

**First Hearing Report
Vienot #23
Drainage Petition per O.R.C. 6131
March 9, 2023**

This report has been prepared for the preliminary hearing on a drainage improvement petition filed by Ma'a Negra, LLC on September 18, 2022, and amended by Tim A. Miller on December 28, 2022. The amendment was approved by the Commissioners on January 12, 2023.

The general location and course of the requested improvements is quoted from the petition as follows:

"In Delaware County, Radnor and Delaware Township, within the Vienot #23 watershed and generally following, but not limited to, the course and termini of the existing improvements.

The following is the nature of the work petitioned, as quoted from the petition:

"To generally improve the drainage, both surface and subsurface, to a good and sufficient outlet, by replacing, repairing, or altering the existing improvements as required and/or creating new surface and subsurface drainage mains or laterals as requested, by this petition."

Petition Process

This petition has been submitted according to Section 6131 of the Ohio Revised Code (O.R.C.), which authorizes The Board of Commissioners to act on behalf of benefited property owners to make drainage improvements. If the Board of Commissioners decides to proceed with a project, the costs related to the improvements and the development of plans, report and schedules are assessed to the landowners in the watershed according to the benefit received to their watershed acreage. These special assessments will be added to the property taxes for each property and can be spread over a maximum of an 8-year period. Property owners may also choose to pay their assessment in a lump sum payment prior to placement on their property taxes. Additionally, the improvements will be placed on the Delaware County drainage maintenance program in perpetuity, per O.R.C. Section 6137, and the annual maintenance assessment will appear on property tax statements as a special assessment in the same manner as the construction assessments. These annual maintenance assessments are generally in the range of two to three percent of the construction assessment.

It should be noted that property owners are only assessed for those improvements that are located downstream from their properties. No property is assessed for improvements located upstream. The public agencies that own rights of way for public roads would also be assessed for both construction and maintenance costs in the same manner as private property owners.

The decision to approve a petition project is a 3-step process. First, a viewing of the proposed improvement is conducted for the commissioners to familiarize themselves with the watershed and general conditions. The commissioners conducted the viewing for this project by drone video on December 19, 2022. Next, a preliminary hearing is held to consider the initial feasibility of the proposal. It is this preliminary First Hearing that is before us today. If this petition is approved, a final hearing will be conducted to further consider this petition. At that time, final details such as engineering plans and specifications, cost estimates, and a proposed schedule of assessments will be known.

Existing Conditions

The Delaware Soil & Water Conservation District and Delaware County Engineer's Office have made the following observations using onsite evaluation, and a review of available aerial photography, topographic mapping, and soils mapping.

The Vienot watershed, as defined for this hearing, measures 349 acres. Approximately 282 acres, or 81%, of the watershed is agricultural use. Wooded acres comprise about 23 acres, or 6.5% of the area, 5.6% of the land is residential use, 3.6% is road right of way, and 3.5% is industrial and railroad use.

The Vienot drainage system was originally constructed in 1873, and revisited in 1891, 1904, and 1947. These improvements were all constructed using the ORC 6131 drainage petition process.

The drainage system does not appear to be functioning at or near optimum capacity due to a lack of comprehensive maintenance and the generally deteriorated condition of the infrastructure. The absence of uniform surface grading has resulted in areas of surface ponding. Sporadic "blowouts" along the course of the existing subsurface drain were also observed. These "blowouts" are a result of an aged and overburdened subsurface drainage system. While some outlets for the various subsurface drainage systems appear to be unobstructed, the downstream channel has evidence of being affected by logjams and debris accumulation, and some evidence of siltation is present in the upstream portion of the channel. While the existing drainage system still provides some degree of drainage benefit, it does not appear to function as a good and sufficient outlet.

Construction Estimate

Items of work would include the following basic elements: open channel restoration and logjam removal, surface drain shaping and grading, seeding and mulching of disturbed areas, and subsurface drain installation ranging in size of approximately 12-24" in diameter.

Construction	\$ 278,054.00
Administration, Engineering & Inspection	\$ 25,000.00
Drainage Maintenance (ORC 6137) first year start up (5% of construction estimate)	\$ 13,902.70
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Total Project Estimate	\$ 316,956.70

NOTES:

- **It is important to understand that the above estimates are preliminary and made in the absence of a current detailed topographic survey of the project area.**
- **The above estimate assumes complete replacement of the subsurface drains. Should the project proceed beyond this first hearing, the capacity and condition of the existing tile will be evaluated according to the applicable engineering standards. Any reach of the project that meets these standards in its current condition may be considered for inclusion onto the Drainage Maintenance program without requiring improvement.**
- **Should the project fail to be approved at the final hearing the benefiting land owners, as defined by O.R.C. 6131, may still be responsible for the cost of project administration, survey, and engineering design.**

Assessments

If the project moves forward to the second hearing, the Ohio Revised Code instructs the County Engineer to calculate the assessments to individual property owners based on the benefits received from the improvements for the various properties in the watershed. O.R.C. 6131 states that *“uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other manmade causes shall be considered as benefited by an improvement required to dispose of the accelerated flow of water from the uplands.”* Benefits are further defined as:

- Elimination or reduction of damage from flood;
- Removal of water conditions that jeopardize public health, safety, or welfare;
- Increased value of land resulting from the improvement;

Individual parcel assessments are not calculated for the preliminary hearing and are only calculated if the petition moves forward to a second, or final, hearing.

Factors Favorable/Unfavorable

O.R.C. 6131 requires the County Engineer to state in a report factors favorable and unfavorable to a proposed project, estimate the cost of the project, and state an opinion as to whether the benefits of the project exceed the cost. The following information is presented for your consideration:

Factors favorable to the improvement:

1. Improved surface and subsurface drainage in the watershed.
2. Improved outlet for subsurface drainage components of household sewage treatment systems and for residential drainage systems.
3. Reduction of future deterioration of surface and subsurface drainage infrastructure.
4. Annual inspections and maintenance of the improvement in perpetuity.

Factors unfavorable to the improvement:

1. Temporary land use disruption during construction.
2. Cost of construction and maintenance may be a burden to some landowners.
3. Removal of existing trees and brush in improvement area.

Benefits versus Cost

Assessments for property within the watershed are calculated based on the benefits derived. A publication by The Ohio State University Extension titled "Returns to Farm Drainage" details several studies, conducted by Ohio State researchers, on the effects of drainage on crop yields. The studies show that fields with good drainage will produce higher yields than fields that have poor drainage. A recently completed 25-year study showed that subsurface drainage increased corn yields by 24%-39%, and increased soybean yields by 13%-46%. The same study also analyzed the return on investment for installing subsurface drainage in a field, and found that for corn, \$4 is returned for every \$1 invested, and for soybeans, \$3 is returned for every \$1 invested. To state it generally, the benefits of drainage will equal the increased yield multiplied by the market price.

The increased value or benefit for residential properties is much more subjective and difficult to quantify. For residential properties, the lack of an adequate drainage outlet can dramatically deteriorate the condition of household sewage treatment systems potentially limiting the value of the home for resale. Should the existing system fail, the cost to perform repairs, or construct an alternate sewage treatment system, can range from the thousands to tens of thousands of dollars. It would also be reasonable to consider the cost of environmental degradation due to residential sewage treatment systems that may not be functioning properly. Other benefits that are commonly perceived as a result of drainage improvements focus on quality of life and positive neighborhood perception. Communities that have planned and maintained storm water drainage infrastructures generally have higher resale values than those communities that are known to have a history of drainage problems or flooding.

Conclusions

Based on all of the information gathered and generated for this project, I believe this project is technically feasible and would adequately serve the project area's drainage needs. However, the testimony brought to the Board by the landowners as to whether the benefits of this project exceed the costs, should be given significant consideration in the decision to move forward with this project.

Should the current petition be approved to proceed to a final hearing, the petition bond will be returned and detailed plans, specifications, estimated costs, and a schedule of assessments would be prepared. Additionally, a benefit versus cost analysis will also be performed to further determine the feasibility of advancing this proposed project.

Prepared by,



Julie Watson-Ables
Resource Conservationist
Delaware Soil and Water
Conservation District

Approved by,



Chris Bauserman P.E., P.S.
Delaware County Engineer

