

From- THE COMMISSIONERS OF THE BELLE PRAIRIE DRAINAGE DISTRICT

To- THOSE IN LIVINGSTON COUNTY GOVERNMENT THAT CONSIDER ZONING AND DEVELOPMENT IN OUR COUNTY (including any committees and subcommittees)

Topic- FOLLOWUP ON OUR THOUGHTS ON INVENERGY'S REPLY TO OUR EARLIER COMMUNICATION

In November of 2014, after consulting with Drainage Commissioners from the Avoca and Indian Grove Drainage Districts, the Commissioners of the Belle Prairie Drainage District sent you a letter outlining our shared concerns about necessary protections for our Drainage District from unnecessary costs and drainage risks due to wind project activities. This letter was directed TO: THOSE IN LIVINGSTON COUNTY GOVERNMENT THAT CONSIDER ZONING AND DEVELOPMENT IN OUR COUNTY (including any committees and subcommittees) and was delivered to Chuck Shope by our drainage district attorney, Jay Goold.

The Belle Prairie Drainage District Commissioners received a letter of response from Invenergy dated December 12th, 2014. This letter of response was submitted as Exhibit 125 in the public hearings dealing with wind projects. We believe that the content of this letter of response was language that the drainage commissioners had reviewed before we stated our concerns. There are many good features in the Invenergy's Agricultural Impact Mitigation Agreement yet we feel these features are short of the protections necessary for the area's large, high volume, main subsurface tile lines owned by Drainage Districts.

At a later public hearing, Dave Boomgarden- as part of his presentation on farm drainage issues that may surface due to wind farm activities- submitted Belle Prairie Drainage District's original letter.

OUR REPLY

In consultation with commissioners from drainage districts within Livingston County- we the commissioners of Belle Prairie Drainage District believe that the Invenergy response is inadequate. The letter of response did not address our concerns.

We invite all parties within Invenergy and within the decision making process in Livingston county to reconsider our original letter including our requests for an enhanced agreement. It is our intent to make Drainage Districts and any future wind projects as compatible as is possible. There is clearly not adequate language in the Invenergy reply to us that assures us that they will be compatible.

The fundamentals we were asking for were to-

- 1) assure reasonable steps are taken in order to avoid unnecessary damage to our tile.
- 2) assure a process is in place for expedient repair of damaged tile.
- 3) reduce the unnecessary risks of extreme crop and income losses due to delays in the repair of damaged tile.
- 4) avoid locating wind farm cable in the corridor adjacent to Drainage District tile at a depth that makes new replacement tile projects much more expensive or impossible. (Or- provide assurances that cable depth can and will be moved by many feet at the expense of the owners of the wind project to accommodate the installation of future large Drainage District tile mains. Under the current criteria- In these narrow corridors adjacent to current district tile mains, 5- 6 feet of cover on the cable puts the cable right where the large new Drainage District main tile will have to be.)

For those interested in knowing more about farm drainage- including Drainage Districts and the unique responsibilities of Drainage District Commissioners- you may want to review the link below. This link opens the Illinois Drainage Guide, Circular 1355. Pages 14 through 24 deals with Drainage Districts. For

those interested in the law dealing with Drainage Districts, please read the lower portion of page 22 and the upper portion of page 23. In this paragraph it suggests that a district has the right to "have criminal charges brought against any person who wrongfully or purposefully fills, cuts, injures, destroys, or in any manner impairs the usefulness of the drain". It is clear from a reading of this circular that Drainage District Commissioners have very serious responsibilities to protect the District's drainage systems and that Illinois laws suggest that we do so.

http://www.farmdoc.illinois.edu/legal/pdfs/drainage_law1.pdf

Thank you for your consideration of this matter,

Jeff Abbey
Commissioner- Belle Prairie Drainage District