

STATE OF INDIANA  
DEPARTMENT OF NATURAL RESOURCES  
CERTIFICATE OF APPROVAL  
CONSTRUCTION IN A FLOODWAY

APPLICATION # : FW-27680

MAILED: June 11, 2015

STREAM : West Fork White River


APPLICANT : Indianapolis Department of Public Works  
John Oakley  
1200 South Madison Avenue, Suite 200  
Indianapolis, IN 46225

AGENT : US Army Corps of Engineers  
Drew Russell  
600 Dr Martin Luther King Place  
Louisville, KY 40202

AUTHORITY : IC 14-28-1 with 312 IAC 10

DESCRIPTION : To meet Corps of Engineers' Rehabilitation and Inspection Program requirements and Federal Emergency Management Agency requirements for the issuance of a Letter of Map Revision, all vegetation within 15' of the face of the wall or toe of the levee will be removed with clearing to the edge of the river in isolated locations. These areas will be protected with erosion control blankets anchored in trenches in the riverbank. Any roots greater than ½" will be removed and depressions from the removal of tree root wads will be filled as needed. The final activity will be permanent seeding and mulching, placing erosion control matting, or placing sod. Details of the project are contained in information and plans received at the Division of Water on August 29, 2014, September 8, 2014, September 12, 2014, September 29, 2014, October 1, 2014, October 7, 2014, November 13, 2014, December 16, 2014, December 29, 2014, January 28, 2015, February 2, 2015, February 3, 2015, February 4, 2015, February 24, 2015, March 26, 2015, April 1, 2015, April 13, 2015, April 20, 2015 and May 18, 2015.

LOCATION : DOWNSTREAM: Along the left bank of the West Fork White River beginning at Westfield Boulevard and continuing downstream approximately 13100' to West Kessler Boulevard near Indianapolis, Washington Township, Marion County  
Section 2, T 16N, R 3E, Indianapolis West Quadrangle  
UTM Coordinates: Downstream 4412700 North, 571664 East  
UPSTREAM: Section 36, T 17N, R 3E  
UTM Coordinates: Upstream 4413789 North, 573494 East

APPROVED BY :   
George C. Bowman, PE, Assistant Director  
Division of Water

APPROVED ON : June 11, 2015

Included: Notice Of Right To Administrative Review - General Conditions - Special Conditions - Service List

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**NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW**

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This signed document constitutes the issuance of a permit by the Department of Natural Resources, subject to the conditions and limitations stated on the pages entitled "General Conditions" and "Special Conditions".

The permit or any of the conditions or limitations which it contains may be appealed by applying for administrative review. Such review is governed by the Administrative Orders and Procedures Act, IC 4-21.5, and the Department's rules pertaining to adjudicative proceedings, 312 IAC 3-1.

In order to obtain a review, a written petition must be filed with the Division of Hearings within 18 days of the mailing date of this notice. The petition should be addressed to:

Director  
Division of Hearings  
Indiana Government Center North, Room N501A  
100 North Senate Avenue  
Indianapolis, Indiana 46204

The petition must contain specific reasons for the appeal and indicate the portion or portions of the permit to which the appeal pertains.

If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel.

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GENERAL CONDITIONS

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- (1) If any archaeological artifacts or human remains are uncovered during construction, federal law and regulations (16 USC 470, et seq.; 36 CFR 800.11, et al) and State Law (IC 14-21-1) require that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within 2 business days.

Division of Historic Preservation and Archaeology  
Room W274  
402 West Washington Street  
Indianapolis, IN 46204

Telephone: (317) 232-1646, FAX: (317) 232-8036

- (2) This permit must be posted and maintained at the project site until the project is completed.
- (3) This permit does not relieve the permittee of the responsibility for obtaining additional permits, approvals, easements, etc. as required by other federal, state, or local regulatory agencies. These agencies include, but are not limited to:

<u>Agency</u>	<u>Telephone Number</u>
US Army Corps of Engineers	(502) 315-6686
Indiana Department of Environmental Management	(317) 233-8488 or (800) 451-6027
Local city or county planning or zoning commission	

- (4) This permit must not be construed as a waiver of any local ordinance or other state or federal law.
- (5) This permit does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.
- (6) This permit may be revoked by the Department of Natural Resources for violation of any condition, limitation or applicable statute or rule.
- (7) This permit shall not be assignable or transferable without the prior written approval of the Department of Natural Resources. To initiate a transfer contact:

Mr. Michael W. Neyer, PE, Director  
Division of Water  
Room W264  
402 West Washington Street  
Indianapolis, IN 46204

Telephone: (317) 232-4160, Toll Free: (877) 928-3755  
FAX: (317) 233-4579

- (8) The Department of Natural Resources shall have the right to enter upon the site of the permitted activity for the purpose of inspecting the authorized work.
- (9) The receipt and acceptance of this permit by the applicant or authorized agent shall be considered as acceptance of the conditions and limitations stated on the pages entitled "General Conditions" and "Special Conditions".

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**SPECIAL CONDITIONS**

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**PERMIT VALIDITY** : This permit is valid for 24 months from the "Approved On" date shown on the first page. If construction work in the floodway has not been completed by June 11, 2017 the permit will become void. This permit may be renewed one (1) time for a period not to exceed two (2) additional years only if a written request for the two (2) year permit renewal is received by DNR, Division of Water prior to June 11, 2017. Thereafter the permit will become void and a new permit will be required in order to continue work on the project.

This permit becomes effective 18 days after the "MAILED" date shown on the first page. If both a petition for review and a petition for a stay of effectiveness are filed before this permit becomes effective, any part of the permit that is within the scope of the petition for stay is stayed for an additional 15 days.

**CONFORMANCE** : Other than those measures necessary to satisfy the "General Conditions" and "Special Conditions", the project must conform to the information received by the Department of Natural Resources on: August 29, 2014, September 8, 2014, September 12, 2014, September 29, 2014, October 1, 2014, October 7, 2014, November 13, 2014, December 16, 2014, December 29, 2014, January 28, 2015, February 2, 2015, February 3, 2015, February 4, 2015, February 24, 2015, March 26, 2015, April 1, 2015, April 13, 2015, April 20, 2015 and May 18, 2015. Any deviation from the information must receive the prior written approval of the Department.

**Number**    **Special Condition**

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- (1) revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion; low endophyte tall fescue may be used in the ditch bottom and side slopes only
- (2) do not work in the waterway from April 1 through June 30 without the prior written approval of the Division of Fish and Wildlife
- (3) do not cut any trees suitable for Indiana bat roosting (greater than 3 inches dbh, living or dead, with loose hanging bark) from April 1 through September 30
- (4) appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized
- (5) seed and protect all disturbed streambanks and slopes that are 3:1 or steeper with erosion control blankets (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas
- (6) implement the mitigation plans (found within the U.S. Army Corps of Engineers' response to the October 31, 2014, Incomplete Application Notice), dated March 31, 2015, which were received by the Division of Water on April 1, 2015, by the end of spring 2016

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- (7) an annual report must be submitted to the Central Region Environmental Biologist (Division of Water, 402 W. Washington St., RM W264, Indianapolis, IN 46204-2641) by December 31 of each year to track the initiation, progress, and success of the mitigation sites;
- reports must be submitted each year following issuance of an approved permit, even if work has not been initiated on the mitigation sites;
  - an annual report may simply state that work on the mitigation sites has not been initiated;
  - beginning the first complete growing season after all plant materials have been installed, the mitigation sites must be monitored for the survival of the plantings for a minimum of three years;
  - monitoring may occur at any point during the growing season with approximately 12 months between each monitoring event;
  - the mitigation sites must have a minimum survival rate of 75% of planted material in each woody layer (woody canopy, woody understory) and 80% mean vegetative cover of native perennial species in the herbaceous layer during each monitoring event for three consecutive years to be considered successful;
  - if a minimum survival rate of 75% of woody plantings and 80% cover of native herbaceous species is not achieved within the monitoring period, corrective replanting of the appropriate plant type must be conducted prior to the next monitoring event to meet the minimum survival rate;
  - annual reports must include a narrative of the mitigation sites progress, the location and number of acres planted, a list of species planted on site for each layer, the number of stems planted for both woody canopy and understory layers and the seeding or planting rate for the herbaceous layer, the estimated survival rate of planted material for each layer, a minimum of 10 photographs of planted materials and mitigation site conditions, and corrective replanting measures to be implemented if the minimum survival rate has not been achieved
- (8) place a restrictive covenant (developed in coordination with a DNR biologist) on the mitigation sites within 60 days of project initiation to protect the mitigation sites from any future disturbance; a copy of the covenants must be provided to the Central Region Environmental Biologist by mailing it to the Division of Water, 402 W. Washington St, Room W264, Indianapolis, IN 46204-2641
- (9) except for the material used to fill in any depressions left as a result of the removal of roots, place all excavated material landward of the floodway \*
- (10) do not leave felled trees, brush, or other debris in the floodway \*
- (11) obtain the prior written approval of the Department for any additional construction, excavation or filling in or on the floodway \* beyond the scope of the project
- (12) \* NOTE: for regulatory purposes, the floodway is defined as that shown on Panel 135 of the Marion County Flood Insurance Study dated January 5, 2001