



**US Army Corps
of Engineers**

Detroit District
Louisville District
Chicago District

Public Notice



Applicant: The Public

Date: March 6, 2023

In Reply Refer To: File No. LRE 1998-1000100-S22

Programmatic General Permit for Minor Activities in Indiana

1. In accordance with Title 33 CFR Part 325 (c)(1), as published November 13, 1986 in the Federal Register, Volume 51, No. 219, the U.S. Army Corps of Engineer Districts of Detroit, Louisville, and Chicago (the Districts), have reissued the Programmatic General Permit (PGP) for certain construction activities in waters of the United States within the State of Indiana under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act that are also regulated by the Indiana Department of Natural Resources (IDNR) as public freshwater lakes under the Lake Preservation Act, [IC 14-26-2](#) and specific waterways regulated as floodways under the Flood Control Act, [IC 14-28-1](#), and as Navigable Waterways under [IC 14-29-1](#); specific waterways are listed in the table below. The Districts revised the PGP by: 1) adding the construction of 20 linear feet or less of new concrete, vinyl, or steel sheet piling seawalls under Category 1 Activities, and 2) by removing concrete, vinyl or steel sheet piling, or broken concrete seawall materials under Category 1 for new shore protection on rivers/streams and placing these materials under Category 2 Activities for new shore protection.

2. The PGP affords the Districts with a means to authorize activities of a minor nature through an abbreviated review process that relies on existing permit review procedures by the IDNR, and reduces costs, delays, and paperwork. When performed under the limitations and conditions explained below, these activities will cause only a minimal individual and cumulative environmental impacts. These activities are similar in nature, as they will conform to the specific categories identified below, and to the attached glossary of terms.

EFFECTIVE DATE: March 6, 2023

DURATION: The PGP will be in effect for five (5) years, expiring on March 6, 2028. At that time, it will be re-evaluated for its effectiveness. The Districts reserve the right to suspend the PGP before the 5-year time period expires.

COVERAGE AREA: Public freshwater lakes regulated under IC 14-26-2, located in the following counties: Adams, Allen, Cass, DeKalb, Elkhart, Fulton, Huntington, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Miami, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Wabash, Wells, White, and Whitley. Rivers and streams regulated under IC 14-28-1 and IC 14-29-1, with a drainage area exceeding 100 square miles (listed in table below). Water bodies or activities not regulated by the IDNR under

IC-14-26-2 or IC 14-28-1 and IC 14-29-1 are not eligible for the PGP.

Waterway	Located in _____ County/Countries
Christiana Creek	Elkhart
Elkhart River	Elkhart, Noble
Elkhart River, North Branch	LaGrange, Noble
Elkhart River, South Branch	Elkhart, Noble
Geyer Ditch	St. Joseph
Iroquois River	Jasper, Newton
Kankakee River	Jasper, Lake, LaPorte, Starke, St. Joseph, Newton, Porter
Kline Arm	Starke
Maumee River	Allen
Pine Creek	LaPorte, St. Joseph
Slough Creek	Jasper
St. Joseph River (upstream of Twin Branch Dam)	Elkhart, St. Joseph
St. Mary's River	Adams, Allen
Turkey Creek	Elkhart, Kosciusko, Noble
Yellow River	Marshall, Starke, St. Joseph

ACTIVITIES COVERED: The discharge of dredged or fill material into waters of the United States (regulated by the Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act).

PROCEDURES: The PGP authorization consists of two categories of activities, Category 1 and Category 2. Eligibility, application, and review procedures described below for these categories are tied to the IDNR permit programs and procedures currently in place. Applicants proposing to discharge dredged and/or fill material into waters of the U.S., including wetlands subject to the Corps' Section 404 jurisdiction, must obtain the following State approvals in order for the general permit authorization to be valid. Applicants are responsible for ensuring that all required State and local approvals have been applied for and obtained.

1. A license from the IDNR under IC 14-26-2, the Lake Preservation Act, or IC 14-28-1, the Flood Control Act, for construction activities along and within Indiana's regulated waterbodies. (Note: Licenses issued by the IDNR under IC 14-28-1 also contain approval under IC 14-29-1, the Navigable Waterway Act, and its associated rules under [312 IAC 6.](#))
2. Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is required for work in Corps' jurisdiction involving a discharge into waters of the U.S. Some projects authorized under the PGP may require an individual

Section 401 WQC issued by the IDEM before work can proceed.

The Corps' involvement will vary based on the Category of activity. The applicability of each activity type to lakes and/or rivers/streams is indicated in the heading of each activity type.

Category 1 Activities

1. New Glacial Stone, Riprap or Bioengineered Shore Protection (applicable to lakes and rivers/streams): Project length is equal to or less than 300 linear feet and the proposed fill does not exceed an average of 1 cubic yard per linear foot of discharge waterward of the Ordinary High Water Mark (OHWM).
2. New Concrete, Vinyl or Steel Sheet Piling¹ Shore Protection (applicable to lakes and rivers/streams): Project length is equal to or less than 20 linear feet and the proposed fill does not exceed an average of 1 cubic yard per linear foot of discharge waterward of the OHWM.
3. Refacing of Existing Shore Protection (applicable to lakes and rivers/stream): Project length is equal to or less than 500 linear feet and the proposed fill does not exceed an average of 1 cubic yard per linear foot of discharge waterward of the OHWM. Category 1 refacing of existing shore protection includes refacing of existing shore protection with materials that are the same or similar to the existing material. Refacing does not include the conversion of a glacial stone, riprap or bioengineered seawall into a concrete, vinyl or steel sheet pile seawall.
4. Boat Ramps (applicable to lakes and rivers/streams):
 - a. Maximum width of ramp is 20 feet.
 - b. Discharge into waters of the U.S. does not exceed 50 cubic yards of fill, including concrete, rock, gravel, or precast concrete planks or slabs.
 - c. Base material must be crushed stone, gravel, or another suitable material.
5. Beach Construction (applicable to lakes only): Areas which meet IDNR criteria under 312 IAC 11-4-4 for Public Freshwater Lakes. These criteria may be found on either of the following websites: <http://www.in.gov/legislative/iac/T03120/A00110.pdf> or <http://www.in.gov/legislative/iac/title312.html>.
6. Filling of Boat Wells (applicable to lakes only): Existing boat wells no more than 20 feet wide and 30 feet long, provided that a seawall is constructed prior to placement of fill within the boat well. (Note: seawalls built for this purpose are covered as Category 1—shore protection; this includes concrete, vinyl or steel sheet pile, glacial stone, riprap

¹ Corps authorization in Section 404 waters is for the discharge of material associated with sheet pile shore protection.

and bioengineered materials.)

7. General License Activities (applicable to lakes only): Work which meets IDNR criteria under [312 IAC 11-3-1](#) for temporary structures, dry hydrants, and glacial stone refaces.

Category 1 Procedures: Work in Indiana subject to Corps' jurisdiction which meets all of the above terms and the PGP general conditions below may proceed without application or notification to the Corps provided that the required IDNR authorization has been obtained. The IDNR permit will include language confirming Federal authorization under the PGP, and the Federal PGP conditions. If an applicant objects to any of the Federal PGP conditions, the application will be forwarded on to the Districts for processing as a Category 2 permit, or as a general or individual permit, as appropriate. Activities located in wetlands, as defined by the Corps, or in IDNR-identified Significant Wetlands (as defined under [312 IAC 11-2-24](#)) are not eligible for Category 1, with the exception of general license activities (e.g. glacial stone refaces). Activities which are located in the vicinity of, or have the potential to involve Federally listed endangered, threatened, or proposed species or which may involve potential impacts to historical, cultural, or archaeological resources or practices are not eligible for Category 1. The IDNR, at its discretion, may elect to coordinate other projects in accordance with Category 2.

Category 2 Activities

1. New Shore Protection (applicable to lakes and rivers/streams): Project length is equal to or less than 300 linear feet and:
 - a. the proposed fill exceeds an average of 1 cubic yard per linear foot of discharge waterward of the Ordinary High Water Mark (OHWM).
 - b. All new shore protection using the materials listed below which do not qualify as a Category 1 Activity (regardless of the amount of fill per linear foot):
 - i. Lakes: concrete, vinyl or steel sheet piling¹ with backfill
 - ii. Rivers/streams: concrete, vinyl or steel sheet piling¹, or broken concrete (must be clean and without exposed rebar).
 - c. New shore protection projects longer than 300 feet are not eligible for the PGP, Category 2.
2. Beach Construction (applicable to lakes only): Areas outside of those identified in Category 1.
3. Any of the Category 1 activities located in wetlands as defined by the Corps or in IDNR-identified Significant Wetlands as defined under [312 IAC 11-2-24](#). If wetlands are present, a wetland delineation report, prepared in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and the appropriate Regional Supplement, will be required by the Corps. Wetland fill (as defined in 33 CFR Part 323.2) that exceeds

0.1 acre (4,356 square feet) in area does not qualify for the PGP.

4. Activities where part of the work in Corps' jurisdiction did not require an IDNR permit (e.g. work above the IDNR legal lake level or in adjacent wetlands).

5. Activities which are located in the vicinity of, or have the potential to involve, Federally listed endangered, threatened, or proposed species.

6. Activities which may impact historical, cultural, or archaeological resources or practices as provided in Section 106 the National Historic Preservation Act of 1966 and the Archaeological and Historic Preservation Act of 1974.

7. Activities authorized by order of the Indiana Natural Resources Commission following appeal of an IDNR permit denial.

8. Any other action elevated to Category 2.

Category 2 Procedures: Work in Indiana subject to Corps' jurisdiction which meets all of the above terms and the PGP general conditions below may be considered for the PGP through the following procedure: Upon receipt of a complete application, the IDNR will forward a copy to the Corps indicating that it appears to meet Category 2. The IDNR will also inform the applicant that their application has been referred to the Corps for evaluation as a Category 2 activity under the PGP. Any IDNR permit will indicate that a separate permit from the Corps is required. The Corps will determine if the Category 2 applications are complete (using the IDNR permit application, [Indiana State Form 42946](#)), and evaluate each application to determine whether it meets the minimal impact standard, the PGP general conditions, and the intent of the PGP. The Corps may either: 1) authorize the project under the PGP, with any special conditions or modifications necessary to reduce the impacts to no more than minimal; or 2) determine that the PGP is not appropriate. The Corps will respond to Category 2 applications in writing.

Discretionary Authority: For either Category 1 or 2 activities, the District may, at its discretion or at the request of the IDNR, determine that the PGP is not appropriate and require an individual permit review. If this occurs after the IDNR permit has been issued, the Corps will inform the applicant in writing that the Federal authorization for work has been suspended and additional review is required.

Project-Specific PGP Conditions: The District may add project-specific conditions to PGP authorizations. PGP Category 2 authorization will be confirmed by the District sending the applicant a verification letter that specifies any required conditions.

State Water Quality Certification: A State Section 401 Water Quality Certification or waiver is required for this PGP, or for individual projects under the PGP. In Indiana, this authority resides with the Department of Environmental Management (IDEM).

Further Information: Questions may be directed to Rebecca Hartman at the Detroit District-Michiana Branch Corps of Engineers, telephone 574-232-1952 ext. 21969.

FOR THE DISTRICT ENGINEER:

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NOTICE TO POSTMASTERS:

We request that the above notice be conspicuously and continuously posted for 30 days from the date of issuance.

PGP GENERAL CONDITIONS

The following general conditions must be followed in order for any PGP authorization to be valid:

GENERAL REQUIREMENTS

1. *Other Permits:* Authorization under this general permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
2. The Corps of Engineers retains authority, on a case-by-case basis, to require review for an individual permit based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked where there is a particular resource or concern associated with a project, or where potential cumulative environmental impacts warrant additional review.
3. *Property Rights:* Authorization under this general permit does not grant any property rights, exclusive privileges, or authorize any injury to the property or rights of others.
4. *Proper maintenance:* Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
5. *Case-by-case conditions:* The activity must comply with any case specific conditions added by the Corps or by the State in its section 401 Water Quality Certification.
6. *Federal Liability:* The Federal Government does not assume any liability for the following: a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; d) design or construction deficiencies associated with the permitted work; and/or e) damage claims associated with any future modifications suspension, or revocation of this permit.

NATIONAL CONCERNS

7. *Navigation:*
 - a. No activity may cause more than a minimal adverse effect on navigation.
 - b. 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 of alteration.

8. *Endangered Species:*

a. No activity is authorized under the PGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under the PGP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

b. Non-federal permittees shall notify the District Engineer if any listed species (or species proposed for listing) or designated critical habitat (or proposed critical habitat) might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, PGP applicants will have to provide the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The District Engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

c. As a result of formal or informal consultation with the U.S. Fish and Wildlife Service (FWS), the District Engineer may add species-specific endangered species conditions to any PGP verification.

d. Authorization of an activity by a PGP does not authorize the "take" of a threatened or endangered species as defined under the Federal ESA. In the absence of separate authorization (e.g. an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS or at their website: http://www.fws.gov/midwest/endangered/lists/cty_indx.html#indiana.

9. *Historic properties:*

a. In cases where the District Engineer determines that the activity is likely to have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized until the requirements of

Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

b. Non-federal permittees must submit a notification to the District Engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historical Places, including previously unidentified properties. For such activities, the notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The District Engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the District Engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the District Engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

c. The District Engineer will notify the prospective permittee whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on properties (see 36 CFR 800.3(a)). If NHPA Section 106 consultation is required and will occur, the District Engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

10. *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.

MINIMIZATION OF ENVIRONMENTAL IMPACTS:

11. *Soil erosion and sediment controls:* The permittee shall install sedimentation and soil erosion control measures prior to any construction activity, and maintain them in effective operating condition during construction. This shall include the installation of straw bale barriers, silt fencing and/or other approved methods to control sedimentation and erosion. The permittee shall immediately stabilize areas disturbed by any construction activity, including channel banks, and revegetate with a combination of grasses, legumes, and shrubs compatible to the affected area.

12. *Equipment:* All construction equipment shall be refueled and maintained on an upland site away from existing streams, drainageways, and wetland areas. Heavy

equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

13. *Suitable material*: No activity, including structures and work in waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g. trash, debris, car bodies, asphalt, timbers, slag, slash/fly ash, etc.). Material used for construction or discharge must also be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

14. *Water Quality*: Some PGP authorizations may not be valid unless a case-specific Section 401 Water Quality Certification is obtained from or considered waived by the IDEM and/or IDNR. Where the State (either generically or individually) does not require/approve a water quality management plan, the permittee must include design criteria and techniques that provide for protection of aquatic resources. The permittee must comply with all project conditions associated with general or case-specific Water Quality Certifications.

15. *Water Supply Intakes*: The permittee shall not perform any work under the PGP where the discharge of dredged and/or fill material would occur in the proximity of a public water supply intake except where the activity is for the repair of the public water supply structure or adjacent bank stabilization.

16. *Minimization/Avoidance*: Discharges of dredged and/or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). In determining the minimal impact threshold, the Districts will consider the direct and secondary impacts of the fill or work and any mitigation measures.

17. *Mitigation*: If mitigation is required, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits. However, if an appropriate number and type of mitigation bank or in-lieu credits are not available, the district engineer may approve the use of permittee-responsible mitigation. If permittee-responsible mitigation is the proposed option, the permittee shall provide a mitigation/monitoring plan for any activity where the adverse impact on special aquatic sites is determined to be more than minimal.

18. *Migratory bird breeding areas*: Activities, including structures and work in navigable waters of the United States or discharges of dredged and/or fill material, into breeding areas for migratory birds must be avoided to the maximum extent practicable.

19. *Removal of temporary fills*: Any temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.

20. *Access:* A representative from the Corps of Engineers may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the PGP.

GLOSSARY

Bank[†]: The ground that borders or slopes upward from the bed of a waterway and that confines water to the channel during the normal course or flow.

Bioengineered^{*}: The use of a combination of biological elements (plant materials) and structural or mechanical reinforcements for stabilization, revetment, or erosion control. Biological and mechanical elements must function together in an integrated and complementary manner.

Boat well^{*}: A man-made excavation along the shoreline or waterline of a public freshwater lake that 1) is used for the mooring of a boat, and 2) has been stabilized to prevent erosion.

Bulkhead seawall^{*}: A vertical or near-vertical, solid concrete, steel sheet piling or vinyl piling structure which has the purpose of shoreline protection. Existing timber walls constructed prior to 1991 may be considered to be a bulkhead seawall if an assessment shows that the criteria outlined in 312 IAC 11-2-5 apply. New shoreline protection comprised of treated timber is not allowable along public freshwater lakes per 312 IAC 11-5-1.

Channel[†]: Both the natural and the artificial channel of a waterway.

Currently serviceable: Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Floodway[#]: (1) the channel of a river or stream; and (2) the parts of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream; definition is for purposes of IC 14-28-1, IC 14-28-3, and IC 14-34.

Glacial stone^{*}: A rounded stone that satisfies the following 1) was produced by glacial activity, 2) no individual stone weighs more than 120 pounds, 3) at least 90% of the material passes through a 12-inch sieve, and 4) no more than 10% of the material passes through a 6-inch sieve.

Natural Shoreline^{*}: A continuous section of unaltered shore line or water line where the distance between lawful permanent structures is at least two hundred fifty (250) feet.

Ordinary High Water Mark (OHWM): The 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.

Programmatic General Permit (PGP): A type of general permit founded on an existing state, local, or other Federal agency program and designed to avoid duplication with that program.

Public freshwater lake*: A lake that has been used by the public with the acquiescence of a riparian owner. Does not include: 1) Lake Michigan; 2) any lakes lying wholly or in part within the city of East Chicago, Gary, or Hammond; or 3) a privately owned body of water used for the purpose of, or created as a result of, surface coal mining.

Riprap*: Angular, limestone rock that satisfies the following 1) no individual piece weighs more than 120 pounds, 2) at least 90% of the material passes through a 12-inch sieve, 3) not more than 10% of the material passes through a 6-inch sieve.

Seawall*: A man-made structure placed along the shoreline or water line of a public freshwater lake for the purpose of shoreline stabilization.

Seawall reface*: Reinforcing of an existing seawall along the lakeward face.

Significant wetland*: A transitional area between terrestrial and deep-water habitats containing at least one of the following: 1) At least 2,500 square feet of contiguous, emergent vegetation or rooted vegetation with floating leaves landward or lakeward of the shoreline or water line. The areal extent is independent of ownership; 2) Adjacent wetland areas designated by a federal or state agency under one of the following—the National Wetland Inventory, the US Army Corps of Engineers Wetlands Delineation Manual (1987), or the National Food Security Act Manual (1994); and 3) The existence of a species listed at 15 IR 1312 in the Roster of Indiana Animals and Plants that are Extirpated, Endangered, Threatened, or Rare.

Underwater beach*: An area of lakebed that is 1) lakeward of the shoreline or waterline of a public freshwater lake, and 2) used for a recreational purpose, such as wading or swimming.

Wetlands: Those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The Corps uses the methods and guidelines found in its 1987 Wetland Delineation Manual and applicable Regional Supplement to identify and delineate these wetlands.

† Definition taken from 312 IAC Article 10—Flood Plain Management, Rule 2—Definitions, found at

<http://www.in.gov/legislative/iac/title312.html>

* Definition taken from 312 IAC Article 11—Lake Construction Activities, Rule 2—Definitions, found at <http://www.in.gov/legislative/iac/title312.html>

Definition taken from Indiana Code, Title 14—Natural and Cultural Resources, Article 8-General Provisions and Definitions, Chapter 2—Definitions, found at <http://www.in.gov/legislative/ic/code/title14/ar8/ch2.html>



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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VIA ELECTRONIC MAIL

March 3, 2023

Charles M. Simon
Chief, Regulatory Office
Detroit District, Corps of Engineers
477 Michigan Avenue, Room 603
Detroit, MI 48226-2550

Dear Mr. Simon:

Re: Section 401 Water Quality Certification
Project: 2022 Reissuance of
Programmatic General Permit for Minor
Activities in Indiana

Office of Water Quality staff has reviewed your application for Section 401 Water Quality Certification (WQC) published via public notice dated and received November 1, 2022. You propose to renew a programmatic general permit (PGP) authorizing the discharge of dredged or fill material into waters of the United States associated with shore protection, beach construction, boat ramp construction, and boat well filling regulated by the Indiana Department of Natural Resources under IC 14-26-2 and specific waterways regulated as floodways under the Flood Control Act, IC 14-28-1, and as Navigable Waterways under IC 14-29-1.

It is the judgment of this office that the above referenced programmatic general permit will comply with the applicable provisions of state law (including 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 conditions, the Indiana Department of Environmental Management (IDEM) hereby grants WQC for this federal permit.

GENERAL CONDITIONS

The following conditions shall apply to any activity that qualifies under this programmatic general permit. All activities that do not meet these conditions require an individual WQC from the IDEM and are not authorized under this WQC.

- 1) The seawall shall be in place prior to the deposition of any fill material behind the wall.



- 2) The permittee shall deposit any dredged material in a contained upland disposal area to prevent sediment runoff to any waterbody.
- 3) The Indiana Department of Natural Resources (IDNR) or the U.S. Army Corps of Engineers, whichever applies, shall notify IDEM in the case of any proposed river and stream shore protection activities.
- 4) The U.S. Army Corps of Engineers shall notify IDEM when they intend to require mitigation for a covered activity.

Once IDEM receives the notification required in Conditions 3 and 4 above, it will, within thirty (30) days, evaluate the activity. After review, IDEM will then either allow the activity to proceed under this WQC or require an individual, site specific WQC. IDEM may require additional information from the permittee. If the permittee fails to provide any information requested by the department, then the activity is not authorized under this WQC.

- 5) This WQC does not authorize the discharge of pollutants, principally sediment, associated with stormwater. These discharges are regulated by the Construction Stormwater General Permit (CSGP) effective December 18, 2021. Permit coverage under the CSGP is required for land disturbances of one or more acres in size or for activities that are part of a larger common plan of development or sale. This Water Quality Certification incorporates the requirements the CSGP, specifically Section 3.0 as general conditions of this Water Quality Certification for all construction sites regardless of size. Compliance with the CSGP is sufficient to demonstrate compliance with this condition of the WQC.
- 6) Any project requesting the use of materials listed as unacceptable under 312 IAC 11-5-1 shall require an Individual 401 Water Quality Certification.
- 7) The permittee shall allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials to conduct the following activities:
 - a) enter upon the permittee's property.
 - b) have access to and copy at reasonable times any records that must be kept under the conditions of these permits or this certification.
 - c) 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 site; and
 - d) sample or monitor any discharge of pollutants or any mitigation site.

- 8) This WQC does not:
 - a) authorize impacts or activities outside the scope of this certification.
 - b) authorize any injury to permittee or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
 - c) convey any property rights of any sort, or any exclusive privileges.
 - d) preempt any duty to obtain federal, state, or local permits or authorizations required by law for the execution of the project or related activities; or
 - e) authorize changes in the plan design detailed in the application.
- 9) This WQC does not authorize point source discharges of pollutants other than clean fill¹ and uncontaminated dredged material.
- 10) This WQC does not authorize activities on or in any of the State's waters that have been designated as salmonid waters (cold water streams) or Outstanding State and/or National Resource Waters. (*Attachment #1*).
- 11) This WQC does not authorize activities on or in any critical wetland or critical special aquatic sites (*Attachment #2*).
- 12) This WQC does not authorize activities on or in any tributary of salmonid waters within a two river mile reach upstream from the confluence with the salmonid water between April 1 and June 30 or between August 1 and November 15. If work is proposed during these dates, a waiver for the activity must be granted by the Indiana Department of Natural Resources (IDNR) before the construction activity begins.
- 13) This WQC does not authorize activities on or in any non-salmonid stream between April 1 and June 30. If work is proposed during these dates, a waiver for the activity must be granted by IDNR before the construction activity begins.
- 14) To verify that a given project will qualify under the terms and conditions of this certification, IDEM may require additional information from the applicant. If the applicant fails to provide any information requested by IDEM, then the project is not authorized.
- 15) If riprap or glacial stone is used, ensure all riprap is keyed in and flush with the bank and scour protection is embedded into the stream channel and the top elevation of the riprap or glacial stone is no higher than the stream bed elevation.

¹ Clean fill, for the purpose of this Water Quality Certification, means uncontaminated rocks, bricks, concrete without rebar road demolition waste materials other than asphalt, or earthen fill.

- 16) For activities involving stream shore protection²:
 - a) The activity will not permanently change the sinuosity, flow path, velocity, cross sectional area under the bank full elevation or the slope of a stream;
 - b) The permittee must demonstrate that the bank or shoreline in question is unstable.
- 17) The activity would not result in a permanent secondary effect to waters of the U.S. (e.g., dredging, excavation, damming, creation of in-channel ponds) that when combined with the primary effect exceeds the area and length thresholds specified above.
- 18) The department, for any project that qualifies under the terms and conditions of this certification, may choose to require an individual Water Quality Certification if it determines that the project would have more than minimal impacts to water quality, either viewed individually or collectively with other projects that may affect the same waterbody affected by the proposed project.

Other Applicable Permits

If the land disturbance for the overall project will disturb one (1) acre or more, a construction stormwater general permit is required for the project. Permit coverage must be obtained prior to the initiation of land-disturbing activities. Information related to obtaining permit coverage is available at www.in.gov/idem/stormwater or by contacting the IDEM, Stormwater Program at 317-233-1864 or via email at Stormwat@idem.IN.gov.

This certification does not relieve you of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits.

This certification does not:

- (1) Authorize impacts or activities outside the scope of this certification.
- (2) Authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state, or local laws or regulations.
- (3) Convey any property rights of any sort, or any exclusive privileges.
- (4) Preempt any duty to obtain federal, state, or local permits or authorizations.

² Stream, for the purpose of this Water Quality Certification, 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.

- required by law for the execution of the project or related activities; or
(5) Authorize changes in the plan design detailed in the application.

Notice of Right to Administrative Review (Permits)

If you wish to challenge this permit, you must file a Petition for Administrative Review with the Office of Environmental Adjudication (OEA) 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 Environmental Adjudication (OEA) within fifteen (15) days of the issuance of this notice (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 Environmental Adjudication
Indiana Government Center North
Room 501
100 North Senate Avenue
Indianapolis, Indiana 46204

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

The petition must contain the following information:

- (a) The name, address and telephone number of each petitioner.
- (b) A description of each petitioner's interest in the permit.
- (c) A statement of facts demonstrating that each petitioner is:
 - (1) a person to whom the order is directed.
 - (2) aggrieved or adversely affected by the permit; or
 - (3) entitled to administrative review under any law.
- (d) The reasons for the request for administrative review.
- (e) The particular legal issues proposed for review.
- (f) The alleged environmental concerns or technical deficiencies of the permit.
- (g) The permit terms and conditions that the petitioner believes would be appropriate and would comply with the law.
- (h) The identity of any persons represented by the petitioner.
- (i) The identity of the person against whom administrative review is sought.
- (j) A copy of the permit that is the basis of the petition.
- (k) 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 are:

- (a) Failure to file a Petition by the applicable deadline.
- (b) Failure to serve a copy of the Petition upon IDEM when it is filed; or
- (c) Failure to include the information required by law.

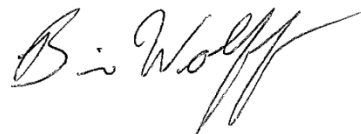
If you seek to have a permit stayed during the administrative review, you may need to file a Petition for a Stay of Effectiveness. The specific requirements for such a Petition can be found in 315 IAC 1-3-2 and 315 IAC 1-3-2.1.

Pursuant to IC 4-21.5-3-17, OEA 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 OEA at the address above.

If you have procedural or scheduling questions regarding your Petition for Administrative Review, additional information on the review process is available at the website of the Office of Environmental Adjudication at <http://www.in.gov/oea>.

If you have any questions about this certification, please contact Jason Randolph, Project Manager, by phone at (317) 409-7580, or by email at jrandolp@idem.in.gov.

Sincerely,



Brian Wolff, Branch Chief
Surface Water and Operations
Office of Water Quality

Enclosures

cc: Rebecca Hartman, USACE-Detroit District, Michiana Branch (electronic)
Sarah Harrison, USFWS (electronic)
Matt Buffington, IDNR (electronic)

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 fishing³

Waterbodies which have been designated all or partially as Outstanding State Resource Waters: [327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b)]

- 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.

Waterbodies which have been designated all or partially as Exceptional Use Streams⁴: [listed in: 327 IAC 2-1-11(b) and IC 13-11-2-72.5 (before its repeal)]

- 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

³ Available on the internet at: http://www.in.gov/dnr/fishwild/files/fw-Trout_Stocking_Locations.pdf

⁴ As per IC 13-18-3-2(u): "Each exceptional use water (as defined in IC 13-11-2-72.5, before its repeal) designated by the board before June 1, 2009, becomes an outstanding state resource water on June 1, 2009, by operation of law."

- 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.

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 is 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 Plainville Sands area.

Attachment 3: Citation and Justification of Conditions

General Condition 1: This condition requiring the seawall to be in place prior to the deposition of any fill material behind the wall is necessary to ensure the deposition of any fill behind the seawall complies with 327 IAC 2.

General Condition 2: This condition requiring the deposit of any dredged material in a contained upland disposal area to prevent sediment run-off to any waterbody is necessary to ensure the discharges associated with the disposal of the dredged material complies with 327 IAC 2.

General Condition 3: This condition requiring notification for any proposed river and stream shore protection activities is necessary to ensure any proposed river and stream shore protection activities comply with 327 IAC 2.

General Condition 4: This condition requiring notification from the Corps when they are requiring mitigation for a project is necessary to ensure a proposed project and mitigation complies with 327 IAC 2.

General Condition 5: This condition requiring the use of appropriate stormwater control measures and maintenance thereof will prevent any sediment laden water from migrating off site and entering waterways and wetlands, which is necessary to ensure a project complies with 40 CFR 122.26, 327 IAC 15; 327 IAC 2-1; and 327 IAC 2-1.5.

General Condition 6: This condition requiring an Individual Section 401 Water Quality Certification for any project requesting the used of materials listed as unacceptable under 312 IAC 11-5-1 is necessary to ensure materials used for a project comply with 327 IAC 2.

General Condition 7: Per IC 13-14-2-2, the department may inspect public or private property to inspect for and investigate possible violations of environmental management laws.

General Condition 8: This condition is necessary to ensure projects are implemented in accordance with this Section 401 Water Quality Certification and only projects described in the notification are authorized. This ensures compliance with 327 IAC 2 and 327 IAC 5-2-8.

General Condition 9: This condition is necessary to ensure only clean fill materials are proposed for discharge to ensure compliance with 327 IAC 2. Discharges of pollutants may require separate authorization under Section 402 of the Federal Clean Water Act.

General Condition 10: Individual Section 401 Water Quality Certifications are required for impacts to waters designated as Outstanding State Resource Waters by 327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), and 327 IAC 2-1.5-19(b) to ensure there is no degradation and their water quality is protected and maintained in accordance with 327 IAC 2-1-1.5 and 327 IAC 2-1.5-3.

General Condition 11: These wetlands and special aquatic sites are synonymous with Rare and Ecologically important wetland types under 327 IAC 17-1-2(3)(B). Individual Section 401 Water Quality Certifications are required for impacts to these waters to ensure there is no

degradation and their water quality is protected and maintained in accordance with 327 IAC 2-1-1.5 and 327 IAC 2-1.5-3.

General Condition 12: Salmonid streams are designated for special protection by 327 IAC 2-1.5-5(a)(3). Compliance with this condition and work restrictions will ensure the chemical, physical and biological integrity of the salmonid waters are maintained and protected in compliance with 327 IAC 2.

General Condition 13: This condition is required to protect existing uses for aquatic life under 327 IAC 2-1-6(b)(4).

General Condition 14: This condition is necessary to ensure an applicant submitted all required information. Without all necessary information, IDEM cannot determine if a project complies with 327 IAC 2.

General Condition 15: This condition is necessary to ensure authorized activities do not interfere with sediment transport, create aquatic life barriers, or interfere with movement between aquatic and upland habitats and ensure compliance with 327 IAC 2.

General Condition 16: This condition is necessary to ensure authorized activities do not interfere with sediment transport, create aquatic life barriers, or interfere with movement between aquatic and upland habitats and ensure compliance with 327 IAC 2.

General Condition 17: This condition is necessary to ensure an authorized project complies with 327 IAC 2.

General Condition 18: This condition is necessary to ensure only projects that have a minimal impact to water quality and comply with 327 IAC 2 are authorized by the PGP.