

Drain: W. P. Bennett Drain

Improvement-Arm: Maintenance

Date Approved: May 27, 2008

Drain Input Checklist

- Create Regulated Drain Record in Posse _____
 - Drain Type
 - Outlet (Tab)
 - Outlet Attached
 - Location
 - Twp
 - Certification
 - Drain Number

- Enter Improvement Arm in Posse _____
(Construction Amount = Storm Drains, Erosion Control, Sub-surface drain & Earthwork)

- Scan Documents _____
 - Surveyor's Report
 - Engineer's Estimate
 - Notices
 - Findings and Order
 - Petition

- Create Posse Inspection Job _____

- Enter into Watershed Summary Spreadsheet _____

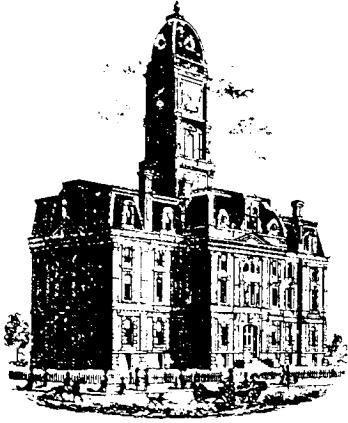
- Check for Vacation of Drain & Map Changes _____

- Check Drainage Easement Classification _____

- Sum drain length & Validate in GIS _____

- Enter New Watershed Length into Posse _____

- Create Boundary of Improvement in GIS _____



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

April 9, 2008

To: Hamilton County Drainage Board

Re: W.P. Bennett Drain

Attached is the drain map and schedule of assessments for the W.P. Bennett Drain. This drain is presently number three (3) on the Drain Classification List for reconstruction. This drain was requested for classification by Steve Pitts on April 5, 1972 and by Alice Butler on June 14, 1974.

The William P. Bennett Drain shall consist of the William P. Bennett Drain, the Asa Wiles Drain and the S. Moriarty Drain located in Adams and Jackson Townships. The oldest portion of the current drainage facilities is the Asa Wiles Drain. This tile was viewed and ordered constructed on November 23, 1894. (Commissioners Record Book 9, Pgs. 303-306). This drain was installed as a replacement for the then existing Perry Bennett Drain. The Asa Wiles consists of a main tile that runs in a southwesterly direction from the south side of 266th Street to its outlet into the William P. Bennett Drain at STA 0 of the Bennett west of US 31. The Asa Wiles also has one arm running along the west side of Dunbar Rd. The Asa Wiles consists of 4,710 feet of 10" and 12" tile for the main drain and 825 feet of 10" tile for Arm 1. The Drain totals 5,535 feet of tile drain.

The next drain constructed was the S. Moriarty Drain. This drain was viewed and the report given by the viewers of the ditch to the Commissioners on March 3, 1910. (Commissioners Record Book 21, pgs. 104-106). This tile begins just south of the NW corner of the SE Quarter of Section 17 and runs in a northwesterly direction crossing Salem Road and outleting into an existing William P. Bennett Open Ditch. The S. Moriarty consists of one main tile consisting of 2,150 feet of 12" tile.

The William P. Bennett Ditch was viewed on August 5, 1924 and then ordered constructed by the Commissioners on September 2, 1924 (Commissioners Record 28, Pgs 148-151). The William P. Bennett is an open ditch that runs in a northeasterly direction from the west side of US 31 to its confluence with Little Cicero Creek, however the headwaters of the Bennett does consist of 542 feet of 20" tile. The Bennett was cleaned out in 1947 and an arm, consisting of open ditch, that runs along the southeast corner of the US 31 & 266th Street intersection was constructed in 1958. The Bennett drain consists of 694 feet of tile and 15,507 feet of open ditch.

The total drain to be placed on maintenance is 15,507 feet of open ditch and 8,379 feet of tile for a total of 23,886 feet.

Petitions for reconstruction have been filed twice for this drain. These were filed with the Board on November 10, 2003 and the latest on March 10, 2004. The last petition having 18.8% of the landowners within the drainage shed signing. Two complaints have been submitted regarding erosion at 2860 E. 266th Street, both filed by Mike McCool. These were filed on December 16, 2003 and March 4, 2005. This property, parcel 03-02-18-00-00-009.000, is currently owned by Rick & Cara Willoughby. Although it is on the reconstruction list, I am recommending that it be placed on maintenance at this time. The drain shall remain on the reconstruction list until plans can be finalized and a reconstruction hearing held in 2009.

The nature of the maintenance work is as follows:

1. Clearing of trees and brush on the existing open ditch;
2. Creation and re-excavation of silt basin;
3. Re-excavation of open ditch to original grade line;
4. Surface water structure as might be required;
5. Bank erosion protection and/or seeding as might be required;
6. Repair of private tile outlet ends as might be required;
7. Repair of regulated drain tile outlets;
8. Repair of broken tile on regulated drains;
9. Installation of breather pipes as might be required;
10. Removal of debris and/or blockage from regulated tile and open ditch;
11. Cleaning and/or repair of existing catch basin as might be required;
12. Spraying for vegetation control;
13. Mowing filter strips;
14. 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.

At this time the open ditch is heavily overgrown and is in need of clearing. The drain is susceptible to jams caused by debris which causes backwater and localized

flooding. It is possible for large woody debris to collect on road crossings. This creates a threat to the bridge structure and can redirect flow causing erosion.

The drain is listed on Page 6 of my Drain Classification for 2007 as having portions of the drain within or immediately adjacent to the right of way. Recently it has come to the forefront that when the regulated drain parallels the roadway that problems are beginning. This is particularly true in urbanizing areas. The following areas should be considered for reconstruction in the future. This could be done by developers as development occurs or thru the regular reconstruction process. This will need to be investigated once survey data is obtained and the drain is designed for reconstruction. The four (4) areas in question are as follows:

- Approximately 200 feet east of US 31 on south side of 266th Street
- Approximately 2,700 feet east of US 31 on south side of 266th Street
- Approximately 2,200 feet south of 276th Street along north side of Salem Road.
- Approximately 730 feet west of Salem Road along south side of 276th Street

At this time the drain is \$12,991.50 in the red due to previous work which has been done on the drain.

I have reviewed the plans and drain map and believe that all tracts within the drainage shed of the W. P. Bennett Drain will benefit equally as per land use. I recommend the following maintenance assessment to be 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 acres with a \$15.00 minimum.
4. Maintenance assessment for commercial, institutional and multi-family residential tracts to 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 part of the regulated drain shall be set at \$35.00 per lot/minimum. Common areas within non-regulated drain subdivisions shall be assessed at \$5.00 per acres with a \$35.00 minimum.
6. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain shall be set at \$65.00 per lot/minimum. Common area within the regulated drain shall be set at \$10.00 per acre with a \$65.00 minimum.

The drainage shed for the drain consists of 1,959.37 acres. The total annual maintenance assessment for this drain will be \$7,514.66.

I further recommend to the Board that the drain maintenance assessment collections be extended from four (4) times the annual collection to eight (8) times the annual collection as allowed in 1C 36-9-27-43.

Parcels assessed for the drain may be assessed for Little Cicero Creek at sometime in the future.

Although not specifically noted in the NPDES Phase II General Permit Application, Storm Water Quality Management Plan Part C: Program Implementation Report, it is within the drainage shed for the Little Cicero Creek which is identified on Page 4 of the report as an MS4 receiving stream. The drain is mentioned in the NPDES Phase II General Permit Application Storm Water Quality Management Plan Part B: Baseline Characterization Report. The Drain is listed on the following pages of this report:

- Page 6 as #05120201080090 Watershed within the MS4 Area.
- Page 14 as being in IDEM 305(b) Report as being fully supportive for aquatic life and full body contact.
- Page 16 as not being substantially impacted by MS4 storm water discharges.
- Page 18 as being a subwatershed for Little Cicero Creek and is a priority watershed. Little Cicero Creek listed due to impaired biotic communities.

This drain is not listed on the 2004 303(d) List of Impaired Waters for Indiana. However, it is within the Little Cicero Creek Drainage Shed which is listed due to impaired biotic communities.

However, the drain is listed in the 2006 303(d) list for E. coli.

In 2006, the Board contracted with J.F. New to perform a Watershed Management Plan (WMP) for Little Cicero Creek. This plan was funded by a 319 Grant through IDEM and EPA. The Bennett Drain is mentioned in the report on pages 4, 47 and 93 as being impaired by E. coli. It is also listed on page 75 of the report as having elevated total suspended solids (TSS) concentrations. These were found during one or more of the base flow sampling events completed for the study.

The sampling done on the Bennett Drain for the study is discussed on pages 65 and 66 of the WMP. The sampling showed that the dissolved oxygen (DO), temperature and pH were at normal levels. However, the stream had a Qualitative Habitat Evaluation Index (QHEI) of 44 which suggests that the stream is non-supportive of aquatic life. Areas of

concern other than TSS and E coli was the fecal coliform levels, nutrient concentrations, BOD and COD levels.

On Page 119 it is recommended that the drains not currently on maintenance be placed on a maintenance program. It was also recommended that filter strips be installed along the drain in order to reduce nutrient loading and sediment. This will be included in plans for reconstruction which is done on all reconstructed open drains in agricultural areas in Hamilton County.

I recommend the Board set a hearing for this proposed drain for May 27, 2008.

A handwritten signature in black ink, appearing to read 'K. Ward', with a large, sweeping flourish extending to the right.

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/llm

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD
IN THE MATTER OF

W. P. Bennett Drain

NOTICE

To Whom It May Concern and: _____

Notice is hereby given of the hearing of the Hamilton County Drainage Board on the **W. P. Bennett Drain** on **May 27, 2008** at **9:30 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

W. P. Bennett Drain

NOTICE

Notice is hereby given pursuant to Section 405 of the 1965 Indiana Drainage Code that this Board, prior to final adjournment on **May 27, 2008** 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

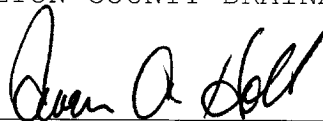
ONE TIME ONLY

FINDINGS AND ORDER
CONCERNING THE MAINTENANCE OF THE
W. P. Bennett Drain

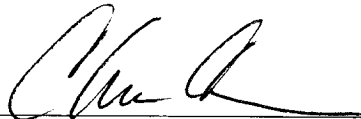
On this **27th day of May 2008**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **W. P. Bennett Drain**.

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.



01-01-13-00-00-006.000
007.000
012.000
013.000

Janet A. Vawter
R & C Farm, Inc.
17080 S. Mill Creek Rd.
Noblesville, In 46062
317-773-4400 - office
317-773-4394- home



Mr. Kent Ward
Hamilton County Surveyor
Hamilton County Judicial Building
Noblesville In 46060

Re: W. P. Bennett Drain

Dear Kent:

I am the owner of the acreage of R & C Farms, Inc. Located in Adams Township. Relative to your letter dated April 9, 2008 which I received the first of May, 2008, I do object to being assessed a maintenance assessment on the real estate I own for the maintenance of the W. P. Bennett Drain. From your letter dated April 9, 2008 I understand that I am being assessed for this maintenance because my farm is in the "water shed" area of the W. P. Bennett Drain. The actual request filed by Rick & Cara Willoughby reside in Jackson Township.

If this drain is currently in the 2009 reconstruction list, why are you requesting maintenance and clean out on the drain in 2008? I assume, if this request is approved, that you will be entering my property and placing your equipment on my property. Will you be reimbursing me for entering my property and damaging my ground, crop, etc.? Why should the owners be taxed twice? Why are we so concerned about this drain when the balance of the Adams and Jackson Township has many more drains that need to be repaired, cleaned, receive maintenance and nothing is being done with these.

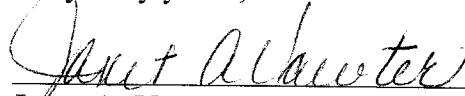
Kent, I fully do not understand why I should benefit this person that owns 10 acres with a luxurious residence on drain his property when I have requested upon several occasions that the County maintain and repair the ditches and drains on R & C Farms and Ringer Farms. This request is for farming purposes not for residential. This request has fallen to deaf ears.

In reviewing your web-site for the drains in 2006 and 2007 that the County is not collecting assessments on, I find many that are in great need of being repaired, maintained and the property owner is not being assessed. For my tax dollar, if one is assessed all are

assessed, especially when a subdivision has been built and the County has erupted the flow of the drainage water onto another person or farmer.

Thank you for your concern.

Very truly yours,

A handwritten signature in cursive script, reading "Janet A. Vawter", written over a horizontal line.

Janet A. Vawter, President

cc: Drainage Board Members
Hamilton County Commissioners



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

May 16, 2008

R & C Farms
Janet A. Vawter
17080 S. Millcreek Rd.
Noblesville, IN 46060

RE: W.P. Bennett Drain

I am receipt of your objection to the above reference drain being placed on maintenance. At this time I am hoping that the drain will have a reconstruction hearing in 2009. This will depend on many factors such as other drains which may be placed before the Bennett Drain which has now happened. The Drainage Board placed the Miller Carson Drain before the Bennett which is now number 4 on the 2008 classification list. Also, by placing the drain on maintenance at this time the \$12,991.50 that the drainage shed owes to the general drain improvement fund can begin to be paid back.

Although your properties are within the drainage shed, the drain is not located on them. Therefore, there would not be a need to enter upon this property to maintain the drain. I'm not sure about your statement about being taxed twice. When the drain is reconstructed the assessment would be separate from the maintenance assessment.

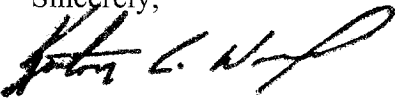
I'm not sure which drains are being referred to. Most drains have a maintenance program on them and we maintain them to the best of our ability with the funds available. Many of the tile drains were installed around and before 1900 and are undersized and at the end of their service life. In many cases the landowners could not afford to reconstruct them the way they should be, even for farm purposes. Upon review of the records, I believe that all requests by R & C Farms for maintenance of regulated drains on maintenance were accomplished. If this is incorrect could you provide me with specific instances?

Could you provide me with specifics for your statement that "Adams & Jackson Township has many more drains that need to be repaired, cleaned, receive maintenance and nothing is being done with these." In 2006 the Board spent 10% of the total maintenance expenditure for the County in these townships.

The reason some of the drains are not being collected on is because collections stop when the fund reaches 4 times the annual assessment. At this time the Board is holding hearings on several drains to increase the period of collections to 8 years. This will provide more funding and hopefully provide more maintenance on a proactive basis instead of a reactive basis.

I hope this helps to your understanding as to why maintenance is proposed for the Bennett Drain at the time. Also, it should help you understand what we are experiencing with the drains throughout the County.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenton C. Ward". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll

01-01-24-00-00-007.000

01-01-24-00-00-008.000

03-02-19-00-00-001.000

May 19, 2008



Re: W.P. Bennett Drain

1. Why is it necessary to set up maintenance payments first when you are not going to reconstruct in 1-2 years from now?
2. Why is the drain \$12,991.50 in the red ?

Our investigation has shown that the only work done on this drain was on the Willoughby property in 1999 to illegally fill in an open part of the ditch. Which at that time (per county book 5 page 147) states that the project would only cost about \$1,400.00. How did \$1,400.00 turn into \$12,991.50???

Also, (per county book 5 page 147) Mr. Holt states "that he believes that if there is fault it falls on the Drainage Board and Surveyor's Office because the records were not up to date. It did not seem fair to ask the people on the regulated drain to pickup the cost because they didn't do anything wrong."

3. Is Beck Hybrids considered a commercial tract or an agriculture tract since they are a commercial seed company?
4. We would like to speak at the meeting if so desired.

Dorothy M. Christod

May 19, 2008



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Paul Hammer

May 19,2008



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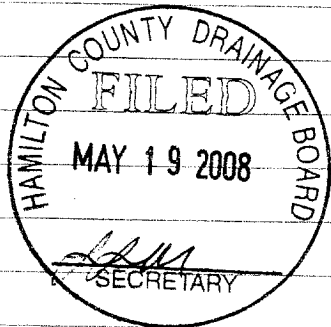
A handwritten signature in cursive script that reads "Gene Grinstead".

Gene Grinstead
24888 Dartown Rd
Sheridan, Indiana 317-758-5146

HAMILTON COUNTY DRAINAGE BOARD

I am opposed to the Bennett Drain being put on maintenance at this time. The Surveyor's letter states he is preparing the drain's reconstruction in 2009. Should the reconstruction be approved at that time, then the drain could be placed on maintenance. Placing the drain on maintenance first does not make sense.

In reference to the annual collection being extended to 8 years — after reconstruction, why would this extension be necessary? This is a way of taking money from people who cannot afford it. Four times the assessment of \$7514.66 would be \$30058.64 — any work over that amount should be approved by the ditch owners.



FRANCIS E. BAITZ
Francis E. Baitz