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Via Email: [David.d.carr@usace.army.mil](mailto:David.d.carr@usace.army.mil); [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil)  
U.S. Army Corps of Engineers, Louisville District  
ATTN: David Carr, CELRL-RDN  
8902 Otis Avenue, Suite S106 B  
Indianapolis, Indiana 46216

**RE: Public Comments of the Hoosier Environmental Council on the Notice for an Application Submitted for a Department of the Army (DA) Permit, LRL-2021-707-DDC**

Mr. Carr,

Please accept these brief public comments on behalf of the Hoosier Environmental Council (“HEC”) regarding the application for a Clean Water Act Section 404 Dredge and Fill Permit submitted (“Permit”) by D.R. Horton to discharge clean fill material into 1,559 linear feet of ephemeral and 159 linear feet of intermittent unnamed tributaries to Quack Branch, encapsulate 147 linear feet of intermittent and 131 linear feet of ephemeral unnamed tributaries to Quack Branch, and discharge clean fill material into 2.7 acre of wetlands to construct road crossings, utilities, storm water infrastructure, and home lots (LRL-2021-707-DDC).

The Permit will permanently impact wetlands and streams located within the headwaters of Quack Branch. Quack Branch flows into the Upper White River – a tributary that is a core focus of HEC’s environmental protection efforts. HEC is part of a broad coalition of environmental, conservation, and civic groups, collectively known as the Partners for the White River that are working together to protect the Upper White River watershed.<sup>1</sup> Therefore, this work also extends to smaller tributaries that feed into the Upper White River, like Quack Branch.

Approval of the Permit means the approval of the discharge of fill material into headwater wetland and streams. Headwaters play a critical role in the function and quality of downstream waters. They are the life source for larger streams and compromise at least 80

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<sup>1</sup> This work is made possible by the Nina Mason Pulliam Charitable Trust that has invested \$4.9 million dollars in grant funding to improve water quality, while allowing more people to enjoy and become involved in protecting the White River watershed for the communities and wildlife that depend on it. <https://www.ninapulliamtrust.org/press/nina-mason-pulliam-charitable-trust-grants-over-4-9-million-to-protect-and-restore-white-river-2/>

percent of the stream network in the United States.<sup>2</sup> Their ability to perform vital stream functions is often overlooked because they are smaller in size and can dry up seasonally, which also makes them an easy target for development. That is the case here.

When headwaters are kept in their natural state, they perform a variety of ecosystem services including flood control, groundwater recharge, pollutant removal, and nutrient cycling. They also help to maintain biological diversity and sustain the biological productivity of downstream aquatic ecosystems.<sup>3</sup> The most ecologically effective way to manage stormwater is to keep wetlands and streams in their natural states. Current scientific research shows that there is a great need to protect streams and wetlands from development. Indeed, influential entities on development such as the American Planning Association have recognized this, recommending that stormwater reach rivers and streams “in ways that mimic natural runoff patterns to the maximum degree possible.”<sup>4</sup>

The need to protect headwater wetlands is especially true in states like Indiana that have experienced a near total loss of wetlands, with the current estimate being 85 percent. The Clean Water Act is largely the only political mechanism available to achieve aquatic ecosystem protection, aside from state laws. HEC firmly believes that a need exists and that it is within the public’s interest to protect these headwater wetlands and streams from development. Moreover, HEC is concerned that the avoidance, minimization, and mitigation measures have not considered the significance of headwater wetlands and streams, total wetland losses, and the actuality of wetlands and streams being utilized as stormwater infrastructure rather than being filled, altered, and essentially stripped of their biological, chemical, hydrologic, and ecologic functions. For these reasons, **HEC respectfully requests that the Applicant demonstrate why the headwater wetlands and streams cannot be avoided completely, and/or utilized as natural stormwater infrastructure.**

Unfortunately, HEC has not been able to review the full permit application, the wetland delineation report, and other materials related to the Permit before the end of the comment period. This means that despite HEC’s significant interest in reviewing the Permit application materials to ensure that it is compliant with Section 404 of the Clean Water Act, we are unable to participate in a more meaningful manner. HEC has submitted a Freedom of Information Act (FOIA) Request for these documents, but that request has not been fulfilled before the end of the comment period. Given the significant interest in reviewing the full permit application, HEC

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<sup>2</sup> Where Rivers are Born: The Scientific Imperative for Defending Small Streams and Wetlands. Sierra Club Foundation, Turner Club Foundation, and American Rivers (February 2007).  
<https://dep.wv.gov/WWE/getinvolved/sos/Documents/More/WhereRiversAreBorn.pdf>.

<sup>3</sup> Where Rivers are Born: The Scientific Imperative for Defending Small Streams and Wetlands. Sierra Club Foundation, Turner Club Foundation, and American Rivers (February 2007).

<sup>4</sup> APA Policy Guide on Water. American Planning Association.  
<https://www.planning.org/policy/guides/adopted/water/>.

would appreciate any consideration of extending the public comment deadline by 30 days for this Permit.

Thank you for considering HEC's concerns. We look forward to your response.

Sincerely,

*Susie McGovern*

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Susie McGovern

Senior Water Policy Associate

Hoosier Environmental Council