

MAILED MAY 28 2009

DNR

Indiana Department of Natural Resources

Mitchell E. Daniels, Jr., Governor
Robert E. Carter, Jr., Director
Division of Water
402 W. Washington Street
Room W264
Indianapolis, IN 46204
Phone (317) 232-4160
Toll-free (877) 928-3755
Fax (317) 233-4579
www.in.gov/dnr/water/

May 28, 2009

Joanna Meyers
City of Franklin
71 East Court Street
Franklin, Indiana 46131

Certified Mail: 7004 2890 0002 9167 0559

Re: Violation Number: V-5162-FW
Location: Section 14, T12N, R4E
Youngs Creek, Johnson County
UTM Coordinates: 4370310 North, 580988 East

To Whom It May Concern::

On or about March 31, 2009 and May 20, 2009, a representative of the Department of Natural Resources observed that logging debris and solid waste has been left in the Youngs Creek floodway. *The Flood Control Act (Indiana Code 14-28-1)* requires prior approval from the Department of Natural Resources (DNR) to make, use, or maintain a structure, an obstruction, a deposit, or an excavation in or on a floodway. A search of our files indicates that a DNR permit has not been granted for this project. According to local property ownership records, the project is located on your property. **There is to be no further construction, excavation, or filling within the floodway without approval from the DNR.**

In order to resolve legal, public safety, and environmental issues associated with the work that has been done thus far, the project site must be restored to its original condition which means to removed all of the logging debris and solid waste from the floodway. Contact the DNR Division of Water's Compliance Section within **20** days after receiving this letter to discuss restoration plans for this site (see address and phone numbers above). A restoration plan including a completion schedule must be coordinated with, and accepted by the DNR Division of Water. DNR personnel will monitor restoration progress to ensure satisfactory results. Failure to restore the project site to its original condition may result in a Notice of Violation.

The floodway is defined as 1) the channel of a river or stream, and 2) areas of the floodplain adjoining the channel that are required to efficiently carry and discharge the flood flow of a river or stream. Recent historic floods have threatened the lives of Indiana residents and caused substantial damage to property at numerous locations within the state. Regulation of construction activities located in floodways is a matter of extreme importance. Floodway construction projects must be designed according to sound engineering practices and applicable floodway regulations. Floodways should be kept clear of obstructions that will unduly restrict the capacity of floodways and cause unacceptable increases in flood elevations. The Flood Control Act (IC 14-28-1) requires a permit for most construction activities located in or on a floodway.

Sincerely,



Toby Adams
Compliance and Enforcement, Division of Water
Department of Natural Resources



Indiana Department of Natural Resources

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May 28, 2009

Bastin Logan Water Services
P.O. Box 55
Franklin, Indiana 46131

Certified Mail: 7004 2890 0002 9167 0542

Re: Violation Number: V-5162-FW
Location: Section 14, T12N, R4E
Youngs Creek, Johnson County
UTM Coordinates: 4370310 North, 580988 East

To Whom It May Concern::

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Sincerely,

Toby Adams
Compliance and Enforcement, Division of Water
Department of Natural Resources

File ID: V-5162-FW
Waterbody: Youngs Creek
County: Johnson County



Division of Water
Department of Natural Resources
Violation Inspection Report



Inspector: Toby Adams
File Number: V-5162-FW
Inspection Date (mm / dd / yy): 3/31/09

Property Owner Name: City of Franklin
Address: 71 East Court Street
Franklin, Indiana 46131

Bastin Logan Water Services
P.O. Box 55
Franklin, Indiana 46131

Inspection Site

Waterbody: Youngs Creek, Quadrangle: Franklin
Township:12N, Range:4E, Section(s):14
City / Town: Franklin
Civil Twp:Franklin, County: Johnson
UTM Datum: NAD 27 , or NAD 83
Upstream 4370310 N 580988 E

Background

We received several correspondences from Mr. Gary Moody concerning several potential violations along Youngs Creek.

Nature of the Project / Violation (Describe physical dimensions and impacts of the project)

At this site trees have been cut in the floodway. This in itself is not a violation of the flood control act. However leaving the tree tops and debris in the floodway is a violation. Several piles of tree tops and debris have been placed in on top of the bank.

Floodplain Inspections	Public Freshwater Lake Inspections	
<p>Is the floodway delineated Yes <input checked="" type="checkbox"/>, No <input type="checkbox"/></p> <p>Floodway Source: <input checked="" type="checkbox"/> FIS <input type="checkbox"/> FARA (REC) <input type="checkbox"/> Other</p> <p>Is any portion of the project located in a floodway? Yes <input checked="" type="checkbox"/>, No <input type="checkbox"/></p>	<p>Shoreline Classification:</p> <p><input type="checkbox"/> Developed Area</p> <p><input type="checkbox"/> Area of Special Concern</p> <p><input type="checkbox"/> Significant Wetland</p> <p><input type="checkbox"/> Undetermined</p>	<p>Lake Level Determination</p> <p>Legal Gage Level</p> <p>Gage Reading</p> <p>Lake Level = ft. x 12 in. = High <input type="checkbox"/>, Low <input type="checkbox"/></p>

Does the project constitute a violation? Yes , No

Applicable Statutes (check all that apply)

- IC 14-26-2 Lake Preservation Act
- IC 14-26-5 Lowering of the Ten Acre Lake Act
- IC 14-29-1 Navigable Waterways Act
- IC 14-29-3 Sand and Gravel Permits Act
- IC 14-29-4 Construction of Channels Act
- IC 14-28-1 Flood Control Act Projects – select one below
 - Non-residential construction
 - Residential reconstruction in a floodway, other than the Ohio River floodway
 - Residential construction, or reconstruction, in the Ohio River floodway

Action Appropriate to Mitigate the Violation - if Enforcement is Required

- None. Explain:
- Apply for after-the-fact permit:
- Restore site to pre-project conditions. Explain: Remove the debris from the floodway.

Onsite Contacts (others present during inspection): Gary Moody

Were instructions given at the site? Yes , No

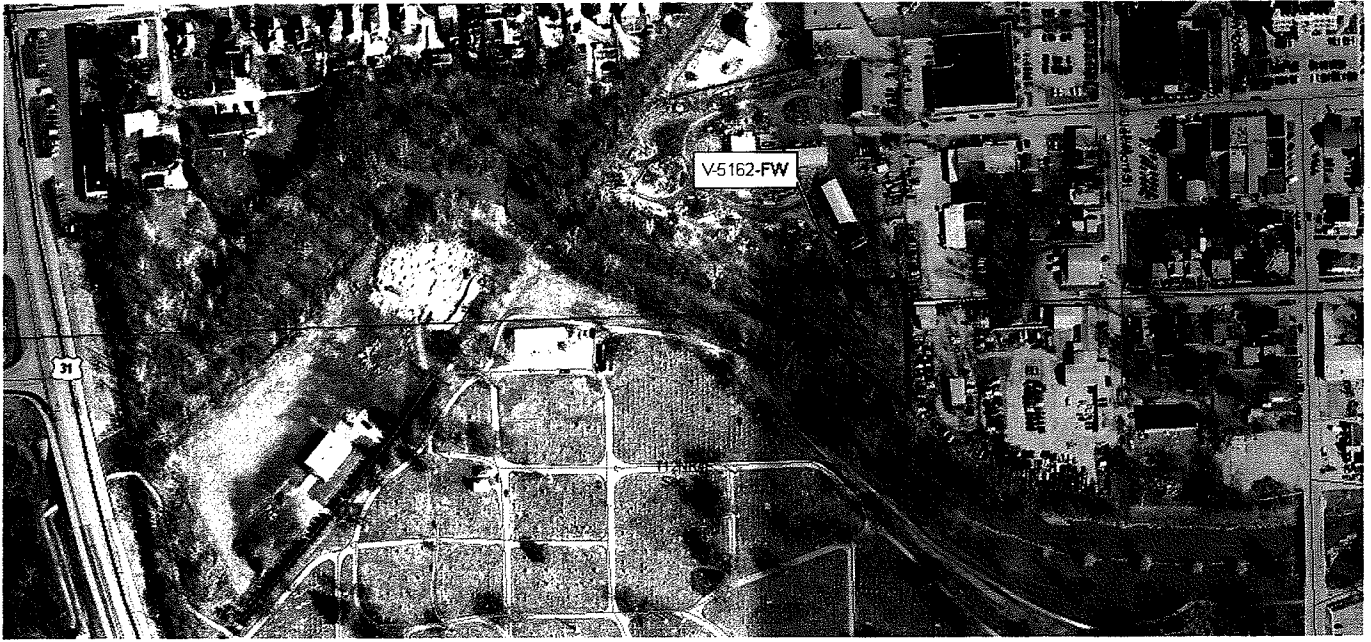
Instructions given (document who instructions were given to): None

Additional Comments / Observations:

I will send a letter asking that the debris piles be removed from the floodway.

Inspector: Toby Adams

Date: (mm / dd / yy): 5/28/09







Division of Water
Department of Natural Resources
FW Violation Priority Matrix

Location	Threat	Violator Has Documented Prior Knowledge?	Primary Enforcement Action
<input type="checkbox"/> ATF application denial, or failure to complete ATF application	-	-	Restoration Letter
<input type="checkbox"/> Abode in a mapped floodway or flood hazard area	High	-	NOV
<input type="checkbox"/> Within banks of a waterway under DNR jurisdiction, floodway is mapped (includes all high hazard and jurisdictional dams)	<input type="checkbox"/> High	<input type="checkbox"/> Yes <input type="checkbox"/> No	NOV with max fines NOV with fines
	<input type="checkbox"/> Medium	<input type="checkbox"/> Yes <input type="checkbox"/> No	NOV with fines Restoration Letter
	<input type="checkbox"/> Low	<input type="checkbox"/> Yes <input type="checkbox"/> No	if previous history, low threat escalates to medium threat * Warning
	<input type="checkbox"/> High	<input type="checkbox"/> Yes <input type="checkbox"/> No	NOV with max fines NOV
<input checked="" type="checkbox"/> In a mapped floodway outside of waterway	<input checked="" type="checkbox"/> Medium	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	NOV with fines Restoration Letter
	<input type="checkbox"/> Low	<input type="checkbox"/> Yes <input type="checkbox"/> No	if previous history, low threat escalates to medium threat * Warning
	<input type="checkbox"/> High	<input type="checkbox"/> Yes <input type="checkbox"/> No	** **
<input type="checkbox"/> In a flood hazard area outside of the waterway (floodway not mapped)	<input type="checkbox"/> Medium	<input type="checkbox"/> Yes <input type="checkbox"/> No	Restoration Letter Restoration Letter
	<input type="checkbox"/> Low	<input type="checkbox"/> Yes <input type="checkbox"/> No	* Warning * Warning
	<input type="checkbox"/> High	<input type="checkbox"/> Yes <input type="checkbox"/> No	** **
<input type="checkbox"/> Near a stream with no mapped floodway (outside of waterway)	-	-	**

* Warning Letter – send letter, or document that verbal warning was given in inspection report and unity.
 ** Determine potential threat; then determine jurisdiction if appropriate.

Remarks: Send a restoration letter asking for the debris to be removed.

Inspector / Reviewer: Toby Adams, **Date:** (mm / dd / yy): 5/28/09

Threat definitions:

- *High - Could cause a regulatory flood elevation increase greater than 0.14 ft, public safety issues, non-permittable projects, negative cumulative effects with another project, affect legal classifications.*
- *Medium - Could increase the regulatory flood elevation, but unlikely to cause a surcharge greater than 0.14 ft, May be permitted with appropriate mitigation, may need changes to be approved.*
- *Low - Technically a violation due to location in a floodway, but flood surcharge impact is nil, no safety issues, easily permittable, self restored, improved quality of habitat. Deminimus Projects.*