is indicative of limestone/cement wash. GM is currently televising

the storm sewer lines. There is also a chance that the footing drains are leaching into the drainage system. GM is considering daylighting the portion of the drain that runs through their property.

A motion was made by Mr. Baker, supported by Ms. Vaara to receive and file the GM property update given by Messrs. Bednar and Stockel.

Adopted: YEAS: 3  
NAYS: 0

The sinkhole project was completed by RG Eisenhardt for a total cost of \$78,500. The manhole was exposed and found to be 7-feet below grade. The manhole was blocked so sections were added and a flat-top installed. A 36-inch concrete pipe replaced the rotted corrugated metal pipe (CMP), along with heavy rip-rap. The site has been graded, seeded and mulch blanket was laid.

A motion was made by Ms. Vaara, supported by Mr. Baker to receive and file the sinkhole update given by Mr. Stockel.

The Chairman presented the invoices totaling \$8,218.25 as provided to the Board for review and approval.

A motion was made by Ms. Vaara, supported by Mr. Baker to approve the invoices as presented.

Adopted: YEAS: 3  
NAYS: 0

A motion was made by Ms. Vaara, supported by Mr. Baker to receive and file the financial report presented by Mr. Manning.

Adopted: YEAS: 3  
NAYS: 0


A motion was made by Mr. Baker, supported by Ms. Vaara to authorize Macomb County to consult with Fahey, Schultz, Burzych, Rhodes, PLC on the legalities of assessing the district for insurance and to table the Liability Insurance Coverage Proposal until June.

Adopted: YEAS: 3  
NAYS: 0

There being no further business, it was moved by Ms. Vaara, supported by Mr. Baker, that the meeting of the Bear Creek Inter-County Drainage Board be adjourned.

Adopted: YEAS: 3  
NAYS: 0

The meeting was adjourned at approximately 11:45 a.m.



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Brian Baker, Acting Secretary  
Bear Creek Inter-County Drainage Board

STATE OF MICHIGAN  
COUNTY OF MACOMB

I certify that the foregoing is a true and correct copy of proceedings taken by the Inter-County Drainage Board for the Drainage District shown on the attached set of Minutes, on May 23, 2018, the original of which is on file in the Public Works Commissioner's Office. Public notice of the meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1975, including, in the case of a special or rescheduled meeting or a meeting secured for more than 36 hours, notice by posting at least 18 hours prior to the time set for the meeting.



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Brian Baker, Acting Secretary  
Bear Creek Inter-County Drainage Board

DATED: 5/24/18

9262.bd

# PROGRESS UPDATE

**PROJECT:** Bear Creek

**DATE:** June 19, 2018

**UPDATE BY:** Sydney Kanan

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## 1.) BEAR CREEK INFRASTRUCTURE REHABILITATION

- a. AEW provided preliminary estimate for rehabilitation and replacement repairs. (\$785,330.00)
- b. AEW, MCPWO and OCWRC conducted a meeting to discuss prioritization of rehabilitation locations.
- c. Based on this meeting a revised estimate was provided (\$601,260).
- d. AEW to postpone infrastructure rehabilitation until the condition assessment, review and recommendation are complete for the Bear Creek Branches.

## 2.) BEAR CREEK EXTENSION

- a. Oakland County WRC to field verify physical existence of the Bear Creek Extension and report findings at the January meeting.
  - Depending on the results of the field investigation, potential coordination with Fahey, Schultz, Burzych, Rhodes may be needed to execute petition.

## 3.) ROUTE AND COURSE CERTIFICATE

- a. On hold. This is problematic due to the inability to tie the Warren Branches and East Route to the main line route and course metes and bounds description.

## 4.) CONDITION ASSESSMENT

- a. Structure GPS – **COMPLETE**
- b. Structure Inspection – **COMPLETE**
- c. CCTV Inspection –50% Complete

## 5.) EASEMENT INVENTORY

- a. On hold.

## 6.) GREEN INFRASTRUCTURE

- a. On hold.

**Requested Information/Actions from ICDB, MCPWO or OCWRC:**

- a. AEW requesting approval of Proposals 1 and 3 by the MCPWO.
- b. MCPWO to look into cutting down the tree over structure 016C088.

BEAR CREEK INTER-COUNTY DRAIN - 6/27/18

<u>Funding Source</u>	<u>Apportionment</u>	<u>Manager</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice Detail</u>	<u>Project Summary</u>	<u>Grant Balance</u>
Bear Creek Drain	Chapter 21	Keskeny	Aloia & Associates, P.C.	\$ 836.00	Invoice #17200 - 5/1/18 Legal Services - ending 4/30/18	Land Splits	
		Stockel	RG Eisenhardt Contracting, Inc.	\$ 70,677.00	Invoice #4296 - 5/21/18	Replacement of existing outfall CMP from manhole to Bear Creek	
		Stockel	Oceanview Excavation	\$ 712.00	Invoice #517 - 5/28/18	Repair Sinkhole	
<b>Total</b>				\$	72,225.00		



YTD Trial Balance

Fund: Bear Creek Combined

As of Fiscal Period: Oct 1, 2017-May 31, 2018

	O&M Balance 9/30/2017	O&M	Total 5/31/2018
Cash - Operating	1,572,258	(74,222)	1,498,036
Accounts Receivable			0
Assets			0
Liabilities <sup>(1)</sup>		103,528	103,528
Revenues		5,554	5,554
Expenditures		175,751	175,751
Equity	1,572,258		1,402,061
	0		

**NOTES**

1) Net amount of \$23,394 due to AEW for final invoices relating to SAW 1407.  
Final request is going under MS4 review at state level



# NICKEL & SAPH, INC.

INSURANCE SINCE 1929

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April 27, 2018

Commissioner Candice S. Miller  
Macomb County Public Works  
21777 Dunham Road  
Clinton Twp., MI 48036

Re: Defense and Indemnification

Dear Commissioner Miller:

In light of recent discussions regarding risk management and exposure to certain third-party liability claims related to the various inter-county drains drainage districts, it is strongly recommended that each board member determine what liability insurance coverage is afforded to a member by each member's appointed community or organization.

The inquiry by the individual board members to their representative communities or organizations should specifically address **1)** defense and **2)** indemnification. Defense relates to the expense to administer a defense against a claim or allegation, including legal fees. It is common for an allegation to be concluded without the payment of third-party damages, but expenses for defense are expected with any manner of claim made by a third-party. Indemnification relates to the cost of a monetary settlement paid to a claimant, a third-party, which a board member is legally obligated to pay.

When considering both defense and indemnification, it should be made clear that the representative communities will respond to both **1)** general liability (property damage and bodily injury) and **2)** public officials' liability (wrongful acts) claims or allegations.

Depending on the manner in which the representative communities address their specific insurance and risk management needs, the inquiry may need to be presented to more than one party. By needs, we refer to either a self-insured format or a deductible format. Under a self-insured format, the representative community is responsible for the defense and indemnification of claims or allegations for a defined dollar amount; no insurance carrier or insurance pool is responsible or involved with claims within the self-insured amount. Individual drainage board members should obtain confirmation from their representative communities or organizations that the communities or organizations will defend and indemnify the individual members for expenses and losses within the self-insured amount. Under a deductible format, the representative community secures insurance from an insurance company or insurance pool. Claims within the deductible are administered by the affording insurance provider. Confirmation from the insurance provider should be obtained that **1)** acknowledges the exposure related to the drainage districts and **2)** confirms that the coverages secured by the representative

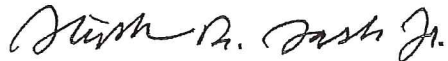
community will extend to the individual drain board member for actions performed on the drainage district's behalf.

Next, it should be disclosed that each drainage district is defined as separate and unique by state statute and does not enjoy "funding unit" status from any other entities. Finally, with the exception of the Oakland-Macomb Interceptor Drain (OMID), none of the inter-county drains drainage districts have in the past or now secure any manner of liability insurance coverage; the districts are entirely self-insured.

In closing, no known incidents or claims have occurred or have been reported to any representative of any of the inter-county drains drainage districts. This inquiry resulted from the various drain boards exploring the possibility of securing insurance or continuing to maintain the existing fully self-insured status.

Should you or any parties from the representative communities have any questions or concerns, please feel free to contact me. If needed, I will be happy to attend the next set of meetings of the inter-county districts. Thank you.

Sincerely,



Stephen R. Saph Jr.  
Agent

## Macomb County Inter-County Drains and Drainage Districts

Responding Insurance Carrier Proposals:

Trident Public Risk Solutions presenting Argonaut Insurance Company

Rating – A XIII Stable, Admitted

General Liability, Non-Owned Automobile Liability, and Public Officials' Liability – all afforded on an Occurrence basis excess of a retained limit.

The retained limit is applicable to both defense costs and the payment of third-party damages.

Defense expenses are outside of the limits of liability afforded by the carrier (payment of defense expenses will not reduce the available limits of liability).

An aggregate does not apply to the Automobile Liability coverage.

Excludes Employment Practices Liability.

Separate limits are afforded for each line of coverage (general liability, public officials', and automobile liability). Payment of damages for one line of coverage will not impact or reduce the limits available and dedicated to the remaining lines of coverage.

Each Occurrence Limit –	11,000,000
Aggregate Limit –	12,000,000
Retained Limit –	250,000
Annual Premium (excluding Terrorism) -	68,375
Additional Premium for Terrorism -	1,805
<b>Total Annual Premium -</b>	<b>70,180</b>

Stephen R. Saph Jr.

**Nickel & Saph, Inc. Insurance Agency**

586-463-4573

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[stephenjr@nickelsaph.com](mailto:stephenjr@nickelsaph.com)

March 13, 2018

Chapter 21  
Liability Insurance  
Apportionment Options

DRAIN	EXPENSES-YEAR ENDING 9/30/2017			PAST 5 YEAR AVERAGE EXPENSES		
	EXPENSES	PERCENT	COST	EXPENSES	PERCENT	COST
Bear Creek	262,884	16.88%	11,846	216,293	17.14%	12,032
Clinton River Spillway	1,130,918	72.62%	50,962	780,500	61.87%	43,418
McCoy Relief	4,462	0.29%	201	2,668	0.21%	148
McCoy Relief Warren Branches	1	0.00%	0	6	0.00%	0
Red Run (all) <sup>1</sup>	53,017	3.40%	2,389	169,013	13.40%	9,402
Sharkey Relief	37,876	2.43%	1,707	17,930	1.42%	997
Sharkey Ryan Branches	48	0.00%	2	100	0.01%	6
Gibson (St Hgt-Troy) <sup>2</sup>	0	0.00%	0	0	0.00%	0
Crapau Creek	0	0.00%	0	2,197	0.17%	122
Richmond-Columbus	68,178	4.38%	3,072	72,885	5.78%	4,054
Totals	1,557,384	100.00%	70,180	1,261,592	100.00%	70,180

DRAIN	WITHOUT GRANTS & BONDS			MILES		
	EXPENSES	PERCENT	COST	MILES	PERCENT	COST
Bear Creek	50,784	43.93%	30,829	11.01	27.39%	19,222
Clinton River Spillway	59,493	51.46%	36,116	2.14	4.98%	3,493
McCoy Relief	4,462	3.86%	2,709	3.54	8.23%	5,779
McCoy Relief Warren Branches	1	0.00%	0	3.28	7.63%	5,355
Red Run (all) <sup>1</sup>	57	0.05%	35	11.79	29.20%	20,495
Sharkey Relief	149	0.13%	90	4.03	9.37%	6,579
Sharkey Ryan Branches	48	0.04%	29	0.28	0.65%	457
Gibson (St Hgt-Troy) <sup>2</sup>	0	0.00%	0	1.53	0.00%	0
Crapau Creek	0	0.00%	0	3.18	7.40%	5,191
Richmond-Columbus	611	0.53%	371	2.21	5.14%	3,608
Totals	115,605	100.00%	70,180	42.99	100.00%	70,180

DRAIN	AVAILABLE FUNDS
Bear Creek	\$ 1,019,060
Clinton River Spillway	\$ 74,689
McCoy Relief	\$ 270,214
McCoy Relief Warren Branches	\$ 52,655
Red Run (all) <sup>1</sup>	\$ 382,198
Sharkey Relief	\$ 650,221
Sharkey Ryan Branches	\$ 15,050
Gibson (St Hgt-Troy) <sup>2</sup>	0
Crapau Creek	\$ 12,794
Richmond-Columbus	\$ 50,454

Total Insurance Premium	70,180.00
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<sup>1</sup>All Red Run mileages and available funds are combined

<sup>2</sup>The Gibson drain has been inactive for years and has no available funds. Because the flow connects with Red Run and Bear Creek, Gibson's portions has been divided between Red Run and Bear Creek for mileage apportionment