

Board of Park Commissioners Approval Form

Indiana Stream and Wetland Mitigation Program (IN SWMP) In-lieu Fee (ILF) Credit Purchase Project: 2024030

Approval Request

Scope of Work: The proposed design for Riverfront Phase II includes impacts to 1.1 acres of non-wetland floodway forest, 1000 linear feet of streambank, and .46 acres of forested wetland. Mitigation of these impacts is required by both the Indiana Department of Natural Resources (IDNR) and the Indiana Department of Environmental Management (IDEM); requirements are tied to conditions outlined in the Construction in a Floodway Permit (IDNR) and Section 401 Water Quality Certification Permit (IDEM).

An In-lieu fee program has been established by IDNR that allows for the purchase of credits to meet mitigation requirements set forth by each agency. These credits are to be purchased within the Maumee Service Area, prior to any initiation of work approved under each permit. Credit quantities are determined by each agency, utilizing predetermined multipliers and credit costs.

The following outlines the required ILF credit purchases:

| | |
|--|--|
| Maumee Floodway Non-Wetland Mitigation Credits: 2.2 @ \$80,000.00 per credit: | \$176,000.00 (1 st invoice) |
| Maumee Stream Mitigation Credit: 1,000 @ \$450.00 per credit: | \$450,000.00 (2 nd invoice) |
| Maumee Jurisdictional Wetland Mitigation Credit: 1.4 @ \$80,000.00 per credit: | \$112,000.00 (2 nd invoice) |

On behalf of the Board of Park Commissioners, and per IDNR purchasing guidelines, we have requested invoices for the purchase of these credits.

Board Approval: At this time, I would like to request approval for payment of Invoice #72 at a total of \$176,000.00, and Invoice #526 at a total of \$562,000.00, for a total of **\$738,000.00** to the Indiana Natural Resources Foundation's IN SWMP utilizing READI funds allocated to Riverfront Phase II.

The Fort Wayne Parks and Recreation and the Board of Park Commissioners, met to host their regularly scheduled monthly Board meeting on **September 12, 2024**, to approve the above-referenced project and contract, in the amount of **\$738,000.00**.

We, the Board of Park Commissioners, on the date stated, do ATTEST, sign the above-referenced and attached documents, and approve as presented.

Justin Shurley, President

Cory Miller, Vice-President

Richard Briley, Commissioner

Jenna Jauch, Commissioner

Steve McDaniel, Director, Board Secretary



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

VIA ELECTRONIC MAIL:

IDEM Number: 2023-22-2-EJW-A
USACE Number: LRE-2015-01011-102-N23
Project Name: Fort Wayne Riverfront Project
Authority: 327 IAC 2. CWA Sections: 301, 302, 303, 306, 307, & 401
Date of Issuance: June 22, 2023
Impacts must be completed by: June 22, 2025

Approved:

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

Applicant / Permittee:

Fort Wayne Parks and Recreation
Attention: Steve McDaniel
705 East State Boulevard
Fort Wayne, IN 46805

Agent:

Christopher B. Burke Engineering, LLC
Attention: Jon Ellingson
115 W. Washington St. Suite 1368 S.
Indianapolis, IN 46204

Project Location:

Allen County
Latitude: 41.083458 Longitude: -85.143118
Along the left descending bank of the St. Mary's River from
Wells Street to N. Clinton Street in Fort Wayne, IN.

| | |
|----------------------------------|---|
| Mitigation Location: | Maumee Service Area |
| Application Signed: | January,13,2023 |
| Application Received: | January, 27, 2023 |
| Application Amendments Received: | April, 10, 2023 Environmental impacts sheet |

Based on available information, it is the judgment of this office that the impacts from the proposed project as outlined by this Section 401 Water Quality Certification and described in your application will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act if you comply with the conditions set forth below. Therefore, subject to the following conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 Water Quality Certification for the project described in your application. Any changes in project design or scope not detailed in the application described above or modified by this Section 401 Water Quality Certification are not authorized.

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

Conditions of the Section 401 Water Quality Certification

1.0 General

- (a) Implement the project as depicted and described in the application for Section 401 Water Quality Certification as modified by the conditions of this certification.
- (b) Per 33 CFR 325.6(c), 327 IAC 5-2-6, IC 13-15-3-2 the federal license shall have an established timeframe. Therefore, all approved discharges must be completed within the term of the valid federal permit.
- (c) 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. Therefore, the commissioner or an authorized representative of the

- (a) Designate on-site erosion and sediment control personnel that are trained and knowledgeable in storm water quality principles and practices to ensure that erosion and sediment control measures are installed at appropriate times and locations and are maintained to ensure compliance with this 401 WQC and, if applicable, the construction site run-off general permit.
- (b) Implement erosion and sediment control measures on the construction site prior to land disturbance to minimize soil from leaving the site or entering a waterbody. Erosion and sediment control measures shall be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities associated with the project. Appropriate measures include, but are not limited to, silt fence, diversions, and sediment traps.
- (c) Monitor and maintain erosion control measures and devices regularly, especially after rain events, until all soils disturbed by construction activities have been permanently stabilized.
- (d) Use run-off control measures, including but not limited to diversions and slope drains. These measures are effective for directing and managing run-off to sediment control measures and for preventing direct run-off into waterbodies.
- (e) Install and make appropriate modifications to erosion and sediment control measures based on current site conditions as construction progresses on the site. The Indiana Storm Water Quality Manual or similar guidance documents are available to assist in the selection of measures that are applicable to individual project sites.
- (f) Implement appropriate erosion and sediment control measures for all temporary run-arounds, cofferdams, temporary causeways, temporary crossings, or other such structures that are to be constructed within any waters of the state. Minimize disturbance to riparian areas when constructing these structures. Structures must be included in reviewed designs or approved by IDEM prior to use. Construct temporary run-arounds, temporary cofferdams, temporary causeways, temporary crossings, or other such structures of non-erodible materials. Temporary crossings and causeways must be completely removed upon completion of the project and the affected area restored to pre-construction contours, grades, and vegetative conditions.
- (f) Install stream pump-around operations in accordance with the plans and ensure in-stream component is constructed of non-sediment producing materials. The discharge at the outlet shall not cause erosion of the stream bottom and banks.

- (c) Restrict channel work and vegetation clearing to the minimum necessary for the installation of any structures. Work from only one side of the stream, and, where possible, from the side of the stream which does not have adjacent wetlands. If no wetlands are present, work from the side with the fewest trees and woody vegetation.
- (d) Ensure permanent in-stream structures, including but not limited to culverts and other stream encapsulations, are embedded and sized appropriately so as not to impede surface flows or create abnormal impediments to aquatic life.
- (e) Deposit any dredged material in a contained upland (non-wetland) disposal area to prevent sediment run-off to any waterbody.
- (f) Create temporary structures constructed in streams such that near normal stream flows are maintained. (327 IAC definitions Stream Design Flow)

Other Applicable Permits

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

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 Evan White, Project Manager, by email at EVWhite@IDEM.IN.Gov or by phone at 317-671-6698.

Enclosure

cc: Rebecca Hartman, USACE – Detroit District
Liz McCloskey, USFWS
Jessica Gumbert, Regional Env. Biologist – IDNR
Indiana Stream and Wetland Mitigation Program (Electronic)
Sarah Wright, Christopher B. Burke Engineering, LLC



INSWMP

402 W. Washington Street, W256
IN 46204

317-234-5447

Invoice

| Date | Invoice # |
|-----------|-----------|
| 7/29/2024 | 526 |

| |
|--|
| Bill To |
| Fort Wayne Parks and Recreation 705 East State Blvd. Fort Wayne, IN, 46805 |

| FID # | DES # | Terms |
|-------|-------|----------------|
| | | Due on receipt |

| Description | Permit | Quantity | Rate | Amount |
|---|-----------------------|----------|-----------|------------|
| Maumee Stream Mitigation Credit | LRE-2015-1011-102-N23 | 1,000 | 450.00 | 450,000.00 |
| Maumee Jurisdictional Wetland Mitigation Credit | LRE-2015-1011-102-N23 | 1.4 | 80,000.00 | 112,000.00 |

Bank Information ACH
STAR Financial Bank
400 N. High St. #100
Muncie, IN 47305
Phone: 765-751-3500

| | |
|--------------|---------------------|
| Total | \$562,000.00 |
|--------------|---------------------|

Account Name: Indiana Natural Resources Foundation
Routing Number - 074901672
Bank Account - 41116418

Please include the permit number in your ACH ADDENDA RECORDS or Detail. Additionally, notify Cheryl Hampton at champton@dnr.in.gov when sending the ACH.



State of Indiana
Department of Natural Resources



CERTIFICATE OF APPROVAL

Application #: FW-31869-0

This Certificate of Approval is a Permit for Construction under the authority of the Indiana Flood Control Act, IC 14-28-1 with 312 IAC 10 as administered by the Department of Natural Resources.

Approval Issued To: Fort Wayne Parks and Recreation, Steve McDaniel, 705 East State Boulevard, Fort Wayne, IN 46805

Approval Issued By:

Jordan Smithers

Mail Date: 3/1/2024

Jordan Smithers, CFM, Division of Water

Permit Effective Date: 03/19/2024

Permit Expiration Date: 03/01/2026

Pursuant to IC 4-21.5-3-5(f), this Permit becomes Effective eighteen (18) days from the Mail Date to provide a stay period for a Petition for Administrative Review with the Indiana Natural Resources Commission, Division of Hearings. Initiating construction authorized in this Permit prior to the Permit Effective Date constitutes a violation. This Permit is only valid until the Permit Expiration Date.

This Permit may be renewed one (1) time if a written request is received at the DNR, Division of Water, prior to the Permit Expiration Date.

PROJECT INFORMATION:

Waterbody: St. Marys River

County: Allen

Project Description Narrative: A new recreational facility will be constructed, which will include: pedestrian walkways (trails, wetland board walk, and tree canopy walk), gathering areas, bank stabilization, and concrete docks. The existing levee will be modified throughout the length of the project. Temporary cofferdams will be required to install the tree canopy walk and will be in place for approximately 9-11 months. A series of temporary causeways will also be required in order to facilitate construction, each causeway will be in place for approximately a month, for a total of approximately 5-6 months. Details of the project are contained in plans and information that have been received at the Division of Water.

Project Location: Beginning at the Wells Street stream crossing and extending approximately 3000' downstream at Fort Wayne

PERMIT CONDITIONS:

This Certificate of Approval is valid only if the construction project is in compliance with all Conditions in this Permit.

DNR PROJECT SPECIFIC PERMIT CONDITIONS

- 21) Except for the material used as backfill as shown on the plans submitted for the permit application, place all excavated material landward of the floodway*.
- 22) Do not leave felled trees, brush, or other debris in the floodway*.
- 23) All riprap placed for bank stabilization must conform to the bank.
- 24) Upon completion of the project, remove all construction debris from the floodway*.
- 25) Keep the bridge waterway opening free of debris and sediment at all times.
- 26) The project meets the criteria set forth in IC 14-28-1 and 312 IAC 10. However, please note additional federal regulations involving encroachment in the floodway will need to be met per 44 CFR 60.3. FEMA requires a Conditional Letter of Map Revision (CLOMR) prior to construction, with a subsequent Letter of Map Revision (LOMR) required after construction.

DNR PROJECT GENERAL PERMIT CONDITIONS

- 1) Any modifications or additional construction beyond what was shown on plans received at the Division of Water shall require an additional review and approval from the Department of Natural Resources.
- 2) This Permit must be posted and maintained at the project site until the project is completed.
- 3) This Permit shall not be assigned or transferred without the prior written approval of the Department of Natural Resources.
- 4) If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (IC 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days.
- 5) This Permit may be revoked by the Department of Natural Resources for violation of any condition or applicable statute or rule.
- 6) The Department of Natural Resources shall have the right to enter upon the site of the permitted activity for the purpose of inspecting the work authorized under this Permit.

Certificate of Approval Attachments: Floodplain Map.pdf

RIGHT TO ADMINISTRATIVE REVIEW:

A party may appeal this Department of Natural Resources Action through the administrative review procedures found in the Administrative Orders and Procedures Act, IC 4-21.5, and the rules promulgated thereunder 312 IAC 3-1. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel at all stages of administrative review.

In order to obtain an administrative review, a written petition must be filed with the Division of Hearings within 18 days of the Mail Date of the Action. The petition must contain specific reasons for the appeal and indicate the portion or portions of the project to which the appeal pertains. The petition must be addressed to the Division of Hearings, Indiana Government Center North, Room N103, 100 North Senate Avenue, Indianapolis, Indiana 46204

SERVICE LIST:

Applicant(s):

Fort Wayne Parks and Recreation, Steve McDaniel, 705 East State Boulevard, Fort Wayne, IN 46805

Agent(s):

Christopher B. Burke Engineering, LLC, Jamie Furgason, 115 W Washington Street Suite 1368 South, Indianapolis, IN 46204

Adjacent Landowners and Interested Parties:



DNR ILFP

402 W. Washington St., W256
Indianapolis, IN 46204

Invoice

| Date | Invoice # |
|-----------|-----------|
| 7/15/2024 | 72 |

| |
|---|
| Bill To |
| Fort Wayne Parks and Recreation 705 East State Boulevard Fort Wayne, IN 46805 |

| | | FID | Terms | DES # |
|--|------------|----------|----------------|------------|
| | | | Due on receipt | |
| Description | Permit No. | Quantity | Rate | Amount |
| Maumee Floodway Non-Wetland Mitigation Credits | FW-31869-0 | 2.2 | 80,000.00 | 176,000.00 |

Bank Information ACH
STAR Financial Bank
400 N. High Street #100
Muncie, IN 47305
Phone: 765-751-3500

Account Name: Indiana Natural Resources Foundation
Routing Number: 074901672
Bank Account: 41116429

Please include the permit number in your ACH ADDENDA
RECORDS or Detail. Additionally, notify Cheryl Hampton at
champton@dnr.IN.gov when sending the ACH.

Total

\$176,000.00