



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

May 24, 2024

Ryan Gershman
Gershman Partners
350 Massachusetts Avenue, Suite 400
Indianapolis, IN 46204

Dear Mr. Gershman:

Re: **Denial**
State Regulated Wetland Individual Permit
Project: County Line Road at Arlington
Avenue - Northeast Corner
IDEM No.: IWIP 2023-1011-49-GCW-A-2
County: Marion

The Office of Water Quality has reviewed your permit application submitted under the applicable provisions of Indiana Code (IC) 13-18-22 for a State Regulated Wetland Individual Permit to impact isolated wetlands dated February 27, 2024, and received February 28, 2024. According to the application, you propose to discharge 400 cubic yards of gravel, stone, and clean earthen fill into 0.244 acre of a class III isolated forested wetland to facilitate the development of speculative warehouse(s). As mitigation for the impacts you proposed to purchase 0.610 acre of wetland credits from the Upper White service area of the Indiana Stream and Wetland Mitigation Program (INSWMP). The project is located in the northeast corner of the intersection of East County Line Road and South Arlington Avenue in Marion County, Latitude: 39.63871 Longitude: -86.061186.

From the information gathered during IDEM's review of the application and the public hearing held on April 9, 2024: no buyer of the warehouse(s) has been determined. Within close proximity to this site several existing vacant warehouses are available for acquisition. The application also contains two sets of plans for the warehouse(s) which show varying number and size of warehouses and varying impacts to a class III wetland.

Due to the lack of a buyer for the proposed warehouse(s), the existing availability of vacant warehouses, and plans with different amount of impact to the class III wetland, the application has failed to sufficiently demonstrate that the proposed wetland activity is without a reasonable alternative and is reasonably necessary or appropriate in accordance with IC 13-18-22-5(a)(1)(A). Furthermore, the application contains two sets of plans for the warehouse(s) which show varying impacts to a class III wetland. Due to the inability to demonstrate final plans for the warehouse(s) a practical alternative to the

proposed wetland activity within a class III wetland cannot be demonstrated in accordance with IC 13-18-22-5(a)(1)(B).

In accordance with Indiana Code (IC) 13-18-22-8(a), this permit application is denied based on the following:

1. Indiana Code 13-18-22-5(a)(1) states:

The rules adopted under section 3 of this chapter must require that the applicant demonstrate, as a prerequisite to the issuance of the permit, that wetland activity:

(1) is without reasonable alternative; and reasonably necessary or appropriate.

(2) for a Class III wetland, is without practical alternative and will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland.

The proposed isolated wetland activities would violate Indiana Code (IC)13-18-22-5(a)(1) **Consequently, the Indiana Department of Environmental Management hereby denies your permit application for a State Regulated Wetland Individual Permit for the activities described in the permit application dated February 27, 2024, and received February 28, 2024.**

If you wish to challenge this denial, you must file a Petition for Administrative Review with the Office of Environmental Adjudication (OEA), and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-21.5-3-7, IC 13-15-6-1 and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the Office of Environmental Adjudication (OEA) within fifteen (15) days of the issuance of this notice (eighteen (18) days if you received this notice by U.S. Mail), and a copy must be served upon IDEM. Addresses are:

Director	Commissioner
Office of Environmental Adjudication	Indiana Dept. of Environmental Management
Indiana Government Center North	Indiana Government Center North
100 North Senate Avenue, Room N103	100 North Senate Avenue, Room 1301
Indianapolis, Indiana 46204	Indianapolis, Indiana 46204

The petition must contain the following information:

- (a) The name, address and telephone number of each petitioner.

- (b) A description of each petitioner's interest in the permit.
- (c) A statement of facts demonstrating that each petitioner is:
 - (1) a person to whom the order is directed;
 - (2) aggrieved or adversely affected by the permit; or
 - (3) entitled to administrative review under any law.
- (d) The reasons for the request for administrative review.
- (e) The particular legal issues proposed for review.
- (f) The alleged environmental concerns or technical deficiencies of the denial.
- (g) The permit terms and conditions that the petitioner believes would be appropriate and would comply with the law.
- (h) The identity of any persons represented by the petitioner.
- (i) The identity of the person against whom administrative review is sought.
- (j) A copy of the permit that is the basis of the petition.
- (k) A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review. Examples are:

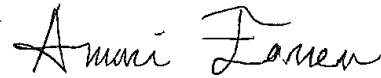
- (a) Failure to file a Petition by the applicable deadline;
- (b) Failure to serve a copy of the Petition upon IDEM when it is filed; or
- (c) Failure to include the information required by law.

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 denial, please contact Graham Wrin Project Manager, of my staff at 317-605-4105, or you may contact the Office of Water Quality through the IDEM Environmental Hotline (1-800-451-6027).

Sincerely,

A handwritten signature in black ink that reads "Amari Farren". The signature is written in a cursive style with a large initial 'A' and 'F'.

Amari Farren, Branch Chief
Surface Water and Operations
Office of Water Quality

cc: Benjamin Harvey, Stantec