



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

January 29, 2013

Operations Division
Regulatory Branch (North)
ID No. LRL-2012-1090-dlz

Ms. Lisa Herber
Indiana Department of Transportation
100 North Senate Avenue, Room N642
Indianapolis, IN 46204

Dear Ms. Herber:

This is in regard to your letter dated December 19, 2012, concerning the proposal to replace an existing 59 foot long by 9-foot diameter CMP culvert conveying Little Deer Creek under SR 218 with an identical culvert. A total of 8.4 cubic yards of riprap will be placed at the culvert outlet for scour protection. (Des. No. 1006707). The culvert is located in Section 28, Township 26 North, Range 3 East, Onward in Cass County, Indiana. We have reviewed the submitted data relative to Section 404 of the Clean Water Act.

We have determined that the proposed project is authorized under the provisions of our Nationwide Permit (NWP) 33 CFR 330 (3) for Maintenance as published in the Federal Register on February 21, 2012. We do require compliance with the enclosed Terms and General Conditions of the NWP. Compliance with the Water Quality Certification issued by the Indiana Department of Environmental Management dated April 5, 2012, is also required.

This verification is valid for a period of 2 years. The enclosed Compliance Certification should be signed and returned upon completion of the project. Please note that this NWP does not obviate the need to obtain other Federal, state, and local authorizations that may be required.

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-2012-1090-dlz.

Sincerely,

A handwritten signature in black ink, appearing to read "Laban C. Lindley". The signature is written in a cursive style with a large initial "L".

Laban C. Lindley
Team Leader
Indianapolis Regulatory Office

Enclosures

Copy Furnished: IDEM (Randolph)

CELRL-OP-FN
Application LRL-2012-1090-dlz

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Memorandum Documenting National Permit Verification

Applicant: Indiana Department of Transportation

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

Little Deer Creek, Section 28, Township 26 North, Range 3 East, Onward, Cass County, Indiana.

Pre-Construction Notification Receipt Date: 12/20/2012 **Complete?** Yes No

Additional Information Requested Date:

Pre-Construction Notification Complete Date: 12/20/2012

Waters of the US:

*see Preliminary JD dated: no Preliminary JD required

Authority: Section 10 Section 404 Section 103

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

Applicant proposes to replace an existing 59 foot long 9 foot diameter CMP culvert under SR 218, with an identical culvert. A total of 8.4 cubic yards of riprap will be placed along 10 feet of channel at the culvert outlet for scour protection.

Type of Permit Requested: NWP # 3 RGP #

Pre-construction Notification Required: Yes No

Waiver required to begin work (*see GC 31 (a)(2) as applied to appropriate NWP*s):

Yes No

Rationale:

Coordination with Agencies/Tribes Needed: Yes No Date:

Resolution:

Commenting Agencies:

Substantive Issues Raised and Corps Resolution (*Consideration of Comments*):

CELRL-OP-FN (Application LRL-2012-1090)

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

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*) locally present.

Effects determination: Not likely to adversely affect.

Date of Service(s) concurrence:

Basis for "not likely to adversely affect" determination: There is no habitat in project area.

Otherwise complies with Nationwide Permit #3 General 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 affect historic properties.

Rationale: Limited scope of work.

Date consultation complete (if necessary):

Additional information (optional): See supplemental 106 documentation.

d) Section 401 Water Quality Certification: Blanket 401 WQC for NWP's issued April 5, 2012

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

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 NWP 03.

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] The proposed 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.
- (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 relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):

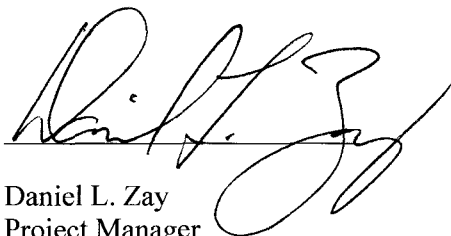
CELRL-OP-FN (Application LRL-2012-1090)

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

Determination (*Reference D. District Engineer's Decision*):

The proposed activity would result in no more than minimal individual and cumulative adverse environmental effects and would not be contrary to the public interest. This project complies with all terms and conditions Nationwide Permit 3.

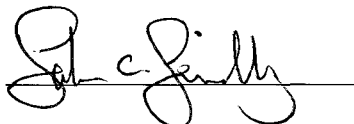
PREPARED BY:



Daniel L. Zay
Project Manager
Indianapolis Regulatory Office

Date: 1/29/13

APPROVED BY:



Laban C. Lindley
Team Leader
Indianapolis Regulatory Office

Date: 1/29/13

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

Project Manager: Daniel Zay Date: January 29, 2013
first and last name
Indiana Department LRL-2012-1090-dlz
Applicant: of Transportation Project Name: Culvert replacement ID#: Des. No. 1006707

Type of permit: Section 10 Section 404 Section 10 / 404
 NWP# 3 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 _____

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.)