

November 24, 2023

Via Email: GCWrin@idem.IN.gov

Graham Wrin, Wetland Project Manager
Wetlands Section, Office of Water Quality
Indiana Department of Environmental Management

RE: Request to IDEM to Deny the Isolated Wetland Permit Application for the I-65 and County Line Road Development, IDEM ID # 2023-1011-49-GCW-A

Dear Mr. Wrin,

Please accept these brief public comments on behalf of the Hoosier Environmental Council (HEC) and the undersigned organizations and individuals regarding the application for an Isolated Wetland Individual Permit (Application) submitted by Gershman Partners (Applicant) as part of its proposal to impact 0.244 acres of a 1.24-acre forested, Class III isolated wetland (impacted wetland) to develop speculative warehouse space along I-65 South and County Line Road in Marion County, Indiana.

HEC is a non-profit in Indiana that advocates for equitable and ecologically beneficial development and policies. One of HEC's core initiatives is to track permits in the Upper White River watershed to promote the responsible development of wetlands and streams to protect Indiana's water quality.¹ The Application will permanently impact a wetland within the Pleasant Run Creek watershed, a sub watershed within the Upper White. Therefore, the Application is of interest to HEC.

Water Quality Concerns

The impacted wetland is part of a 45-acre wetland ecosystem – a combination of ponds, ephemeral wetlands, near-permanent wetlands, some forested and some not.² Within and near the wetland ecosystem, much wildlife has been observed, including osprey, great egrets, sandhill cranes, solitary sandpipers, and American bitterns, all of which are either state special concern or

¹ This program work is funded by the Nina Mason Pulliam Charitable Grant, and it is part of a regional initiative to reduce pollution, improve wildlife habitat, and increase awareness of the White River. Accessible at <https://www.ninapulliamtrust.org/programs/environmental-initiatives/>.

² The Applicant has applied for two Isolated Wetland Permits, one Water Quality Certificate, and one Dredge & Fill Permit, with a total amount of 45.542 wetland acres delineated on the development site.

state endangered species.³ These species are in danger of disappearing from the state or have a known or suspected limited abundance in Indiana.⁴

The most recent data from the Indiana Department of Environmental Management (IDEM) shows that Pleasant Run Creek is impaired, which means it isn't meeting its water quality goals.⁵ The Pleasant Run Creek watershed is experiencing tremendous development pressure, with nearly 82 percent of land within the watershed urbanized.⁶ Estimates also show that the watershed has the smallest percentage of wetlands out of the 17 sub watersheds in the Upper White River watershed.⁷ Wetlands are considered “virtually non-existent” here.⁸ The White River Alliance recently completed an updated watershed assessment, giving the Pleasant Run Creek watershed an F for wetland change.⁹ Clearly, the need to protect wetlands and water quality in the Pleasant Run Creek watershed is not a matter of speculation.

Filling the impacted wetland will further degrade the water quality of Pleasant Run Creek because Indiana's wetland mitigation program does not require applicants to mitigate wetlands in or near the same sub-watershed. In other words, approval of the Application could lead to a very real degradation of Pleasant Run Creek because the impacted wetland will be filled with no requirement to replace it near or within the Pleasant Run Creek watershed.

Further, Indiana's In-Lieu Fee Program (ILF), which allows the Indiana Department of Natural Resources (DNR) to sell wetland mitigation credits for the purposes of compensatory mitigation, has been a “challenge” to implement, and wetlands and streams are being lost “without a timely replacement of the functions and values to the watershed as required.”¹⁰

Insights from the ILF program tell us that “Indiana is at a point where the cumulative loss of wetlands is having a measurable negative impact on residents, **particularly from a water quality standpoint.**”¹¹ At this time, Indiana's wetland mitigation program is not effectively replacing wetlands needed to offset wetland losses and ultimately, protect water quality.

HEC has submitted substantial evidence with fact-checked citations detailing the importance of the impacted wetland and the corresponding 45-acre wetland ecosystem to the public record, which has been received by IDEM, DNR, United States Army Corps of Engineers (USACE), and the Applicant. Despite this, HEC has not received a comprehensive, written response to all aforementioned concerns contained in the public record. Surely, the amount of

³ I-65 and County Line Road wildlife observations, Exhibit 1.

⁴ Indiana Species of Greatest Conservation Need, Indiana DNR. Accessible at <https://www.in.gov/dnr/fish-and-wildlife/nongame-and-endangered-wildlife/species-of-greatest-conservation-need/>.

⁵ <https://www.in.gov/idem/nps/online-e303d-tool/>

⁶ Land use change from 1992 to 2021, Exhibit 2.

⁷ Page 29-32, 161 Upper White River Regional Plan. Accessible at <https://thewhiteriveralliance.org/wp-content/uploads/2018/08/Upper-White-River-Watershed-Regional-Plan.pdf>.

⁸ Page 161, Upper White River Regional Plan.

⁹ Lower Fall Creek & Pleasant Run Region, White River Report Card. Accessible at <https://whiteriverreportcard.org/lower-fall-creek-pleasant-run/>.

¹⁰ Page 3, Indiana Wetlands Task Force Final Report, accessible at <https://www.hecweb.org/wp-content/uploads/2022/09/Final-Wetlands-Task-Force-Report-9.26.pdf>.

¹¹ Page 4, Indiana Wetlands Task Force Final Report, accessible at <https://www.hecweb.org/wp-content/uploads/2022/09/Final-Wetlands-Task-Force-Report-9.26.pdf>.

evidence in the record is large enough to warrant a response from the agency demonstrating why the Application is or is not sufficient in protecting water quality.

According to IDEM, if the proposed compensatory mitigation will not offset adverse impacts to water quality, IDEM can deny a permit.¹² **The Application will not offset adverse impacts to water quality** because it does not require mitigation in the same sub-watershed. Pleasant Run Creek is currently impaired, has several existing substantial threats, and essentially needs every wetland it can get, as demonstrated by the submission of evidence contained in agency reports, watershed management plans, and other data sources. Approving the Application will approve a reduction in water quality for the Pleasant Run Creek watershed. For this reason, **HEC urges IDEM to deny the Application and require the Applicant to propose a robust mitigation plan in near or within the Pleasant Run Creek watershed that takes care to thoughtfully mitigate the water quality impacts.**

With Regards,

Susie McGovern

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¹² State Regulated Wetlands Program, IDEM. Accessible at <https://www.in.gov/idem/wetlands/information-about/state-regulated-wetlands-program/>