Construction in a Floodway Permit (IDNR)

The Flood Control Act (IC 14-28-1) requires that any person proposing to construct a structure, place fill, or excavate material at a site located within the floodway of any river or stream, unless that activity is exempted, must obtain the written approval of the Department of Natural Resources prior to initiating the activity. This law was originally enacted to protect Indiana citizens from the loss of lives and property caused by floods, and ensure that floodway channels are not inhabited or and are kept free and clear of interference or obstruction that will result in undue restriction to the capacity of the floodway. Since then it has been expanded to protect Indiana's natural resources located in the floodway. A "**floodway**" is defined as the channel of a river or stream and those portions of the flood plain adjoining the channel which are reasonably required to efficiently carry and discharge the flood water or flood flow of any river or stream (**the 100 year frequency flood elevation**). If there are doubts as to the limits of the floodway, IDNR, Division of Water can provide guidance. INDOT is responsible for the proper disposal of items taken from INDOT right-of-way, especially if the items are placed in a floodway.

Typical transportation projects which could require IDNR approval when work occurs within a floodway may include, but would not be limited to:

* bridge and/or culvert construction or widening;
* bank protection;
* channel modification and/or relocation;
* temporary runaround structure construction, including approaches;
* construction access bridges and/or causeways;
* borrow pit excavation; and
* cofferdams

EXEMPTIONS

Some projects that are exempted from obtaining a permit are as follows:

- Projects (except for dams, dikes, and levees) in floodways along streams and rivers that have a drainage area of less than 1 square mile.
- The placement of certain utilities lines under the streambed and the aerial placement of electric, telephone or cable television lines.
- Construction or reconstruction projects on a state/county highway bridge in a rural area crossing a stream with an upstream drainage area of 50 square miles or less*****
- The relocation of utility lines associated with the highway project if confined to an area not more than 100 feet from the limits of the highway construction right-of-way.

*** Bridge Exemption -** In order for a bridge project to be exempt from obtaining a Construction in a Floodway permit, the following criteria must be met:

1. The project must be a state or county highway department project;
2. The project must be a bridge (IDNR considers a culvert to be a bridge) project;

3. The project must be located in a rural area. A rural area is defined as an area where:
   A. The lowest floor elevation (including basement) of any residential, commercial, or industrial building impacted by the project is at least 2 feet above the 100 year flood elevation with the project in place;
   B. The project is located outside the corporate boundaries of a consolidated or an incorporated city or town; and
   C. The project is located outside of the territorial authority for comprehensive planning (generally a 2 mile buffer around a city or town).
4. The project must cross a stream having an upstream drainage area of less than fifty (50) square miles. The drainage area includes all land area contributing to runoff above the project site and is determined from the United States Geological Survey 7 minute series quadrangle maps. The Department of Natural Resources will determine the drainage area upon written request.

All four criteria must be met in order for a project to be eligible for the exemption. If a bridge project does not qualify for the exemption, and work occurs within the floodway, then a Construction in a Floodway Permit must be obtained. In order to ascertain whether a project falls under this exemption, coordinate in writing to IDNR. The coordination should include a description of the proposed project. In their reply, IDNR will indicate if the project qualifies for the exemption.

This exemption has been grossly misunderstood and liberally applies in the past. As a result, the Department of Natural Resources is taking a firm stance on future violations. If challenged, it will be the responsibility of the person claiming the exemption to prove to the Department that all 4 criteria have been satisfied. Failure to do so will result in the Department initiating litigation with the potential for the imposition of fines in amounts up to $1,500 per day. **This exemption only applies to the Flood Control Act. If a bridge is to be constructed over a navigable waterway, or over or near a public freshwater lake, a permit will be required.**

OBTAINING A PERMIT

In assessing a proposed project, the IDNR is required to evaluate the singular and cumulative affects of the proposed activity upon:

* the efficiency and capacity of the floodway;
* the safety of life and property; and
* fish, wildlife, and/or botanical resources.

When INDOT proposes to undertake such an activity, INDOT submits the following information to the IDNR prior to the letting of the project:

1. A completed application form
2. Proof of public notice as required by law;
3. Plans, maps and specifications describing the activity; and
4. Other information as required by IDNR.

Processing time is dependent upon the magnitude of the project and the completeness of the submittal. Typically, **90 to 180 days from the date of submittal** is required to complete a

project review. However, the assessment of runarounds, construction access structures, such as cofferdams and causeways, and borrow pits may be performed within two to three weeks if they are associated with a previously approved project. Additionally, these projects are not subject to items 1 and 2 listed above, when they are associated with a previously approved project.

CONSTRUCTION IN A FLOODWAY PERMIT

The Construction in a Floodway Permit must be posted and maintained at the project site. For INDOT or a county highway department projects that are federally funded, the **Construction in a Floodway Permit is valid for 5 years from the date of issuance and remains valid indefinitely if construction is commenced within 5 years from the date of issuance.** All Construction in a Floodway Permits include conditions. These conditions have the force of law. They must be understood and complied with. They are currently being included in the letting package. It is the project engineer's responsibility to be familiar with these conditions, and comply with them at all times. If there are conditions that you cannot feasibly comply with, contact the Division of Operations Support for assistance. Do not ignore any conditions. IDNR may use an enforcement action to ensure the compliance with the provisions of the permit or prohibit unauthorized activity in the floodway. Waivers can be obtained for certain conditions.

An IDNR Construction in a Floodway Permit can also serve as a Navigable Waterway Permit. However, exemption from the Construction in a Floodway Permit does not exempt you from obtaining a Navigable Waterway Permit. Remember, if you have one permit for an activity, you are not exempted from obtaining all other required permits for the same work. Make sure you have obtained all other required permits for the same work.

GENERAL PERMIT FOR LOGJAM REMOVALS AND EXEMPTION FOR LOGJAM REMOVALS AND SANDBAR REMOVALS BENEATH BRIDGES

On November 1, 1997 IDNR published the final rule exempting logjam and debris removal at bridge sites as well as a general authorization (Statewide Permit) to the regular permitting requirements of the Flood Control Act and the Navigable Waterways Act for designated activities intended to provide removal of logjams and debris for river and stream maintenance. The rule results in a permanent general permit for logjam removals as well as a permanent exemption for logjam/sandbar removals beneath bridges. This permanent permit and exemption will replace the temporary emergency rule. The final rule is essentially the same as was provided to you in a letter dated September 6, 1996 and August 28, 1997.

Note that IDNR requires **no notification** if a project falls under **the Exemption for Logjam and Sandbar Removals from beneath Bridges**. For example, if debris removal is associated with a bridge, and it is in conformance with the requirements stated below, then IDNR does not require notification. If, however, there is a **logjam located in a channel paralleling the roadway that is not near a bridge or culvert**, then the guidance provided below under **General Permit for Logjam Removals** must be followed**.** For these types of

projects IDNR must be notified with the attached form - **Form for application of the General Permit for Logjam Removals.**

Exemption for Logjam and Sandbar Removals from beneath Bridges

Logjam and sandbar removals from beneath bridges are exempted from Flood Control Act and Navigable Waterways Act permitting. This exemption from permitting applies only at bridge (IDNR includes culverts and fords within the definition of bridge) sites. For this exemption, construction equipment cannot be placed in the river or the stream. Sites which do not qualify must undergo the permit review process. This exemption allows for the removal of logjams and sandbars beneath or adjacent to a bridge where:

1. equipment is operated from the bridge or the bank within the right-of-way, with no equipment placed in the river or stream;
2. an access corridor for the placement of equipment extends no more than fifty (50) feet beyond the right-of-way; and
3. the logjam or sandbar to be removed is located partially or exclusively within the right-of-way.

General Permit for Logjam Removals

Logjam removals not associated with a bridge site require a general rather than a full permit. Please note, not all logjam removals qualify--only those meeting the rule standards (see below). There are several safeguards built into this rule to make significant environmental harm unlikely. For example, excavations cannot take place within the stream. Areas where endangered species are present are disqualified from the general permit. Rivers and streams listed in the "outstanding rivers list" (see below) do not qualify. Terminal points and access sites must be identified. A map must accompany the activity. **A logjam is defined as "an accumulation of lodged trees, root wads, or other debris that impedes the ordinary flow of water through a river or stream. The term does not include the development of sandbars, sedimentation, or accumulations of stone or gravel.** Logjams are evidenced by blockage that does any of the following:

1. traverses the waterway
2. causes upstream ponding
3. results in bank erosion"

In order to use this general permit, fill out the attached form, include an 8½" X 11" copy of a USGS topographic map, and a national wetlands inventory map or another map approved by IDNR. The maps should indicate the location of the site. Submit this information to IDNR, the Division of Fish and Wildlife prior to the activity. Within 14 days of the receipt of this form, IDNR will provide a written response to the request. If IDNR does not respond within 14 days of the receipt of a properly filled out form, the written notice is deemed approved. A copy of the written notice (form) and any additional conditions provided by IDNR must be posted by INDOT in a conspicuous location at the project site. **This general permit does not authorize obstruction removal activity in any of the following areas:**

- Within one half (½) mile of any of the following:

A. A species listed in the Roster of Indiana Animals and Plants which are Extirpated, Endangered, Threatened, or Rare (see Endangered Species Section).
B. A known mussel resource.
C. An outstanding natural area as contained in the Registry of Natural Areas maintained by the Natural Heritage Data Center at IDNR.

- Within a river or stream listed in the Outstanding Rivers List for Indiana.

Streams which have been designated all or partially as Outstanding State Resource Waters:

1. Blue River in Washington, Crawford, and Harrison Counties
2. Cedar Creek in Allen and DeKalb Counties
3. North Fork of Wildcat Creek in Carroll and Tippecanoe Counties
4. South Fork of Wildcat Creek in Tippecanoe County
5 Indiana portion of Lake Michigan
6. All waters incorporated in the Indiana Dunes National Lakeshore

Should there be any questions concerning this information do not hesitate to contact either myself (232-5112) or Mike Neyer at IDNR (232-4165). If you are not sure whether your project qualifies, contact IDNR for further clarification.

Form for application of the **General Permit for Logjam Removals**

NOTIFICATION OF CONSTRUCTION IN A FLOODWAY UNDER IC 14-28-1 FOR OBSTRUCTION REMOVAL FOR RIVER AND STREAM MAINTENANCE

Application #_____

Submit To: Division of Fish and Wildlife
Environmental Unit
Department of Natural Resources
402 W. Washington St., Rm. W273
Indianapolis, Indiana 46204
Telephone: (317) 232-4080

REQUIREMENT FOR ADDITIONAL INFORMATION AND PERMITS

Notification made to the Department of Natural Resources does not in any way relieve the notifier of the necessity of securing easements or other property rights, permits and approvals from affected property owners and other local, state and federal agencies.

NOTIFIER INFORMATION

Name of Notifier: _____

Name of Contact Person: _____

Address (street, P.O. Box or R.R.): _____

Telephone: (_____)_____

FAX: (_____)_____

City, State, and Zip Code: _____

PROPOSED PROJECT INFORMATION

LOCATION

Name of Watercourse: _____

Name of USGS Quadrangle Map (include a copy with project site circled): _____

County: _____

Quarter Section (check):

NE NW SE SW

Or

Section _____ Grant _____

Nearest City or Town: _____

Township: _____ N S

Range: _____ E W

Additional Location Information (reference readily discernible landmarks such as major roadways, bridges, dams, etc.). Use a separate sheet to provide a narrative description of these

locations. These locations must also be designated on a USGS Topographic Map and National Wetlands Inventory Map. Complete for the following: 1) Project terminal points; 2) Access routes to logjam; and 3) Debris disposal sites.

PERMISSION TO ENTER UPON THE PROJECT SITE AND PERFORM OBSTRUCTION REMOVAL

1. Demonstrate proof that the notifier is the owner of the stream or river (or sole riparian owner along a navigable river or stream), or demonstrate another basis by which the notifier has permission to enter upon the project site and to perform the obstruction removal.
2. Demonstrate proof that the notifier has permission for any access route and site where logs and other debris will be secured following removal from the stream or river.
3. The notifier must show participation or agreement by other interested persons in the following circumstances: 1) by the Drainage Board with respect to a regulated drain; 2) by all beneficiaries to the drain with respect to a mutual drain; and 3) by the governing body of any municipality or conservancy district in which the project is located.

DESCRIPTION

1. Anticipated start date of the project:_____

2. Provide photographs and/or video tapes or other graphic documentation of the obstruction and access route to the obstruction, and demonstrate that the following conditions exist on the stream or river:
   a. Accumulations of logs, root wads, and other debris that occasionally span the waterway and may be interlocked.
   b. Large amounts of fine sediments have not covered nor become lodged in the obstruction.
   c. Accumulations are extensive enough to cause bank erosion and upstream ponding damages.

3. Provide a narrative describing the obstruction removal project and the purpose for the project.

4. Circle the type of equipment that will be used for the obstruction removal:
   - Hand operated equipment: axes, chain saws, portable winches, other.

   - Heavy equipment: trucks, tractors, backhoes, dozers, log skidders, other (describe):

_____

TERMS AND AGREEMENTS

1. Hand-operated equipment will be used for the obstruction removal.
2. Where hand-operated equipment is impracticable, heavy equipment must not be equipped for excavation. Examples are small tractors, a backhoe with a hydraulic thumb, a dozer with the blade up, and a log skidder.
3, Any free logs or affixed logs that are crossways in the channel will be cut, relocated, and removed from the flood plain, unless the logs are piled and secured by cables in an area not threatened by the flow of the water. Logs will be removed with minimal damage to vegetation and placed outside of any wetlands.
4. Isolated or single logs that are embedded, lodged, or rooted in the channel, and which do not span the channel or cause flow problems, will not be removed unless they are associated with or in close proximity to larger obstructions, or they pose a hazard to navigation.
5. A severely damaged, leaning, or other tree which is in immediate danger of falling into the waterway may be cut and removed, but only if the tree is associated with or enclose proximity to an obstruction. The root system and stump of the tree will be left in place.
6. No access road will be constructed that will destroy more than one acre of trees in the floodway, traverse a wetland indicated on the National Wetland Inventory Map unless pads are used, raise the elevation of the flood plain, or cross a river or stream.
7. All work will be conducted exclusively from one (1) side of the river or stream.

I hereby submit this notification for the construction in the floodway under IC 14-28-1 for obstruction removal as described above, and swear and affirm, under the penalties for perjury, that the information submitted herewith is to the best of my knowledge and belief, true, accurate and complete, and that this project for obstruction removal for river or stream maintenance in a floodway will be in compliance with the provisions of IC 14-28-1.

Signature of Notifier or Authorized Representative: Date:

_____ _____

DEPARTMENT REVIEW

The obstruction removal for river or stream maintenance will require a permit under IC 14-28-1 if:

1. The project does not satisfy the performance standards of IC 14-28-1.

2. The Department of Natural Resources determines there is a documented occurrence of any of the following:

   a. Within a river or stream listed at 16 IR 1677 in the Outstanding Rivers List for Indiana.

   b. Within ½ mile of the project area:

      i) A species listed in the Roster of Indiana Animals and Plants which are Extirpated, Endangered, Threatened, or Rare.

      _____Yes _____No

      ii) A known mussel resource.

      _____Yes _____No

      iii) An Outstanding Natural Area.

      _____Yes _____No

Description of occurrence:_____

DEPARTMENT DECISION

_____ This project for obstruction removal for river or stream maintenance does not qualify for exemption to IC 14-28-1 for the following reason: _____
_____
_____

_____ This project for construction removal for river or stream maintenance is exempt from the requirements of IC 14-28-1 if the following conditions are followed: _____
_____
_____

EnvironmentalCoordinator: _____
Division of Fish and Wildlife: Date Received: Date of Response

If a permit under IC 14-28-1 is required contact the Division of Water for additional information:

Permit Administration Section
Division of Water
402 W. Washington St., Rm W264
Indianapolis, Indiana 46204

INDOT MAINTENANCE ACTIVITY EXEMPTION

The Indiana Department of Transportation (INDOT) and the Indiana Department of Natural Resources (IDNR) have cooperatively developed a **Memorandum of Understanding (MOU) for the purpose of providing certain INDOT maintenance activity exemptions under the Flood Control Act and the Navigable Waterways Act.** This memorandum between these two agencies will eliminate unnecessary paperwork and will allow for the expeditious processing of certain INDOT maintenance activities which have historically been found to have minimal impacts to the environment.

Please note that **this exemption applies only to bridge/culvert related projects. It does not apply to roadway work independent of a bridge/culvert project. IDNR requires no notification if a project falls under the exemption of this MOU.** For example, if debris removal is associated with a bridge, and it is in conformance with IDNR's Emergency Rule for *General Permit for the Removal of Obstructions from Rivers and Streams*, then IDNR does not require notification. **If, however, there is a debris pile located in a channel paralleling the roadway that is not near a bridge, then the guidance provided in the Emergency Rule for *General Permit for the Removal of Obstructions from Rivers and Streams* (see above) must be followed, and IDNR must be notified.**

Monday, March 24, 1997

MEMORANDUM

To: District Directors
District Construction Engineers
District Area Engineers
District Design Engineers
District Operations Engineers
District Maintenance Engineers
Project Engineers/Supervisors
Environmental Coordinators

From: Mr. Timothy D. Bertram, Chief
Operations Support Division

Mr. Steve Cecil, Chief
Pre-Engineering and Environment

Re: Memorandum of Understanding between INDOT and IDNR on maintenance activity exemptions under the Flood Control Act and the Navigable Waterways Act.

Attached is a copy of the above referenced signed Memorandum of Understanding (MOU). This agreement was made to eliminate unnecessary paperwork and expedite certain INDOT maintenance activities which have minimal impact to the environment. Please note the attached activities which have been exempted from permit requirements of the Flood Control and Navigable Waterways Act. As indicated, INDOT must adhere to section 1 through 7 of the *INDOT Maintenance Activity Exemption from the Flood Control and Navigable Waterways Act* if the defined maintenance activities are to be exempted from permit requirements. Also included is a definition of the various maintenance activities exempted under this agreement.

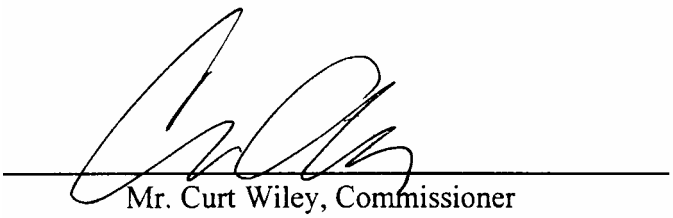
This agreement is the result of a significant amount of cooperation and work between our two agencies. Please make every effort to continue this spirit of cooperation when working with IDNR field personnel. It is important to follow the MOU as accurately as possible. If there are doubts as to whether a certain activity is exempt from permitting activity, contact the Division of Pre-Engineering and Environment for clarification.

cc: file
Mr. Mike Neyer, Division of Water, IDNR
Mr. Bill Maudlin, Division of Fish and Wildlife, IDNR

MEMORANDUM OF UNDERSTANDING

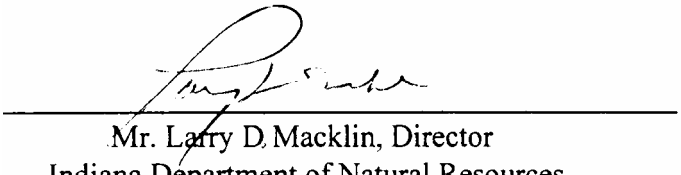
This Memorandum of Understanding is made and between the Indiana Department of Transportation (INDOT) and the Indiana Department of Natural Resources (IDNR) on the dates indicated below for the purpose of providing certain INDOT maintenance activity exemptions under the Flood Control Act and Navigable Waterways Act,

Whereas, INDOT and IDNR wish to cooperate in the elimination of unnecessary paperwork and the expeditious processing of certain INDOT maintenance activities which have minimal impact to the environment, the attached *INDOT Maintenance Activity Exemption from the Flood Control and Navigable Waterways Act* is hereby established.



Mr. Curt Wiley, Commissioner
Indiana Department of Transportation

March 9 1997
Date



Mr. Larry D. Macklin, Director
Indiana Department of Natural Resources

March 13, 1997
Date

INDOT Maintenance Activity Exemption
from the Flood Control and Navigable Waterways Act

March 3, 1997

Certain maintenance activities are exempted from the permit requirements of IC 14-28-1 and IC 14-29-1 if INDOT does or establishes the following:

(1) Maintenance activities will not occur within the channel of a river or stream, except where the activities are limited to work that does not disturb the channel:
   (A) From March 15 through June 30 and from July 15 through November 30, for a salmonid water designated under 327 IAC 2-1-6 (c)(1); or
   (B) From April 1 through June 30, for any other river or stream.

   However, INDOT may request a waiver from the requirements of this subdivision. A written request to waive a portion of the restrictive dates must be submitted to the Environmental Supervisor with the Division of Fish and Wildlife no sooner than two (2) weeks prior to initiating the proposed maintenance project. A decision regarding the request will be provided in approximately five (5) days after the receipt by the Environmental Supervisor.

(2) Best management practices will be used during and after construction to minimize erosion and sedimentation.

(3) Following the completion of maintenance activities, disturbed areas will be reclaimed and revegetated. Disturbed areas will be mulched with straw, wood fiber, or other suitable material. To prevent erosion until revegetated species are established:
   (A) Mulch shall be anchored by crimping, tackifiers, or netting; or
   (B) Erosion control blankets shall be applied.
   (C) Revegetation shall be accomplished in compliance with the Memorandum of Understanding dated February 22, 1993 between INDOT and IDNR that establishes revegetation guidelines.

(4) Pesticide will not be used on the banks.

(5) The INDOT maintenance activity must not fill or drain a wetland or alter the water table of any wetland.

(6) Logjam and debris removal shall be*;*
   (A) Performed with equipment capable of being operated from a bridge or from a bank rather than using equipment in stream.
   (B) In conformance with IDNR's Emergency Rule for *"General Permit for the Removal of Obstructions from Rivers and Streams"* (effective until July 14, 1997) or any subsequent similar enactments.

7) The maintenance activity must occur within existing INDOT right-of-way.
   (A) An access corridor of fifty (50) feet beyond the existing right-of-way shall be allowed for placement of equipment only.
   (B) Removal of waterway obstructions caused by sandbars, logjams, and debris that occur both in existing INDOT right-of-way and extend outside of the right-of-way is allowed. Removal of these obstructions that are solely outside of the right-of-way is not allowed.

Maintenance Activities Defined

The following maintenance operations activities are exempted from the permitting requirements of the Flood Control Act and the Navigable Waterway Act where maintenance operations means

(1) **Bridge maintenance activities**

(A) A **bridge** is a structure, including supports, erected over a depression or an obstruction such as water, highway, or a railway having a track or passageway for carrying traffic or other moving loads, and having a length measured along the center of the roadway of more than 6.1 meters (20 feet) between undercopings of abutments or extreme ends of opening for multiple boxes.

(B) **Bridge maintenance activities** include the following:
Hand cleaning bridges - This means the cleaning of bridge deck surfaces, expansion joints, drain holes, bridge seats and sidewalks by hand shoveling, sweeping and air blasting to remove accumulations of sand, chemicals and debris. It is accomplished by breaking loose the material as required, sweeping the material, loading the material into dump trucks and disposing of the material at proper disposal areas.

Bridge repair - This means minor repairs to bridge structures including repair, replacement or painting of handrails, curbs or sidewalk repair, minor joint and deck repair, timber deck repair, support repair, deck sealing and other minor repairs. It also includes emergency deck or support repair and minor maintenance of lift bridges.

Flushing bridges - This means the cleaning of bridge seats and shoe assemblies, drain holes, expansion joints, bottom chords of steel trusses, connection of vertical or diagonal truss members, truss members and gutter lines. This is accomplished by flushing to remove accumulation of sand, chemicals and debris.

Patching bridge decks - This includes the patching of bridge decks using a Portland Cement, concrete, or approved epoxy adhesive. It also includes marking, sawing and breaking out old concrete with jack hammers. It is accomplished by breaking out and cleaning with air the areas to be patched, mixing the concrete, placing and finishing the concrete, and covering the patches with wet burlap or curing compound. None of the old concrete will fall or be placed within the channel.

Other bridge maintenance - This includes other routine bridge maintenance activities within right-of-way such as **replacing riprap or repairing slope paving to the original configuration, clearing of water way openings (includes removal of undesirable materials including sand bars, log jams and debris removal), channel maintenance (reestablishing natural channel, flow lines and slopes)** and the removal of writing or painting on the structure.

(2) **Roadside maintenance activities** which includes the following:

Machine mowing - This means the cutting of grasses within the right-of-way. Roadside vegetation is machine mowed within designated mowing limits using tractor mowers and hand trimming, as required, to maintain an attractive roadside and control erosion and drainage. Additional special spot mowing is done to control Johnson grass and Canadian thistle.

Brush cutting - This is the cutting, trimming and removal of brush, small trees, tree branches and limbs within the right-of-way using power or hand tools to restore sight distances, eliminate traffic hazards and remove encroaching vegetation. This is accomplished by cutting the brush, tree branches and limbs within the right-of-way, cutting the brush flush to the ground, applying herbicides to sprouts in accordance with INDOT policy as directed by the District Landscape Supervisor, loading the brush on trucks using a chipper when available, hauling to a proper disposal area and clearing the roadway of debris.

Herbicide treatment - This is the **application of chemicals to roadside vegetation and soil along shoulders**, guardrail sections, around sign posts, delineators, mail boxes, bridge ends and other areas to eliminate or control undesirable vegetation. This is accomplished by the proper handling, mixing and application of the herbicide to the designated areas.

Seeding and/or fertilizing - This is the **seeding, reseeding, and fertilizing of shoulders, front and back slopes**, medians and other designated areas to restore vegetation for erosion control and beautification. It is done following clipping unpaved shoulders, reconditioning unpaved shoulders, motor patrol ditching, and the cleaning and reshaping of ditches in addition to areas damaged due to erosion or other causes. It is accomplished by using hydroseeder or fertilizer spreaders.

Spraying only occurs on calm days when the temperature is not too high. Only those areas are sprayed which can be sprayed without damage to surrounding crops, trees, etc.

Topping, trimming or removal of large trees - This is the topping, trimming or removal of large trees. It is accomplished using equipment such as bucket trucks and boom trucks. The sawn limbs are loaded into a dump truck. A chipper is to be used when available. The residue to be hauled to a proper disposal area. The work area is then to be cleaned.

Stump removal - This means the removal of stumps within the right-of-way to eliminate traffic hazards or improve efficiency of other maintenance activities. It is accomplished by using a stump cutter to cut the stump, loading and hauling chips to a proper disposal area, and then cleaning and smoothing the work area.

Spot mowing and hand trimming - This activity immediately follows machine mowing described above. It involves the spot or hand mowing to control Johnson grass, Canadian thistle and other noxious weeds, and hand trimming or mowing needed in addition to that performed during machine mowing. It is accomplished by using hand mowers or hand tools, trimming around signs, guardrail and other locations that cannot be mowed by tractor mowers. This activity also includes the use of tractor mowing or hand mowers for noxious weeds.

Right-of-way fence repair - This activity means the repair of damaged, state-owned right-of-way fencing to maintain delineation of the right-of-way. It includes the rebuilding of existing fence using in place materials and/or replacing short sections of damaged fencing with new materials. It is accomplished by removing any damaged fence and salvage materials, if possible, rebuilding the fence using new and/or salvaged material, and loading unusable material and cleaning up the work area.

Other roadside maintenance - This includes such activities as rock cut maintenance, **slop*e* spot slope repairs, slope mowing**, removal of unauthorized or illegal signs from within the right-of-way, sodding, preparing for seeding and fertilizing, mulching, **slide repair to the original slope**, mowing of state-owned property outside of right-of-way, repair of wheel ruts in grass medians.

(3) **Drainage maintenance activities**.

(A) The following data provides definitions of terminology used in drainage and special maintenance activities:
A **culvert** is a structure not classified as a bridge which provides an opening under the roadway. A **box culvert** is a culvert that is precast or cast in place with four sides, a concrete flow line, shaped like a rectangle or square. A **pipe culvert** is a culvert that is made of metal, plastic, or concrete, with either a tubular or

deformed tubular shape. The structure should be placed to fit existing ground conditions with the upstream end of the structure under the roadway 0.2' to 0.5' below the lowest ground, ditch or tile ditch to be drained. The grade should then be approximately straight to the point where the water will leave the right-of-way.

A **ditch** should be interpreted to mean open ditches and channel changes parallel to and adjacent to the roadbed. They are constructed so they will drain and be free of water pockets. At the ends of cuts it is policy to flare the side ditches out to prevent ditch water from being spilled onto the fill embankment. Abrupt changes in alignment of side ditches should be avoided. The work consists of shaping and dressing of shoulders, ditches and slopes by machine or hand methods or both, to the required smoothness, elevation and cross section.

A **catch basin** is a receptacle at the entrance of a sewer designed to keep out large or obstructive matter or a reservoir for collecting surface drainage or run-off, having at its base a sediment sump designed to retain grit and detritus below the point of overflow. Their placement is accomplished by excavating to the established bottom of the proposed foundation. The finished surface should be firm and smooth. Holes may be formed or field cut in catch basins to receive pipe structures. Grade and location adjustments shall be made as necessary. The outlet of the pipe catch basins should be of smaller diameter than the catch basin.

A **berm** is a slightly canted shelf cut into or added onto a side or back slope. Berms should be clear of obstructions.

Tile drains. When farm drains cross the roadway, every effort should be made to preserve them in their original state of efficiency. If a farm tile is intercepted by ditches which provide adequate drainage for the tile, at least two sections of sewer pipe and a sod collar should be placed on the outlet end. The balance of the tile under the road shall be removed or sealed if they are 12" in diameter or larger.

A **ditch check** is a dam utilized to impede the movement of water so that sediment can settle out. It is constructed at specific intervals in the ditch based on the grade of the ditch. Ditch checks must be constructed wide enough to traverse the ditch section so that the water will flow over the check instead of around the ends.

An **inlet** is similar to a catch basin except it does not have a sediment sump designed to retain debris.

Paved side ditches are drainage ditches with a Portland cement concrete lining or gutter.

A **flume** is a channel lined with erosion-resistant materials used to convey water on steep grades without erosion. Except for these features, both of these drainage ways are constructed in the same manner as regular ditches.

(B) **Drainage maintenance activities** include the following:

Clean and reshape ditches - This involves the **machine cleaning of roadside ditches with excavating equipment to restore original grade and maintain adequate drainage**. It also includes the **loading, hauling and disposal of excess materials**, **reshaping front and back slopes**, **pipe culvert replacement** and **shoulder restoration as relating to ditching**. This work should occur **where existing ditches are ponding water**, **have minor obstructions**, **have lost their cross sections, have excessive silting and blocked drainage structures.** This work is accomplished by **reestablishing uniform flow lines, taking care to avoid low spots which will accumulate water, dressing foreslopes and back slopes where necessary**, cleaning the area, and **removing dirt and debris with an excavator** and loading it onto trucks and hauling the excess material to a proper disposal area.

Inspecting minor drainage structures - This involves **inspecting and minor cleaning** of all minor drainage structures including **box culverts, pipe culverts, catch basins, inlets and paved side ditches** with emphasis on **small cross culverts**. The drainage structures are to be inspected to determine both structural and drainage adequacy. Defects are to be reported for corrections at a future date. **Hand shovels are to be used to remove undesirable vegetation, obstructions and to repair minor eroded areas**. Hazardous conditions and outlets of subsurface drains are to be marked with posts.

Pipe replacement - This means cross pipe culvert replacement required as a result of damage or deterioration in order to maintain adequate drainage. **It does not include pipe replacement projects for pipes carrying a waterway with a drainage area of greater than 50 square miles in a rural area or one square mile in a non rural area.** It is accomplished by cutting the pavement over the culvert to be replaced, excavating and removing the culvert that has failed, **cleaning out and replacing the pipe bed to the original grade**, placing the culvert in the trench beginning at the downstream end, backfilling over the culvert (small installation - using suitable material and compact in layers not exceeding 6" - large installations - backfilling and compacting using saturation method), and placing a bituminous patch over the excavation and compact.

Minor patrol ditching - This means machine **cleaning of roadside ditches with motor patrol** to restore original grade and maintain adequate drainage. It includes the **loading, hauling, and disposal of excess material**, **reshaping front and back slopes**, **pipe culvert replacement** and shoulder restoration as related to drainage. **It does not include pipe replacement projects for pipes carrying a waterway with a drainage area of greater than 50 square miles in a rural area or one square mile in a non rural area.** It is accomplished by **removing the dirt and debris with motor patrol** and windrowing the excess to be picked up with a loader. A uniform flow line is reestablished taking care to avoid low spots which will accumulate water. The **foreslopes and back slopes are dressed**, and pipe is replaced or retain as required. Excess material is to be loaded and hauled to a proper designated disposal area, and the work area is cleaned.

Cleaning minor drainage structures - This means **manual or machine cleaning and removal of debris** from **box culverts, pipe culverts, catch basins, inlets, out falls and paved ditches** to maintain adequate drainage. This is accomplished by **removing debris and undesirable vegetation from inlet and outlet channels and restoring inlet and outlet ditch flow lines**, cleaning out debris and silt from the structures, and **correcting any eroded areas around the inlet and outlet pipes and paved ditches**. Excess material is to be loaded and hauled to a proper designated disposal area, and the work area is cleaned.

Inspect/clean under drains - This means the inspection and cleaning of pavement under drain structures. They are inspected to determine both structural and drainage adequacy. This is accomplished by using a **hand shovel to remove undesirable vegetation, obstructions, and repair minor eroded areas**. A clean-out device is to be used to remove sod or debris in the pipe. Hazardous conditions, and outlets of subsurface drains are to be marked with posts.

Other drainage maintenance - This includes the following activities, **minor relocation of ditches, hand ditching, scour and washout repairs, repair of minor drainage structures including paved side ditches, pipe extensions**, installations of **French drains**, **removal of unauthorized culvert pipes**, repair of **subsurface drains or drainage tiles**, cutting in preparation of pipe replacement, **marking of catch basins** or **pipes with delineators**, **rebuilding or repairing catch basins** and installing pipe liners.

(4) **Special maintenance activities** which include the following:

Minor surface and shoulder improvements - This activity includes minor roadway reconstruction, widening by adding turn lanes, climbing lanes, speed change lanes or crossovers, major leveling of the roadway, and adding shoulder material after resurfacing to eliminate shoulder drop off. This is non-routine work not requiring special funding that is to be performed by maintenance forces throughout the year as resources are available after routine maintenance work has been scheduled.

Minor roadside improvements - This means **flattening back slopes and fills**, planting trees and shrubbery, and the construction of roadside parks and picnic table sites.

Minor drainage improvements - This means the **installation of new structures at new locations -- culverts, ditches, catch basins, berms, tile drains, ditch checks, inlets, paved ditches and flumes, and drainage curbs and major repair of paved side ditches.** (See the Section 3, Drainage Maintenance Activities for definitions of these terms).

Minor bridge improvements - This includes widening of bridges and the installation of new guardrail or new bridge rail. This is non-routine work not requiring special funding that is to be performed by maintenance forces throughout the year as resources are available after routine maintenance work has been scheduled.

(5) **Roadway and shoulder maintenance** which includes the following:

Shallow patching - This means minor patching of small areas of bituminous roadway or paved shoulder surface with hot or cold bituminous mixtures and hand tools to correct potholes, **edge failures**, and **other potential surface hazards**. This activity also includes temporary patching of bituminous and concrete surfaces and the use of hot liquid bituminous material and aggregate for patching bituminous surfaces or crack and joint spalling of concrete surfaces. It is accomplished by repairing the surface failures exceeding 2" in depth and 1" in diameter as soon as possible after they are reported. The sides of the hole are prepared for the patch, removing all loose material and water. The bituminous mixture and aggregate are placed in the hole and compacted to make sure the patch is level and smooth. If appropriate the surface is sealed with bituminous material and sand and the area is then cleaned up.

Deep patching - This means major patching on roadway surface to correct extensive surface failure caused by **base failure, blowup, or settlement**. It includes the full depth removal of surface and base material and the replacement with compacted bituminous mixture. The work is accomplished by scheduling the repair as soon as possible after they are reported. Unsuitable material should

be removed, under drains installed where necessary and the remaining materials recompacted. The bituminous mixture should be spread, compacting each layer, and making sure the final layer is flush with the adjacent surface. The work area is then cleaned.

Premix leveling - This means minor machine or hand leveling and wedging of small isolated areas of bituminous or concrete roadway and shoulder surfaces with bituminous mixtures to correct depressions at bridge ends**, surface failures and depressions caused by settlement** at pipe replacements and deep patches. It is accomplished by marking and cleaning the area to be leveled, applying light bituminous tack coat, spreading the bituminous mixture, hand raking the premix and feathering the edges before rolling, compacting the mixture making sure the final layer matches the exiting surface and pavement edge and cleaning up the work area.

Full width shoulder seal - This means the seal coating of continuous full width section of the paved shoulder surface with bituminous material and sealing/covering aggregate to correct extensive cracking, sealing the surface and restoring the shoulder life. It is accomplished by cleaning the pavement, applying heated liquid bituminous material and squeegeeing if necessary, spreading the seal/cover aggregate immediately to cover the bituminous material and roll sealing the area.

Seal coating - chip - This means seal coating the continuous full width section of the roadway surface with hot bituminous material and coarse aggregate to correct extensive cracking, raveling, spalling, and shallow surface failures to prevent deterioration of the surface. It is accomplished by cleaning the pavement, applying heated liquid bituminous material, squeegeeing if necessary, spreading the aggregate with a mechanical spreader, hand brooming the aggregate where necessary, rolling the sealed area, and removing excess aggregate from the pavement.

Sealing longitudinal cracks and joints - This means the mechanical cleaning and sealing of longitudinal cracks and joints with a liquid bituminous sealant to prevent the entry of edge cracks between concrete surface and bituminous shoulder, the widening cracks and the centerline joint. This is accomplished by routing the joints as needed, cleaning the joint or cracking with a compressor, applying the material to the joints and cracks, and dusting the squeegeed areas lightly with sand.

Sealing cracks - This means the cleaning and sealing of open cracks and joints in bituminous and concrete roadways and paved shoulder surfaces to prevent the entry of moisture and debris which leads to surface and base failure. This activity also includes sealing short sections or isolated areas of alligatored, raveled, or spalled bituminous surfaces. It is accomplished by cleaning the crack, applying bituminous material to the crack, squeegeeing the material to force it into the

cracks and surface voids, removing the surplus materials, and dusting the area lightly with cover aggregate.

Seal coating - sand - Same as seal coating - chip above except this method uses sand rather than chip seal.

Spot repair of unpaved shoulder - This means the repair of small areas of unpaved shoulders by adding aggregate, reshaping and compacting to correct edge ruts, potholes, corrugations and replace lost material at **washouts,** around mailboxes, and public road approaches. It is accomplished by blading off the high spots, adding material to low spots or at intervals along the shoulder, blading the material into the low spots and **shaping so the shoulder slope permits drainage to the ditch,** rolling the material with truck tires, and cleaning the work area.

Blading shoulders - The means the blading and reshaping of aggregate shoulders to eliminate edge ruts, ridges, corrugations and high shoulders. It is accomplished by cutting build ups with motor patrol, pulling the material toward roadway to the pavement edge, the second vehicle blades the material back onto the shoulder making sure that all the low spots are filled and the **shoulder slope permits drainage to the ditch**, the shoulder is rolled with truck tires as required and the road surface is cleaned.

Clipping unpaved shoulders - This means major clipping of overgrown shoulders to remove excess material and to restore proper slopes for adequate drainage. It includes the clipping of overgrown shoulders adjacent to the driving surface and sod adjacent to the shoulders, and **related cleaning and reshaping of the adjacent roadside ditches as required**. This is performed on overgrown sodded shoulders when there is more than one inch difference between the roadway surface and shoulder surface or where excess material blocks drainage from the roadway or shoulder surface. The excess material is cut off the shoulder and the **ditches cleaned out as required**. Excess material is loaded into trucks and dumped at appropriate areas. Additional passes should be made as necessary to endure proper shoulder slope for drainage to the ditch. Loose material is swept from the pavement, and the loose shoulder material is compacted with truck tires.

Reconditioning unpaved shoulders - This means reconditioning continuous sections of unpaved shoulders by adding aggregate, reshaping, and compacting to restore the shoulder grade and surface. It is accomplished by spreading the material giving a 2 to 1" per foot slope, rolling for compaction, and cleaning the work area.

Joint and bump repair - This means grinding or planing of bituminous surfaces to remove bumps, ripples and heaved joints. It is accomplished by grinding bumps to be repaired or burning and planing, disposing of the excess material,

patching the area as required, sealing the area with bituminous material and seal cover aggregate, and cleaning the work site.

Other roadway and shoulder maintenance - This includes activities such as filling holes with aggregate, taping pavement markings before sealing, dusting bleeding bituminous surfaces, spot sealing, repairing concrete pavement, curb repair, paved gutter repair, priming unpaved shoulders, major patching of paved shoulders, repair of unpaved and paved crossovers, planning road, cutting in preparation for deep patching, routing of joints in preparation for sealing, repair of primed shoulders removal of sod from under guardrail, chip and seal county road approaches, and cutting of relief joints in pavements.

(6) **Placement or removal of riprap** consists of placing or removing protective coatings of broken stone, masonry, or concrete in reasonably close conformance **(not to exceed the previous thickness)** with the grades of the ground line to protect a slope against erosion or scour where vegetation or other methods would be ineffective or impracticable. The riprap may be of many types - dumped, revetment, hand laid, grouted or precast.

(7) **Emergency maintenance** consists of emergency or extraordinary temporary repairs of the roadway, roadside and structures. These activities should be performed as soon as possible after damage occurs to restore safe driving conditions. These emergency activities result from such incidents as **washouts and high waters, slides and fallen rocks, settlement, and traffic accidents**. The measures taken for these temporary repairs are determined by the type of emergency and must be sufficient to restore safe driving conditions.

(8) **Erosion control** means a practice or combination of practices that control erosion and resulting sedimentation. This is accomplished by many different methods such as sodding, seeding, mulching, riprap, erosion control blankets, diversions, dikes, dams, slope drains, grass and riprap-lined channels, inlet protection, sediment traps and basins, silt fences, straw bale and rock dams, and vegetative filter strips.

Wednesday, April 16, 1997

MEMORANDUM

To: Environmental Coordinators
District Design Engineers

District Maintenance Engineers

From: Mrs. Janice Osadczuk, Manager
Environmental Services Section

Re: Memorandum of Understanding between INDOT and IDNR on Maintenance Activity exemptions under the Flood Control Act and the Navigable Waterways Act.

This memorandum contains clarification concerning the use of the above reference MOU. Please note that this exemption **applies only to bridge/culvert related projects. It does not apply to roadway work. IDNR requires no notification if a project falls under the exemption of this MOU.** For example, if debris removal is associated with a bridge, and it is in conformance with IDNR's Emergency Rule for *General Permit for the Removal of Obstructions from Rivers and Streams* (see attached), then IDNR does not require notification. If, however, there is a debris pile located in a channel paralleling the roadway that is not near a bridge, then the guidance provided in the Emergency Rule for *General Permit for the Removal of Obstructions from Rivers and Streams* must be followed, and IDNR must be notified.

cc: file
Mike Neyer, Division of Water, IDNR
Bill Maudlin, Division of Fish and Wildlife, IDNR

Construction in a Floodway - Exemption for Certain Bridge Projects:

The Flood Control Act contains a provision which exempts certain bridge projects from its permitting requirement. Specifically the act states:

"A permit is not required for ... a construction or reconstruction project on a state or county highway bridge in a rural area that crosses a stream having an upstream drainage area of ... 50 square miles or less..."

Therefore, in order for a bridge project to be exempt, it must:

- be a state or county highway department project;
- be a bridge;
- be located in a rural area; and
- cross a stream having an upstream drainage area of less than 50 square miles.

The initial criterion is very specific - the structure must be a state or county highway department project.

The second requirement mandates that the project be a bridge (for this provision, the Department of Natural Resources considers a culvert to be a bridge). Projects such as bank protection, spoil disposal, borrow pits, etc. are not automatically exempt. Anyone proposing to undertake a non-bridge related activity should consult with the Division of Water's Stream Permits staff at (317) 232-5660 regarding the applicability of the exemption prior to initiating work.

The third criterion states that the project must be located in a rural area. The phrase "rural area" is defined as an area:

1. where the lowest floor elevation, including a basement, of any residential, commercial, or industrial building impacted by the project is at least 2 feet above the 100 year flood elevation with the project in place;
2. located outside the corporate boundaries of a consolidated or an incorporated city or town; and
3. located outside the territorial authority for comprehensive planning (generally, a 2 mile planning buffer around a city or town).

The final criterion limits the exemption to a project crossing a stream having an upstream drainage area of less than 50 square miles. The drainage area includes all land area contributing to runoff above the project site and is determined from the United States Geological Survey 7½ minute series quadrangle maps. The Department of Natural Resources will determine the drainage area upon written request.

This exemption has been grossly misunderstood and liberally applied in the past. As a result, the Department of Natural Resources is taking a firm stance on future violations. If challenged, it will be the responsibility of the person claiming the exemption to prove to the Department that all 4 criterion have been satisfied. Failure to do so will result in the Department initiating litigation with the potential for the imposition of fines in amounts up to $1,000 per day.

Note: The exemption only applies to the Flood Control Act. If a bridge is to be constructed over a navigable waterway, or over or near a public freshwater lake, a permit will be required.

PERMIT APPLICATION FOR CONSTRUCTION IN A FLOODWAY
State Form 42946 (R/4-91)
Approved by the State Board of Accounts, 1989

Mail To
Division of Water
Department of Natural Resources
402 West Washington Street, room W264
Indianapolis, Indiana 46204
Telephone: (317) 232-5660

REQUIREMENT FOR ADDITIONAL INFORMATION AND PERMITS
Application made to and approval granted by the Department of Natural Resources does not in any way relieve the applicant of the necessity of securing easements or other property rights, permits and approvals from affected property owners and other local, state, and federal agencies.

1. APPLICANT INFORMATION		2. AGENT OR ENGINEER INFORMATION	
Name of Applicant		Name of Agent or Engineer	
Address (*Street, P.O. Box or Rural Route*)		Address (*Street, P.O. Box or Rural Route*)	
City, State, and ZIP code		City, State, and ZIP code	
Home Telephone Number ( )	Work Telephone Number ( )	Home Telephone Number ( )	Work Telephone Number ( )

3. LOCATION OF THE PROPOSED PROJECT		
Body of Water	U.S.G.S. Quadrangle Map	
County	Quarter Section (*Check one*) ☐ NE ☐ NW ☐ SE ☐ SW	Section or Grant _____
Civil Township	Township (*Check direction*) _____ ☐ N or ☐ S	Range (*Check direction*) _____ ☐ E or ☐ W
Nearest City or Town		
Additional location information (*distance from major roadways, bridges, landmarks, etc.*)		

4. NATURE OF THE PROPOSED PROJECT

☐ Access Channel	☐ Dam or Impoundment	☐ Flood Control	☐ Outfall Structure
☐ Bridge or Culvert	☐ Excavation	☐ Levee	☐ Residence Addition
☐ Building	☐ Fill	☐ Mining	☐ Seawall or Bank Protection
			☐ Utility

☐ Other, please specify:

_____

_____

5. PURPOSE OF THE PROPOSED PROJECT

State the purpose, necessity, and description of the proposed activity.

6. NAMES AND ADDRESSES OF THE PROPERTY OWNER AND ADJOINING LANDOWNERS	
Provide the name and address of the property owner where the proposed activity will be conducted and list adjoining landowners which may be affected by the proposed project. Use additional sheets if necessary. Failure to list the property owner(s) and each adjoining landowner may cause a permit issued by the Department to later become voided.	
Property Owner(s)	Adjoining Landowner #1
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code
Adjoining Landowner #2	Adjoining Landowner #3
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code
Adjoining Landowner #4	Adjoining Landowner #5
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code
Adjoining Landowner #6	Adjoining Landowner #7
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code
Adjoining Landowner #8	Adjoining Landowner #9
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code
Adjoining Landowner #10	Adjoining Landowner #11
Address (*Street, P.O. Box or Rural Route*)	Address (*Street, P.O. Box or Rural Route*)
City, state, and ZIP code	City, state, and ZIP code

7. ADDITIONAL INFORMATION
Corps Public Notice #_____. IDNR Early Coordination #_____

8. STATEMENT OF AFFIRMATION	
I hereby swear or affirm, under the penalties for perjury, that the information submitted herewith is to the best of my knowledge and belief, true, accurate and complete, and that the property owner(s), and adjoining landowners have been notified of the project.	
Signature of Applicant or Authorized Representative	Date

INSTRUCTIONS FOR COMPLETING AN APPLICATION FOR CONSTRUCTION IN A FLOODWAY

GENERAL INFORMATION:

1. With the exception of the affirmation signature, all applications information must be legibly printed or typed.
2. Each application submission must include of the following items:
   - A nonrefundable fifty dollar ($50) processing fee as required by IC 13-2-22-13(d);
   - Proof of public notice as required by IC 14-3-16; and
   - Specific information required for the project type.

APPLICANT INFORMATION, (Box #1):

1. State the applicant's full name, address, and telephone number(s)
   - If the applicant owns the property where the project is to occur, state the full name(s) of all owner(s) as shown on the property deed or title.

AGENT OR ENGINEER INFORMATION, (Box #2):

1. State the agent's and/or engineer's name, address and work telephone number

LOCATION OF THE PROPOSED PROJECT, (Box #3):

1. State the name of the water body along or on which the project is to be located, the county, the civil township, the nearest city or town, the 7½ minute series USGS quadrangle map (if known), the quarter section, section or grant, township, and range (usually found on the property deed or land survey)
2. On the lines provided, include additional information such as distances from major roads, highways, bridges, or other landmarks
   - a map may be attached to supplement the site location

NATURE OF THE PROPOSED PROJECT, (Box #4):

1. Indicate the nature of the proposed project by marking the appropriate box(es)

Project Type	Description
Access channel	The construction of a new channel or the improvement of an existing channel used for access to public or private facilities
Bridge	A stream crossing such as a bridge, culvert, ford, etc.
Building	A nonresidential structure such as a commercial building, public building, detached garage, pole barn, park shelter, etc.
Dam or impoundment	A reservoir, pond, basin, lake used for purposed such as recreation, water supply, wildlife habitat, livestock watering, irrigation, etc.
Excavation	Removal or redistribution of material within the floodway such as

	borrow pits, site grading, etc.

(continued)

NATURE OF THE PROPOSED PROJECT, (Box #4 - continued):

Project Type	Description
Fill	Deposition of material within the floodway
Flood control	A project for the prevention, control, regulation, diversion or confinement of flood waters. Generally undertaken in cooperation with local, state or federal agencies.
Levee	An embankment along a stream to provide protection to adjacent land from flood waters
Mining	Excavation, fill, or diversion as the result of mining or reclamation activities
Outfall structure	Structure used to outlet storm water, treated effluent, etc.
Residence addition	An addition to an existing residence located within the floodway
Seawall or bank protection	Stabilization of a stream bank or the shore of a man-made reservoir. (Do not use this application form for seawalls along public freshwater lakes.)
Utility	Any utility over, under, or along a stream such as a water main, sanitary sewer, transmission line, gas pipeline, etc.
Other	A project which does not correspond with any of the previous descriptions, (describe on the lines provided)

PURPOSE OF THE PROPOSED PROJECT, (Box # 5):

1. State the purpose, necessity and description of the project
   - maps, plans, sketches, cross sections, etc. should be attached to the application to provide dimensions, depths, floor elevations, distances, slopes, widths, etc. to completely describe the project

NAMES AND ADDRESSES OF PROPERTY OWNER(S) AND ADJOINING LANDOWNERS, (Box #6):

1. State the property owner(s) full name(s) and address(es) as shown on the deed or title for the property upon which the project is to be located
2. State the names and addresses of all landowners having property adjoining the parcel upon which the project is to be located
   - if there are more than 11 adjoining owners, additional sheets should be attached

ADDITIONAL INFORMATION, (Box #7):

1. Add any comments which you believe would assist the Department in processing the application
   - include the Corps of Engineers public notice # and/or the IDNR early coordination # if available

STATEMENT OF AFFIRMATION, (Box #8):

1. The applicant or his authorized agent must sign and date the application

- signature is affirmation under the penalties for perjury that the information presented on the application is accurate and complete and that the property owner(s) and all adjoining landowners have been notified of the project

PUBLIC NOTICE REQUIREMENTS

Any public notice provided under the provisions of Indiana Code 14-3-18 and 310 IAC 0.6 must contain the following information:

(1) the name and address of the applicant;

(2) the statute and rule under which the permit application was made;

(3) the location of the real property where the project will take place;

(4) provide any additional information as required by statute or rule relative to the type of permit sought;

(5) the option of requesting a public hearing by filing a petition with the Director of the Division of Water which conforms with 310 IAC 0.6-3; and

(6) the option of requesting notification by the Department when an initial determination has been made to issue or deny the permit.

PUBLIC HEARING PETITION REQUIREMENTS

Any petition filed for a public hearing on an application must contain the following information:

(1) the signatures of at least 25 individuals who are at least 18 years of age and who reside in the county where the proposed activity would take place or who own real property within 1 mile of the site of the proposed or existing activity;

(2) the complete typed or legibly printed mailing addresses of each petitioner;

(3) affirmation from each petitioner that they qualify under item (1); and

(4) the identification of the application for which a public hearing is sought either by application number or by the name of the applicant and the location of the project.

The petition should be submitted to:

Mr. Michael Neyer, P.E., Director
Division of Water
Department of Natural Resources
402 W. Washington Street, Room W264
Indianapolis, IN 46204-2748

PUBLIC NOTICE
INSTRUCTIONS AND REQUIREMENTS

In 1990, the Indiana General Assembly enacted IC 14-3-18. The purpose of this law is to ensure that adjoining property owners and other interested persons are made aware of pending permit applications and provided the opportunity to present their views to the Department concerning these applications ,if desired.

Under this legislation, the applicant or agent is responsible for providing notice to property owners whose property shares a common border or point with the property where the project would take place AND whereby that common border or point is located within ¼ mile of the project site. Included is property which would share a common border, if not for the separation caused by a right-of-way, easement, or railroad.

BEFORE SUBMITTING YOUR APPLICATION:

There are three (3) ways in which you may notify adjacent property owners: personal service (hand delivery or telephone), first class mail service, or certified mail service.

The notice to an adjacent property owner must include the following information:

1. The name and address of the applicant.
1. The law and rule that requires a permit be obtained.
1. The name of the body of water.
1. The location of the property where the project is to occur.
1. A description of the project.
1. Explain that they have the option to request a public hearing by filing a petition that conforms with the requirements.
1. Explain that they have the option to request that the Department notify them when a permit is issued or denied.

It is recommended that the attached sheet titled, *Public Notice,* be used to meet the notice requirements.

WHEN YOU SUBMIT YOUR APPLICATION:

You must provide proof that you have properly notified each adjacent property owner as defined above. Processing of your application will not continue until proof has been received by the Division of Water. Proof can be provided by using one (1) of the following options:

1. If you use personal or first class mail service, you must complete and sign the attached *Affirmation of Personal or First Class Mail Service* form. Please indicate the method used. If you use first class mail service, you must also submit a certificate of mailing (Postal Service Form 3817, March 1989) and attest that at least twenty-one (21) days passed without the mailing being returned.

2. If you use certified mail, you must submit the original or a copy of the mailing receipt. This is the "green card" that contains the signature of the person accepting the notice and the date it was delivered.

If you cannot determine the identity or current address of a person whom you are required to notify, please contact the Division of Water at the number indicated below before submitting your application.

a) If you have any questions concerning public notice requirements, please contact the Permit Administration Section at (317) 233-5635.

A pre-AAA hearing on the application will be limited to the Department's authority under the permitting statutes.

The Department's jurisdiction under the Flood Control Act is confined to the floodway of the stream and its review limited to the following criteria:

To be approvable a project must demonstrate that it will

a. not adversely affect the efficiency or unduly restrict the capacity of the floodway; defined as, the project will not result in an increase in flood stages of more than 0.14 feet above the base 100 year regulatory flood elevation;
b. not constitute an unreasonable hazard to the safety of life or property; defined as, the project will not result in either of the following during the regulatory flood;
    1. the loss of life,
    2. damage to public or private property to which the applicant has neither ownership nor a flood easement;
c. not result in unreasonably detrimental effects upon fish, wildlife or botanical resources.

Additionally, the Department must consider the cumulative effects of the above items.

The Department's jurisdiction under the Lakes Preservation Act is confined to the shoreline or bed of the lake and any impact which the project may have on:

a. the natural resources and/or scenic beauty of the lake;
b. the water level or contour of the lake below the waterline;
c. fish, wildlife or botanical resources.

Additionally, the Department must consider the cumulative effects of the above items.

Only the above issues relevant to the appropriate Act directly related to this application for construction will be addressed. Under permitting statutes, the Department has no authority in zoning, local drainage, burning, etc.; therefore, topics beyond the Department's jurisdiction will not be discussed during the hearing.

You may also request that the Department notify you in writing when an initial determination is made to issue or deny the permit. Following the receipt of this post action notice, you may request administrative review of the determination by the Natural Resources Commission under IC 4-21.5 and 310 IAC 0.6.

Questions relating to the project should be directed to:

Applicant's (or Agent's) Name
Mailing Address
City, State Zip Code

Telephone Number

A request for a pre-AAA hearing or notice of initial determination should be addressed as follows:

Michael Neyer, P.E., Director
Division of Water
Department of Natural Resources
402 West Washington Street, Room W264
Indianapolis, Indiana 46204-2748

Telephone: (317) 233-5635

PUBLIC NOTICE

Adjacent Landowner's Name
Address
City, State Zip Code

Date _____
CERTIFIED MAIL
____-____-_____

Legislation has been enacted, IC 14-3-18, which ensures that adjacent property owners are both notified of permit applications and provided with an opportunity to present their views to the Department of Natural Resources prior to the action.

Under this legislation, the applicant or agent is responsible for providing notice to property owners whose property shares a common border or point with the property where the project would take place AND whereby that common border or point is located within ¼ mile of the project site. Included is property which would share a common border, if not for the separation caused by a right-of-way, easement, or railroad.

Due to your proximity to the project site, you are considered to be an adjacent party. Therefore, notice is being provided in conformance with the provisions of IC 14-3-18 and 310 IAC 0.6:

Applicant's Name and Address:

_____
_____
_____

Agent's Name, Address, and Telephone Number:

_____
_____
_____

Project Location:

_____
_____

Name of Stream or Lake:

_____

Project Description: _____

Relevant Statute or Rule:

- ☐ Flood Control Act, IC 13-2-22
- ☐ Lake Preservation Act, IC 13-2-11.1
- ☐ "Ditch Act", IC 13-2-15
- ☐ Channels Act, IC 13-2-18.5
- ☐ Removal of Sand or Gravel, IC 14-3-1-14.5

You may request an informal hearing (pre-AAA hearing) on this application by filing a petition with the Director, Division of Water. The petition must conform to administrative rule 310 IAC 0.6-3-2.3 as follows:

"a. This section establishes the requirements for a petition to request a public hearing under IC 14-3-18-11(a)(2).

b. The petition shall include the signatures of at least twenty-five (25) individuals who are at least eighteen (18) years of age and who reside in the county where the licensed activity would take

place or who own real property within one (1) mile of the site of the proposed or existing licensed activity.

c. The complete mailing addresses of the petitioners shall be typed or printed legibly on the petition.

d. Each individual who signs the petition shall affirm that the individual qualifies under subsection (b).

e. The petition shall identify the application for which a public hearing is sought, either by division docket number or by the name of the applicant and the location of the permit."

AFFIRMATION OF PERSONAL OR FIRST CLASS MAIL SERVICE

I have provided notice to the listed adjacent property owners in conformance with the provisions of IC 14-3-18 and 310 IAC 0.6 (as outlined on the reverse side if this document) through the method indicated below.

Property Owner (if not applicant) or adjacent landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

Adjacent Landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

Adjacent Landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

Adjacent Landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

Adjacent Landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

Adjacent Landowner: Address (Street, P.O. Box or Rural Route: City, State and ZIP Code:	☐ Personal service was provided on: ___________________(date) ☐ First Class main service was provided on: ____________(date) and I affirm that 21 days have passed without the mailing being returned as undelivered or undeliverable (Postal Service Form 3817 attached as proof).

I hereby swear or affirm, under the penalties for perjury, that the aforementioned statements and representations are true and accurate.

____   __________________________

Signature of Applicant or Authorized Representative   Date