

Michigan Commission of Agriculture and Rural Development

Environmental Stewardship Division

Intercounty Drain Program

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January 11, 2012

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Purpose of the Intercounty Drain Program

- The State's interest is to provide an expedient dispute resolution process for the movement of water across jurisdictional boundaries
 - Why? Because improved drainage is a prerequisite infrastructure for economic development and protection of public health
 - The alternative is costly and time consuming litigation with limited ability to affect solutions
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Physical Environment

- Soils = glacial till, clay highly variable
- Climate = 26" - 36"/yr
runoff = 8" - 16"
- Topography = generally flat
- Add it all up and Michigan is the 5th wettest state in the nation!









Flooding along the Misteguay Creek





EXIT 47B
DOWNTOWN
Holland

31 196
Muskegon

MDARD's Role in Drainage

- First established by the General Drain Law of 1923.



- Current statutory authority, P.A. 40 of 1956, as amended, The Drain Code of 1956

How is the Drain Code Organized?

- 26 chapters 145 pages
- Chapter 2 establishes the office of Drain/Water Resources/Public Works Commissioner
- Chapters 3 and 4 new intracounty drains
- Chapters 5 and 6 new intercounty drains
- Chapter 7 special assessment and bid letting
- Chapter 8 maintenance and improvement
- Chapter 9 letting contracts
- Chapter 10 construction approval and payment
- Chapter 13 Highways
- Chapter 18, obstructions, pollution, and developer drains
- Chapter 20 Intracounty drains for public health
- Chapter 21 Intercounty drains for public health

What Does the Drain Code Say?

- When a drain commissioner receives an application/petition for a drain project affecting lands in two or more counties they shall notify the other drain commissioners and the Director of MDARD
- “The commissioners and the director of the department of agriculture, or the directors deputy, who constitute the drainage board shall jointly take all steps and perform all acts and sign all papers as commissioners are required to do singly in the case of other drains...”
- “...the state director of agriculture or any deputy selected by him shall act as chairman.”
- “... the director shall not vote except ...may cast the deciding vote in case of a tie.”

What is MDARD required to do?

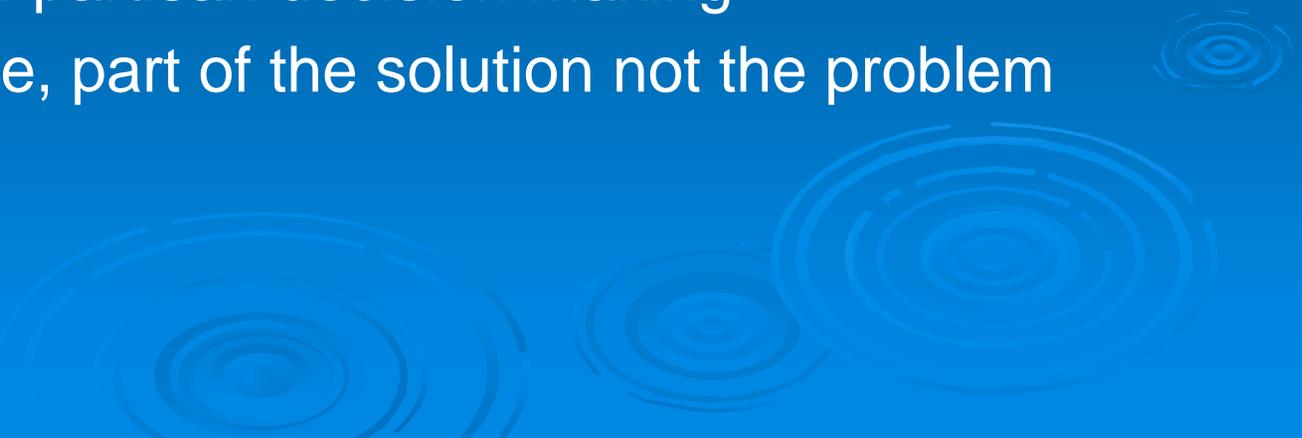
- MDARD director/deputy is the chair of all intercounty drainage boards who's members are the drain/public works/water resources commissioner of each affected county
- Each drainage district (defined by watershed) is a independent special purpose public corporation, the director is CEO
 - Power to contract
 - Sue and be sued
 - Condemnation
 - Issue notes and bonds
 - Levy special assessment taxes

How Does MDARD Do It?

- Convenes meetings and public hearings of the Boards in accordance with the Open Meetings Act in the counties in which it is located
 - Issue legal notices for posting and publication
 - Generate legal documents and orders to evidence decisions
 - Maintains district records, documents, and plans
 - Communicates board decisions for engineering, environmental, legal and financial consultants and construction contracts
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What does MDARD Bring to the Table?

- Institutional memory
 - Long term stability and predictability
 - Engineering, environmental, finance, regulatory, and legal knowledge
 - Transferability of experience
 - Objective, non-partisan decision making
 - Can do attitude, part of the solution not the problem
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“At the center of this dispute is the Drain Code of 1956, an exceedingly complex statute, the provisions of which apparently are known by few in the profession and understood by far fewer.”

Ray v Mason Co Drain Comm’r, 48 Mich App 559 (1973).



MDARD and MACDC

- Long standing partnership with the Michigan Association of County Drain Commissioners (MACDC)
 - Participate on many of their committees for education and capacity building
 - Attend district and annual conferences
 - Forum for interacting with vendors, agency personnel, consultants, and attorneys
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What is a “Drain”?

- The Drain Code, P.A. 40 of 1956 as amended, defines a drain as:

“shall include the main stream or trunk and all tributaries or branches of any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dike, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains”







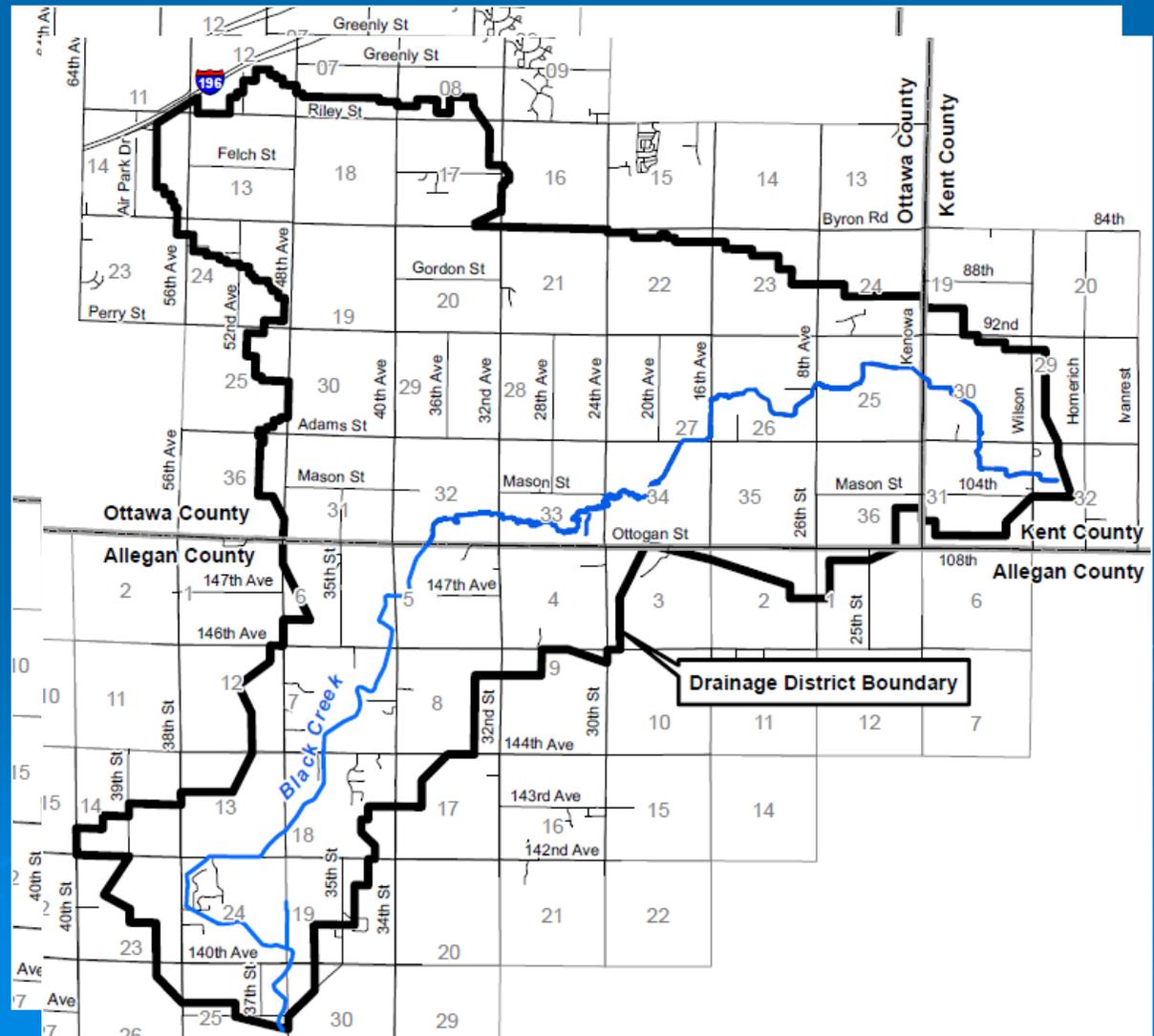




What is a Drain District?

Black Creek

- 34.5 sq mi Drainage District:
 - Kent – 6%
 - Ottawa – 63%
 - Allegan – 31%
 - 15.8 miles of Established Intercounty Drain



Intercounty Drain Facts

- Over 1,100 intercounty districts
- Combined length of over 6,000 miles
- Serving \pm 6 million acres in 51 counties
- Average 225 drain board meetings per year
- Average 85 + maintenance projects
- Average 12–20 ongoing major improvement projects
- Small ditches and farm tile to major rivers to 12' foot tunnels to dams and dikes
- Current estimated value of projects > \$42 million
- Total infrastructure value > \$ 2 billion

Other Responsibilities

- Interstate drains
 - Arbitrate MDOT assessment appeals
 - Conduct MDOT drain project petitions
 - “Drain experts” for the State
 - General water resources issues
 - Extensive interaction with MACDC for education, policy, and legislation
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Program Staff

- Mike Gregg, Manager
 - 32 years w/Dept., Program Manager since 1985
 - 4½ years w/Ingham County Drain Office
 - BS & MS Natural Res. Mgmt and Ag Econ
- Brady Harrington, P.E.
 - 1 year w/Dept.
 - 12 years Eaton County Drain Commissioner
 - BS & MS Civil/Env Engineer, Licensed
- Peggy Snyder, Administrative Support
 - 12 years w/program



Photo shows damage to the Misteguay Creek dam caused by the flood that occurred in the fall of 1985 in Saginaw County.

Same location as top photo after repairs were made to the dam.





Submerged tile obstructs farm drainage

Sediment in drain restricts farm drainage



Just after construction sediment removed







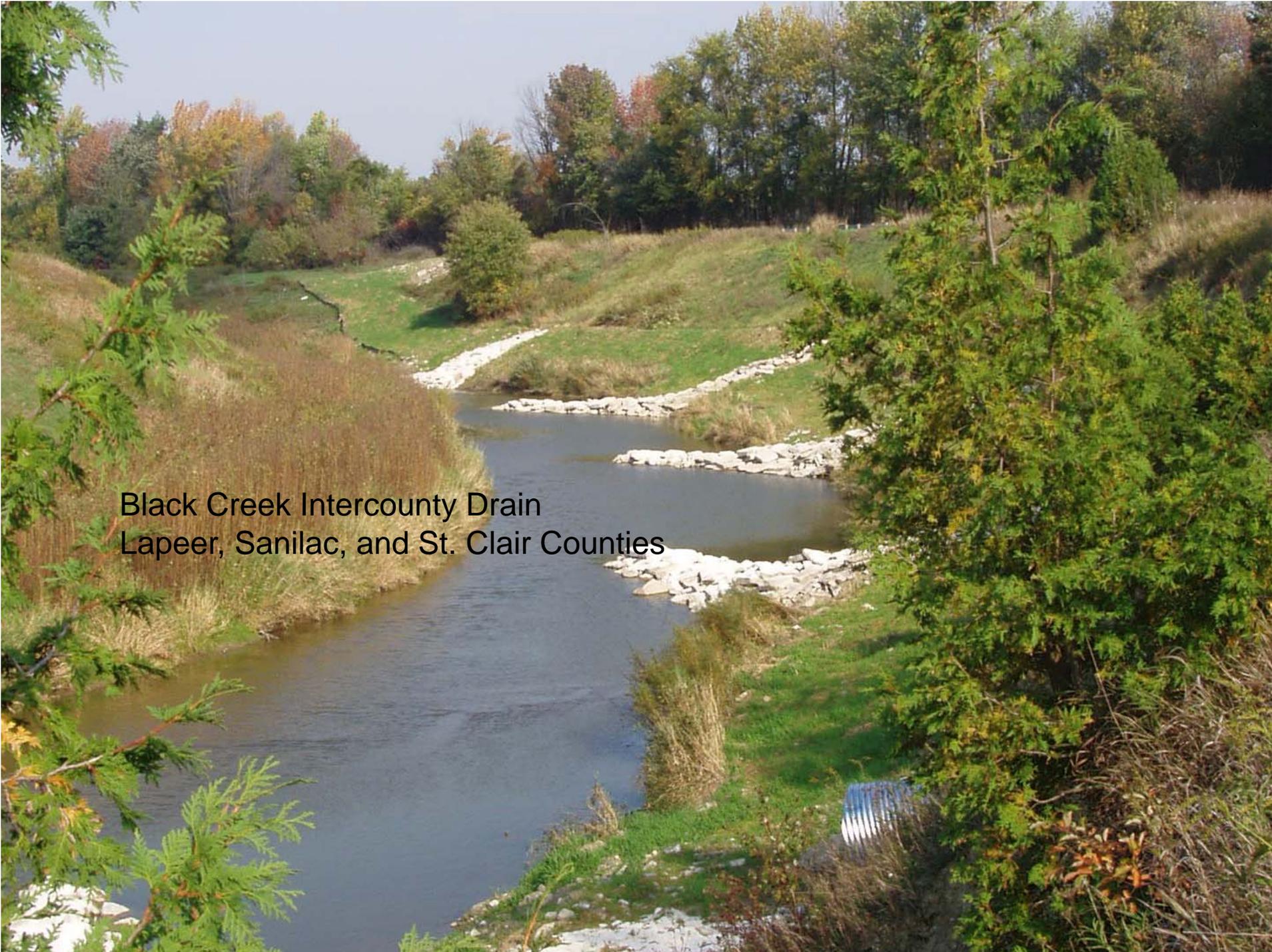












Black Creek Intercounty Drain
Lapeer, Sanilac, and St. Clair Counties

Questions or Comments?

Misteguay Creek Intercounty Drain
Genesee, Saginaw, and Shiawassee Counties

