

Common Questions Concerning the Mill Creek Waterway Improvement

(revised 09.27.24)

County Petition Ditch Drainage Improvement:

(As described in the Ohio Revised Code 6131.01) Is an improvement that includes the location, construction, re-construction, reconditioning, widening, deepening, of any change in the course, location, or terminus of any ditch, drain, watercourse, or floodway. The deepening, widening, or straightening or any change in the course, or terminus of a river, creek, or run. The removal of obstructions such as silt bars, log jams, debris, and drift from any ditch, drain, watercourse, floodway, river, creek, or run. This project will have two phases: Phase One-Construction, Phase Two: Maintenance. Construction Costs for both the County and City of Marysville portions will be paid by the County Commissioner's and City of Marysville using ARPA (American Rescue Plan Act) funds (No Assessment to property owners for the Construction Phase of project).

What is the proposed scope of this Project?

The proposed work will be limited to the removal of logjams, severely leaning live trees and dead trees within 25 ft of the bank. The upstream end of the project would begin at the Logan County line and proceed in a south-easterly direction through the City of Marysville and end at the Delaware County line. The total length of the Mill Creek logjam and debris removal project is 33.02 miles.

What work is being proposed?

The plan is to remove the existing logjams, debris, dead and leaning trees along Mill Creek. There will be no channel excavating, straightening, deepening, widening, or clearing of the riparian area along the banks of Mill Creek. It is expected that all equipment will stay at or along the banks or berms of Mill Creek.

Have the specifications for the proposed work on the Mill Creek been used on similar projects?

Very similar plans and specifications that is anticipated for the proposed work on the Mill Creek Waterway Improvement project have already been used and approved on prior stream logjam projects in both Auglaize and Seneca Counties.

How many acres drain into Mill Creek and how many Parcels are involved within this Project?

The watershed area of Mill Creek for the proposed logjam removal project includes a total of 63,816 acres (Union County). In addition, there are 12,614 parcels the within Union County Mill Creek watershed (11,566 benefitted parcels); and 8,452 parcels are within the City of Marysville and there are 302 parcels that front/ border Mill Creek.

What is the project Cost estimate?

The initial phase (construction) of the proposed logjam removal work on the 33.02 miles of Mill Creek has been estimated to cost \$3.9 million.

How will the proposed assessments for the Mill Creek project be determined?

There will not be a charge or assessment to property owners for the construction phase of the Mill Creek Logjam Project. The construction phase of the project will be paid by the Union County Commissioners and City of Marysville jointly by using ARPA (American Rescue Plan Act) Funds. Also, a permanent maintenance account for the future removal of logjams, debris and leaning trees will be created. These maintenance fees were provided in recent mailings to the residents within the unincorporated Mill Creek watershed areas to create and maintain a permanent maintenance fund. The City of Marysville currently collects a stormwater maintenance fee from city residents and will use this collected fee to pay the City's portion of their maintenance.

What does a maintenance plan include?

After the original construction work for the removal of logjams, debris, and leaning trees has been completed, any future logjams or leaning trees will be removed on an annual or bi-annual basis. This maintenance work will be managed by the Union County Soil and Water Conservation District (SWCD).

How are future maintenance charges determined?

Initially, it is estimated that 4% of the Bid Award will need to be collected from all residents within the Mill Creek watershed (unincorporated areas) to create and maintain a permanent maintenance fund. The maintenance fee would be collected through your property tax bill. The costs could be adjusted in future years, depending upon the findings of the annual inspections and necessary work.

The account balance of the maintenance fund will be analyzed annually and if there are adequate funds remaining for the upcoming year's work then no maintenance assessments are collected. Whenever the maintenance fund is about to run into a deficit, the SWCD and the County Engineer will report their findings to the County Commissioners. The County Commissioners will then determine what maintenance collection is required, if any. If a maintenance assessment is required, then that assessment would appear on the tax duplicate as a "special assessment". The Ohio Revised Code mandates that the minimum assessment is \$2.00 per parcel.

Will this section of Mill Creek ever have to be petitioned again?

No. The Ohio Revised Code will mandate that permanent maintenance will be performed on Mill Creek so that the existence of logjams, debris, and leaning trees will not be allowed to cause an extended obstruction to the free-flowing stream.

What will the maintenance funds be used for?

The funds from a permanent maintenance account can only be used for removal of logjams, debris, and leaning trees. The funds cannot be used for aesthetic purposes, nature trails, etc...

Will permanent easements and temporary easements be required as part of the Mill Creek Logjam Project?

Yes. The width of the permanent easement shall be twenty-five (25) feet from the top of the bank or to a point 25 feet outside the tree line adjacent to the channel and along both sides of the channel. The

easement may be extended by the Engineer when in his opinion an emergency exists. Any temporary extension of the easement is subject to approval by the Board of County Commissioners. *These easements are for the purposes of the Mill Creek Waterway Improvement project and cannot be used for any other purpose than the Mill Creek Logjam project.*

Temporary Easements for Construction Purposes: The disposal area and temporary construction easement shall be measured from the top of the bank to a point 75 feet beyond the existing tree line and on both sides of the channel. Cooperation with landowners in these areas will be helpful to assist with access.

Can the public use the maintenance easement areas along Mill Creek? No. The maintenance easement is to be used for the purpose of performing maintenance and inspection of the stream. The easement is for County Commissioners and cannot be used for public utilities.

Damages: Every effort will be made to limit any damage to adjacent properties. No land will be taken to widen or straighten the channel throughout the project. Therefore, no permanent damage is anticipated.

The work will be generally done through single points of access to the specific work areas to limit disturbance to environmental areas. To avoid clearing of the stream banks, it will be necessary to gain access to work areas across the temporary easement.

There will be no (expected) permanent damage to lands within the temporary or permanent construction easement. The construction contract will provide for restoration of the work areas as needed.

If it becomes necessary to enter upon cropland outside the limits of the temporary construction easement, owners may be granted crop damages equal to the market value of those crops.

If it is necessary to remove fences, poles or high-tensile lines, the cost repairing, removing, or replacing these items shall be included in the cost of the project and completed at the time of construction. Upon completion of the work, all field drives will be restored to their original condition, if damaged due to the construction. This restoration shall be a cost to the project. Whenever possible, all valuable trees along the access area will be avoided. All cut trees and logjam debris placed outside of the tree line shall be the ownership of the property owner unless coordinated otherwise by the landowners.

Will seeding be done as part of this Project?

All disturbed areas shall be reseeded as necessary. Seeding shall be performed in stages and follow closely with any finished grading of the spoils and work areas. The Contractor will maintain seeded areas until final acceptance.

What is the anticipated Completion of the project?

The Contractor will be required to complete the work by the end of 2026.

How will the contractor be able to access Mill Creek?

Access points from the roadway will be on a case-by-case basis and property owner cooperation will be needed to develop the necessary maintenance corridors to Mill Creek.

What will be done with the removed trees?

The contract allows for multiple methods of disposal. The debris may be hauled offsite, chipped in staging areas and hauled offsite, chipped and placed in limited amounts along the stream, or placed along the wooded corridor in moderate sized piles.

Can the public kayak or canoe on Mill Creek after the project is done?

Yes, the public can use Mill Creek now, Mill Creek is public a waterway. However, anyone using Mill Creek is not permitted to trespass along the existing bank areas, as that is considered private property.

What will be done with Beaver and Beaver dams that are encountered in Mill Creek?

The construction phase of the project will remove logjams, debris, leaning, dead trees and this will include the removal of beaver dams. After the initial construction phase has been completed, the maintenance phase will be performed. As part of the maintenance phase of the project, beaver dams may be removed, as necessary. No beaver will be removed during either phase, just beaver dams.

Will the Mill Creek Logjam Project affect Farm Conservation Easements?

No, any disturbance or damage that is done by the logjam and debris removal project will be restored by the contractor. In addition, the Soil and Water Conservation District will be responsible for the inspection of our project, and they also inspect the conservation easements.

What properties will be assessed for future maintenance of the Mill Creek Watershed Improvement Project?

All benefited property owners in the Mill Creek watershed will be responsible to pay maintenance fees (11,566 Benefited Parcels). Ohio law defines a benefited property as land that drains into an improvement (in this case, Mill Creek within Union County).

Why didn't the Mill Creek Improvement Project happen 5 or 10 years ago?

The residents in the Mill Creek watershed are fortunate that the project didn't begin earlier because ARPA funds weren't available until 2021/2022 and these funds are expected to pay for the county and city portion of the initial phase (construction) of Mill Creek Improvement Project. If ARPA funds weren't available, this cost would be the responsibility of the benefited parcels owners in the Mill Creek Watershed, which is estimated to have been \$60-\$65 per acre.

Will you notify us when you will be traveling on our easement during or after initial project work?

This will depend on the work involved. If we need to set up for a removal, we will do our best to coordinate. If just traveling along to access another area, we likely will not notify, as SWCD has many miles to manage across the county. They currently do not notify owners along these other ditches, unless major work is planned.

Are you clear cutting along the creek?

No. No need to, this would just cost more time and money for the contractor and our budget. The contractor may need to cut a swath perpendicular to the stream for access, but will limit the width to only what is needed.

I have a fence within your proposed easement. What happens to it?

There are provisions in the plans (and ORC 6137.12) to maintain those fences during removals. A bid item for gates is included in the plans should they be necessary. In some rare cases, we may have to move a fence, but it will depend on the site. If still concerned, we can come out to review the best solution.

What happens if I don't want you on my land. Now or in future?

The Ohio Revised Code process for petitioned improvements of this type provide for the easement. After the initial cleanout, you may never see us again. The plan is to fly every year or two, and if we don't have a jamb to remove, we likely won't have to use the easement. A property owner can always take care of themselves...but we still may need to 'drive by' to access another local logjam. It is more of a 'right-of-entry' than a traditional easement, because the usages and rights are so limited.

The purposes for the easement uses (in relation to our future maintenance) are very limited, and our easement does not exclude the property owner from using the land as they normally do, except when we need to perform maintenance (likely 1 or 2 days within 5+ years or more). For example, the only time someone cannot hunt or ride an ATV on the area, is when we are actively performing maintenance (removing a future logjam). That may not take place for years. Additionally, these easement strips are most likely well within the floodplain, and the uses are somewhat limited by nature.

I am afraid you'll build a bikepath on my easement. Can you guarantee that it won't happen?

ORC 6137A discusses this, and the section is titled "Permanent easement for maintenance and cleaning of drainage improvements". The establishment of this easement is rooted within this section. It cannot be expanded to trails, utilities, roads, etc. unless it becomes a public ownership through another easement taking. Those rights simply don't exist under ORC 6131 or 6137 (Petitioned Ditch Law).

Why can't you just have people with the logjams remove them?

Remember that in most cases those logjams developed by material from upstream (someone else's trees that fell). And it is not practical to manage an individual program like this or impose costs on people that would not be reasonable. The entire watershed contributes to Mill Creek, and the law includes them in process and assessment collection. One very important benefit of this process in the maintenance aspect. It is designed to be more efficient in future than trying to assess individual owners now and into the future. While not easy to implement initially, it is a more structured approach, consistent with our historical ditch maintenance program.