US Army Corps
of Engineers®
Louisville, Detroit, and Chicago Districts

INDIANA REGIONAL GENERAL PERMIT No. 001

AREA OF COVERAGE: All "waters of the U.S." in the State of Indiana, including Tribal Lands.
EFFECTIVE DATE: December 15, 2024
EXPIRATION DATE: December 15, 2029

AUTHORITIES: Section 404 of the Clean Water Act (33 U.S.C. 1344) for discharges of dredged and/or fill material into waters of the United States (U.S.), and Section 10 of the Rivers and Harbors Act (RHA) of 1899 (33 U.S.C. 403) for work and structures in or affecting any navigable water of the U.S.

AUTHORIZED ACTIVITIES: The following activities are covered under this permit:

1. Bank Stabilization Activities
2. Transportation Projects
3. Residential, Commercial, Institutional, Industrial, Municipal, and Recreational Developments
4. Boat Ramps
5. Minor Discharges and Excavation Activities
6. Agricultural Activities
7. Mining Activities

EXCLUDED ACTIVITIES:

1. Activities that are denied any required local, State, or Federal authorization.
2. Activities that do not comply with the General and Activity-Specific Conditions of this Permit.
3. Activities involving dredging greater than 10,000 cubic yards of material within navigable waters subject to Section 10 of the Rivers and Harbors Act.
4. Activities involving the loss of:
    a. greater than one (1) acre of natural open water (not man-made) and/or Special Aquatic sites, including wetlands. No waivers will be considered for losses exceeding this limit;
    b. greater than two (2) acres of man-made open water. Examples of man-made open waters includes features such as ponds, impoundments, and borrow/mining pits. No waivers will be considered for losses exceeding this limit;

c. greater than 1,500 linear feet or one (1) acre of stream bed or shoreline, whichever amount is less unless the District Engineer grants a waiver of the limitation pursuant to activity-specific conditions.
d. A single and complete activity cannot result in loss of waters exceeding the most restrictive limitation in a, b, or c above (excluding any proposed activity under the "Minor Discharges and Excavation Activities" category that has a maximum limitation of ½-acre).

5. Any activity that the District Engineer has determined may have unacceptable adverse impacts on aquatic resources or other public interest factors and therefore requires an Individual Department of the Army permit.

ACTIVITY-SPECIFIC CONDITIONS AND NOTIFICATION REQUIREMENTS

1. BANK STABILIZATION

Installation of bank/shoreline stabilization measures to alleviate erosion where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Temporary structures, fills, and work necessary to construct the bank stabilization project are also included.[1]

- The proposed bank stabilization activity shall be justified based on a demonstrated need for erosion alleviation/prevention. This category does not include maintenance activities, which may be authorized under a Nationwide Permit.
- No material shall be placed in excess of the minimum needed for erosion protection.
- The proposed fill is limited to two (2) cubic yards per running foot below the plane of the ordinary high water mark or high tide line, and a maximum length of 1,500 linear feet, unless the District Engineer waives the relevant criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects on the aquatic environment. Agency coordination is required for all waiver requests [see Pre-Construction Notification (PCN) Information].
    - The use of vegetative and biotechnical practices may not be subject to the maximum limitations of this category, provided the District Engineer waives the relevant criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects on the aquatic environment. Biotechnical practices are defined as bank stabilization practices that benefit the aquatic environment by incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation. Examples of biotechnical practices include but are not limited to: a) adequately sized, vegetated riprap; b) vegetated geogrids; c) coconut fiber (coir) logs; d) live, woody vegetative cuttings, fascines or stumps; e) brush layering; and f) soil lifts.
- Riprap shall not be placed on a slope steeper than 2H:1V for dumped riprap and 1.5H:1V for hand-placed riprap.

[1]Certain bank and shoreline stabilization and boat ramp activities may be authorized under the Programmatic General Permit (PGP) for Minor Activities in Indiana issued March 6, 2023, if they are proposed in Public Freshwater Lakes pursuant to IC-14-26-2 and specific waterways regulated under the Flood Control Act (IC 14-28-1) and as Navigable Waters (IC 14-29-1). The PGP is located at: https://www.lrd.usace.army.mil/Wetlands-Permits/Article/3647635/regulatory-program-indiana/.

- Bank stabilization shall be constructed using clean fill materials [33 CFR Part 323.3(e)]. If broken concrete is used, it shall be free from asphalt and oils. Additionally, all protruding material, such as re-bar, shall be cut flush with the surface of the concrete and disposed of in an appropriate landfill or other waste disposal facility.
- All material utilized shall be properly sized and/or anchored to resist anticipated hydraulic forces.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity if the proposed bank stabilization: 1) occurs within a Section 10 water; 2) Involves discharges into special aquatic sites, including wetlands; 3) is in excess of 500 linear feet in length; 4) will involve the discharge of greater than an average of one cubic yard per running foot as measured along the length of the treated bank below the plane of the ordinary high water mark or high tide line, or 5) the activity may affect threatened and/or endangered species or designated critical habitat or might have the potential to cause effects to a historic property listed on or potentially eligible for listing on the National Register of Historic Places (see "Form and Content of PCN").

2. TRANSPORTATION PROJECTS

Activities include the construction, expansion, modification, or improvement of linear transportation infrastructure including roads, bridges, runways/taxiways, bike/pedestrian pathways, and railroads where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Temporary structures, fills, and work necessary to construct the linear transportation project are also included.

- Linear transportation projects involving multiple single and complete crossings of waters of the U.S. are subject to the maximum limitations described in the "EXCLUDED ACTIVITIES" section of this permit for each crossing.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity if: 1) the activity occurs within a Section 10 water; 2) the loss of stream channel exceeds 0.03 acre; 3) there is a discharge in a special aquatic site, including wetlands, or 4) the activity may affect threatened and/or endangered species or designated critical habitat or might have the potential to cause effects to a historic property listed on or potentially eligible for listing on the National Register of Historic Places (see "Form and Content of PCN").

3. RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, INDUSTRIAL, MUNICIPAL, AND RECREATIONAL DEVELOPMENTS

Activities include the construction or expansion of a single residence, a multiple unit residential development, a residential subdivision, commercial and institutional buildings, and recreational facilities, and piers/docks where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Attendant features may include but are not limited to roads, parking lots, garages, yards, utilities, stormwater infrastructure and management facilities, septic fields, and recreational facilities (such as playgrounds, playing fields, golf courses, hiking trails, bike paths, horse paths, nature centers, and campgrounds). The maximum limitations specified in the "EXCLUDED ACTIVITIES" section of this permit will be applied on a cumulative basis for activities that are integrally related to an overall development (single and complete non-linear project). Temporary structures, fills, and work necessary to construct the project are also included.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity.

4. BOAT RAMPS

Activities required for the construction or expansion of boat ramps where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Temporary structures, fills, and work necessary to construct the project are also included.[1]

- The proposed boat ramp shall not exceed 60 feet in width, unless the District Engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects on the aquatic environment. Agency coordination is required for all waiver requests [see Pre-Construction Notification (PCN) Information].
- Boat ramps shall be constructed of crushed stone, concrete, gravel, or other suitable clean material. Boat ramps constructed from asphalt are not authorized under this permit.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity if: 1) the activity occurs within a Section 10 water; 2) the proposed discharge into waters exceeds 50 cubic yards, 3) the boat ramp exceeds 20 feet in width, or 4) the activity might affect threatened and/or endangered species or designated critical habitat or might have the potential to cause effects to a historic property listed on or potentially eligible for listing on the National Register of Historic Places (see "Form and Content of PCN").

5. MINOR DISCHARGES AND EXCAVATION ACTIVITIES

Activities include minor discharges of dredged or fill material and excavation resulting in the discharge of dredged or fill material into waters of the U.S. where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Temporary structures, fills, and work necessary to construct the project are also included.

- The discharge will not result in the loss of greater than 1/2-acre of waters of the United States.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity.

6. AGRICULTURAL ACTIVITIES

Discharges of dredged or fill material into waters of the U.S. for agricultural activities such as the construction of building pads for farm buildings and installation, placement, removal, maintenance, relocation, or construction of drainage tiles, ditches, or levees where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit. Temporary structures, fills, and work necessary to construct the project are also included. This permit does not apply to those activities that are exempt from regulation in accordance with 33 CFR Part 323.4 or are exempt under CWA Section 404(f)(1)(a).

- Discharges are subject to the maximum limitations described in the "EXCLUDED ACTIVITIES" section of this permit, unless the District Engineer waives the relevant criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects on the aquatic environment. Agency coordination is required for all waiver requests [see Pre-Construction Notification (PCN) Information].

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity.

7. MINING ACTIVITIES

Discharges of dredged or fill material into waters of the U.S. for mining activities where the proposed activity does not otherwise meet the Terms and Conditions of a Nationwide Permit and is not a coal mining activity. Temporary structures, fills, and work necessary to construct the project are also included.

- Discharges are subject to the maximum limitations described in the "EXCLUDED ACTIVITIES" section of this permit, unless the District Engineer waives the relevant criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects on the aquatic environment. Agency coordination is required for all waiver requests [see Pre-Construction Notification (PCN) Information].
- If reclamation is required by other statutes, a copy of the reclamation plan shall be submitted with the PCN.

Notification: The permittee shall submit a pre-construction notification to the District Engineer prior to commencing the activity.

PRE-CONSTRUCTION NOTIFICATION (PCN) INFORMATION

Projects that meet the terms and conditions of this permit and do not require pre-construction notification may commence work after the project proponents have confirmed that the activity will be conducted in compliance with all applicable terms and conditions of the Regional General Permit (RGP).

For all activities which require PCN, project proponents shall obtain written verification from the Corps that the proposed activity meets the terms and conditions of the RGP prior to beginning regulated work. The written verification may include any special conditions imposed by the Corps to ensure the proposed project will not result in more than minimal impact to aquatic resources, public interest factors, and/or to comply with other federal regulations (see General Conditions). The PCN shall include all other Nationwide Permits, Programmatic General Permits, Letters of Permission, or Individual Permits used or intended to be used to authorize any part of the overall project (including all single and complete crossings), including regulated activities that require Corps authorization but do not require PCN.

Timing of PCN: Where required by the terms of this permit, the prospective permittee shall notify the Corps by submitting a PCN as early as possible. Typically, the Corps will provide a written verification within sixty (60) days of receipt of a complete application. However, additional information may be requested from the project proponent to ensure the proposed project meets all

terms and conditions of the RGP, including compliance with other federal regulations.

Form and Content of PCN: The PCN shall be in writing and may utilize the most recent version of either the Corps Application for Department of the Army Permit Form ENG FORM 4345, the Nationwide Permit Pre-Construction Notification (PCN) ENG FORM 6082, or the Section 401 WQC Regional General Permit Notification (State Form 51937). Projects proposed on tribal land must utilize ENG FORM 4345 or ENG FORM 6082 for submittal of Section 401 Water Quality Certification requests to the U.S. Environmental Protection Agency. The PCN should be submitted to the appropriate Corps District electronically unless there are extenuating circumstances requiring submittal of hard copies via regular mail (see Appendix A). Applicants are encouraged to utilize the Regulatory Request System, an online application portal, at https://rrs.usace.army.mil/rrs to submit the PCN. A complete PCN shall include:

1. Contact information including the name, mailing address, email address, and telephone numbers of the prospective permittee and any third-party agents.
2. Location of the proposed activity (i.e. property address, PLSS or coordinates in decimal degrees).
3. Description of the proposed activity and its purpose; itemization of the area/length/volume of proposed dredged and/or fill material to be discharged (permanent or temporary, including permanent conversion of an aquatic resource type and/or function); description of avoidance and minimization measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other general or standard permits to be used to authorize any part of the overall project (including all single and complete crossings), including regulated activities that require Corps authorization but do not require PCN.
4. A statement describing how compensatory mitigation requirements will be satisfied, or a justification as to why compensatory mitigation should not be required. See General Condition 6 for more information.
5. The PCN shall specify the duration any temporary fill and structures will remain in place, and it shall include a restoration plan showing how all temporary fill would be removed and the project site restored to preconstruction conditions (See General Condition 5).
6. Graphics (such as maps, plan sheets, aerials, etc.) depicting the project location and the proposed extent of fill in relation to the location of any waters of the U.S. within the overall project tract. All drawings should be to scale or depict exact dimensions.
7. Delineation of wetlands, other special aquatic sites, and other waters (such as lakes, ponds, and streams). Wetland delineations shall be prepared in accordance with the Corps of Engineers' 1987 Wetland Delineation Manual, Technical Report Y-87-1 and the appropriate Regional Supplement for the proposed project area.
8. Federally-listed threatened or endangered species (or species proposed for listing) or proposed or designated critical habitat: For all activities, the applicant shall review the U.S. Fish and Wildlife Service's IPaC website: http://ecos.fws.gov/ipac to determine if the activity might affect threatened and/or endangered species or designated critical habitat. The official species list generated from the IPaC website shall be submitted with the PCN. Federal applicants: applicants that have federal funding, or those whose project otherwise involves a lead federal agency that is not the Corps shall provide documentation demonstrating compliance with Section 7 of the Endangered Species Act with the PCN.
9. If an activity might have the potential to cause effects to a historic property listed on or potentially eligible for listing on the National Register of Historic Places, the PCN shall state which historic property might be affected by the proposed undertaking and include a vicinity map indicating the location of the historic property. Federal applicants: applicants

that have federal funding, or those whose project otherwise involves a lead federal agency that is not the Corps shall provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act with the PCN.

10. If a waiver is proposed for an activity-specific criterion, the PCN shall include an explanation of the need for a waiver and why the applicant believes the impacts would result in minimal individual and cumulative adverse environmental effects.
11. For an activity that required permission from, or review by, the Corps pursuant to Section 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the PCN shall include a statement confirming if the project proponent has submitted a written request for Section 408 permission from, or review by, the Corps office having jurisdiction over the Corps civil works project.

Agency Coordination:
Waivers: Agency coordination is required for any proposed project requesting a waiver from an activity-specific criterion. When it is determined that agency coordination is required, the District Engineer will immediately provide a copy of the complete PCN to the appropriate Federal [U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service] or state agency (Indiana Department of Natural Resources, Indiana Department of Environmental Management). Agencies will have ten (10) calendar days from the date the material is transmitted to notify the District Engineer that they intend to provide substantive, site-specific comments. The comments shall explain why the agency believes the adverse environmental effects will be more than minimal. If contacted by an agency, the District Engineer will wait an additional fifteen (15) calendar days before making a decision on the PCN. The District Engineer will fully consider agency comments received concerning the proposed activity within the specified time frame, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The District Engineer will provide no response to the resources agencies and will indicate in the administrative record associated with each PCN that the resource agencies' concerns were considered.
Utility Line Activities: Where the utility (pipeline, sewer, transmission line, etc.) is constructed, installed, or maintained within the Great Lakes, a copy of the RGP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the oil or natural gas pipeline to protect navigation.
Electric Utility Lines and Telecommunications Activities: For overhead electric utility lines and telecommunication lines authorized by this RGP, a copy of the PCN and RGP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

GENERAL CONDITIONS

To qualify for this RGP authorization, the prospective permittee shall comply with the following conditions, as applicable, in addition to the Activity-Specific Conditions and any special conditions imposed by the Corps.

1. Compliance: Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable general/activity-specific conditions as well as any conditions added by the Corps to an RGP authorization.

2. Section 401 Water Quality Certification: The project proponent shall comply with the Section 401 Water Quality Certification issued by the Indiana Department of Environmental Management (see Appendix B). For projects proposed within tribal land, the project proponent shall comply with the Section 401 Water Quality Certification issued by the U.S. Environmental Protection Agency (see Appendix C). If the project fails to meet the terms and conditions of the Certification(s) of this RGP or is otherwise notified by the state or U.S. EPA that an Individual 401 Water Quality Certification is required, the project proponent shall submit a Certification Request in accordance with the procedures in 40 CFR Part 121. The permittee shall provide a copy of the Individual Water Quality Certification or waiver of the Certification to the Corps prior to receiving written verification of the RGP authorization. Any conditions imposed in an individual Section 401 Water Quality Certification are included as conditions to this RGP.
3. Site Inspection: The permittee shall allow representatives from the Corps to inspect the proposed project site, authorized activity, and/or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the RGP.
4. Compliance Certification: The permittee shall submit a signed certification letter within thirty (30) days upon completion of the authorized activity and implementation of any required mitigation. A certification form will be included with the written RGP verification from the Corps. Alternately, a letter can be submitted to the Corps that includes a statement that the that the work was completed in accordance with the terms and conditions of the RGP, including the implementation of ay required mitigation.
5. Restoration of Temporary Impacts: All temporary impacts in waters of the U.S. that occur as a result of the regulated activity shall be fully contained with appropriate erosion control or containment methods, be restored to pre-construction contours and elevations, and, as appropriate, revegetated with native, non-invasive vegetation (unless otherwise addressed in a special condition in the Corps' verification letter).
6. Mitigation:
    a. In accordance with the Federal Mitigation Rule (33 CFR Part 332), the Section 404(B)(1) Guidelines (40 CFR Part 230), and current Corps policies, guidelines, and procedures for compensatory mitigation, regulated activities shall be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site (i.e., on-site).
    b. After all practicable steps to avoid and minimize adverse effects to waters of the U.S. have been considered, the Corps may require compensatory mitigation to ensure the regulated activity results in no more than minimal adverse environmental effects or will not be contrary to the public interest.
    c. Compensatory mitigation at a minimum one-for-one ratio is required for activities that would result in the loss of greater than 1/10th acre of special aquatic sites, including wetlands, and/or the loss of greater than 0.03 acre of stream bed, unless the District Engineer has determined the project will not result in more than minimal adverse effect to the aquatic environment and provides an activity-specific waiver of this requirement.
    d. Regulated activities eligible for this RGP shall include a statement describing how compensatory mitigation requirements will be satisfied, or an explanation why compensatory mitigation should not be required for proposed impacts to waters of the U.S. Project proponents may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory

mitigation proposal, the project proponent shall consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). Compensatory mitigation projects provided to offset losses of aquatic resources shall comply with the applicable provisions of the current Corps policies, guidelines, procedures, and the Federal Mitigation Rule (33 CFR 332).

e. In reviewing the complete PCN for the proposed activity, the Corps will determine whether the activity authorized by the RGP will result in more than minimal individual or cumulative adverse environmental effects or be contrary to the public interest. The Corps will issue the RGP verification for that activity if it meets the terms and conditions of the RGP, unless the Corps determines, after considering compensatory mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environmental and other aspects of the public interest. When this occurs, the Corps will exercise discretionary authority to require an individual permit evaluation for the proposed regulated activity.

7. Suitable Materials: No activity, including structures and work in waters of the U.S. or discharges of dredged or fill material, may use unsuitable material, including auto bodies, tires, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous material, broken concrete containing asphalt, or any material containing toxic pollutants in toxic amounts (See Section 307 of the Clean Water Act).
8. Navigation: (a) No activity authorized by the RGP may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, shall be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army, or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
9. Electric Utility and Telecommunications Line minimum clearances: Electric utility lines or telecommunication lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).
10. Water Supply Intakes: The permittee shall not perform any work under the RGP where the discharge of dredged and/or fill material will occur in the proximity of a public water supply intake except where the activity is for the repair or improvement of the public water supply intake structures or adjacent bank stabilization.
11. Impoundment Structures:
    a. To ensure that all impoundment structures are safely designed, the District Engineer may require non-federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons, i.e., a licensed engineer. The District Engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

b. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow shall be minimized to the maximum extent practicable.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters shall be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity shall be constructed to withstand expected high flows. The activity shall not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
13. Fills within 100-year Floodplains: The activity shall comply with applicable FEMA-approved state or local floodplain management requirements.
14. Construction Equipment: All construction equipment shall be refueled and maintained on an upland site away from existing streams, drainage ways and wetland areas. Heavy equipment working in wetlands shall be placed on mats, or other measures taken to minimize soil disturbance.
15. Best Management Practices: Appropriate soil erosion and sediment controls shall be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, shall be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
16. Aquatic Life Movements and Spawning Areas: No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. Activities in spawning areas during spawning seasons shall be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
17. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
18. Endangered Species:
    a. No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a federally threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act (ESA), 50 CFR Part 402, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under the RGP which "may affect" a listed species or critical habitat unless ESA Section 7 consultation addressing the effects of the proposed activity has been completed and a Corps RGP verification letter is issued. Direct effects are the immediate effects on listed species and critical habitat caused by the RGP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the RGP activity and are later in time, but still are reasonably certain to occur.
    b. As a result of formal or informal consultation with the FWS, the Corps may add species-specific permit conditions to the RGP verification.

c. Information on the location of federally threatened and endangered species and their critical habitat can be obtained directly from the FWS on their website at www.fws.gov/ipac.

19. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for obtaining any "take" permits required under the USFWS' regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
20. Historic Properties:
    a. No activity which may affect historic properties listed or eligible for listing on the National Register of Historic Places is authorized until the requirements of Section 106 of the National Historic Preservation Act have been satisfied. Federal proponents should follow their own procedures for complying with the requirements of Section 106 and provide documentation of compliance with those requirements.
    b. Information on the location and existence of historic resources can be sought from the DNR, Division of Historic Preservation and Archaeology (State Historic Preservation Office) and the National Register of Historic Places.
21. Discovery of Previously Unknown Remains and Artifacts: If any previously unknown historic, cultural, or archaeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the permittee shall immediately notify the Corps of what has been found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the federal, tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
22. Federally Authorized Corps Civil Works projects: A permittee is not authorized to begin any regulated activities described in this RGP if activities will alter or temporarily or permanently occupy or use a Corps federally authorized civil works project, unless the appropriate Corps office issues Section 408 permission to alter, occupy, or use the Corps civil works project (pursuant to 33 U.S.C. 408), and the Corps issues a written RGP verification.
23. Construction Period: If construction of the project has commenced or is under contract to commence prior to the RGP expiration date, the applicant shall complete the project within one (1) year of the RGP expiration date.
24. Transfer of Regional General Permit Verifications: If the permittee sells the property associated with a regional general permit verification, the permittee may transfer the general permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the original permit verification shall be attached to the letter, and the letter shall contain the following statement and signature:

    "When the structures or work authorized by this regional general permit are still in existence at the time the property is transferred, the terms and conditions of this [nationwide/regional general] permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this regional general permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____
(Transferee)

_____
(Date)

DEFINITIONS

The term "you" and its derivatives, as used in this permit, refer to the permittee or any future transferee. The term "Corps" refers to the U.S. Army Corps of Engineers. The term "activity," as used in this permit, includes all structures, work, and fills authorized under this permit.

Definitions found at 33 CFR Parts 320-332 and 40 CFR Part 230 are applicable to this regional general permit and are incorporated by reference herein, in addition to the following definitions:

Best Management Practices: Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory Mitigation: The restoration, (re-establishment or rehabilitation), establishment (creation), enhancement and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not

include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for the RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the RGP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters.

Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality.

Single and complete linear project: A linear project is a project constructed for the purpose of

getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project shall have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an RGP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

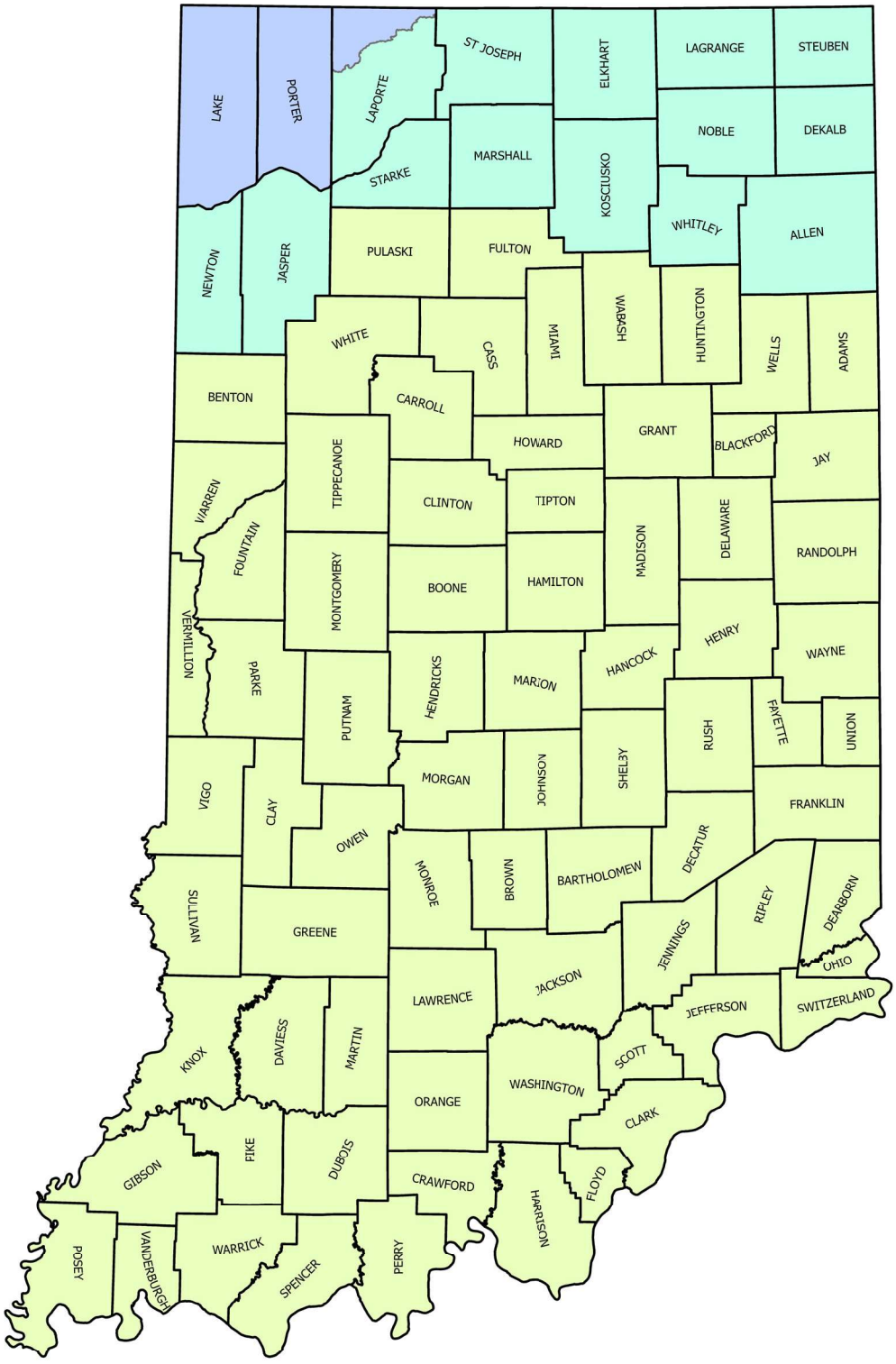
Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of this RGP, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2))

APPENDIX A:
U.S. ARMY CORPS OF ENGINEERS INDIANA REGULATORY DISTRICT BOUNDARY MAP



Louisville District

U.S. Army Corps of Engineers
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P.O. Box 59
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CELRL.Door.To.The.Corps@usace.army.mil

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Chicago District

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US Army Corps of Engineers®

Indiana Regulatory District Boundaries

Date: 5/28/2024

APPENDIX B:
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
SECTION 401 WATER QUALITY CERTIFICATION

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
We Protect Hoosiers and Our Environment.
100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

Section 401 Water Quality Certification for the 2024 Reissuance of Indiana Regional General Permit No. 1

Authorization Number:	2024-543-00-RGP-WQC
USACE Number:	LRL-2023-00656 LRE-2014-00571-100-S24 LRC-2024-286
Authority:	327 IAC 2. CWA Sections: 301, 302, 303, 306, 307, & 401
Effective Date:	December 15, 2024
Expiration Date:	In the absence of another action by IDEM that would alter the termination date of this certification, this certification will expire on December 15, 2029, the expiration date of the federal permit this certifies.
Approved:	 _____for___ Martha Clark Mettler Assistant Commissioner Office of Water Quality
Applicant / Permittee:	U.S. Army Corps of Engineers

The Office of Water Quality has reviewed the Joint Public Notice/Application for Section 401 Water Quality Certification (WQC) dated June 6, 2024. According to the application, the U.S. Army Corps of Engineers (USACE) proposes to reissue the Regional General Permit No. 1 (RGP #1) for the state of Indiana. The RGP #1 is intended to authorize activities that cause minimal individual and cumulative impacts to the aquatic environment.

Based on available information, it is the judgment of this office that the RGP #1 will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act if the recipient of the certification complies with the conditions set forth below. Therefore, subject to the following terms and conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 WQC for the RGP #1. Any changes in the language or scope of the RGP #1 not detailed in the Joint Public Notice/Application, or as modified by the conditions below, are not authorized by this certification.

APPLICANT RESPONSIBILITIES:

(1) An applicant seeking coverage under this Section 401 WQC must:

(a) Demonstrate, via letter from the Indiana Department of Natural Resources (IDNR), Division of Nature Preserves, Indiana Heritage Data Center (IDHC) that no state endangered, threatened, or rare (ETR) species are documented on a permanent or seasonal basis within ½-mile radius of the proposed project site.

1. Information on obtaining an ETR letter from the IDNR can be found at the following website (current as of August 2024): https://indhcdatarequest.dnr.in.gov/
2. If any species are listed in the ETR letter, the applicant must provide further documentation from the IDNR that states the project will not impact the listed species. Information on obtaining further documentation from the IDNR regarding species impacts will be provided in the ETR letter.

(b) Submit a notice of intent using the most current version of the Section 401 WQC Regional General Permit notification form as provided by IDEM (referred to hereinafter as the "notification") at least 30 days prior to the activity.

Note: Upon adoption of an online system, IDEM will only accept applications and other documents through the online portal.

1. The notification submitted to the IDEM Office of Water Quality must, at a minimum, provide the following information:
   i. Applicant information,
   ii. Project location including maps,
   iii. Description and photos of existing project site conditions,
   iv. Description of all temporary and permanent project impacts,
   v. Illustrations of the proposed project plans including, but not limited to, cross sections depicting the bankfull width or ordinary high water mark and extent of fill within streams, cross sections depicting extent of fill within wetlands or open water, engineering plans, etc.
   vi. Restoration plan returning all temporary impact areas to pre-construction grades, contours, and vegetated conditions. The restoration plan should include plans for the removal of temporary fill, grading/compaction, seeding, planting, success criteria, and any necessary maintenance/monitoring;
   vii. ETR letter,
   viii. Copies of all correspondence from USACE, if applicable.

2. Failure to submit all required information will result in the project being considered out-of-scope and not authorized.

(c) Provide any additional information required by the IDEM to verify that a given project will qualify under the terms and conditions of this Section 401 WQC. If the applicant fails to provide any requested information, the project is not authorized.

(d) Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials, to enter upon the applicant's property to inspect the project site during the review of a proposed project.

PERMITTEE RESPONSIBILITIES

(1) Permittees qualifying for impacts under this Section 401 WQC must:

(a) Execute the project per the information contained in the notification submitted to the IDEM.

(b) Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials to:

1. Enter upon the permittee's property.
2. Access and copy at reasonable times any records that must be kept under the conditions of this certification.
3. Inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facility or device; practices required by this certification; and any mitigation wetland site.
4. Sample or monitor any discharge of pollutants or any mitigation site.

(c) Obtain any other permits or authorizations required for this project or related activities from IDEM or any other local, state, or federal agency or person.

1. Land-disturbing activities of one (1) acre or more or disturbances of less than an acre that are part of a larger common plan will require permit coverage for discharges associated with construction site run-off. Additional information should be obtained through the IDEM Stormwater Program at www.in.gov/idem/stormwater or by phone at 317-233-1864 or via email at Stormwat@idem.IN.gov.
2. The Indiana Department of Natural Resources should be contacted concerning the possible requirement of natural freshwater lake or floodway permits at https://www.in.gov/dnr/water/regulatory-permit-programs/ or by phone at 317-232-4160 or toll free at 877-928-3755.

(d) Deposit any dredged material in a contained disposal area outside of any water of the state and implement appropriate measures to prevent sediment run-off to any waterbody.

(e) Install run-off and sediment control measures prior to any land disturbance to manage stormwater and to minimize sediment from leaving the project site or entering a waterbody.

1. All operations must phase project activities to minimize the impact of sediment to the receiving waterbody(ies). Erosion and sediment control measures must be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities. Wetlands and/or waterbodies adjacent to land-disturbing activities must be protected with appropriate sediment control measures.
2. As work progresses, if the area is to be left temporarily undisturbed for 15 days or more, all areas void of protective cover must be re-vegetated or stabilized. Areas that are to be re-vegetated must utilize mulch that is anchored or, under more severe conditions, erosion control blankets.
3. Erosion control blankets must be biodegradable, with loose-woven/leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes, frogs, and turtles.
4. Additional standards and specifications for stormwater management, including erosion and sediment control can be obtained in the Indiana Stormwater Quality Manual (https://www.in.gov/idem/stormwater/resources/indiana-storm-water-quality-manual/) or similar guidance documents.

TERMS OF THIS SECTION 401 WQC:

(1) Although a project may meet the terms and conditions of this certification, IDEM may require an individual Section 401 WQC if the agency determines that the project would potentially have more than minimal impacts to water quality, either viewed individually or collectively with other projects that may impact the same watershed affected by the proposed project. If IDEM determines that an individual Section 401 WQC is required, the applicant must resubmit the project proposal with the appropriate application form and all required enclosures.

(2) IDEM retains the right to review, modify, terminate, replace or amend this certification as needed to ensure that the federal permits or licenses certified do not result in violations of Indiana’s Water Quality Standards or other applicable state laws.

CONDITIONS OF THIS SECTION 401 WQC

(1) This Section 401 WQC does not:

(a) Convey any property rights of any sort, or any exclusive privileges.

(b) Preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities.

(2) This Section 401 WQC does not authorize:

(a) Impacts or activities that do not meet the terms and conditions of this Section 401 WQC. Such activities require an individual Section 401 WQC from the IDEM.

(b) Any injury to permittees or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations.

(c) Changes to the original plan design detailed in the notification. Any modifications will require a new verification.

(d) The discharge of pollutants, principally sediment, associated with stormwater run-off.

(e) The discharge of material other than clean fill[1] and uncontaminated dredged material.

(f) Activities on or in any of the State's waters that have been designated as salmonid waters (cold water streams) or tributaries of salmonid waters within a two river mile reach upstream from the confluence with the salmonid water (see Attachment 1) unless the activity is conducted outside the salmonid fish spawning dates of March 15 through June 15 and from July 15 through November 30 and meets the following applicable conditions:

1. Bank stabilization activities must:
   i. Be completed using bioengineered methods, riprap, and/or glacial stone, that conforms to the existing shoreline and does not project out into the channel, and
   ii. Not create a wall.
   iii. Not include the installation of cofferdams, causeways, temporary access roads, or dewatering activities.

[1] Clean fill, for purposes of this WQC, means uncontaminated rocks, bricks, concrete without rebar, road demolition waste materials other than asphalt, or earthen material. It does not include any material that would cause water pollution.

2. Encapsulations must:
    i. Be installed to span the width of the ordinary high water mark (OHWM), and be embedded in accordance with Condition 3(h)7 below, and
    ii. Not include the installation of cofferdams, causeways, temporary access roads, or dewatering activities.

(g) Activities on or in any Outstanding State and/or National Resource waters (see Attachment 1), or in any critical wetland or critical special aquatic sites (see Attachment 2).

(h) Activities associated with the establishment of a mitigation bank.

(i) Activities with a cumulative permanent impact exceeding one or both of the following thresholds:

1. Twenty-five hundredths (0.25) acre of waters of the U.S.
2. 500 linear feet of waters of the U.S.
3. Note, activities with a cumulative permanent impact exceeding one-tenth (0.10) acre or 300 linear feet of waters of the U.S. must comply with the mitigation requirements listed in Condition (3)(c) below. Permanent impacts include any placement of fill below the ordinary high water mark of a stream or within wetlands including, but not limited to maintenance of currently existing fill and structures, replacement of encapsulations, and placement of riprap.

(j) Activities with a cumulative temporary impact exceeding twenty-five hundredths (0.25) acre of waters of the U.S.

(k) Activities with a cumulative temporary impact exceeding 500 linear feet of streambank or shoreline.

(l) Activities that will permanently change the sinuosity, flow path, velocity, cross-sectional area under the Ordinary High Water Mark (OHWM), or the slope of a stream[2] except those that may be authorized through compliance with Conditions (3)(a), (3)(d), and (3)(f).

(m) The installation of encapsulations for purposes other than road, driveway, and pedestrian crossings.

(n) The placement of devices meant to retain sediment within Waters of the United States.

[2] Stream, for the purposes of this WQC, means waters of the U.S. that have a defined bed and bank and convey water ephemerally, intermittently, or perennially. This term includes natural streams, relocated streams, channelized streams, artificial channels, encapsulated channels and ditches.

(3) This Section 401 WQC authorizes:

(a) Activities that do not result in a permanent secondary effect to waters of the U.S. Potential secondary effects include, but are not limited to damming, loss of hydrology, and creation of in-channel ponds.

(b) Multiple impacts on a project as long as the cumulative amount of those impacts are less than the most restrictive thresholds of this Section 401 WQC.

(c) Activities with a cumulative permanent impact exceeding one-tenth (0.10) acre or 300 linear feet of waters of the U.S, provided the following conditions are met:

1. When activities exceed one or both of the above impact thresholds, mitigation for all stream, open water, and wetland impacts is provided at the following ratios:
   i. 1:1 for streams, open water, and farmed wetland
   ii. 2:1 for emergent wetland
   iii. 3:1 for scrub shrub wetland
   iv. 4:1 for forested wetland

2. Mitigation is provided through the following mechanisms:
   i. Mitigation credits are purchased from an approved compensatory mitigation bank or through the Indiana Stream and Wetland Mitigation Program (in-lieu fee (ILF)).
   ii. Mitigation credits are purchased in the bank or ILF service area where the impacts occur.
   iii. Sufficient proof of mitigation credit availability in the service area is provided to IDEM with the notification materials.
   iv. Note: Credits may not always be available.
   v. Failure to purchase credits before impacting water resources will require an individual 401 WQC and may result in additional mitigation requirements to compensate for temporal loss of water resource functions.
   vi. Permittee responsible mitigation is not authorized under this 401 WQC.
3. IDEM will consider mitigation obligations to be fulfilled upon receipt of proof of a finalized credit:
   i. Before the impacts occur. Note: Banks and ILF programs may require 30 days or more to finalize a purchase.
   ii. Within one (1) year of IDEM's receipt of the RGP Notification form

(d) Minimal changes to stream morphology, including minor relocations, which result in a net benefit to the aquatic ecosystem. Minor stream relocations may be authorized, provided the activity:

1. Is associated with the installation of a stream crossing or replacement of an existing crossing, and results in a net benefit to the stream morphology.
2. Does not reduce the cross-sectional area under the OHWM.
3. Is accompanied by an acceptable restoration/stabilization plan.
4. Does not accelerate stream instability. Examples of instability include, but are not limited to, stream bank erosion, channel enlargement, channel incision, degradation, aggradation, meander migration (down-valley and lateral accretion), avulsion and base-level shifts.

(e) Stream bank stabilization activities or new lake and reservoir shoreline stabilization that will permanently affect 500 linear feet or less when the applicant demonstrates that the bank or shoreline in question is unstable. Natural shoreline stabilization methods are required where there is no pre-existing seawall or other shoreline hard armament on a lake or reservoir. Natural shoreline stabilization methods include bank stabilization practices that benefit the aquatic environment by incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation.

(f) Placement of appropriately sized riprap or other bank stabilization materials provided the design and installation is flush with the upstream and downstream bank and stream channel/lakebed elevations and grades. Geotextile under riprap on slopes that exceed 2:1 is not authorized.

(g) New bridge piers, piles, shafts or other support structures and their associated scour protection measures that do not significantly reduce the cross-sectional area of the stream and are located below the OHWM and outside the low flow channel of the stream.

(h) Permanent stream encapsulations that:

1. Are for the purpose of constructing a road, driveway, or pedestrian crossing.
2. Allow the passage of aquatic organisms in the waterbody.
3. Do not exceed 150 cumulative linear feet across all encapsulations within the scope of the project including replacement of existing encapsulations.
4. Have a cross-sectional area at least twenty percent (20%) larger than the area under the OHWM of the stream immediately upstream and downstream of the encapsulation. If multiple parallel encapsulations are proposed for a single crossing, then

i. At least one (1) encapsulation must meet the above cross-sectional area requirement.
ii. The largest encapsulation meeting the cross-sectional area requirement must be positioned in the channel to align with the existing low flow channel, and
iii. Secondary encapsulations must be placed off-center and at higher elevation to handle high flow events.

5. Have a streambed slope within the encapsulation that matches the slope of the bed both immediately upstream and downstream.
6. Do not create or accelerate stream instability. Examples of stream instability include, but are not limited to head cutting, stream bank erosion, channel enlargement, channel incision, degradation, aggradation, meander migration, (down-valley and lateral accretion), avulsion and base-level shifts.
7. Either have no bottom (e.g., three sided culvert) or are embedded (sumped)[3] into the stream channel based on the following structure sizes
and substrate types:
   i. Stream bed of sand
      - Structure < four (4) feet wide: Six (6) inch sump
      - Structure four (4) feet wide to 12 feet wide: 12 inch sump
      - Structure 12 feet to 20 feet wide: 18 inch sump
   ii. Stream bed of other soil or unconsolidated till[4]
      - Structure < four (4) feet wide: Three (3) inch sump
      - Structure four (4) feet wide to 12 feet wide: Six (6) inch sump
      - Structure 12 feet to 20 feet wide: 12 inch sump
   iii. Stream bed of bedrock or consolidated till[5]
      - Inside elevation of the structure bottom must be a minimum of three (3) inches below the surface of the bedrock or consolidated till.
8. Meet the following requirements when installed in perennial streams with OHWM width of 12 feet or greater. These encapsulations must:
   i. Be sumped to a greater depth if needed for the design of the streambed inside the encapsulation.
   ii. Have a width equal to or wider than the existing OHWM.
   iii. Have a natural stream bottom. If the stream bottom will be disturbed during construction (e.g. four-sided box culverts or pipe culverts or because of footer work for three sided culverts), natural

[3] Sump, for the purpose of this Water Quality Certification, means the inside elevation of the bottom of the structure is placed at a specified depth below the grade of the stream.
[4] Other soil and unconsolidated till includes substrates that are more cohesive and less mobile (e.g. clay, silt, gravel, and cobble substrates).
[5] Consolidated till includes dense hard materials such as hardpan.

stream substrate must be placed in the encapsulation in accordance with “Stream Simulation: An Ecological Approach to Providing Passage for Aquatic Organisms at Road-Stream Crossings” (U.S. Department of Agriculture, Forest Service, 2008: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsm91_054564.pdf)

- Additional guidance can be found in the Federal Highway Administration Hydraulic Engineering Circular No. 26: Culvert Design for Aquatic Organism Passage. https://www.fhwa.dot.gov/engineering/hydraulics/pubs/11008/hif11008.pdf

iv. Have a low flow channel constructed or restored through the encapsulation. The low flow channel must have the same width, depth, and side slope as the natural upstream and downstream low flow channel. If the upstream and downstream channels are highly degraded, a V-shaped channel with 5:1 bank slopes within the structure may be substituted.

(i) Stream pump-around activities, provided:

1. The discharge from the activity does not cause erosion at the outlet.
2. Cofferdam dewatering activities are directed to a filter bag(s), upland sediment basins/traps, or a combination of other appropriate sediment control measures to minimize the discharge of sediment-laden water into waters of the U.S.
3. All sediment control measures are installed and maintained in good working order.
4. Any materials used for an in-stream dam are constructed using non erodible materials. Examples include sandbags and sheet pile walls.
5. Pump-arounds are established in a manner that maintains daily flow rates. This will require maintenance and monitoring of fuel levels to continue pumping as needed including during times construction is not active.

(j) The use of temporary structures provided the structures are removed in their entirety and the stream channel restored to preconstruction grades, contours, and vegetative conditions.

(k) The installation of temporary work causeways, provided:

1. The temporary causeways:
   i. Are constructed of material that can be expected to withstand high flow events.

ii. Are installed in a manner that maintains near normal downstream flows.
iii. Do not interfere with aquatic organism passage.
iv. Do not span the entire width of the channel unless the notification is accompanied by a letter of approval from the Indiana Department of Natural Resources Division of Water.
v. Are constructed using culverts:
- Placed on the channel bottom.
- Kept clear of sediment and debris throughout the use of the causeway
- Maintained in their designed and approved conditions throughout.

2. The stream is restored to preconstruction channel bottom elevations and substrate types following the construction activity.
3. The stream banks and riparian corridor are restored to preconstruction contours, grades, and vegetative condition following the construction activity.

(l) The installation of temporary stream crossings, provided:

1. Temporary stream crossings are:
i. installed in a manner that maintains near normal downstream flows.
ii. Temporary stream crossings are installed in a manner that does not interfere with aquatic organism passage.
iii. Temporary stream crossings are constructed of materials that will not erode due to expected high flow events
iv. Culverts installed within the temporary stream crossings are:
- Placed on the bottom of the channel in the low flow channel. If multiple culverts are necessary, all are placed on the bottom of the channel.
- Kept clear of sediment and debris and maintained in their designed and approved conditions.
- Placed in a manner that does not direct stream flows toward a streambank.

2. The stream is restored to preconstruction channel bottom elevations and substrate types. The stream banks and riparian corridor must be restored to preconstruction contours, grades, and vegetative conditions.

Failure to comply with the terms and conditions of this Section 401 Water Quality Certification may result in an enforcement action. If an enforcement action is pursued, civil penalties could be assessed up to $25,000 per day. Criminal liability may apply if it is determined that this Section 401 Water Quality Certification was violated willfully or negligently.

Questions regarding this Section 401 Water Quality Certification can be directed to the IDEM Office of Water Quality by phone at (317)-233-8488, or by e-mail at WetlandsProgram@idem.IN.gov.

Notice of Right to Administrative Review (Permits)

If you wish to challenge this certification, you must file a Petition for Administrative Review with the Indiana Office of Administrative Law Proceedings (OALP) and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-21.5-3-7, IC 13-15-6-1 and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the Office of Administrative Law Proceedings (OALP) within fifteen (15) days of the issuance of this notice, or eighteen (18) days if you received this notice by U.S. Mail, and a copy must be served upon IDEM.

Addresses are:

Director
Office of Administrative Law Proceedings
Indiana Government Center North
100 North Senate Avenue, Room N802
Indianapolis, Indiana 46204

Commissioner
Indiana Dept. of Environmental Management
Indiana Government Center North
100 North Senate Avenue, Room 1301
Indianapolis, Indiana 46204

The petition must contain the following information:

(1) The name, address, telephone number, and other pertinent contact information of each petitioner.
(2) A description of each petitioner's interest in the permit.
(3) A statement of facts demonstrating that each petitioner is:
    (g) A person to whom the order is directed;
    (h) Aggrieved or adversely affected by the permit; or
    (i) Entitled to administrative review under any law.
(4) The reasons for the request for administrative review.
(5) The particular legal issues proposed for review.
(6) The alleged environmental concerns or technical deficiencies of the permit.
(7) The permit terms and conditions that the petitioner believes would be appropriate and would comply with the law.
(8) The identity of any persons represented by the petitioner.
(9) The identity of the person against whom administrative review is sought.
(10) A copy of the permit that is the basis of the petition.
(11) A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review of the permit.

Examples include:

(1) Failure to file a Petition by the applicable deadline.
(2) Failure to serve a copy of the Petition upon IDEM when it is filed.
(3) Failure to include the information required by law.

If you seek to have a permit stayed during the administrative review, you may need to file a Petition for a Stay of Effectiveness. The specific requirements for such a Petition can be found in 315 IAC 1-3-2 and 315 IAC 1-3-2.1.

Pursuant to IC 4-21.5-3-17, OALP will provide all parties with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action. If you are entitled to notice under IC 4-21.5-3-5(b) and would like to obtain notices of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action without intervening in the proceeding you must submit a written request to OALP at the address above.

For additional information on filing a petition with OALP, visit their website at https://www.in.gov/oalp/

Attachment 1: Indiana Waters Designated for Special Protection

Designated Salmonid Waters:
[327 IAC 2-1.5-5(a)(3)]

- Trail Creek and its tributaries downstream to Lake Michigan, LaPorte County
- East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch, Porter and LaPorte Counties
- Salt Creek above (upstream of) its confluence with the Little Calumet River, Porter County
- Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan, Porter County
- The Galena River and its tributaries, LaPorte County
- The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line, St. Joseph County
- The Indiana portion of the open waters of Lake Michigan
- Those waters designated by the Indiana Department of Natural Resources (IDNR) for put-and-take trout fishing (http://www.in.gov/dnr/fishwild/5457.htm)

Outstanding State Resource Waters:
[327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), and 327 IAC 2-1.5-19(b)]

- Big Pine Creek in Warren County downstream of the State Road 55 bridge near the town of Pine Village to its confluence with the Wabash River
- Mud Pine Creek in Warren County from the bridge on the County Road between Brisco and Rainsville to its confluence with Big Pine Creek
- Fall Creek in Warren County from the old C.R. 119 bridge in the NW quarter of Section 21, Township 22N, Range 8W downstream to its confluence with Big Pine Creek
- Indian Creek in Montgomery County from the County Road 650 West bridge downstream to its confluence with Sugar Creek
- Clifty Creek in Montgomery County within the boundaries of Pine Hills Nature Preserve
- Bear Creek in Fountain County from the bridge on County Road 450 North to its confluence with the Wabash River
- Rattlesnake Creek in Fountain County from the bridge on County Road 450 North to its confluence with Bear Creek
- The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch
- Blue River from the confluence of the West and Middle Forks of the Blue River in Washington County downstream to its confluence with the Ohio River

- The South Fork of Blue River in Washington County from the Horner's Chapel Road bridge downstream to its confluence with Blue River.
- Lost River and all surface and underground tributaries upstream from the Orangeville Rise (T2N, R1W, Section 6) and the Rise of Lost River (T2N, R1W, Section 7) and the mainstem of the Lost River from the Orangeville Rise downstream to its confluence with the East Fork of White River.
- The Blue River in Washington, Crawford, and Harrison Counties, from river mile 57.0 to river mile 11.5
- The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties, from river mile 43.11 to river mile 4.82
- The South Fork of Wildcat Creek in Tippecanoe County, from river mile 10.21 to river mile 0.00
- Cedar Creek in Allen and DeKalb counties, from river mile 13.7 to its confluence with the St. Joseph River
- The Indiana portion of the open waters of Lake Michigan
- All waters incorporated in the Indiana Dunes National Lakeshore.

Attachment 2: Critical Wetlands and Critical Special Aquatic Sites

In the interest of maintaining consistency with the State Regulated (Isolated) Wetland program established at 327 IAC 17, IDEM defines Critical Wetlands and Critical Special Aquatic Sites to be synonymous with Rare and Ecologically Important Wetland Types under 327 IAC 17-1-3(3)(B):

- **Acid bog:** Acid bog is an acidic wetland of kettle holes in glacial terrain. Bogs can be graminoid (*Carex spp*. and *Sphagnum spp*.) or low shrub (*Chamaedaphne calyculata* and *Betula pumila*). The graminoid bog can be a floating, quaking mat. The soils in acid bogs are saturated and acidic peat. Bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. When a sphagnum mat floats, it rises and falls with the water table. Acid bogs can be found in northern Indiana.
- **Acid seep:** Acid seep is a bog-like wetland typically found in unglaciated hill regions. This community is a small groundwater-fed wetland located primarily in upland terrain. A thin layer of muck may lie over a mineral substrate. The soil reaction is acid. This seep community is characterized by flowing water during at least part of the year. Acid seeps are located primarily in southern Indiana.
- **Circumneutral bog:** Circumneutral bog is a bog-like wetland that receives groundwater. Circumneutral bogs can be a mosaic of tall shrub bog, graminoid bog, and other communities. The graminoid bog often occurs on a quaking or floating mat. Although a few bogs occur in unglaciated regions, most are found in glacial ice-block depressions. The soils in circumneutral bogs are usually peat, or other low nutrient organic substrates, which are saturated and circumneutral to slightly acid. Circumneutral bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. Circumneutral bogs are usually found in northern Indiana.
- **Circumneutral seep:** The circumneutral seep (or seep-spring) is a groundwater-fed wetland on organic soil. It is primarily herbaceous. Species typically include marsh marigold (*Caltha palustris*) and skunk cabbage (*Symplocarpus foetidus*) with a scattered tree canopy. Circumneutral seep is typically situated on or near the base of a slope. The soil is typically circumneutral muck. This seep community is characterized by slowly flowing water during at least part of the year. Circumneutral seeps can be found scattered throughout Indiana.
- **Cypress swamp:** Bald cypress swamps are seasonally to permanently inundated wetlands found in depressions and sloughs of large bottomlands associated with the Wabash/Ohio River system. Poorly to very poorly drained soils characterize this environment. Bald cypress (*Taxodium distichum*) is present, and green ash (*Fraxinus pennsylvanica*), silver maple (*Acer saccharinum*), and overcup oak (*Quercus lyrata*) are also usually present. This community is restricted to extreme southwest Indiana.
- **Dune and swale:** Dune and swale is an ecological system consisting of a mixture of upland (black oak sand savanna, dry to mesic sand prairie) and wetland (pond, panne, sedge meadow, marsh, wet prairie) natural communities. These communities occur in long, narrow, linear complexes, with the dry communities occupying sand ridges, and the wet communities occurring in the intervening swales.

Black oak (*Quercus velutina*), paper birch (*Betula papyrifera*), jack pine (*Pinus banksiana*), and prairie vegetation typically occur on the ridges, and sedges, reeds, and marsh/aquatic vegetation line are found in the swales. Water levels are directly influenced by ground water, with the interdunal swales controlled largely by lateral flow through porous beach ridges. Dune and swale is restricted to extreme northwest Indiana, near Lake Michigan.

- **Fen:** Fen is a calcareous, groundwater-fed wetland. Fens are often a mosaic of grassy areas, sedgy areas, graminoid-shrubby cinquefoil, and tall shrub areas. The extent of the tall shrub component of fens may be determined by fire frequency and/or soil moisture. Drying of the soil increases the growth of shrubs. Fens typically occur in the vicinity of glacial moraines. Fens typically have a muck or peat substrate. The water level fluctuates seasonally and is fed by groundwater. Fens can be found in central and northern Indiana.
- **Forested fen:** Forested fen is a tree-dominated wetland on organic soil which receives groundwater. Forested fens are often a mosaic of treed areas, tall shrub areas, and herbaceous areas. A tall shrub layer is often well developed in forested fens. Indicative species typically include tamarack (*Larix laricina*), black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), poison sumac (*Toxicodendron vernix*), and red maple (*Acer rubrum*). Forested fens occur in wet lowlands, where moraines meet outwash features or depressions. Forested fens have saturated, poorly to very poorly drained soils that are often muck, but some seasonal flooding can occur in forested fens that are especially level. This community is a late successional stage of fen or circumneutral bog. Forested fens occur in northern Indiana.
- **Forested swamp:** Forested swamp is a seasonally inundated to intermittently exposed wetland of large river bottoms. Forested swamps do not receive direct flow from river flooding except under exceptional circumstances. Forested swamps occur in depressions, sloughs and large bottomlands, typically dominated by tree species such as swamp cottonwood (*Populus heterophylla*), green ash (*Fraxinus pennsylvanica*), and swamp white oak (*Quercus bicolor*). In northern Indiana important tree species include black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), and red maple (*Acer rubrum*). Poorly to very poorly drained and aerated soils characterize the swamp environment. Soils usually are mineral not muck or peat. This community type is found throughout Indiana.
- **Marl beach:** Marl beach is a fen-like community located on the marly muck shorelines of lakes. Marl precipitate is evident. A thin layer of water is present in spring but dries down in summer. Draw-down of a lake creates additional area for this community to develop on. Marl beaches can be found in extreme northern Indiana, primarily in the northeast.
- **Muck flat:** Muck flat is a shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a peat substrate. The muck flats can float on the water surface, but during high water periods are usually inundated. The water level of a basin fluctuates during a season or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Muck flats are found in northern Indiana.

- **Panne:** Panne is a groundwater fed herbaceous wetland occupying interdunal swales near Lake Michigan. Pannes are located on the lee side of the first or second line of dunes from the lakeshore. The soil is wet, calcareous sand. Pannes are located in counties bordering Lake Michigan.
- **Sand flat:** Sand flat is a shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a sand substrate. During high water periods sand flats at the margins of lakes or ponds are inundated. The water level of a basin fluctuates during a season or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Sand flats occur in northern Indiana, and in the Plainville Sand Section of southwest Indiana.
- **Sedge meadow:** Sedge meadow is an herbaceous wetland typically dominated by graminoid species such as flat sedge (*Cyperus spp*.), spike rush (*Eleocharis spp*.), rushes (*Juncus spp*.) and sedges (*Carex spp*.). Sedge meadow is an herbaceous wetland of stream margins and river floodplains, and lake margins or upland depressions. Streamside sedge meadows are frequently flooded in the spring and early summer. Sedge meadows of lake margins and depressions often contain standing water during wet months and after heavy rains; during dry periods, the water level is at or just below the substrate. Sedge meadow usually occupies the ground between a marsh and the uplands, or a shrub swamp or wet forest. Periodic high water can kill trees and shrubs invading sedge meadows. Sedge meadows can be found in the northern half of the state.
- **Shrub swamp:** Shrub swamp is a shrub-dominated wetland that is seasonally inundated to intermittently exposed. This community occurs in depressions and the substrate in either mineral soils or muck, as opposed to peat which is characteristic of bogs. Shrub swamp is characterized by non-flowing or very slowly flowing water with levels that fluctuate seasonally. Shrub swamps are persistent, though considered successional. Two opportunistic native shrubs, sandbar willow (*Salix exigua*) and gray dogwood (*Cornus racemosa*), by themselves, are not indicative of shrub swamps. This community type is found throughout Indiana.
- **Sinkhole pond:** Sinkhole ponds are water-containing depressions in karst topography. Sinkhole ponds are found in the Mitchell Karst Plain in south-central Indiana.
- **Sinkhole swamp:** Sinkhole swamps are depressions in karst topography dominated by tree or shrub species. Sinkhole swamps are found in the Mitchell Karst Plain in south-central Indiana.
- **Wet floodplain forest:** Wet floodplain forest is a broadleaf deciduous forest of river floodplains. Wet floodplain forests occur in depressions and flats on narrow to wide floodplains and also on recently exposed substrates that are frequently flooded. Wet floodplain forests are frequently flooded and may have standing water seasonally to permanently present. Wet floodplain forests occur statewide.
- **Wet prairie:** Wet prairie is an herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp*.). Vegetation height is often 2-3 m. The

species diversity of wet prairies is lower than that of mesic prairies. Wet prairies occur in deep swales and the substrate ranges from very deep black mineral soils (which are high in organic matter) to muck. Ponding in spring lasts for several weeks prior to drainage. Wet prairies commonly occur in the Grand Prairie Natural Region, the Tipton Till Plain and the Bluffton Till Plain, with a few examples found in the Northern Lakes Natural Region.

- **Wet sand prairie:** Wet sand prairie is an herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp.*). Vegetation height is often 2-3 m. The species diversity of wet prairies is lower than that of mesic prairies. Wet lowland prairies occur in deep swales and the substrate is sand, sometimes mixed with muck. Flooding is a regular springtime occurrence in wet sand prairie and may last several weeks. This community occurs in a mosaic with marsh and other wetlands, and with upland prairies and sand savannas. Fire was frequent occurrence, but more common in the fall when waters had receded. This community occurs in northwest Indiana and in the Plainsville Sands area.

APPENDIX C:
U.S. ENVIRONMENTAL PROTECTION AGENCY SECTION 401 WATER QUALITY CERTIFICATION

REGION 5
CHICAGO, IL 60604

September 26, 2024

Eric Reusch, Chief
Regulatory Division
U.S. Army Corps of Engineers, Louisville District
600 Martin Luther King Place
Louisville, Kentucky 40202
Submitted via email to: eric.g.reusch@usace.army.mil

Re: Clean Water Act Section 401 Water Quality Certification of the proposed Louisville, Detroit, and Chicago District-U.S. Army Corps of Engineers, Indiana Regional General Permit 001, as Applied within the Pokagon Band of Potawatomi's Tribal Trust land in the State of Indiana

Dear Mr. Reusch:

This grant of Clean Water Act (CWA) Section 401 certification without conditions applies to the water quality-related impacts from the activity subject to the Louisville, Detroit, and Chicago District-U.S. Army Corps of Engineers (Corps), Indiana Regional General Permit 001 (Indiana RGP), LRL-2023-00656, within the Pokagon Band of Potawatomi's (the Band) Tribal trust land[1] in the State of Indiana. The Corps plans to reissue the Indiana RGP, which covers the following activities: Bank Stabilization, Transportation Projects, Residential, Commercial, Institutional, Industrial, Municipal, and Recreational Developments, Boat Ramps, Minor Discharges and Excavation, Agricultural, and Mining.

Section 401 of CWA requires applicants for Federal licenses or permits to conduct any activity which may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no state or Tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. 33 U.S.C. 1341(a)(1).

In this case, the Band does not have the authority to provide CWA Section 401 certification for projects within its Tribal trust land in the State of Indiana, therefore, the EPA is making the certification decision for the Indiana RGP.

On June 26, 2024, the EPA extended an offer to the Band to coordinate and consult on its pending CWA Section 401 certification decision for the Indiana RGP, in accordance with the EPA Policy on

[1] Land held by the United States in trust for the Band is Indian country as defined by 18 U.S.C. § 1151 and incorporated in the CWA, 33 U.S.C. § 1377(e)(2).

Consultation with Indian Tribes[2] dated December 7, 2023. A coordination meeting that included the Band, the EPA, and the Corps took place on August 12, 2024.

The EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA, any federal and state or Tribal laws or regulations implementing those sections, and any other water quality-related requirement of state or Tribal law.

Project Description

Regional General Permits are a type of general permit issued on a regional basis that authorize activities that are similar in nature and must cause no more than minimal adverse environmental impacts to aquatic resources separately or on a cumulative basis. As mentioned above, the Indiana RGP covers the following activities:

1. Bank Stabilization Activities
2. Transportation Projects
3. Residential, Commercial, Institutional, Industrial, Municipal, and Recreational Developments
4. Boat Ramps
5. Minor Discharges and Excavation Activities
6. Agricultural Activities
7. Mining Activities

The Corps' decision whether to issue the Indiana RGP will be based on an evaluation of the probable individual and cumulative impacts on public interest factors including conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and the needs and welfare of the people.

The EPA's Public Notice Process

On July 8, 2024, the EPA received a request for certification from the project proponent. On July 18, 2024, the EPA issued a public notice regarding the proposed project and provided the opportunity for the public to submit comments until August 21, 2024. The EPA did not receive public comment.

General Information for the Project Proponent

The general information provided in this section does not constitute a certification condition(s).

The project proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, local, or Tribal authorities.

[2]https://www.epa.gov/system/files/documents/2023-12/epa-policy-on-consultation-with-indian-tribes-2023_0.pdf, Last accessed on September 24, 2024

This certification should be retained in the project proponent's files with the applicable CWA Section 404 permit as documentation of the EPA certification for the above-referenced Indiana RGP. This certification is specifically associated with the Indiana RGP and expires when the Indiana RGP expires.

The project proponent is encouraged to contact EPA Region 5, R5Wetlands@epa.gov, during the project planning phase if there are any questions about relevant best management practices and resources that can assist with compliance.

If you have any questions, or if we can be of further assistance, please contact Melissa Blankenship of my staff, at (312) 886-9641 or blankenship.melissa@epa.gov.

Sincerely,

9/26/2024

X David Pfeifer

Signed by: DAVID PFEIFER

David Pfeifer
Supervisor, Watersheds and Wetland Branch

ecc: Sarah Keller, Project Manager, Louisville District Corps - sarah.j.keller@usace.army.mil
Jay Turner, Wetlands Section Chief, IDEM - JTurner2@IDEM.IN.gov
Jennifer Kanine, Director, Kowabdanawa odë kė - jennifer.kanine@pokagonband-nsn.gov
Grant Poole, Water Quality Specialist, Kowabdanawa odë kė - grant.poole@pokagonband-nsn.gov