



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
INDIANAPOLIS REGULATORY OFFICE
8902 OTIS AVENUE, SUITE S106B
INDIANAPOLIS, INDIANA 46216

February 5, 2013

Operations Division
Regulatory Branch (North)
ID No. LRL-2013-40-dlz

Mr. Matt Knight
Hamilton County Highway Department
1700 South 10th Street
Noblesville, IN 46060

Dear Mr. Knight:

This is in regard to the letter dated January 2, 2013, concerning the proposed replacement of a bridge on 161st Street at Cool Creek (Des. No. 0500908). The project consists of the construction of a 39 foot span, 30 foot wide three-sided precast concrete bridge. The project includes 131 cubic yards of riprap on 135 linear feet of adjacent stream banks for scour protection and clean fill into 0.045 acres of palustrine forested wetland. The project is located in Section 7, Township 18 North, Range 4 East, Westfield, Hamilton County, Indiana. We have reviewed the submitted data relative to Section 404 of the Clean Water Act (CWA).

The Louisville, Detroit, and Chicago Districts issued Regional General Permit (RGP) No. 1 pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 CWA on December 15, 2009, for certain activities having minimal impact in Indiana. Since less than 0.10 acre of "waters of the United States" would be impacted by the discharge of dredged or fill material, and the work is considered to have minimal impact on the aquatic environment, your project is authorized under the provisions of the RGP. We do require compliance with the enclosed RGP General Conditions, the Section 401 Water Quality Certification issued by the Indiana Department of Environmental Management (IDEM) dated December 11, 2009, and the following special condition:

1. Tree removal is prohibited during the period of April 1 - September 30 to avoid the potential for incidental take of the federally endangered Indiana bat in an occupied roost tree.

Attached to this RGP verification is a preliminary jurisdictional determination (JD), a Notification of Appeal Process (NAP) fact sheet, and Request for Appeal (RFA) form. However, a preliminary jurisdictional determination is not appealable and impacting "waters of the U.S." identified in the preliminary JD will result in you waiving the right to request an approved JD at a later date. An approved JD may be requested (which may be appealed), by contacting me for further instruction.

You must provide the IDEM notification of this activity. Upon completion of the work authorized by this RGP, the enclosed Compliance Certification form must be completed and returned to this office. This authorization is valid until December 15, 2014.

If you have any questions concerning this matter, please contact Daniel Zay by writing to the above address or by calling 317-543-9424. Any correspondence should reference our assigned Identification Number LRL-2013-40-dlz.

Sincerely,



Laban C. Lindley
Team Leader
Indianapolis Regulatory Office

Enclosures

Copy Furnished: IDEM (Randolph)
HWC Engineering (Stephens-Hotopp)

CELRL-OP-FN
LRL-2013-40-dlz

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Memorandum Documenting Nationwide Permit/Regional General Permit Verification

Applicant: Hamilton County Highway Department, c/o Matt Knight

Project Location (*Waterway, Section, Township, Range, City, County, State*):

Cool Creek, in Section 7, Township 18 North, Range 4 East, Westfield, Hamilton County, Indiana.

Pre-Construction Notification Receipt Date: 1/7/2013 . **Complete?** No

Additional Information Requested Date: 1/14/2013

Pre-Construction Notification Complete Date: 1/14/2013 .

Waters of the US:

*see Jurisdictional Determination form(s) and/or Preliminary JD letter(s) dated: Preliminary JD dated 2/5/13.

Authority: Section 10 Section 404 Section 103

Project Description (*Describe activities in waters of the U.S. considered for verification*):

The applicant proposes to replace an existing concrete slab bridge with a with a 39 foot span 30 feet wide by 14.5 feet high three-sided precast concrete structure on 161st Street over Cool Creek. The project includes 131 cubic yards of riprap on 135 linear feet of adjacent stream banks for scour protection.

Type of Permit Requested: NWP # _____ RGP # 01

Pre-construction Notification Required: Yes No

Waiver required to begin work (*see GC31 (a)(2) as applied to appropriate NWP*s):

Yes No

Rationale: N/A.

Coordination with Agencies/Tribes Needed: Yes No Date: _____

Resolution: _____

Commenting Agencies: USFWS.

Substantive Issues Raised and Corps Resolution (*Consideration of Comments*): None.

Compliance with Other Federal Laws (*If specific law is not applicable write N/A*):

a) Endangered Species Act:

Name of species present: Indiana bat (*Myotis soldalis*) regionally present.

Effects determination: Not likely to adversely affect.

Date of Service(s) concurrence: May 23, 2012

Basis for "Not likely to adversely affect" determination addressed with seasonal tree removal restriction, otherwise the project complies with GP conditions.

Additional information (optional):

b) Magnuson-Stevens Act (Essential Fish Habitat): N/A.

Name of species present:

Effects determination:

Date of Service(s) concurrence: Basis for "no effect" determination:

Additional information (optional):

c) Section 106 of the National Historic Preservation Act:

Known site present: yes no

Survey required/conducted: yes no

Effects determination: No potential to effect.

Rationale: See supplemental 106 documentation.

Date consultation complete (if necessary):

Additional information (optional):

d) Section 401 Water Quality Certification:

Individual certification required: yes no

Issued Waived Denied

e) Coastal Zone Management Act: N/A.

Individual certification required: yes no

Issued Waived Denied

Additional information (optional):

f) Wild and Scenic Rivers Act: N/A.

Project located on designated or "study" river: yes no

Managing Agency:

Date written determination provided that the project will not adversely affect the Wild and Scenic River designation or study status:

Additional information (optional):

g) Other: N/A.

Special Conditions Required (include rationale for each required condition/explanation for requiring no special conditions): yes no

The project as proposed would not result in more than minimal individual or cumulative adverse impact, would not be contrary to the public interest, and meets all the terms and conditions of RGP 01, provided the following special condition is adhered to. Tree removal is prohibited during the period of April 1 – September 30 to avoid the potential for incidental take of the federally endangered Indiana bat in an occupied roost tree.

Compensatory Mitigation Determination: The applicant has avoided and minimized impacts to the maximum extent practicable.

- (1) Is compensatory mitigation required for unavoidable impacts to jurisdictional aquatic resources to reduce the individual and cumulative adverse environmental effects to a minimal level?
- yes no [If "no," do not complete the rest of this section and include an explanation of why not here]

Project has been designed to avoid and minimize impacts to the aquatic environment to the maximum extent practicable, and adverse effects would not be more than minimal. RGP 01 does not require compensatory mitigation unless loss of waters exceed 300 linear feet and/or 1/10 acre, or impacts exceed minimal.

- (2) Is the impact in the service area of an approved mitigation bank? yes no
- i. Does the mitigation bank have appropriate number and resource type of credits available? yes no
- (3) Is the impact in the service area of an approved in-lieu fee program? yes no
- i. Does the in-lieu fee program have appropriate number and resource type of credits available? yes no

- (4) Check the selected compensatory mitigation option(s):

- mitigation bank credits
- in-lieu fee program credits
- permittee-responsible mitigation under a watershed approach
- permittee-responsible mitigation, on-site and in-kind
- permittee-responsible mitigation, off-site and out-of-kind

- (5) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site

CELRL-OP-FN; LRL-2013-40-dlz

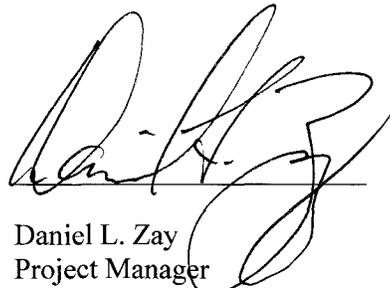
SUBJECT: Department of the Army Memorandum Documenting Nationwide Permit/Regional General Permit Verification for the Above-Numbered Permit Application

relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):

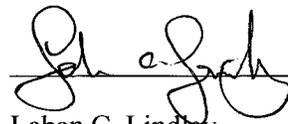
Determination (*Reference D: District Engineers Decision*):

The proposed activity, with proposed mitigation (if applicable) would result in no more than minimal individual and cumulative adverse environmental effects and would not be contrary to the public interest, provided the special condition listed above is incorporated. This project complies with all terms and conditions of RGP 01 including any applicable regional conditions.

PREPARED BY:


Date: 2/5/13
Daniel L. Zay
Project Manager
Indianapolis Regulatory Office

APPROVED BY:


Date 2/5/13
Laban C. Lindley
Team Leader
Indianapolis Regulatory Office

**REGULATORY-SECTION 106/Appendix C-
DOCUMENTATION**

Project Manager: Daniel Zay Date: February 5, 2012
first and last name
Hamilton County
Applicant: Highway Department Project Name: bridge replacement ID#: Des. No. 0500908 LRL-2013-40-dlz

Type of permit: Section 10 Section 404 Section 10 / 404
 NWP# _____ PCN RGP LOP IP Violation

Potential to Affect Historic Properties (to be made by the Regulatory project manager or in consultation with the Regulatory Archaeologist, if necessary):

The undertaking has no potential to affect historic properties, Section 106 is complete, no need to consult with SHPO; 36 C.F.R 800.3(a)(1) , Appendix C, Section (3)(b), USACE Interim Guidance April 25, 2005.

Rationale (check all that apply):

- Area has been extensively disturbed by previous work; Area created in modern times;
- Limited nature and scope of undertaking; No historic structures in the permit area or immediate viewshed; The proposed work area is not visually prominent
- Other Bridge identified as 'Not eligible" on historic bridge database.
- The undertaking has the potential to affect historic properties or the potential is unknown (submit to regulatory archaeologist along with the following information.
 - Map of project area, any off-site mitigation areas, and coordinates;
 - Project plans or Public Notice;
 - Any correspondence from SHPO or another Federal Agency (if included with permit application);
 - Photo(s) of the project area(s) (if included);
 - Information about houses, buildings, structures, etc. [including estimated construction dates] (if included);
 - Previous Cultural Resources Work [predetermination reports, survey reports, etc.] (if included);
 - Cultural Resources Survey Report / EIS / EA/other federal agency determination (if included).

Effect Determination (to be made in consultation with the Regulatory Archaeologist):

- No effects to historic properties; 36 C.F.R. §800.4(d)(1), 33 C.F.R. §325, Appendix C, Section (7)(b), USACE Interim Guidance April 25, 2005 (SHPO concurrence required within 30 days)
- No adverse effects to historic properties; 36 C.F.R. §800.5(d)(1); 33 C.F.R. §325, Appendix C(7)(c), USACE Interim Guidance April 25, 2005 (SHPO concurrence required within 30 days)
- Adverse effect to historic properties 36 C.F.R. §800.5(d)(2) and 33 C.F.R. §325, Appendix C(7)(d), USACE Interim Guidance April 25, 2005 (SHPO concurrence, MOA will be required)

Rationale:

- No Effect: Archaeological and/or Structures survey identified no cultural resources; Archaeological and/or Structures survey identified resources but they are not eligible for the National Register (NR);
- No Adverse Effect: NR-eligible properties are present, but will not be adversely impacted by undertaking;
- Adverse Effect: Eligible properties present and will be adversely impacted by undertaking.

Date Section 106 complete (Choose One):

- SHPO concurred with the Corps' effect determination on [add date]
- Memorandum of Agreement (MOA) accepted by the Advisory Council on Historic Preservation on [add date] (Note: this only applies to adverse effect determinations.)