

SURVEYOR'S OFFICE  
**Hamilton County**

*Kenton C. Ward, CFM*  
*Surveyor of Hamilton County*  
*Phone (317) 776-8495*  
*Fax (317) 776-9628*

*Suite 188*  
*One Hamilton County Square*  
*Noblesville, Indiana 46060-2230*

September 23, 2009

To: Hamilton County Drainage Board

Re: Williams Creek Drainage Area, Charles Osborn & J.R. Collins North Section

Attached is a drain map, drainage shed map and schedule of assessments for maintenance for Williams Creek Drain, Charles Osborn & J.R. Collins North Section. This portion of the drain is located in Clay and Washington Townships north of 136<sup>th</sup> Street.

At this time the Charles Osborn and J.R. Collins #2 Drain is listed on the 2009 Classification List for maintenance at Number 1. The drain was requested for classification by Frank McKinney Jr. on August 12, 1968 and V. John Davis in March 1978. The office has had eight (8) complaints on the drain since 2002. Those are as follows:

<u>DATE</u>	<u>APPLICANT</u>	<u>LOCATION</u>	<u>PROBLEM</u>
Feb. 20, 2002	Trinity Homes	136 <sup>th</sup> St. West of Springmill Rd. On Luis Way	Drain collapsed at outlet
July 9, 2003	Sarah Burr	Culver under 141 <sup>st</sup> St West of Springmill Rd.	Debris blocked culvert
March 4, 2004	Donald Monson	131 <sup>st</sup> St. & Springmill Rd.	Water standing
Dec. 2, 2004	Andrew Gerdom	North of 131 <sup>st</sup> St/ East of Springmill Rd.	Beaver dam
Nov. 27, 2006	Anna Seals	Northeast of Springmill & 131 <sup>st</sup> St.	Tree obstruction flow
April 14, 2008	Mike Cooney	1030 Bridgeport Dr.	Standing water
June 23, 2009	Rick Montague	14606 Warner Trail	Erosion
August 12, 2009	Aleta Wilson	Clearbrook & Bucksport Ln.	Structure problem

The nature of maintenance work required is as follows:

- A. Clearing of trees and brush on the existing open drain as needed to improve flow.
- B. Creation and re-excavation of silt basins
- C. Re-excavation of open ditch to original grade line
- D. Surface water structures as might be required
- E. Bank erosion protection and/or seeding as might be required;
- F. Repair of private tile outlet ends as might be required;
- G. Repair of regulated drain tile outlets;
- H. Removal of beaver dams;
- I. Removal of debris and/or blockage from regulated open ditch;
- J. Spraying for vegetation control;
- K. Any other repairs deemed to be applicable and necessary by the Surveyor to restore the drain to its original intended use and condition.

The frequency with which maintenance work should be performed is annually as required by the condition of the drain.

A Watershed Management Plan is presently being prepared by Christopher Burke Engineering. This report will provide recommendations to the Drainage Board for maintenance, reconstruction and flood control.

The rates for maintenance were established per my report dated June 6, 2006 which was approved by the Board at hearing on August 28, 2006 (See Hamilton County Drainage Board Minute Book 9, Pages 410-411).

I have reviewed the plans and drain map and believe, as set out in IC 36-9-27-69 (b) (1) that all tracts within the drainage shed of the Williams Creek Drain will benefit. The following maintenance assessment has been adopted by the Board:

1. Maintenance assessment for roads and streets be set at \$10.00 per acre.
2. Maintenance assessment for agricultural tracts be set at \$3.00 per acre with a \$15.00 minimum.
3. Maintenance assessment for non-platted residential tracts be set at \$3.00 per acre with a \$15.00 minimum.
4. Maintenance assessment for commercial institutional and multi-family residential tracts be set at \$10.00 per acre with a \$75.00 minimum.

5. Maintenance assessment for platted lots in subdivisions whose drainage systems will not be considered part of the regulated drain (those systems maintained by the City of Carmel) shall be set at \$35.00 per lot - \$35.00 minimum. Common areas within subdivisions whose drainage systems will not be part of the regulated drain (those systems maintained by the City of Carmel) shall be set at \$5.00 per acre with a \$35.00 minimum.
6. Maintenance assessments for platted lots within a subdivision whose drainage system will be part of the regulated drain shall be set at \$65.00 per lot with a \$65.00 minimum. Common areas with regulated drain subdivisions shall be set at \$10.00 per acre with a \$65.00 minimum.

The annual maintenance collection for this will be \$1,871.44. The period of collection shall be eight years as per IC 36-9-27-43.

Williams Creek has been identified in the NPDES Phase II General Permit Application, Storm Water Quality Management Plan Part C: Program Implementation Report dated November 5, 2008, Page 5, as a MS4 area receiving stream.

Williams Creek is listed in the NPDES Phase II General Permit Application Storm Water Quality Management Plan Part B: Baseline Characterization Report dated November 5, 2008 on the following pages:

Page 4 as an MS4 Area Receiving Stream

Page 7 as a 14 digit HUC Watershed #05120201090060 within the MS4 Area with drainage size of 14,198.70 acres.

Page 16 as being in the IDEM 305(b) Report as being fully supportive of aquatic life and full body contact

This drain is not listed on the 2008 303(d) list of impaired waters for Indiana.

I recommend that the Board set a hearing for this proposed maintenance for October 26, 2009

Sincerely,



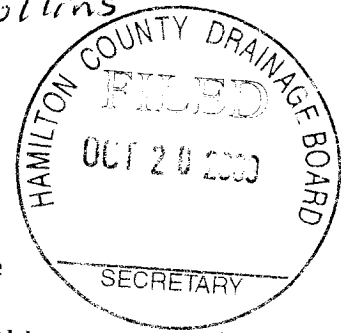
Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll

17-09-23-00-00-017.000

Osborne & Collins

To: Hamilton County Drainage Board  
From: Michael R & Elizabeth M. Griswold  
13603 Springmill Rd  
Carmel, IN 46032



RE: Proposed New Tax for William Creek Periodic Maintenance

My wife and I object strongly to this new tax! The principle for this assessment is ridiculous. Next year based on this same principle I might get a new tax bill for roads that need to be maintained that are adjacent to our property and the year after that power lines that have my trees growing up next to them, and the year after that the gas utility sends me a tax bill for maintenance on the pipelines that run through my property, etc.

Secondly this principle is a double taxation. Part of my county/ state tax assessment is designated for common drainage maintenance, including dredging. The principle is faulty also. Just as the county/state taxes its citizens for roads, this tax would be equivalent to an additional tax based on usage. If one drove 10,000 miles a year they would be taxed on the usage of the common public "space," but one who drove 100,000 would be taxed ten times that amount because he is using more of the common grounds and causing additional wear and tear on it. Williams Creek is not my private property in which a tax can be assessed to me, it is a common waterway.

This creek has been maintained for hundreds of years without a pro-rata tax based on how many acres my property borders the creek. What legal basis does the county have to add a new tax? Is it deceptively low to not alarm tax paying citizens? We are already at the mercy of some arbitrary board that sets real estate tax based on assessed value. I could not sell my property today for what the city has assessed it. The real value of our property and the city's tax appetite has no direct relationship. The city now has more appetite based on issues that I find incredible.

I have owned this land for over 13 years and have NEVER had the city out on my property doing any of actions they say is causing them to charge this new tax. It is the city people who think they have entered the deep wilderness whenever there are two trees growing spontaneously close together. They call to remove beaver dams. What! I have had two beaver dams on my property and all you do is wait 30-60 days for a big rain and it washes the dam out. The city instead of charging a new tax, should tell the Carmel city folks to relax and enjoy the beavers for a few weeks! It would even be more ecologically sound.

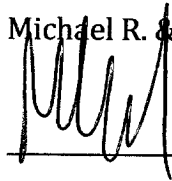
There is no silt basin on my property, no one has every sprayed for vegetation control, we like the natural bank growth; it is good for wildlife and the ecology. The Carmel homeowner who wants all wildernesses eradicated should pay the city to do this work, not me! On my little farm, I maintain the creek, I clear trees out of the stream, I remove the debris after big storms, and I don't call the city to do this. I

check it constantly and improve it when needed, but it rarely needs improvement. When it is left natural and not civilized, it does fine by itself.

Lastly, I object to the bait and switch tax tactic. The list of required maintenance items you believe is your job and say is going to cost \$1,871.44 is unbelievable. One call to a commercially competitive company to do this work would be hundreds of thousands of dollars. Which is where this tax is going! The paltry amount is how you get your foot in the door, and I object! If you guaranteed to me today that the tax was only going to be \$30.46 for the next 20 years I would fight it but end up paying it. But you and I both know this is not the plan! It is \$1,871.44 this year and because of this and that and the other thing, in 2010 it is \$4,600.00. Then in 2011 because of the huge rains and flooding you had to do XYZ and the tax is now \$12,500.00

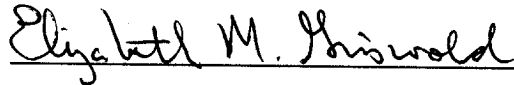
I appreciate your offer to help me out with beaver dams on my property but I will continue to handle them myself.

Michael R. & Elizabeth M. Griswold



Dated

10/19/09



Dated 10/19/09

FINDINGS AND ORDER

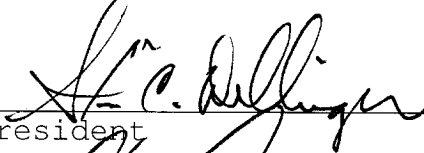
CONCERNING THE MAINTENANCE OF THE

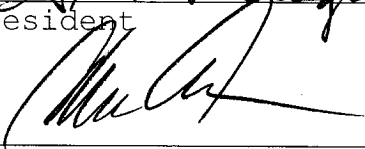
Williams Creek Drainage Area,  
Charles Osborne & J. R. Collins North Section

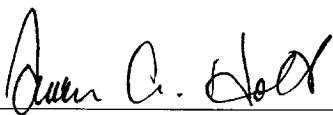
On this 26<sup>th</sup> day of October 2009, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Williams Creek Drainage Area, Charles Osborne & J. R. Collins North Section.**

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

Attest: 

RETURNED

OFFICE OF

HAMILTON COUNTY DRAINAGE BOARD

Notice of Hearing to Establish Annual Assessments for the Periodic Maintenance of the Williams Creek Drainage Area, Charles Osborn & J.R. Collins North Section.

White, Barbara Jean & Alan White  
1145 W. 146th St.  
Westfield, IN 46074

You are hereby notified that the maintenance report of the County Surveyor and the schedule of assessments made by the Drainage Board have been filed and are available for public inspection in the office of the County Surveyor.

The Surveyor has estimated that the annual cost of periodically maintaining the entire drain is \$1,871.44. The schedule of assessments shows you are the owner of tracts within the drainage shed. The following is your pro rata share for each tract and the proposed annual assessment for those tracts:

Description: 08-09-15-00-00-010.001	Current Benefit to Williams Creek #315	Current Assessment to Williams Creek #315	Proposed Benefit to Williams Creek #315	Proposed Assessment to Williams Creek #315	Percentage of total assessment
S15 T18 R3 14.94 Ac	8.51 Ac	\$25.54	14.94 Ac	\$44.82	2.39%
Residential/Ag					

A public hearing will be held by the Drainage Board in Commissioner's Court at 9:05 A.M. on October 26, 2009 on the Surveyor's maintenance report and the proposed schedule of assessments. The law requires that any objection must be written and filed not less than five (5) days before the above hearing on the ground that benefits assessed are excessive. Written evidence in support of objections may also be filed. The failure of any owner to file an objection constitutes a waiver of his right to thereafter object on such ground to any final action of the Board. On or before the hearing date the Surveyor or any owner of lands named in the schedule of assessments may cause written evidence to be filed in support of or in rebuttal to any objection filed.

HAMILTON COUNTY DRAINAGE BOARD  
One Hamilton County Square, Ste. 188  
Noblesville, IN 46060

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD  
IN THE MATTER OF

**Williams Creek Drainage Area,  
Charles Osborne & J. R. Collins North Section**

NOTICE

To Whom It May Concern and: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice is hereby given of the hearing of the Hamilton County Drainage Board on the **Williams Creek Drainage Area, Charles Osborne & J. R. Collins North Section** on **October 26, 2009** at **9:05 A.M.** in Commissioners Court, Hamilton County Judicial Center, One Hamilton County Square, Noblesville, Indiana, and which construction and maintenance reports of the Surveyor and the Schedule of Assessments made by the Drainage Board have been filed and are available for public inspection in the office of the Hamilton County Surveyor.

Hamilton County Drainage Board

Attest: Lynette Mosbaugh

ONE TIME ONLY



BEFORE THE HAMILTON COUNTY DRAINAGE BOARD  
IN THE MATTER OF THE

*Williams Creek Drainage Area,  
Charles Osborne & J. R. Collins North Section*

NOTICE

Notice is hereby given pursuant to Section 405 of the 1965 Indiana Drainage Code that this Board, prior to final adjournment on **October 26, 2009** has issued an order adopting the Schedule of Assessments, filed the same and made public announcement thereof at the hearing and ordered publication. If judicial review of the findings and order of the Board is not requested pursuant to Article Eight of this code within twenty (20) days from the date of this publication, the order shall be conclusive.

Hamilton County Drainage Board

Attest: Lynette Mosbaugh

ONE TIME ONLY