

D. Letter from Gary W. Schroeder to Tippecanoe County Surveyor dated November 1, 2011 in respect to cost of fill related to Alternate E of the Surveyor's Supplemental Report.

3. At the hearing, the Board considered evidence on the Surveyor's Report and in support and against the objections. Witnesses testified on behalf of the Schroeders and Jerry Brand testified on behalf of the Haggerty Point landowners.

4. The Board directed the Surveyor to submit additional information in light of the evidence provided at the October 19 hearing, the Board recessed until November 2, 2011, the Surveyor submitted his supplemental reports on October 28, 2011 and November 1, 2011, and the Board reconvened on November 2, 2011 at 10:00 a.m.

5. After consideration of the evidence, the Board makes the following findings:

A. The reconstruction report of the Tippecanoe County Surveyor and schedule of assessments were filed in the office of the Surveyor on July 22, 2011 and supplemented on October 28, 2011 and November 1, 2011.

B. Notice of filing of the reconstruction report and the schedule of assessments and their availability for inspection and the time and place of this hearing was mailed to all those landowners affected more than thirty (30) and less than forty (40) days before the date of the hearing.

C. Notice of the time and place of the hearing was given by publication in the Journal & Courier and the Lafayette Leader, newspapers of general circulation in Tippecanoe County, Indiana more than ten (10) days prior to this hearing.

D. Branch 11 of the S.W. Elliott is located in the Northeast Quarter of Section 2, Township 22 North, Range 4 West. The drain was originally constructed as a tile to provide subsurface drainage to farm fields located north of the Elliott Ditch west of its intersection with SR 38. However, land usage in the area is transitioning from rural uses to urban uses. Without reconstruction, the drain will not provide proper drainage for the urban land within the watershed. With reconstruction, proper drainage for urban land can be provided, a reasonable part of the land within the watershed has been or is being converted from rural land to urban land, and it appears to the Board that one or more tracts within the watershed is or will be changing from rural land to urban land, and that change requires the drainage provided by an urban drain.

E. The capacity of the existing tile of Branch 11 of the S.W. Elliott is limited and does not, in particular, support further development of Haggerty Pointe. Reconstruction of the Branch will additionally allow for positive drainage associated with plans of the City of

Lafayette to extend Park East Boulevard to SR 38. It will also allow the future possibility for urban development of the other tracts of land served by the Branch.

F. There is now \$ -0- owed to the General Drain Fund for past maintenance on this ditch.

G. Reconstruction of the Branch is expected to damage the owners as follows:

1. Owners of the Haggerty Pointe pond will be damaged inasmuch as the Branch reconstruction plan makes use of its pond. The amount of damage from the use is calculated as \$90,000 pursuant to Alternate E of the Surveyor's Supplemental Report. The Board notes that the prior construction of the pond and the benefits to the watershed already existing and independent of this reconstruction process is not a proper element of damage to be considered by the Board in the reconstruction process.

2. Schroeder Land Trust #2 will be damaged in the net amount of \$59,600 by the necessary placement of fill to drain its property north of SR 38 to the existing Haggerty Pointe pond in order to implement Alternate E as recommended by the Surveyor's Supplemental Report.

H. The cost of reconstruction, exclusive of the Damage described in ¶G and exclusive of amounts required to be excluded under IC 36-9-27-71 (costs for highway crossing to the Indiana Department of Transportation) and costs under IC 36-9-27-48 (costs for utility equipment relocation) is \$376,606.

I. Maintenance costs are expected to remain the same regardless of the reconstruction.

J. The Board finds that the costs, damages, and expenses of the reconstruction will be less than the benefits accruing to the owners of the land benefitted by the construction.

K. The Board hereby adopts the reconstruction report of the County Surveyor and specifically adopts "Alternative E" specified therein. The Board further adopts the schedule of damages and assessments as amended and attached hereto and made part hereof.

L. A fund for reconstruction, annual maintenance during reconstruction and annual maintenance post reconstruction should be established.

M. The assessment list filed herewith should be amended for the following reasons:

1. The assessment in the Surveyor's initial Report reflects an equal assessment for each acre of the watershed.

2. The factors listed in IC 36-9-27-112 should be considered.
3. The Branch is an urban drain and, therefore, absent special benefits, urban land served by the urban drain should be considered to be equally benefitted under IC 36-9-27-69.
4. The Schroeder's Supplemental Objection that the Board should consider that the Schroeder property is rural land served by an urban drain is well taken. As is the fact that it is currently used for rural purposes and is on the downstream end of the branch. However, the Board may consider future possibilities for the land, and, with reconstruction, commercial development of the Schroeder land becomes a future possibility. Furthermore, pursuant to IC 36-9-27-69(b)(6), that the land is rural but served by an urban drain means that the assessment should be reduced relative to the urban land in the watershed, not eliminated altogether.
5. For these reasons, the schedule of assessments is amended and said schedule is attached hereto and made part hereof.

N. The assessment list filed herewith is fair and equitable and should be adopted. The assessment should be held in abeyance under paragraphs O and P and collected with the taxes for the year following any year in which the reconstruction repayment mechanism described in paragraph O is invalidated through court action or otherwise and only collected to the extent of the invalidation.

O. In order to provide the necessary reconstruction funds, the General Drain Fund shall grant to the reconstruction fund the total cost of reconstruction less the costs attributable to the public highway crossing under IC 36-9-27-71. The Board finds that such a grant from the General Drain Fund is appropriate because these funds were received into the General Drain Fund as part of the Capital Improvement Plan of the Tippecanoe County Economic Development Income Tax, and reconstruction of the drain will result in economic development that can then be used to repay the costs of reconstruction pursuant to Ordinance 2011-02-DB amending and ratifying Resolution 2009-04-DB, both of which provide the S.W. Elliott Regulated Drain Branch #11 Impact Drainage Area. The Impact Drainage Area ordinances permit the Drainage Board to require, among other things, payment by all future developments a pro-rated share, as determined by the Drainage Board, of the cost of reconstruction. The pro-rated share, due at the time of development (deemed for the purposes hereof to be the date of final approval of drainage plans for any such development), shall be equal to the assessment adopted herein for the affected property unless the Board determines, for good cause shown, that an injustice would arise.

P. In reliance on the funding mechanism described in paragraph O, the Drainage Board hereby determines that the current maintenance assessment should remain unchanged and suspends reconstruction assessments related to this reconstruction for so long as

repayment of reconstruction costs is permitted under the Impact Drainage Area ordinances as described in paragraph O. Should that repayment mechanism be invalidated by court challenge or otherwise, the Drainage Board makes the following findings: In order to provide the necessary reconstruction and maintenance funds, the annual assessment per acre and lot benefitted should be: Reconstruction: Assessments adopted under paragraph N should be imposed. Maintenance during reconstruction: \$5.00 minimum, \$10.00 per lot and \$2.00 per acre. This will result in an assessment total of \$15.00 minimum charge, \$40.00 per lot and \$8.00 per acre for a five-year period. Maintenance post reconstruction: \$5.00 minimum, \$20.00 per lot and \$4.00 per acre for a period of eight times the annual assessment.

NOW, THEREFORE, IT IS ORDERED THAT:

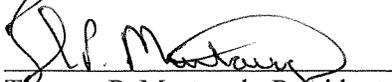
1. The Board has determined that the costs, damages (if any) and expenses of the proposed reconstruction and the periodic maintenance cost will be less than the benefits accruing to the owners of the land benefitted.

2. A fund for reconstruction, annual maintenance during reconstruction and annual maintenance post reconstruction of the Branch 11 of the S.W. Elliott Ditch should be established. In order to provide the necessary reconstruction funds, the General Drain Fund shall grant to the reconstruction fund the total cost of reconstruction less the costs attributable to the public highway crossing under IC 36-9-27-71 and relocation of utility equipment under IC 36-9-27-48. Maintenance rates should remain unchanged. Following the reconstruction, the fund should be allowed to build to a total of eight times the annual assessment. Repayment of the reconstruction costs advanced by the General Drain Fund shall be made under the Impact Drainage Ordinance through payment of a pro-rated share of the reconstruction cost at the time affected property is developed.

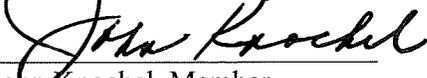
3. Should that repayment mechanism be invalidated by court challenge or otherwise, the reconstruction assessments adopted under paragraph 2N are imposed and shall be collected with the taxes for the year following any year in which the reconstruction repayment mechanism described in paragraph O is invalidated through court action or otherwise and only collected to the extent of the invalidation. Further Maintenance assessments during reconstruction shall be: \$5.00 minimum, \$10.00 per lot and \$2.00 per acre. This will result in an assessment total of \$15.00 minimum charge, \$40.00 per lot and \$8.00 per acre for a five-year period. Maintenance post reconstruction: \$5.00 minimum, \$20.00 per lot and \$4.00 per acre for a period until the maintenance fund reaches eight times the annual assessment.

SO DATED THIS 2 DAY OF NOVEMBER, 2011.

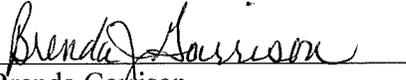
COUNTY DRAINAGE BOARD:


Thomas P. Murtaugh, President


David S. Byers, Vice-President


John Knochel, Member

ATTEST:


Brenda Garrison,
Secretary, Tippecanoe County Drainage Board

Map ID	Owner	Parcel Address	Property Class	Parcel Acres	Acres in Watershed	% of Total Watershed	% of Area 12 Watershed	Credits	Total Cost of Construction	Cost of Area 1		Cost of Area 2		Total Assessment	Cost of Annual Maintenance
										Construction	Hard Costs	Construction	Hard Costs		
11	CANAM STEEL CORPORATION	4327 E 2005	Ag - Vacant lot	21.37	11.31	11.97%	14.65%		\$523,926.00	\$269,088.00	\$269,088.00	\$1,075,188.00	\$10,000.00		
12	CANAM STEEL CORPORATION	Park East Road	Ag - Vacant lot	0.65	0.31	0.32%	0.40%	\$0.00		\$33,073.39	\$16,164.16	\$49,237.55	\$1,229.09		
7	CITY OF LAFAYETTE		TOTAL CITY OF LAFAYETTE	1.61	1.61	1.70%	2.08%	\$0.00		\$0,836.64	\$3,261.17	\$6,836.80	\$170.41		
8	HAGGERTY POINT ONE LLC & HAGGERTY POINT TWO LLC	4105 HAGGERTY LN	Commercial Other structure	4.43	4.43	4.89%	5.73%			\$25,528.69	\$12,476.79	\$38,005.48	\$948.71		
9	HAGGERTY POINT ONE LLC & HAGGERTY POINT TWO LLC	2803 PARK EAST BLVD	Commercial Other structure	4.40	4.40	4.65%	5.70%			\$12,437.01	\$6,122.28	\$18,664.30	\$465.91		
10	HAGGERTY POINT THREE LLC	2813 PARK EAST BLVD	Commercial Other structure	8.96	8.96	9.49%	11.60%	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00		
13	INDIANA STATE OF	SR38 E		0.71	0.10	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
14	INDIANA STATE OF	SR38 E		0.26	0.18	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
15	INDIANA STATE OF	SR38 E		0.04	0.04	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
17	INDIANA STATE OF	SR38 E		0.90	0.85	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
18	INDIANA STATE OF	SR38 E		0.60	0.60	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
19	INDIANA STATE OF	SR38 E		0.20	0.20	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
20	INDIANA STATE OF	SR38 E		1.35	1.35	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
22	INDIANA STATE OF	SR38 E		2.85	0.40	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
26	INDIANA STATE OF	SR38 E		2.15	0.25	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
27	INDIANA STATE OF	SR38 E		0.42	0.42	0.00%	0.00%	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00		
1	LB ASSOCIATES LLC	E 2005	Ag - Vacant lot	9.46	4.38	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
4	LB ASSOCIATES LLC	HAGGERTY LN	Commercial Warehouse	17.05	14.25	15.08%	18.45%			\$0.00	\$0.00	\$0.00	\$0.00		
5	LB ASSOCIATES LLC	2803 PARK EAST BLVD	Comm - Vacant land	4.96	4.96	4.11%	5.07%			\$0.00	\$0.00	\$0.00	\$0.00		
6	LB ASSOCIATES LLC	HAGGERTY LN	Comm - Vacant land	0.00	0.00	0.00%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
21	SCHROEDER GARY W TTEE WW SCHROEDER LAND TRST#2		TOTAL LB ASSOCIATES LLC	27.48	23.09	24.44%	29.89%	\$90,000.00		\$65,760.12	\$32,139.34	\$7,899.46	\$2,443.81		
16	SCHROEDER GARY W TTEE WW SCHROEDER LAND TRUST#2		Ag - Vacant lot	64.81	16.34	17.30%	21.16%			\$0.00	\$0.00	\$0.00	\$0.00		
23	SCHROEDER LOREN W ETAL		Ag - Vacant lot	2.77	2.77	2.93%	3.58%			\$0.00	\$0.00	\$0.00	\$0.00		
24	SCHROEDER LOREN W ETAL		Ag - Vacant lot	67.57	19.11	20.23%	24.74%	\$59,600.00		\$9,429.20	\$16,601.52	\$21,430.72	\$2,022.79		
25	SCHROEDER LOREN W ETAL	4219 SR38 E	Other agricultural use	2.52	1.50	2.02%	0.00%			\$0.00	\$0.00	\$0.00	\$0.00		
186	TIPPECANOE COUNTY OF	HP Pond	Pond	25.98	17.24	18.25%	0.00%	\$0.00		\$48,096.07	\$0.00	\$48,096.07	\$1,824.54		
3	TIPPECANOE COUNTY OF	E 2005		7.50	7.50	7.89%	9.71%			\$0.00	\$0.00	\$0.00	\$0.00		
2	ZANIK CORPORATION	3990 SR38 E	TOTAL TIPPECANOE COUNTY Neighborhood Shopping Center	8.86	7.66	8.11%	9.92%	\$0.00		\$21,819.33	\$10,663.90	\$32,483.23	\$810.86		
			TOTAL ZANIK CORPORATION	3.37	0.79	0.84%	1.03%	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00		
			TOTAL WATERSHED ACREAGE, LESS INDOT	179.45	98.87	100.00%	100.00%	\$189,600.00		\$289,088.00	\$11,031.94	\$374,326.00	\$83.93		
			TOTAL WATERSHED ACREAGE, LESS INDOT, AREA #2	94.48	94.48	100.00%	100.00%	\$189,600.00		\$289,088.00	\$11,031.94	\$374,326.00	\$83.93		
			TOTAL WATERSHED ACREAGE, LESS INDOT, AREA #2	77.24	77.24					\$0.00	\$0.00	\$0.00	\$0.00		
			TOTAL							\$0.00	\$147,320.00	\$147,320.00	\$0.00		