

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

December 21, 2009

To: Hamilton County Drainage Board

Re: Vestal/Kirkendall Drainage Area, Metzger & Klingensmith Arm, Southern Section

Attached is a drain map, drainage shed map and schedule of assessments for maintenance for the Vestal/Kirkendall Drainage Area, Metzger & Klingensmith Arm, Southern Section. This drain is located in Clay Township.

The portion of drain included in the "Southern Section" that is to be placed on maintenance at this time is that length between River Road and White River.

The Metzger & Klingensmith Drain was ordered constructed by the Hamilton County Circuit Court per the Drain Commissioners Report filed September 28, 1882 (See Order Book 6, Pages 253-257). The drain consists of open ditch from Sta. 0 to Sta. 118+00. The length of drain to be placed on maintenance per this report is 5,586 feet of open drain which is from Sta. 62+14 at the west right of way for River Road to Sta. 118+00 which is the drains intersection with White River.

At this time the Metzger & Klingensmith Drain, as part of the Emily Vestal Drain is listed on the 2009 Classification List for Reconstruction at number 2. The drain was requested for classification on June 5, 1969 by Orville T. Chapman and again on February 14, 1974 by Walter Freeze. The office has had 18 complaints on the drain since 2003. Those are as follows:

<u>Date</u>	<u>Applicant</u>	<u>Location</u>	<u>Problem</u>
July 8, 2003	Joseph Griffith	N. of 131 st Street	Large tree fell in ditch
July 14, 2003	Carmel St. Dept.	14299 Cherry Tree Ave.	Trees down in ditch

Aug. 20, 2003	Rebecca Taylor	14299 Cherry Tree Ave	Trees down in ditch
Jan. 6, 2005	Shannon Kasterschmidt	6787 171 st Street	Excavated into the Vestal
Jan. 7, 2005	Michelle Schaffer	14160 Cherry Tree Ave.	Erosion along bank
March 22, 2005	Ron Szabo	16933 Peach Lane	Erosion & standing water
Dec. 22, 2005	Shannon Kastenschmidt	16981 Peach Lane	Ditch excavated
Feb. 3, 2006	Mitch Mitchell	131 st & River Ave.	Beaver dam
March 10, 2006	Mitch Mitchell	5806 Annadale Dr.	Obstructions blocking flow
June 5, 2006	Steve McQueen	Cherry Tree Meadows	Water not moving
Nov. 14, 2006	Mitch Mitchell	5806 Annadale Dr.	Obstruction under bridge on Haverton Way.
May 31, 2007	Ronald Szabo	South side of 171 st St.	Sediment
June 1, 2007	Ronald Szabo	South side of 171 st St.	Sediment
May 9, 2008	Martin Marrietta	North of 161 st St.	Beaver dam
Sept. 10, 2008	James Carte	Cherry Tree Rd	Log jam
April 13, 2009	Michael Kastner	171 st Street	Retention pond outlet Obstructed
May 21, 2009	Phillip Paul	171 st Street	Utility Co. filled ditch
July 20, 2009	Ronald Szabo	16933 Peach Lane	Silt in ditch

I am recommending that the portion of the drain as described above be placed on maintenance at this time. 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 tiles & outlets;
- H. Removal of beaver dams;
- I. Removal of debris and/or blockage from regulated open ditch;
- J. Spraying for vegetation control;
- K. Mowing filter strips;
- L. 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.

The rates for maintenance were established as the Kirkendall Drain as per my report dated March 25, 1996 and approved by the Board at hearing on May 28, 1996. (See Hamilton County Drainage Board Minutes Book 4, Pages 238-239).

The name was changed to the Vestal/Kirkendall Drainage Area and the rates for maintenance for road per acre, non-platted residential minimums and agriculture minimums were increased per my report dated June 6, 2006 and approved by the Board at hearing on July 24, 2006 (See Hamilton County Drainage Board Minutes Book 9, Pages 331-332).

The rates for maintenance for subdivisions were increased per my report dated January 25, 2007 which was approved by the Board at hearing on April 23, 2007 (See Hamilton County Drainage Board Minutes Book 10, Pages 239-240).

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 Vestal/Kirkendall Drainage area, Metzger & Klingensmith Arm, Southern Section will benefit. The following maintenance assessment should be adopted by the Board:

1. Maintenance assessment for agricultural tracts be set at \$2.00 per acre with a \$15.00 minimum.
2. Maintenance assessment for non-platted residential tracts be set at \$2.00 per acre with a \$15.00 minimum.
3. Maintenance assessment for commercial institutional and multi-family residential tracts be set at \$10.00 per acre with a \$75.00 minimum.

4. Maintenance assessment for platted lots in subdivisions whose drainage systems will not be considered part of the regulated drain shall be set at \$20.00 per lot - \$20.00 minimum. Common areas within subdivisions whose drainage systems will not be part of the regulated drain shall be set at \$5.00 per acre with a \$20.00 minimum.
5. Maintenance assessments for platted lots within a subdivision whose drainage system will be part of the regulated drain shall be set at \$35.00 per lot with a \$35.00 minimum. Common areas with regulated drain subdivisions shall be set at \$10.00 per acre with a \$35.00 minimum.
6. Maintenance assessment for roads and streets be set at \$10.00 per acre.

The annual maintenance collection for this extension will be \$4,754.88. The period of collection shall be eight years as per IC 36-9-27-43.

The drain is not listed in the NPDES Phase II General Permit Application Storm Water Quality Management Plan Part B: Baseline Characterization Report.

The drain is not listed in the NPDES Phase II General Permit Application, Storm Water Quality Management Plan Part C: Program Implementation Report.

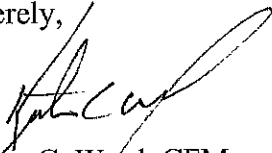
The drain is not listed on the proposed 2008 303 (d) List of Impaired Water for Indiana.

The Vestal/Kirkendall Drainage Area should be considered for a Watershed Management Plan. This study would review stormwater quantity and quality within the drainage shed.

This drain is in need of flowline obstruction removal and bank stabilization. Beavers have been active in the area in recent years.

I recommend that the Board set a hearing for this proposed maintenance for February 22, 2010.

Sincerely,



Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll

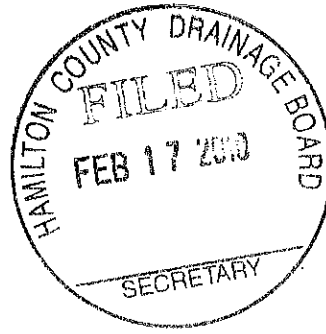
VESTAL/KIRKENDALL DRAINAGE AREA, METZER & KLINGENSMITH ARM, SOUTHERN SECTION

Property Owner	Parcel Number	Acres Benefited	Current Maintenance	Proposed Maintenance	% of Acres
McPherson, Jim D. & Joann	16-10-26-00-08-026.000	One Lot	\$0.00	\$20.00	0.42%
Wilkins, Natalie Trustee	17-10-26-00-00-015.000	0.38	\$0.00	\$15.00	0.32%
	17-10-26-00-00-016.002	0.2	\$0.00	\$15.00	0.32%
		0.58			
Collins, Terry J. & Deborah E.	16-10-26-00-08-010.000	One Lot	\$0.00	\$20.00	0.42%
TOTALS		1.16 ac. & 2 Lots	\$0.00	\$70.00	1.48%

1.47% OF TOTAL COST

15 February 2010

Hamilton County Drainage Board
One Hamilton County Square, Ste 188
Noblesville, IN 46060



To Those Concerned:

I am writing to object the proposed assessment of which I am told my property would be assessed. First of all, I've lived in many different cities during my 37 year career with 3M Company. We have lived in many different subdivisions or neighborhoods and I have never heard of such an assessment. My property is not near the Vestal/Kirkendall Drainage Area. My property drains into a retention pond across from my property and that pond drains directly into the White River.

The area of this drain that was referred to in the report that needs maintenance is north of River Road, so if needed, the homes in that area should be the ones being assessed, not homes in the Chapman's Claim subdivision. I already feel I pay enough in property and Hamilton County taxes to cover issues like this one.

If the City stopped spending money on statues, roundabouts and performing arts projects, you wouldn't have to ask for this ridiculous assessment. I question if this assessment is even legal. I have no intention of paying this proposed assessment.

Respectfully,

A handwritten signature in cursive script that reads "Terry J. Collins".

Terry J. Collins

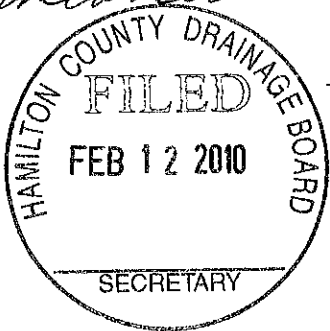
Parcel # 16-10-26-00-08-010.000

To Hamilton County Drainage
Board.

In regard to the notice on the
Vestal/Wickandall drain, etc. Not sure
this applies to parcels,
17-10-26-00-00-016.002 and
17-10-26-00-00-015.000 located
at 12780 River Rd. Carmel 46033.

I went back as far as we have
records. Never has been a drain
assessment on this property.

I don't understand. Maybe
incorrect. Please review.



Thank You
Matalia Wilkins
2002 W 31 N
Westfield, IN 46074

Ph. 317-896-3161

Vestal-Kir Kendall-Metzer & Klingensmith Arm

16-10-26-00-08-026.000

To the Honorable Members of the Hamilton County Drainage Board

I am in receipt of your letters dated September 15th 2009 and subsequent letter dated December 21st 2009 signed by Kenton C. Ward, CFM.

The letter states that "any objection must be written and filed not less than five days (5) before the above hearing on the ground that benefits assessed are excessive". The said hearing date was scheduled on February 22, 2010 in the Commissioner's Court at 9:05 A.M.

Please consider this as my written notification that I object to this assessment on several grounds other than it is just "excessive".

Objection :

1-The history of problems you noted in your letter counted 18 incidents since 2003. You identified the properties involved and the causes for the complaints of the property owners.

Three property owners were responsible for 11 of the 18 complaints (61%) of the total . These owners (Taylor, Szabo and Mitchell) have property that are not close to the area of Chapman's Claim where I reside.

2-Our residential area has NEVER had a problem with drainage even after we experience the "rain of the century in 2009! We experienced more than 10 inches of rain in less than 24 hours with no subsequent flooding or drainage problems.

3-To the main point. Your estimate of \$4754.88 annual cost of maintaining the entire drain IS excessive when you pass costs along to those who are basically unaffected by the problems you identified.

I will not even go into the fact that if you take the 18 complaints since 2003 and multiply your annual projected costs of \$4754.88 by 7 (years 2003-2010) your projected cost for clearing beaver dams and the occasional tree over 7 years comes to \$33,284.16. This definitely seems EXCESSIVE!

I know that it is popular among government officials to pass taxes and levies along to tax payers to cover expenses but here's an idea that maybe you hadn't considered; Why not pass the cost along to those who complained? The four property owners that represented 61% of the reported problems!

I have another idea. If and when the beavers dam any portion of the drain in my neighborhood or a tree falls. I will be happy to get a group of volunteers to clear the area. I believe it is possible for us to do the work without spending \$4754.88.

One more question for the Honorable Board members: Suppose there is no need to expend any money for a given fiscal year, will those assessed this fee receive a refund? Will the money not spent carry over for the following year? Who is accountable? Who reports to those paying the bill the who, what, when and where of the expenditures?

In conclusion;

ANY money spent without accountability to those asked to foot the bill with no accountability is EXCESSIVE.

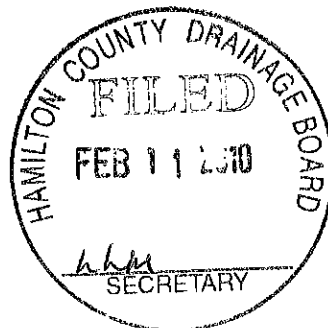
As a proud long time resident of Hamilton County I want to thank you for your service and ask you to consider this: It is becoming more and more apparent to tax payers that there seems to be a tendency of those serving in governing positions that it is easier to throw money at a problem than to look for innovative solutions that do not require an additional burden on already over burdened tax payers. Surely, we can do better than this!

Sincerely

Jim McPherson

5949 Heaton Pass

Carmel, Indiana 46033



FINDINGS AND ORDER


CONCERNING THE MAINTENANCE OF THE

Vestal/Kirkendall Drainage Area,
Metzer & Klingensmith Arm, Southern Section

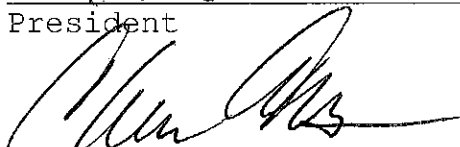
On this *22nd day of February 2010*, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the *Vestal/Kirkendall Drainage Area, Metzer & Klingensmith Arm, Southern Section*.

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



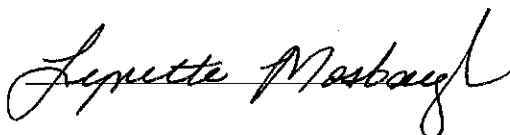
President



Member



Alternate Member

Attest: 

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD
IN THE MATTER OF

*Vestal/Kirkendall Drainage Area,
Metzer & Klingensmith Arm, Southern Section*

NOTICE

To Whom It May Concern and: _____

Notice is hereby given of the hearing of the Hamilton County Drainage Board on the **Vestal/Kirkendall Drainage Area, Metzer & Klingensmith Arm, Southern Section** on **February 22, 2010 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

*Vestal/Kirkendall Drainage Area,
Metzer & Klingensmith Arm, Southern Section*

NOTICE

Notice is hereby given pursuant to Section 405 of the 1965 Indiana Drainage Code that this Board, prior to final adjournment on **February 22, 2010** 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