

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

IN THE PORTER CIRCUIT COURT
SITTING AT VALPARAISO
PORTER COUNTY, INDIANA

IN RE: THE MATTER OF THE)
PETITION FOR CREATION OF THE)
FALLING WATERS CONSERVANCY)
DISTRICT)

CAUSE NO. 64C01-0104-CP-3414

FILED
IN OPEN COURT
SEP 05 2003

COURT ORDER

Margaret Hanson

Comes now the Court and pursuant to I.C. 14-33-2-15(a) conducts its final hearing in connection with the pending Petition For The Establishment Of The Falling Waters Conservancy District. The purpose of this final hearing is to receive the findings and recommendations of the Natural Resources Commission of the Indiana Department of Natural Resources, and to hear any and all evidence presented to the Court on the propriety of this Court's proposed establishment of the Falling Waters Conservancy District, and for making findings of fact and ruling on the aforementioned Petition For The Establishment Of The Falling Waters Conservancy District.

Upon receipt and review of the aforementioned findings and recommendations of the Natural Resources Commission of the Indiana Department of Natural Resources, a copy of which report has been received by the Court and is part of the record and evidence of this proceeding, and after receipt and review of the additional evidence presented to this Court by the Petitioner for creation of the conservancy district and the stipulation of the parties to this matter and after reviewing the court record and file in this matter and after being duly advised in the premises, the Court makes the following findings and enters the following order:

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CLERK
PORTER CIRCUIT/SUPERIOR COURT

THE COURT FINDS that pursuant to I.C. 14-33-2-25(b), notice by publication was given of the Court's intention to conduct its final hearing in this matter and that said publication is a sufficient, legal and appropriate notice which was published in the Valparaiso Vidette-Times newspaper and that proof of publication of the aforementioned legal notice has been offered and accepted into evidence and has been filed with the Court and is now made a part of the record of this proceeding. Such notice being that which is deemed by this Court necessary, proper and legal and appropriate and said notice is further found by this Court to have been done for all purposes in compliance with the prior orders of this Court and in further compliance with I.C. 14-33-2-25(b). All parties having appeared in this matter also received notice of the Court's intent to proceed with the final hearing.

THE COURT FURTHER FINDS that pursuant to its order entered on the 18th day of June, 2001, the pending Petition For Creation Of The Falling Waters Conservancy District was filed with the Natural Resources Commission (Division of Hearings) at the Indiana Department of Natural Resources on the 22nd day of June, 2001.

THE COURT FURTHER FINDS that pursuant to I.C. 14-33-2-22, an Administrative Law Judge from the Division of Hearings at the Natural Resources Commission of the Indiana Department of Natural Resources conducted a public hearing on 3rd day of August, 2001, at the Porter County Administration Building in Valparaiso, Porter County, Indiana. Notice of that hearing was published in a timely fashion on the 29th day of June, 2001 in the Chesterton Tribune and the Valparaiso Vidette-Times, both being newspapers of general circulation in Porter County. The purpose of the hearing was to receive evidence on the propriety of the creation of the proposed Falling Waters Conservancy District. Such public hearing having occurred pursuant to legal notice

and further such aforementioned legal notice having been filed by this Court to be that which is deemed necessary, proper, legal and appropriate and in compliance with the previous orders of this Court and the applicable provisions of the Indiana Conservancy Act.

THE COURT FURTHER FINDS that on the 7th day of September, 2001, the report of public hearing and other public comments, agency comments and recommendations, and recommended findings of the Administrative Law Judge were submitted to the Natural Resources Commission of the Indiana Department of Natural Resources which adopted the aforementioned recommendations and findings of the Hearing Officer at its public meeting in Indianapolis on the 18th day of September, 2001. Said order of the Natural Resources Commission recommended to this Court approval of the Petition For Creation Of The Falling Waters Conservancy District and that this Court received additional evidence from the petitioners concerning the purposes for which the district is to be established.

THE COURT FURTHER FINDS that pursuant to I.C. 14-33-2-22, the Natural Resources Commission of the Indiana Department of Natural Resources has filed with this Court the aforementioned Order, Findings and Recommendations. The aforementioned Order, Findings and Recommendation of the Natural Resources Commission having been filed with this Court in the following words and figures: (H.I.) and such Order, Findings and Recommendations are made a part of the record of this cause.

THE COURT FURTHER FINDS that except as modified herein, the Findings of Fact and Recommendations as adopted by the Natural Resources Commission of the Indiana Department of Natural Resources should be adopted and incorporated herein as the findings of this Court.

THE COURT FURTHER FINDS that the boundaries of the proposed district as presented

to the Court in the original petition satisfy the contiguousness requirements contained in the Indiana Conservancy Act and that the legal description presented to the Court in the Petition For Creation Of The Falling Waters Conservancy District should be adopted by this Court as the legal description of the boundaries of the proposed Falling Waters Conservancy District.

THE COURT FURTHER FINDS that the engineering information provided to this Court has convinced the Court that the district holds promise for both economic and engineering feasibility and that the benefits of the proposed works of improvement will exceed the costs associated therewith as is required for certain of the purposes for which the district will be established pursuant to the provisions of the Indiana Conservancy Act.

THE COURT FURTHER FINDS that in adopting the Findings, Order and Recommendations of the Natural Resources Commission (as amended by this Court in this order) of the Indiana Department of Natural Resources and including and modifying such Findings, Order and Recommendations with the additional findings made by this Court, this Court specifically finds that the proposed Falling Waters Conservancy District:

1. Appears to be necessary;
2. Hold promise of economic and engineering feasibility;
3. Offers benefits in excess of costs;
4. Proposes to cover and serve a proper area;
5. Can be established and operated in a manner compatible with established conservancy districts, flood control projects, reservoirs, lakes, dams, and other water management or water supply projects.

THE COURT FURTHER FINDS that the territorial boundaries of the Falling Waters Conservancy District should be as requested by the petitioners in the legal description contained in

the original Petition For Creation Of The Falling Waters Conservancy District which is part of the record and pleadings in this matter. The Court makes this finding predicated upon the evidence presented to the Court as well as the recommendations contained in the report filed with this Court by the Natural Resources Commission of the Indiana Department of Natural Resources.

THE COURT FURTHER FINDS that a Board of Directors consisting of three (3) directors will best serve as the governing body of the Falling Waters Conservancy District. Each of the three directorship areas being further delineated and identified herein as serving on an at-large basis until further order of this Court.

THE COURT FURTHER FINDS that the Porter County Board of Commissioners has a statutory responsibility for appointing the initial members to the Board of Directors pursuant to I.C. 14-33-5-1(a) and that in so doing, the Porter County Board of Commissioners shall make such appointments pursuant to the aforementioned statute within twenty (20) days after the order of this Court establishing the Falling Waters Conservancy District and shall further do so in such a manner and fashion so as to stagger the initial terms for each director appointed as follows:

1. At the annual meeting of the district in February of 2004, the term of one (1) director shall expire.
2. At the annual meeting of the district in February of 2005, the term of a second director shall expire.
3. At the annual meeting of the district in February of 2006, the term of the third director shall expire.

As an initially appointed director's term expires, there shall be an election pursuant to the provisions of the Indiana Conservancy Act (as amended) and such subsequently elected members of the Board of Directors shall serve four (4) year terms pursuant to the aforementioned statute.

THE COURT FURTHER FINDS that the annual meeting of the Falling Waters Conservancy

District shall be held by the Board of Directors pursuant to I.C. 14-33-2-27(3) on the third Thursday of February in each calendar year.

THE COURT FURTHER FINDS that the Stipulation of the parties of record in this matter should be adopted by this Court as part of its findings in this matter.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Falling Waters Conservancy District should be and the same is hereby created and established within the following geographical boundaries:

Parcel 1:

Lot 6, Royal Tees Subdivision, as per plat thereof, recorded in Plat File 19-F-1, in the Office of the Recorder of Porter County, Indiana.

Parcel 2:

A tract of land situated in the East One-Half (E $\frac{1}{2}$) of the Southwest One-Quarter (SW $\frac{1}{4}$) and the Northeast One-Quarter (NE $\frac{1}{4}$) and the Southeast One-Quarter (SE $\frac{1}{4}$) of Section 3, Township 34 North, Range 7 West, Porter County, Indiana. More particularly described as follows:

Commencing at the Southwest corner of Section 3, Township 34 North, Range 7 West, Porter County, Indiana; thence South (S) 89° 53' East (E) along the South line of said Section 3 a distance of 1318.21 feet to the Southwest corner of the East One-Half of the Southwest One-Quarter of said Section 3 and the place of beginning for the following description; thence North (N) 00° 10' 50" East (E) along the North-South center-line of said Southwest One-Quarter a distance of 2653.23 feet to a point on the East-West center-line of said Section 3, said point being the Northwest Corner of the East One-Half of the Southwest One-Quarter of said Section 3; thence South (S) 89° 33' 43" East (E) along said East-West center-line of said Section 3 a distance of 1314.07 feet to the Center of said Section 3; thence North (N) 00° 05' 11" East (E) along the North-South center-line of said Section 3 a distance of 661.40 feet to the Northwest Corner of the South One-Half of the Southwest One-Quarter of the Northeast One-Quarter of said Section 3; thence South (S) 89° 29' 11" East (E) along the North line of the South One-Half of the Southwest One-Quarter of the Northeast One-Quarter of said Section 3 a distance of 1312.80 feet to the Northeast Corner of the South One-Half of the Southwest One-Quarter of the Northeast One-Quarter of said Section 3; thence North (N) 00° 00' 38" West (W) along the North-South center-line of the Northeast One-Quarter, said line being also the West line of the Southeast One-Quarter of the Northeast One-Quarter of said Section 3 a distance of 581.96 feet to a point on the Southwesterly right-of-way line of the Chesapeake and Ohio

Railroad; thence Southeasterly along said right-of-way line along a curve to the right, said curve having a radius of 5679.65 feet and a total central angle of $10^{\circ} 38' 52''$ a distance of 1055.49 feet, the chord of said curve bears South (S) $53^{\circ} 14' 05''$ East (E) a distance of 1053.97 feet; thence South (S) $51^{\circ} 25' 40''$ East (E) along said right-of-way line a distance of 320.41 feet to the point-of-curve of a curve to the left, said curve having a radius of 2914.79 feet and a total central angle of $5^{\circ} 30' 28''$, thence Southeasterly along said curve a distance of 280.19 feet to a point on the East line of said Section 3, the chord of said curve bears South (S) $51^{\circ} 31' 44''$ East (E) a distance of 280.09 feet; thence South (S) $00^{\circ} 05' 13''$ East (E) along the East line of said Section 3 a distance of 246.53 feet to the East One-Quarter Corner of said Section 3; thence continue South (S) $00^{\circ} 05' 13''$ East (E) along said East line a distance of 986.77 feet to the Northeast Corner of the South One-Half of the South One-Half of the Northeast One-Quarter of the Southeast One-Quarter of said Section 3; thence North (N) $89^{\circ} 41' 22''$ West (W) along the North line of the South One-Half of the South One-Half of the Northeast One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 1315.77 feet to a point on the North-South center-line of the Southeast One-Quarter, said point being also the Northwest Corner of the South One-Half of the South One-Half of the Northeast One-Quarter of the Southeast One-Quarter of said Section 3; thence South (S) $00^{\circ} 00' 38''$ East (E) [(Deed South (S) $00^{\circ} 00' 38''$ West (W))] along said North-South center-line, said line being also the West line of the Northeast One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 329.83 feet to the Southeast Corner of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3; thence North (N) $89^{\circ} 43' 37''$ West (W) along the South line of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 658.055 feet to the Southwest Corner of the East One-Half of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3; thence South (S) $00^{\circ} 02' 30''$ West (W) along the West line of the East One-Half of the Southwest One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 165.00 feet; thence North (N) $89^{\circ} 43' 37''$ West (W) parallel to the South line of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 330.00 feet; thence North (N) $00^{\circ} 02' 30''$ East (E) a distance of 165.00 feet to a point on the South line of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3; thence North (N) $89^{\circ} 43' 37''$ West (W) along the South line of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3 a distance of 328.055 feet to the Southwest Corner of the Northwest One-Quarter of the Southeast One-Quarter of said Section 3, said corner lies on the North-South center-line of said Section 3; thence South (S) $00^{\circ} 05' 11''$ West (W) along said North-South center-line a distance of 1322.84 feet to the South One-Quarter Corner of said Section 3; thence North (N) $89^{\circ} 53'$ West (W) along the South line of said Section 3 a distance of 1318.244 feet to the place of beginning.

EXCEPTING THEREFROM all of the Royal Tees subdivision containing 119.94 acres more or less, recorded in Plat File 19-F-1 in the office of the Recorder of Porter County, Indiana.

Parcel 3:

All of Royal Tees subdivision recorded in Plat File 19-F-1 in the Office of the Recorder of Porter County, Indiana, EXCEPTING THEREFROM Lot 6 of the Royal Tees Subdivision

Parcel 4:

A tract of land situated in the East ½ of the Northeast ¼ of Section 3, Township 34 North, Range 7 West of the Second Principal Meridian, in Porter County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of Section 3, Township 34 North, Range 7 West of the Second Principal Meridian, in Porter County, Indiana; thence South 00° 05' 13" East along the East line of said Section 3, a distance of 339.66 feet to the place of beginning for the following description: thence continue South 00° 05' 13" East along said East line a distance of 1911.44 feet to a point on the Northeasterly right of way line of abandoned right of way of the Chesapeake and Ohio Railroad; thence Northwesterly along said right of way and along a curve to the right, said curve having a radius of 2814.79 feet and a total central angle of 4° 07' 12" a distance of 202.40 feet the chord of said curve bears North 50° 46' 19" West a distance of 202.35 feet; thence North 51° 25' 40" West along said right of way line a distance of 320.41 feet to a point of curve of a curve to the left; thence Northwesterly along said curve, and along said right of way line, said curve having a radius of 5779.65 feet and a total central angle of 11° 11' 44" East a distance of 1129.34 feet the chord of said curve bears North 53° 33' 30" West a distance of 1127.54 feet to a point on the North South center-line of the Northeast ¼ of said Section 3; thence North 00° 00' 38" West along said North South Center-line a distance of 919.14 feet; thence South 89° 46' 14" East a distance of 629.68 feet; thence South 00° 12' 46" West a distance of 300.94 feet; thence South 89° 46' 14" East a distance of 340.00 feet; thence North 00° 13' 46" East a distance of 300.94 feet; thence South 89° 46' 14" East a distance of 341.88 feet to the point of beginning.

Parcel 5:

An easement for ingress and egress for the benefit of Parcel 4 over and across the following described land:

Beginning at the Northeast corner of Section 3, Township 34 North, Range 7 West, Porter County, Indiana, thence South 00° 05' 13" East along the East line of said Section 3, a distance of 339.66 feet; thence North 89° 46' 14" West a distance of 40.00 feet; thence North 00° 05' 13" West a distance of 339.66 feet to a point on the North line of said Section 3; thence South 89° 46' 14" East along said North line a distance of 40.00 feet to the place of beginning.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Falling Waters

Conservancy District should be and the same is hereby created and established for the following purposes:

1. Improving drainage.
2. Providing for irrigation.
3. Providing water supply, including treatment and distribution, for domestic, industrial, and public use.
4. Providing for the collection, treatment, and disposal of sewage and other liquid wastes.
5. Developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management.
6. Preventing the loss of topsoil from injurious
7. Operation, maintenance, and improvement of:
 - A. a work of improvement for water based recreational purposes; or
 - B. other work of improvement that could have been built for any other purpose authorized by the Conservancy District Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Stipulation entered of record in this matter by the parties of record in this proceeding should be and is hereby incorporated herein and made a part of this order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Falling Waters Conservancy District Board of Directors shall consist of three (3) members, all of whom shall serve on an at-large basis. It is contemplated by the Court that as the conservancy district population grows, the Court will add members to the Board of Directors and will assign the Board of Directors specific geographical areas. This will occur in subsequent modifications of this order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the initial Board of Directors of the Falling Waters Conservancy District shall be appointed by the Porter County Board of Commissioners within twenty (20) days after the entry of this order establishing the Falling Waters Conservancy District and that in making said appointments, the Porter County Board of Commissioner shall stagger the initial terms of the Board of Directors pursuant to I.C. 14-33-5-1(a) and consistent with the following:

1. At the annual meeting of the district in February of 2004, the term of one director shall expire.
2. At the annual meeting of the district in February of 2005, the term of a second director shall expire.
3. At the annual meeting of the district in February of 2006, the term of the third director shall expire.

As each initially appointed director's term expires, there shall be an election pursuant to I.C. 14-33-2-27(3) and all subsequently elected directors shall serve a four-year term on the Board of Directors pursuant to the aforementioned provisions of the Indiana Conservancy Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the annual meeting of the Falling Waters Conservancy District will be held pursuant to I.C. 14-33-2-27(3) on the third Thursday of February in each calendar year.

ALL OF WHICH HAVING BEEN ORDERED, ADJUDGED AND DECREED this 5th day of Sept, 2003, in the Porter Circuit Court, sitting at Valparaiso, Porter County, Indiana.


Mary R. Harper, Judge
Porter Circuit Court