

MONROE COUNTY PLAN COMMISSION

And office of the

MONROE COUNTY BOARD OF ZONING APPEALS

Monroe County Government Center, 501 N. Morton St., Suite 224

Bloomington, IN 47404

Telephone: (812) 349-2560 / Fax: (812) 349-2967

<http://www.co.monroe.in.us/tsd/Government/Infrastructure/PlanningDepartment.aspx>



Tuesday, February 11, 2014

Environmental Protection Agency

US EPA Region 5 – Enforcement Division

Attention: Mr. Tom Poy

77 West Jackson Boulevard

Chicago, IL 60604-3507

U.S. Fish & Wildlife Service

Midwest Region of Law Enforcement

Attention: Mr. Tom Melius

5600 American Blvd. West, Suite 990

Bloomington, MN 55437-1458

Federal Highway Administration

Indiana Division of Enforcement

Attention: Mr. Richard Marquis

575 N. Pennsylvania Street, Room 254

Indianapolis, IN 46204

U.S. Army Corps of Engineers

Louisville District of Enforcement

Attention: Mr. Greg McKay

P.O. Box 59, CELRL

Louisville, KY 40201-0059

**RE: Complaint of Ongoing Siltation and Sedimentation of Monroe County
Waterways from I-69 Corridor Construction**

Dear Federal Agencies: Mr. Poy, Mr. Melius, Mr. Marquis & Mr. McKay,

On July 18, 2013 the Monroe County Plan Commission voted unanimously to send a complaint letter to the various State and Federal Agencies responsible for addressing the serious, soil runoff pollution problems which have been created by the I-69 Corridor Construction.

At that time, the complaint was based on numerous complaints from residents about the progressively worsening soil runoff into the tributaries of Indian Creek and into aquifers, swallow-holes, sinkholes, streams, which has polluted their water supply. Long time residents, particularly in Indian Creek Township, voiced concerns about their quality of life being negatively impacted as their water quality has degraded to unprecedented levels.

Since that time of our first complaint, however, the heavily laden silt and sediment water pollution has exacerbated along with the increasing intensity of I-69 construction. The soil runoff has now spread into three additional townships in Monroe County besides Indian Creek. They are the following: Clear Creek, Perry, and Van Buren.

On August 20, 2013, at the request of residents' concern for the ongoing water pollution problem, another inquiry was conducted pursuant under Section 802-4 (G) of the Monroe County Zoning Ordinance (Performance Standards for Permitted Uses: Water Pollution).

During that inquiry more pictures, videos, and testimony were taken from the residents adding to the previous database. Due to the heavy sediment loads that still were being deposited in the tributaries and streams of Indian and Clear Creek, it was determined that there were still serious deficiencies in erosion and sediment control measures and direct violations of the updated Karst Agreement and erosion control Rule 5.

On September 20th INDOT responded to our first complaint approximately two months later in their 121 page report. There were serious questions about the validity of some of INDOT'S claims by some of the Plan Commission members; but most duly noted, some of their recorded rainfall events that were being labeled as being "catastrophic", causing the serious, soil runoff problems, when they were actually normal rain events.

On November 6, 2013 (see picture or slide #21) only 0.3 inches of rain fell in three hours from 10 am till 1 pm; yet, heavy silt and sediment loading of the stream was recorded in Indian Creek Township. If erosion and sediment control practices were installed and working since after the first sent complaint on July 18th, there would not be such a large sediment stream loading present.

Protecting our water quality of this state is mandated by certain laws that are upheld by different governmental bodies. Most notably in Monroe County Code Section 802-4(G), it incorporates State and Federal water quality standards including, but without limitation:

327 IAC 15-5-7(b) (15) "Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water runoff;"

IC 13-18-4-5)] (a) "...a person may not: ... (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any of the streams or waters of Indiana...."

IC 13-30-2-1 "A person may not... (1) Discharge, emit, cause, allow ... any contaminant... into: (A) the environment; ... in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements...."

Of particular concern is the rapid deterioration of the water quality of Harp Spring since July. That source of spring water has now become so degraded that it is no longer potable

to drink for humans and most aquatic organisms. A troglodytic freshwater shrimp (*Pseudocandona jeanneli*) that is on the endangered species list may now have become extirpated in Harp Spring due to the repeated, heavy concentrations of silt and sediment in the water that were not present before the I-69 Corridor Construction began.

The source of the sediment pollution that is entering Harp Spring is from the large swallow-holes that lie immediately adjacent to the I-69 ROW just west of Harmony Road or northeast of the spring about two miles. The multiple acres of denuded, steeply sloping terrain with its highly erodible sediment has flowed directly into the swallow-holes. Erosion Control Measures using seeding, straw, mulch and blankets would alleviate much of the soil runoff into Harp Spring and reduce the sediment loading problems dramatically.

In fact, after all of the evidence gathered from all of the inquiries to date suggest that the lack of sufficient commitment in both erosion control (putting down seed, straw, and mulch) and sediment control (installation of trenched silt fences) has caused almost all of the sediment loading and problems in almost all of the streams from the I-69 Corridor Construction. We are submitting 22 new photos as evidence for our new complaint with the last picture being taken on November 6, 2013. These pictures clearly demonstrate that most of the erosion control practices are lacking or completely failing.

It is paramount that the BMP's (Best Management Practices) of erosion and sediment control be put into practice for the entire I-69 project, not just small sections of it, so as to minimize the soil runoff from leaving the site and depositing into our waterways. Protecting our water quality is of the essence. This must be done for the completion of Section 4 and for the entire development of Section 5 of the I-69 Corridor Construction.

We would expect that our Federal Agencies, who will be overseeing our State Agencies for erosion control compliance, will make sure that our State Agencies follow the same laws of protecting water quality that they mandate us to follow when we clear the land and do "land disturbing activities".

Request for Action:

- **Erosion and Sediment Control Measures will be installed according to Codes and BMP's (Best Management Practices) for the completion of the I-69 Corridor Construction in Sections 4 and Section 5.**
- **Specify the means by which you will significantly eliminate the off-site sediment impacts to water quality that is currently affecting residents of Indian Creek, Clear Creek, Perry and Van Buren Townships.**

- **Provide us with inspection reports so we can assure our residents that you are addressing their concerns for controlling the ongoing sediment run-off that is polluting our waterways.**

Sincerely,

Monroe County Plan Commission

John Irvine, President

Julie Thomas, Vice-President

Scott Wells

Lee Jones

Richard Martin

Amy Thompson

Ron Foster

Kevin Enright

The following governmental bodies and entities join the Planning Commission in requesting the foregoing action.

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Board of Commissioners of Monroe County

Patrick Stoffers, President

Julie Thomas, Vice-President

Iris Kiesling

(Re: I-69 Complaint Letter Signatures)

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Monroe County Council

Geoff McKim, President

Rick Dietz, Vice-President

Lee Jones

Cheryl Ann Munson

Shelli Yoder

Ryan J. Langley

Marty Hawk

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Drainage Board

On behalf of the Drainage Board, Todd Stevenson, Drainage Engineer, has written a Letter in support of the Plan Commission's concerns (see attached letter with their signatures). The Monroe County Drainage Board Members are the following listed below:

- Robert J. Autio, President
- Bill Williams, County Highway Director/Engineer
- James Faber
- Bill Riggert
- Scott Dompke
- Kevin Enright

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Stormwater Management Board

Patrick Stoffers

Julie Thomas

Iris Kiesling

Kevin Enright

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Monroe County Health Department

Penny Caudill, MCHD Administrator

Thomas W. Sharp, MC Health Commissioner

Monroe County Board of Health

On behalf of the Monroe County Health Board, George D. Hegeman, I.U. Professor Emeritus of Microbiology, has written a Letter in support of the Plan Commission's concerns (see attached letter). The Monroe County Health Board Members are the following listed below:

- Ashley Cranor, MPH (chairperson)
- Carol Litten Touloukian, M.D. (vice chair)
- George Hegeman, Ph.D.
- David Byrne, M.D.
- Steven Pritchard, D.D.S.
- Kay Leach, R.N.
- Mark Norrell, FACHE, HFA

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Environmental Quality & Sustainability Commission

Julie Thomas

Geoff McKim

Ashley Cranor

Terry Usrey

Jerry Ulrey

Bob Austin

David Parsons

Jacqueline Bauer

Ben Stidd

Steve Cordell

Ian Yarbrough

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Copies Mailed to the Following State & Federal Agencies:

Indiana Governor Mike Pence

206 State House
Indianapolis, IN 46204

INDOT: I-69 Section 4 Office

3802 Industrial Blvd.,
Unit 2
Bloomington, IN 47403

**Indiana Department of
Environmental Management**

100 N. Senate Avenue
Mail Code 65-40 Shadeland
Indianapolis, IN 46204-2251

Mike Neyer, Director

Indiana Department of Natural Resources - Division of Water

402 W. Washington Street, Room W264
Indianapolis, IN 46204

U.S. Fish & Wildlife Service

620 South Walker Street
Bloomington, IN 47403-2121

U.S. Army Corps of Engineers

1620 E Monroe Dam Ct
Bloomington, IN 47401

(Re: I-69 Complaint Letters Copied & Mailed)