

DNR REGULATION OF LOW HEAD DAMS

INDIANA FARM BUREAU DRAINAGE SCHOOL

PRESENTED BY DANIEL P. MCINERNY
BOSE MCKINNEY & EVANS LLP

AUGUST 26, 2025





DNR GENERAL AUTHORITY OVER DAMS

WEST'S ANNOTATED INDIANA CODE
TITLE 14. NATURAL AND CULTURAL RESOURCES (REFS & ANNOS)
ARTICLE 27. LEVEES, DAMS, AND DRAINAGE
CHAPTER 7. DAMS, DIKES, AND LEVEES; REGULATION

IC 14-27-7-3

14-27-7-3 GENERAL POWERS AND DUTIES OF DEPARTMENT

SEC. 3. THE DEPARTMENT:

(1) HAS, ON BEHALF OF THE STATE, JURISDICTION AND SUPERVISION OVER THE MAINTENANCE AND REPAIR OF LEVEES, DIKES, FLOODWALLS, AND APPURTENANT WORKS IN, ON, OR ALONG THE RIVERS AND STREAMS OF INDIANA;



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IC 14-27-7.5-8

14-27-7.5-8 GENERAL POWERS AND DUTIES OF DEPARTMENT

SEC. 8. (A) THE DEPARTMENT:

(1) HAS, ON BEHALF OF THE STATE, JURISDICTION AND SUPERVISION OVER THE MAINTENANCE AND REPAIR OF **STRUCTURES** IN, ON, OR ALONG THE RIVERS, STREAMS, AND LAKES OF INDIANA;





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IC 14-27-7.5-5.

14-27-7.5-5 “STRUCTURE”

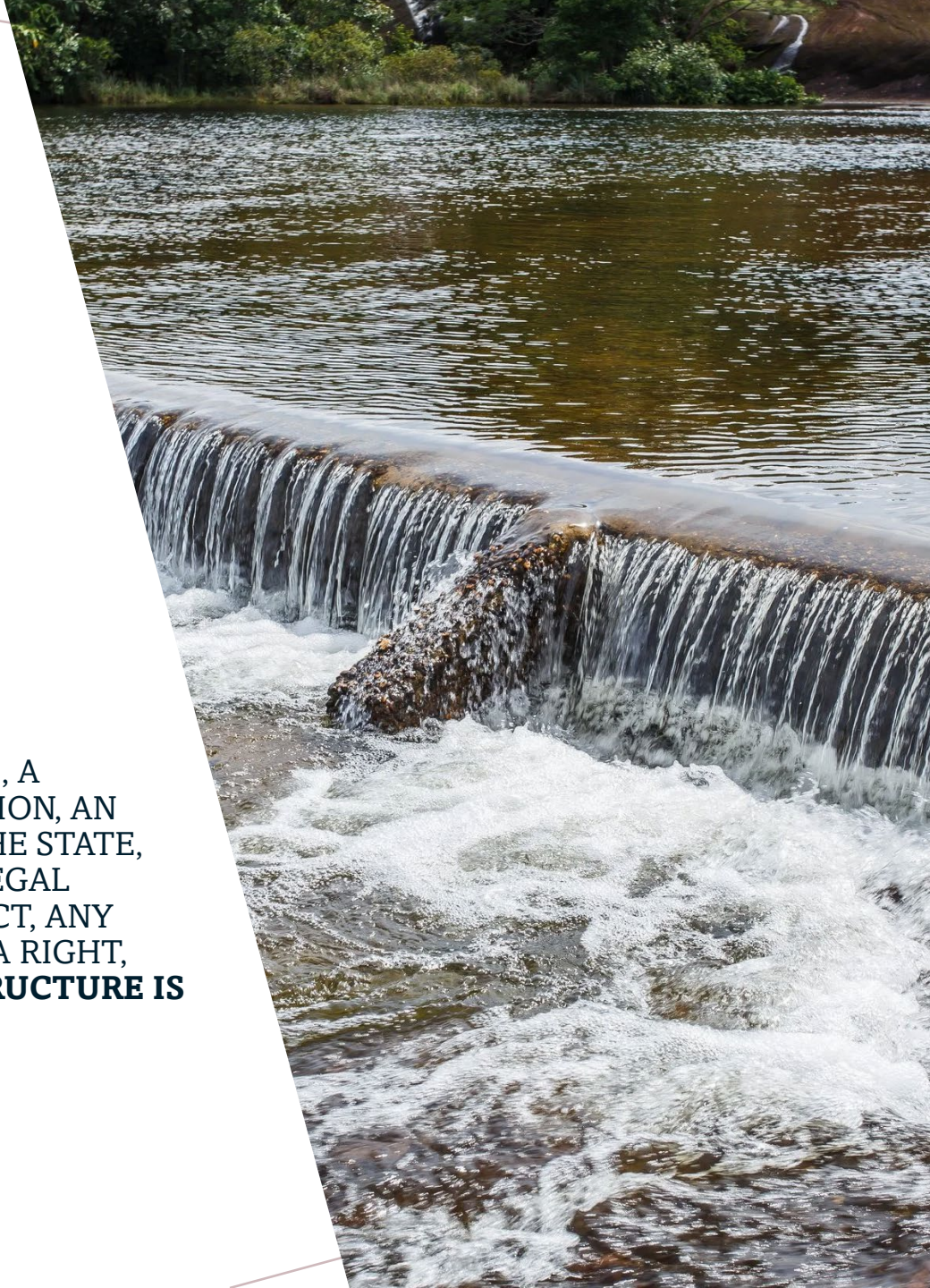
SEC. 5. AS USED IN THIS CHAPTER, “STRUCTURE” MEANS A DAM AND ITS APPURTENANT WORKS.

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IC 14-27-7.5-4

14-27-7.5-4 “OWNER”

SEC. 4. AS USED IN THIS CHAPTER, “OWNER” MEANS AN INDIVIDUAL, A FIRM, A PARTNERSHIP, A COPARTNERSHIP, A LESSEE, AN ASSOCIATION, A CORPORATION, AN EXECUTOR, AN ADMINISTRATOR, A TRUSTEE, THE STATE, AN AGENCY OF THE STATE, A MUNICIPAL CORPORATION, A POLITICAL SUBDIVISION OF THE STATE, A LEGAL ENTITY, A DRAINAGE DISTRICT, A LEVEE DISTRICT, A CONSERVANCY DISTRICT, ANY OTHER DISTRICT ESTABLISHED BY LAW, OR ANY OTHER PERSON WHO HAS A RIGHT, A TITLE, OR AN INTEREST IN OR TO THE **PROPERTY UPON WHICH THE STRUCTURE IS LOCATED.**



DNR PERMITTING AUTHORITY OVER DAMS





WEST'S ANNOTATED INDIANA CODE
TITLE 14. NATURAL AND CULTURAL RESOURCES (REFS & ANNOS)
ARTICLE 28. FLOOD CONTROL
CHAPTER 1. FLOOD CONTROL

IC 14-28-1-22

14-28-1-22 STRUCTURES IN FLOODWAYS; CONSTRUCTION

(c) EXCEPT FOR AN ACTIVITY UNDER SUBSECTION (b), A PERSON WHO DESIRES TO:

- (1) ERECT, MAKE, USE, OR MAINTAIN A STRUCTURE, AN OBSTRUCTION, A DEPOSIT, OR AN EXCAVATION; OR
- (2) SUFFER OR PERMIT A STRUCTURE, AN OBSTRUCTION, A DEPOSIT, OR AN EXCAVATION TO BE ERECTED, MADE, USED, OR MAINTAINED;

IN OR ON A FLOODWAY MUST FILE WITH THE DIRECTOR A VERIFIED WRITTEN APPLICATION FOR A PERMIT. THE PERMIT APPLICATION MUST BE ACCOMPANIED BY A NONREFUNDABLE MINIMUM FEE OF TWO HUNDRED DOLLARS (\$200).

(CONTINUED ON NEXT SLIDE)

14-28-1-22 STRUCTURES IN FLOODWAYS; CONSTRUCTION CONTINUED...

(h) A PERSON DESCRIBED IN SUBSECTION (C) MUST RECEIVE A PERMIT FROM THE DIRECTOR FOR THE WORK BEFORE BEGINNING CONSTRUCTION. THE DIRECTOR SHALL ISSUE A PERMIT ONLY IF, IN THE OPINION OF THE DIRECTOR, THE APPLICANT HAS CLEARLY PROVEN THAT THE STRUCTURE, OBSTRUCTION, DEPOSIT, OR EXCAVATION WILL NOT DO ANY OF THE FOLLOWING:

- (1) ADVERSELY AFFECT THE EFFICIENCY OF OR UNDULY RESTRICT THE CAPACITY OF THE FLOODWAY.
- (2) CONSTITUTE AN UNREASONABLE HAZARD TO THE SAFETY OF LIFE OR PROPERTY.
- (3) RESULT IN UNREASONABLY DETRIMENTAL EFFECTS UPON FISH, WILDLIFE, OR BOTANICAL RESOURCES.





DNR REGULATION OF LOW HEAD DAMS

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CHAPTER 7.3. LOW HEAD DAMS

IC 14-27-7.3-2

14-27-7.3-2 “LOW HEAD DAM”

SEC. 2. AS USED IN THIS CHAPTER, “LOW HEAD DAM” MEANS A MANMADE IN-CHANNEL STRUCTURE IN A WATERCOURSE THAT IS CAPABLE OF GENERATING HAZARDOUS RECIRCULATING CURRENTS THAT POSE A RISK TO PUBLIC HEALTH AND SAFETY AND CAUSES THE WATERCOURSE TO HAVE A VERTICAL DROP OF TWENTY-FIVE (25) FEET OR LESS.





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IC 14-27-7.3-4.

14-27-7.3-4 COMMISSION ADOPTION OF ROSTER OF LOW HEAD DAMS; REQUIREMENTS

SEC. 4. (a) NOT LATER THAN JULY 1, 2021, THE COMMISSION SHALL ADOPT A ROSTER OF LOW HEAD DAMS LOCATED IN THE STATE THAT ARE CAPABLE OF CREATING HAZARDOUS CURRENTS THAT POSE SAFETY ISSUES TO SWIMMERS, WADERS, OR BOATERS. THE ROSTER MUST BE UPDATED PERIODICALLY.

(b) THE ROSTER OF LOW HEAD DAMS MUST INCLUDE THE FOLLOWING INFORMATION:

- (1) THE LOCATION OF THE LOW HEAD DAM
- (2) TO THE EXTENT FEASIBLE, THE NAME OF EACH LOW HEAD DAM OWNER. IF AN OWNER CANNOT BE IDENTIFIED, THE ROSTER MUST LIST THE OWNER AS UNKNOWN.

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IC 14-27-7.3-5

14-27-7.3-5 DEPARTMENT DUTIES

SEC. 5. THE DEPARTMENT SHALL DO THE FOLLOWING:

- (1) ESTABLISH WARNING SIGN STANDARDS AND REQUIREMENTS FOR LOW HEAD DAMS THAT ARE ON THE ROSTER. THE DEPARTMENT MAY REFERENCE STANDARDS OR BEST PRACTICES ESTABLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- (2) PROVIDE INFORMATION ON LOW HEAD DAM SAFETY.
- (3) PROVIDE CONTACT INFORMATION FOR THE DEPARTMENT SO THAT A LOW HEAD DAM OWNER CAN DISCUSS OPTIONS FOR LOW HEAD DAM REMOVAL OR MODIFICATION.
- (4) NOT MORE THAN NINETY (90) DAYS AFTER THE COMMISSION ADOPTS A ROSTER, NOTIFY EACH IDENTIFIED OWNER OF A LOW HEAD DAM ON THE ROSTER BY CERTIFIED MAIL OF THE REQUIREMENTS FOR A LOW HEAD DAM UNDER THIS CHAPTER.
- (5) NOT MORE THAN NINETY (90) DAYS AFTER THE DEPARTMENT RECEIVES INFORMATION OF A NEW OWNER OF A LOW HEAD DAM ON THE ROSTER, NOTIFY THE NEW OWNER BY CERTIFIED MAIL OF THE REQUIREMENTS FOR A LOW HEAD DAM UNDER THIS CHAPTER.



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IC 14-27-7.3-6.

14-27-7.3-6 OWNER OF LOW HEAD DAM; DUTIES

SEC. 6. A PERSON WHO OWNS A LOW HEAD DAM THAT IS ON THE ROSTER SHALL DO THE FOLLOWING:

- (1) EXCEPT AS PROVIDED IN [SECTION 7](#) OF THIS CHAPTER, COMPLY WITH THE WARNING STANDARDS ESTABLISHED BY THE DEPARTMENT UNDER [SECTION 5\(1\)](#) OF THIS CHAPTER.
- (2) INFORM THE DEPARTMENT OF ANY CHANGE OF OWNERSHIP OF THE LOW HEAD DAM NOT MORE THAN THIRTY (30) DAYS AFTER THE CHANGE.
- (3) EXCEPT FOR A LOW HEAD DAM OWNED BY THE STATE OR A POLITICAL SUBDIVISION, OBTAIN AND MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY FOR THE LOW HEAD DAM IN THE FORM OF:
 - (A) A BOND FOR NOT LESS THAN ONE MILLION DOLLARS (\$1,000,000); OR
 - (B) GENERAL LIABILITY INSURANCE, WITH A GENERAL AGGREGATE LIMIT OF NOT LESS THAN ONE MILLION DOLLARS (\$1,000,000);

TO COVER CLAIMS FROM INJURIES AND DEATH THAT THE LOW HEAD DAM MAY CAUSE, AND BEFORE JULY 1 OF EACH YEAR PROVIDE THE DEPARTMENT WITH PROOF OF INSURANCE OR BOND.



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IC 14-27-7.3-9.

14-27-7.3-9 WARNING SIGNS; EXEMPTIONS

SEC. 9. (a) A PERSON MAY NOT ACCESS A LOW HEAD DAM OR WADE, BOAT, SWIM, OR ACCESS THE WATERS WITHIN FIFTY (50) FEET OF THE LOW HEAD DAM WHEN WARNING SIGNS ARE PRESENT.

2025 AMENDMENTS TO LOW HEAD DAM STATUTE



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IC 14-27-7.3-8.1

14-27-7.3-8.1 LOW HEAD DAM REMOVAL; PUBLIC POLICY

SEC. 8.1. (A) IT IS THE PUBLIC POLICY OF THE STATE THAT LOW HEAD DAMS ARE A THREAT TO:

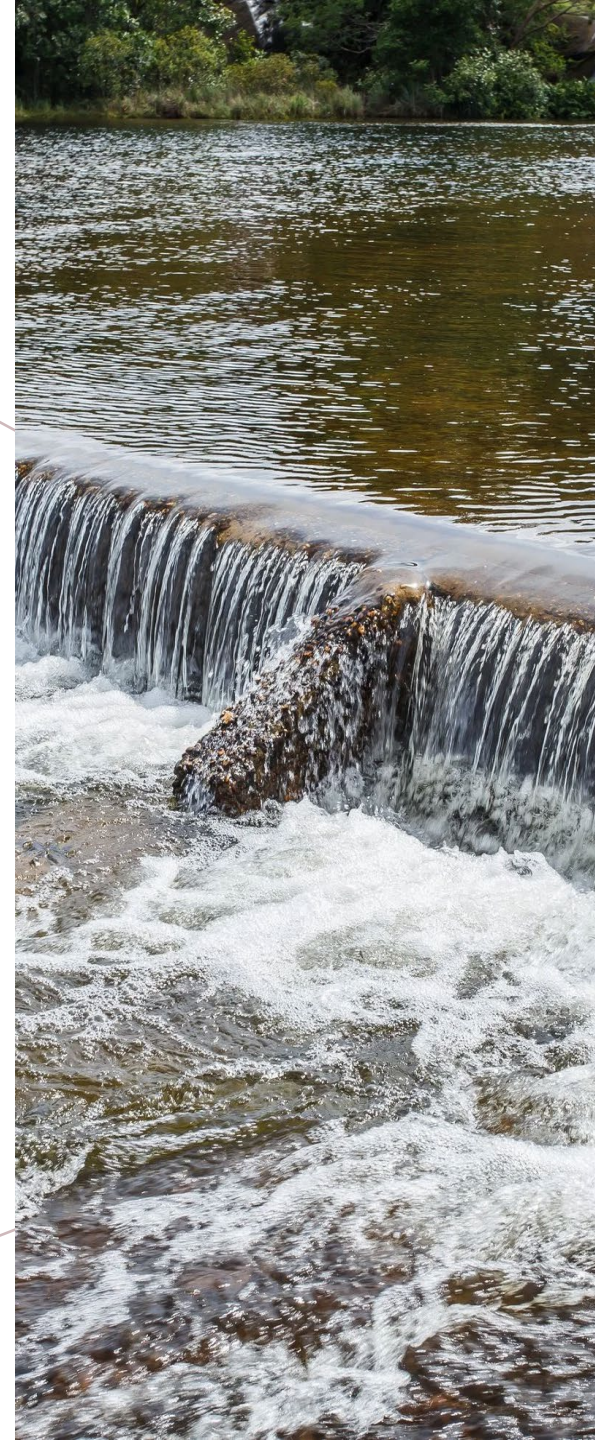
- (1) PUBLIC SAFETY;
- (2) STREAM ECOLOGICAL PROCESSES; AND
- (3) NAVIGABILITY.

(B) IT IS IN THE PUBLIC INTEREST TO REMOVE LOW HEAD DAMS THAT AN ENCROACHMENT ON NAVIGABLE WATERWAYS TO:

- (1) PROMOTE PUBLIC SAFETY FOR RECREATIONAL USE AND ENJOYMENT OF THE PUBLIC TRUST;
- (2) AVOID ADVERSE EFFECTS TO FISH, WILDLIFE, AND BOTANICAL RESOURCES; AND
- (3) NOT IMPAIR THE NAVIGABILITY OF A WATERWAY.

(C) A LOW HEAD DAM LOCATED ON A NAVIGABLE WATERWAY IS AN ENCROACHMENT SUBJECT TO REMOVAL UNDER [SECTION 8.2](#) OF THIS CHAPTER UNLESS IT IS:

- (1) OWNED AND OPERATED BY A PUBLIC UTILITY (AS DEFINED BY [IC 8-1-2-1\(A\)](#)) OR A MUNICIPALLY OWNED UTILITY (AS DEFINED BY [IC 8-1-2-1\(H\)](#)); OR
- (2) OWNED, MANAGED, OR OPERATED BY THE DEPARTMENT.





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IC 14-27-7.3-8.2

14-27-7.3-8.2 REMOVAL OF LOW HEAD DAM WITHOUT DEPARTMENT PERMIT; PROCEDURE

SEC. 8.2. (a) A PERSON UNDER THIS CHAPTER MAY REMOVE A LOW HEAD DAM THAT IS AN ENCROACHMENT **WITHOUT A PERMIT ISSUED BY THE DEPARTMENT** UNDER IC 14-28-1 OR IC 14-29-1 IF THE FOLLOWING CONDITIONS ARE MET:

- (1) THE REMOVAL WILL NOT ADVERSELY AFFECT THE EFFICIENCY OF OR UNDULY RESTRICT THE CAPACITY OF THE FLOODWAY, AS PROVIDED BY 312 IAC.
- (2) THE REMOVAL WILL NOT CONSTITUTE AN UNREASONABLE HAZARD TO THE SAFETY OF LIFE OR PROPERTY, AS PROVIDED BY 312 IAC.
- (3) THE REMOVAL WILL NOT RESULT IN UNREASONABLE DETRIMENTAL EFFECTS UPON FISH, WILDLIFE, OR BOTANICAL RESOURCES, AS PROVIDED BY 312 IAC.
- (4) OTHER CONDITIONS ESTABLISHED BY RULE UNDER IC 4-22-2.

(CONTINUED ON NEXT SLIDE)

IC 14-27-7.3-8.2 CONTINUED...

(b) A PERSON SEEKING TO REMOVE A LOW HEAD DAM UNDER THIS SECTION SHALL NOTIFY THE DEPARTMENT NOT LATER THAN THIRTY (30) DAYS BEFORE BEGINNING REMOVAL OF THE LOW HEAD DAM, AND SHALL PROVIDE THE FOLLOWING INFORMATION:

- (1) THE NAME, ADDRESS, TELEPHONE NUMBER, AND ELECTRONIC MAIL ADDRESS OF THE PERSON.
- (2) A DESCRIPTION OF THE PROPOSED ACTIVITY.
- (3) THE LOCATION OF THE PROPOSED ACTIVITY, INCLUDING APPROPRIATE MAPPING.
- (4) EVIDENCE THE PROPOSED ACTIVITY MEETS THE REQUIREMENTS UNDER SUBSECTION (a).

(c) THIS SECTION DOES NOT EXEMPT A PERSON FROM OTHER FEDERAL, STATE, OR LOCAL PERMITTING REQUIREMENTS.

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IC 14-27-7.3-13.1

14-27-7.3-13.1 LOW HEAD DAM REMOVAL PERMITS; EXPIRATION

SEC. 13.1. A PERMIT ISSUED BY THE DIRECTOR AFTER JANUARY 1, 2021, FOR THE REMOVAL OF A LOW HEAD DAM DOES NOT EXPIRE UNTIL TWO (2) YEARS AFTER ANY:

- (1) LOCAL, STATE, OR FEDERAL ADMINISTRATIVE OR JUDICIAL APPEALS OF THAT PERMIT; OR
 - (2) OTHER LOCAL, STATE, OR FEDERAL PERMIT REQUIRED TO IMPLEMENT THAT PERMIT;
- HAVE BEEN FINALLY ADJUDICATED.



QUESTIONS?

Daniel P. McNerny
Bose McKinney & Evans LLP
111 Monument Circle, Ste. 2700
Indianapolis, IN 46204
317-684-5102
dmcinerny@boselaw.com

Link to complete Low Head Dam Statute:

[https://www.westlaw.com/Browse/Home/StatutesCourtRules/IndianaStatutesCourtRules?guid=NFF237D70A16B11EABE5C8FA6648C6155&transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Browse/Home/StatutesCourtRules/IndianaStatutesCourtRules?guid=NFF237D70A16B11EABE5C8FA6648C6155&transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)