

**MINUTES OF THE KANKAKEE RIVER BASIN AND YELLOW RIVER
BASIN DEVELOPMENT COMMISSION
HELD THURSDAY, JULY 15, 2021**

10:00 a.m. CST/11:00 a.m. EST

**Shelby Volunteer Fire Department
23318 Shelby Rd
Shelby, IN 46377**

John McNamara, Chair, called the meeting to order at 10:00 a.m. CST, and the Pledge of Allegiance was recited.

Mike Novotney, Secretary, called the roll.

Members Present at Roll Call

Rob Churchill	Craig Cultice	Bill Emerson
John McNamara	Ryan Mueller	Mike Novotney
James Walstra	Dick Welsh	John Shure (IL)
Andrew Wheeler (IL)		

Staff Present

Scott Pelath

Guests Present

Grant Poole	Jim Wright	John Jurs	Julie Mitrison
Angel Crawford	Mark Kingma	Bill Peterson	Beau Watkins
Don Zack	Steve Engeiking	Les Burton	Charlie Dewes
Curt Ralston	Brian Wunderink	Ross St. Clair	Rhonda Remesnik
Kevin Breitzke	Henry Wunderink	Sarah Hoefner	Cindy Zatlokowicz

Mr. Novotney stated the presence of a quorum.

Adoption of policy for electronic participation under IC 5-14-1.5-3.6

Mr. Pelath presented a draft Resolution 2020-02 to allow for electronic meeting participation under newly revised state law [ATTACHMENT 1].

Ryan Mueller moved for the adoption of the resolution. Rob Churchill seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Election of officers for State Fiscal Year 2022

Mr. Pelath reported that all current officers had expressed a willingness to continue in their roles for another year. He expressed his appreciation for the officers who take on additional, voluntary responsibilities.

Bill Emerson moved that John McNamara, Chair; Bill Emerson, Vice Chair; Mike Novotney, Secretary; and Bill Crase, Treasurer be re-elected by acclamation. James Walstra seconded the motion.

MOTION ADOPTED BY VOICE VOTE

Approval of minutes from May 14, 2021, meeting

Mr. Emerson moved that the minutes be adopted. Craig Cultice seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Finance Report

Mr. Pelath presented the financial report and a list of claims that either were paid or needed to be paid since the previous meeting [contained in the Executive Director's Report ATTACHMENT 2].

Mr. Novotney moved to approve the finance report and the claims. Mr. Walstra seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

OLD BUSINESS

Jasper County FEMA Project

Mr. Walstra expects work to resume by August 1 depending upon conditions. He believes that the cash situation is improved.

Mr. Walstra responded to a question from Mr. Novotney that FEMA has been somewhat more responsive, and that the same bidder who completed the previous phase (i.e., Gutwein Bulldozing & Excavating) was awarded the contract for the upcoming phase.

Yellow River project bidding and construction timetable

Ross St. Clair from Cardno reported that a mandatory pre-bid meeting for contractors is scheduled for July 20, and the bid opening is scheduled for August 6. The intent is to issue a

notice to proceed by August 20 following the Commission's selection of a lowest, most responsible and responsive bidder.

Ross noted that all affected landowners are now supporting. A seven-to-nine-week construction period is expected, with work finishing at the end of October or early November.

Logjam Management Activities

Mr. Pelath asked that he be allowed to address this portion as part of a presentation later in the meeting. The chair consented.

Riverbank seeding

Mr. Pelath asked for the Commission's permission to begin hydroseeding riverbanks from budgeted funds. The funds were being held for match for an NRCS grant application, but Mr. Pelath said the application has languished for too long to be timely.

Mr. Emerson moved that the hydroseeding funds be expended, the grant application notwithstanding. Mr. Cultice seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Grand Kankakee Marsh County Park bank reconstruction

Mr. Emerson reported that Austgen Equipment is prepared to begin work as soon as waters recede. Mr. Emerson responded to a question from the audience that while some stone will be necessary, the design is substantially different from the Jasper County project. The project intent is to maintain the bank as part of a larger floodwater storage goal for the park.

Bremen bank reconstruction

Mr. Pelath reported that Erica Wyss of the Marshall County SWCD submitted the relevant permit applications before she transitioned to DNR employment.

Tolthawk river gage pilot update

Mr. Pelath reported that a tentative site was chosen on the Travis Ditch in LaPorte County, but the optimal mounting technique for the pilot gage is still being evaluated.

Regional Conservation Partnership Program update

Peg Kohring of The Conservation Fund was recognized to speak on behalf of the Indiana Department of Agriculture, which is leading efforts to establish a Regional Conservation Partnership for the Kankakee River Basin. She offered an update on discussions, and presented the types of soil and water conservation efforts that could become eligible for federal funding.

Mr. Pelath reported that current and future Commission projects would be eligible to become part of the state's match for federal dollars under the Regional Conservation Partnership Program.

Floodwater management update

The chair specifically thanked Ryan Mueller for offering and delivering DNR drone assistance during the recent flood event.

The chair recognized Mr. Pelath for a formal presentation of the Commission's recent logjam management and post-flood even analysis [ATTACHMENT 3].

Mr. Pelath also presented a number of flood dynamics related to the infrastructure of the Kankakee Fish and Wildlife Area.

The chair remarked that he has been involved in Kankakee commission business since the 1970's, and he is grateful that we are finally in a position to do things.

NEW BUSINESS

Yellow River construction oversight

Mr. Pelath presented a tentative contract for Cardno to provide construction oversight on the Marshall County section of the Yellow River bank reconstructions [ATTACHMENT 4].

Mr. Mueller moved that the Commission approve the contract. Dick Welsh seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Technical Advisory Committee augmentation

Mr. Pelath presented Resolution 2021-01, which would amend the bylaws to allow former Commission members to serve a term on the Technical Advisory Committee [ATTACHMENT 5].

Mr. Emerson moved the Commission adopt the resolution amending the bylaws. Mr. Mueller seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

OTHER BUSINESS

Mr. Pelath requested that up to an additional \$50,000 in uncommitted logjam management dollars be reallocated to fund additional large wood removal as part of the Porter County logjam management pilot project.

The chair remarked how downstream work directly benefits St. Joseph County.

Mr. Emerson moved that the additional \$50,000 be allocated to the project. Mr. Welsh seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Mr. Pelath requested an additional \$21,000 for Allsop Excavating to finish logjam management in Section C on the Kankakee River between LaPorte and Starke Counties.

Mr. Walstra moved that an additional \$21,000 be allocated to Section C. Mr. Novotney seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Andy Wheeler expressed significant concerns about the establishment of a National Wildlife Refuge around the Kankakee River in Illinois. He reported that there is now substantial funding for the proposed refuge, and its likelihood is increasing. Mr. Wheeler asserted that it will place Illinois' tax base and future ability to access and manage the Kankakee River in jeopardy. He fears that basic tasks like removing logjams may no longer be possible under federal wildlife refuge jurisdiction.

Mr. Wheeler stated that there is a risk that the refuge would cause water to not leave Indiana as hoped.

Mr. Pelath expressed concerns that refuge management could have a potentially adverse effect on the Commission implementing its work plan.

Mr. Wheeler suggested that any environmental assessments should include Indiana, and stated that they have not to this point.

Mr. Pelath asked for the Commission to allow him to enter public comment regarding the interests of the Commission.

The chair granted permission on behalf of the Commission.

Mr. Emerson asked that the Commission consider in the future a hydrological study of the flap-gage at Shady Shores. He said that the local residents frequently manage it themselves, and the management may not be optimal or desirable.

Mr. Pelath presented Resolution 2021-03 urging the removal or relocation of State Line Bridge [ATTACHMENT 6].

Mr. Novotney moved that the Commission adopt Resolution 2021-03. Mr. Mueller seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

EXECUTIVE DIRECTOR'S REPORT

A written report [ATTACHMENT 2] was distributed prior to the meeting.

PUBLIC COMMENT

Rhonda Remesnik expressed concerns about logjams at downstream railroad bridges, meanders, recreational use of the river, and the nature of the Jasper County FEMA project.

Curt Ralston asked for an update on the Thayer Farm transition.

NEXT MEETING

The next meeting date, location, and format was to be determined.

ADJOURNMENT

The meeting adjourned at 11:44 a.m. CST.

ATTACHMENT 1

RESOLUTION 2021-02

A RESOLUTION ALLOWING ELECTRONIC MEETINGS OF THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION'S ("the Commission") UNDER CERTAIN CIRCUMSTANCES

WHEREAS, the Commission is a body corporate and politic in the STATE OF INDIANA;

WHEREAS, the Commission is subject to the State of Indiana's Open Door Law; and

WHEREAS, IC 5-14-1.5-3.6 allows electronic participation in meetings with certain stipulations.

NOW THEREFORE, BE IT ORDAINED that the Commission adopts the following policies and procedures to provide for electronic meetings under certain circumstances:

1) A member of the Commission who is not physically present at a meeting of the Commission may participate in a meeting of the Commission by electronic communication only if the member uses a means of communication that permits:

- a) the member;
- b) all other members participating in the meeting; and
- c) all members of the public physically present at the place where the meeting is conducted

to simultaneously communicate with each other during the meeting.

2) For a member of the Commission to participate electronically, one-third (1/3) of the Commission members must be physically present.

3) All votes of the Commission during an electronic meeting must be taken by roll call vote.

4) Nothing in this policy shall affect the public's right to attend a meeting of the Commission at the place where the meeting is conducted and the minimum number of members is physically present.

5) Unless the member is permanently disabled or in a period of disability, each member of the Commission is required to physically attend at least one (1) meeting of the Commission annually.

6) A member who participates in a meeting by electronic communication:

- a) is considered to be present at the meeting;
- b) shall be counted for purposes of establishing a quorum; and

c) may vote at the meeting.

7) Except in an emergency, a member of the Commission who desires to participate in a meeting electronically shall provide notice to the Executive Director or Commission chair at least two (2) business days in advance.

Adopted this 15th day of July, 2021

John R. McNamara, Chair

On Behalf of the Kankakee River Basin and Yellow River Basin Development Commission

ATTACHMENT 2
EXECUTIVE DIRECTOR'S REPORT

To: KRB-YRBDC Members
From: Scott D. Pelath, Executive Director
Date: July 13, 2021

The USGS super-gage at Shelby just dropped below action stage, so perhaps the immediate effects of late June's relentless precipitation are behind us. However, it is evident that some ensuing consequences will demand attention in the coming weeks.

Finance Report

Balances. As of the date of this memorandum, we have \$1,378,199.59 in our non-assessment operating fund consisting of state dollars, rents, county contributions, and gage reimbursements.

Consistent with the statute, we also have a separate fund to contain the assessment revenue under IC 14-13-9. Currently, we have received deposits from Jasper, LaPorte, Marshall, Newton, St. Joseph, and Starke Counties for a total of \$1,207,129.78.

Assessments. In one view, it's good news that after only six counties remitting funds, we already have nearly hit our expected revenue projection for this calendar year.

On the other hand, the December distribution will be substantially smaller because 1) the first distribution includes all of the collected residential assessments; 2) Lake County intends to pay the entire year in one lump sum; 3) due to the sad situation related to the illness and death of Steve Snell, Newton County appears to have some shortfalls that couldn't be corrected in time; and 4) we already assumed that the state revenue estimates were too rosy.

I believe the practical implication is that for cash flow reasons, we may not be able to begin Starke County's section of the Yellow River bank reconstruction in March or April. May or June 2022 might be more reasonable. I expect that revenue from June 2022 assessments might be necessary to fully cover costs. Much, however, will depend on the bids we receive for Marshall County.

State Budget. Despite the state being in a good fiscal condition, agencies still have been asked to keep two-percent in reserve. We can do this if necessary. However, I have

asked the State Budget Agency for a waiver due to the partial unpredictability of flooding-related needs.

Other Revenue. The \$24,400 semi-annual rent payments on the River's Edge Farm are typically late, and this installment is no exception. They are usually worth some patience, but I am increasing the frequency of status requests. NIPSCO issued a 15K gage reimbursement, but the accounts payable department inadvertently issued it under our old name. The accountants are getting it corrected.

Once I get an exact figure from the budget agency, I will request our quarterly administrative claim voucher from the state within days.

Grant Application. The Grants.gov status of our NRCS grant application for hydroseeding still says, "Received by Agency." Perhaps the statement that grants would be announced in April was not to be taken literally. Perhaps it is better to move on.

Jasper County FEMA Project. The accountant is preparing payment of \$95,000 back to Jasper County for project support under our Memorandum of Understanding. Jasper County wants a check instead of an electronic transfer, so the accountant ordered new checks for the new account.

Jim Walstra and I have had regular discussions about the possible need to "frontload" the reimbursement schedule, which was already authorized at the May meeting.

Yellow River Construction. Cardno emailed bid solicitations to identified contractors for the Marshall County section on July 9, and I placed two advertisements for bid in the *South Bend Tribune* and *Plymouth Pilot*. The mandatory, pre-bid meeting will take place on July 20. These bids will have a major influence on next year's budgeting.

Furthermore, I already have distributed a draft agreement with Cardno for construction oversight services. It is a *not-to-exceed* proposal that may well end up costing less than the maximum amount. In any case, these costs have already been integrated into the construction cost estimates.

Recent claims. Below is the current list of claims for river work and administrative expenses requiring either advance or retroactive approval by the Commission.

Claims to be approved as of 7/13/21

PO #	DATE	TO	DESCRIPTION	AMOUNT	CHECK #
74-21	5/7/2021	INPRS	INPRS 2nd April	\$143.76	online
75-21	5/18/2021	IRS	Federal Payroll taxes May	\$1,101.66	online
76-21	5/19/2021	IN Dept of Rev	April Payroll Taxes	\$386.68	online
77-21	5/28/2021	Hill Excavating	Inv 66 Riprap Hauling	\$1,400.00	1582
78-21	5/31/2021	Ambetter	June Health Insurance	\$1,832.89	online
79-21	6/2/2021	Cardno	Inv 312988	\$6,000.00	1579
80-21	6/15/2021	INPRS	INPRS 1st June	\$221.03	online
81-21	6/18/2021	IN Dept of Rev	May Payroll Taxes	\$386.68	online
82-21	6/22/2021	Traffic Control Specialists	Inv 57824 Sign stand & sign	\$501.00	1586
83-21	6/28/2021	Allsop Excavating	Inv 2082 Removal of Trees	\$10,700.00	1578
84-21	6/30/2021	Ambetter	July Health Insurance	\$1,832.89	online
85-21	6/30/2021	INPRS	INPRS 2nd June	\$221.03	online
86-21	6/30/2021	Cardno	Inv 314736	\$7,077.11	1579
87-21	7/1/2021	IRS	Payroll Taxes	\$1,101.66	online
88-21	7/12/2021	American Express	QB Subscription, Adobe, Christos	\$269.18	online
89-21	7/12/2021	NIRPC	Accounting Services June	\$1,275.00	1584
90-21	7/13/2021	Christopher Burke Engineering	March 28 to April 24, 2021	\$8,369.50	1580
91-21	7/13/2021	Christopher Burke Engineering	April 25-May 29, 2021	\$5,652.75	1580
92-21	7/13/2021	Division of Water, Department of Natural Resources	Permit application fee	\$150.00	1581
93-21	7/13/2021	Hill Excavating	River Clearing	\$34,000.00	1582
94-21	7/13/2021	K & L Excavating	Coal Route Maintenance	\$14,741.86	1583
95-21	7/13/2021	Scott Pelath	Mileage Reimbursement May 25- July 9, 2021	\$740.61	1585
96-21	7/13/2021	USGS	Inv 90907450	\$30,975.00	online
97-21	7/21/2021	IN Dept of Rev	June Payroll Taxes	\$386.68	online
99-21	7/13/2021	K & L Excavating	Removal of 370 trees	\$74,550.00	1583
				<u>\$204,016.97</u>	
Special Assessment Account					
98-21	7/13/2021	Jasper County	MOU	\$ 95,000.00	2000
				<u>\$299,016.97</u>	

Wetlands Task Force

As was decided in May, I formally submitted Mike Novotney's name to the Governor's office to represent us on the Indiana Wetlands Task Force. As of last week, they still have not started making appointments to the panel.

Yellow River project

Both the Marshall and Starke County sections of the project are now fully permitted. We are into the finance and execution stages. Only July 9, we formally solicited and advertised construction bids for the Marshall County portion. July 20 is the date of the mandatory pre-bid meeting for interested contractors.

Yellow River Basin Reconstruction – Bremen

Erica Wyss, who was leading the project for the Marshall County SWCD, has transitioned into another position, and at this time there is no new news. However, I know that she had submitted all of the permit applications before she left. Because the eastern side of the bank reconstruction is funded through a Lake and River Enhancement Grant, bidding will take place under the stipulations of the grant. We maintain the advantage, though, of the economies of scale that the partnership provides.

Logjam Management

A substantial number of logjams have been cut-up along the Yellow River in both Marshall and Starke Counties. Because the flow was opened in impassible and inaccessible areas, I believe the work was timely and beneficial during the June flood conditions.

Cutting them is not as ideal as removing them, but when you have no access, it is far better than leaving them as they are. I like the method when access is non-existent or extremely costly to obtain.

What I am really excited about, though, is the early success of Porter County's barge pilot. In several days, they removed 350 fallen and floating logs from the channel, and were going to remove nearly 300 more before the rains came. Work was interrupted during river conditions, but I am highly encouraged by the method for wider, downstream areas. I hope to show some photos and videos at our meeting.

Since setup time and costs are a factor, I would recommend an additional investment above the budgeted amount while the barges are available.

Beginning on approximately July 12, Allsop is going to removed approximately fifty fallen trees from the Yellow River through the Kankakee FWA. There are also a few to grab on the Kankakee side.

There are always isolated logjams that we try to address when we become aware of them.

Bridges (and State Line Bridge)

As I already reported, Porter County did a great job clearing 250 West in Porter County of a sizable logjam during and after flooding. INDOT also removed a jam at IN-39, and pledged to promptly clean out a sizable blockage at US 231.

DNR's drone team obtained footage of downstream bridges for us, as State Line Bridge becomes inaccessible during high water. It should come as no surprise that there is again a major blockage of logs, debris, and trash at that location.

There is no choice but to remove it, and it undoubtedly has slowed the decrease in gage height in the vicinity of Shelby. I am obtaining quotes.

While inspecting a bank repair from last year, I discovered that an excavator at the Norfolk Southern track upstream of the Dehaan Ditch was breaking up their logjam and sending it downstream. In a matter of minutes, a number of logs rocketing downstream, which were later witnessed by the USGS staff at the IN-55 bridge in Shelby. This will have to be addressed formally and pointedly.

State Line Bridge (again)

At the request of Lake County Commissioner Jerry Tippy, I drafted another resolution urging the removal or relocation of State Line Bridge. As long as it remains, we can expect continual blockages.

Once the river reaches flood stages, the bridge itself impedes the flow of water irrespective of any debris. One day, floodwaters are going to be what moves it.

Thayer Farm

Zack DeYoung, the property manager at the LaSalle FWA, has informed me that he expects the modeling for the Thayer Farm transition to be completed on July 16. Together with the old adjacent Ellicott Farm, that's over 400 acres of floodwater storage in Newton County.

Floodwater Storage Development

I continue to work with Burke on maximizing flood storage on public lands and existing wetland assets. The strong candidates we have discussed previously remain strong candidates.

Burke has substantially developed documentation to convince NRCS that Kankakee floodwaters would enhance over 400 acres on two of their existing wetland easements. It is a bureaucratically challenging, but not impossible, process. Sufficient analysis is unavoidable. While there are costs, they are far less than new acquisitions and setback flood protection.

Our storage prioritization policy sensibly ranks existing public lands and wetlands not requiring major capital investments ahead of other areas.

Grand Kankakee Marsh Bank Reconstruction and Stabilization

Austgen Excavating was beginning preliminary work before downstream river levels increased markedly. Work will resume when conditions permit.

Tolthawk River Gages

I have received the trial gage, but we still are considering the best way to mount it. The ideal location I identified was at U.S. 6 at it crosses the Travis Ditch. However, if we have to mount it on the bridge itself, we will need a permit from INDOT. It is not my impression that INDOT is interested in simplifying the permitting process. If it remains administratively unreasonable, we will consider other options.

Sumava Resorts

The last thing I worked on with the late Steve Snell was the Sumava Resorts bank repair. We have met with regulators, received their recommendations, and I have the permit applications ready to submit. The hope is to do the simple repairs this fall.

The contractor who was slated to perform the work is now the new Newton County Surveyor, Beau Watkins. I will consult with him as we reconsider contractors.

Technical Advisory Committee

Statute prescribes who is required to serve on the technical committee, but it isn't limiting.

I believe keeping former leaders included in the ongoing work of the Commission is good practice for any organization. I drafted a proposed amendment to our bylaws that would allow former Commission members to serve a term on the Technical Advisory Committee. Committee recommendations are not binding, but I think we agree at this point that they are invaluable to the Commission. I submit that the addition of the occasional former member would further integrate this process.

Attorney General

Our Memorandum of Understanding with the Attorney General's office for legal services has been renewed. I can't say more good things about the value of that agreement.

Electronic Meetings

To have electronic meetings or even electronic participation, the law now requires that we adopt a policy. Therefore, I drafted one that mirrors the minimum of what the state law requires.

There are advantages and disadvantages of all meeting formats, so I suppose it doesn't hurt to keep all options available to us. My sense is that most members prefer the traditional, physical format, but electronic options can sure come in handy in emergencies. They can also maximize attendance when members are spread over more than a million acres.

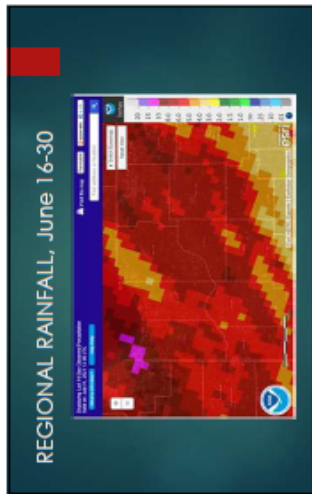
As always, should you have any questions or suggestions, please email me at sdpelath@gmail.com or (219) 861-7999. In order to maintain focus and brevity during our meeting in Shelby, I welcome any issues I can resolve in advance.

ATTACHMENT 3

FLOOD FORECAST V. ACTUAL July 1-7, 2021

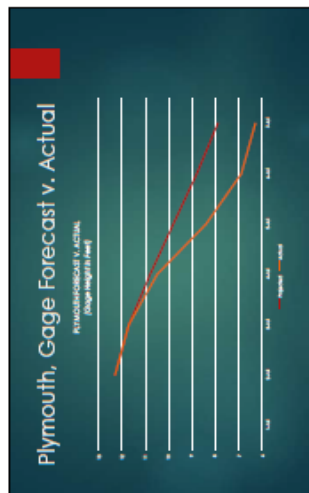
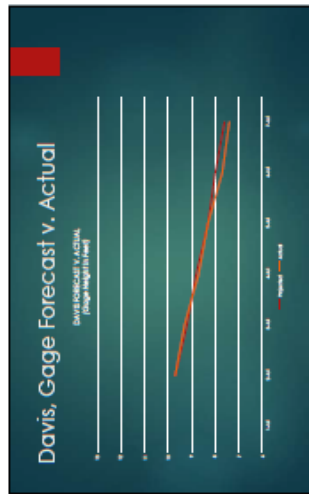
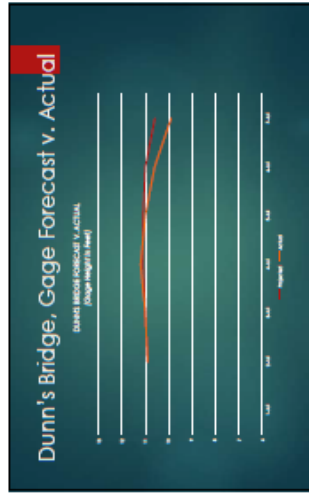
SOURCES:

- NATIONAL WEATHER SERVICE PROJECTIONS
- U.S. GEOLOGICAL SURVEY GAUGES



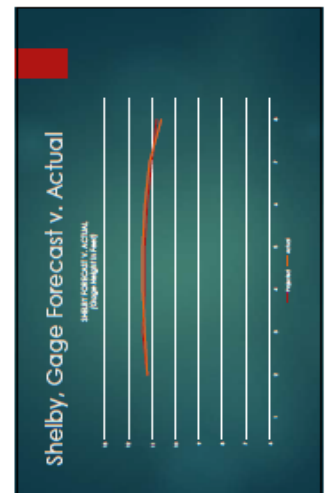
POST FLOOD EVENT ANALYSIS AND LOGJAM MANAGEMENT ACTIONS

KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT
COMMISSION, JULY 15, 2021



STATE LINE BRIDGE, BEFORE AND AFTER, Quotes Solicited

Post-Flood Event Issues and Actions



250 WEST IN PORTER COUNTY
Porter County Highway Work



U.S. 231
INDOT Removal Now Scheduled July 19



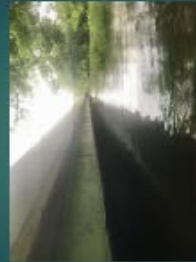
RANGE ROAD
Lake County Highway Removed



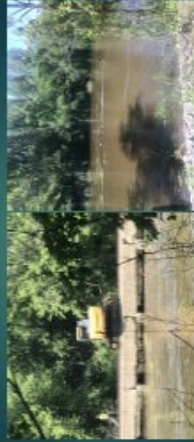
BAUM'S BRIDGE



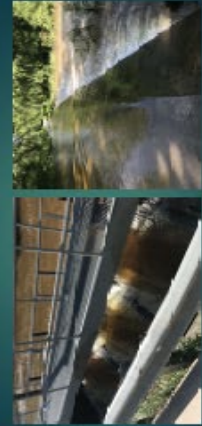
U.S. 41



NORFOLK SOUTHERN BRIDGE
Must be addressed in writing



KANKAKEE FISH AND WILDLIFE AREA
FUTURE ISSUES TO CONSIDER



YELLOW RIVER
July 2, not at flood stage



KANKAKEE RIVER
July 2, flood stage at Shelby and Dunn's bridge



OPEN SCREW GATES
North-South Levies



BANK CONCERN
Bend of Kankakee River at FWA

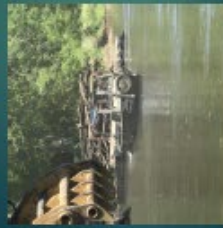


BANK CONCERN
Upstream of Dehaan Ditch in Newton County [11.4' at Shelby]



LOGJAM MANAGEMENT

PORTER COUNTY BARGE PILOT



PORTER COUNTY BARGE PILOT



YELLOW RIVER LOG-JAM WORK



YELLOW RIVER LOG-JAM WORK



YELLOW RIVER LOG-JAM WORK



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Neither party to this Agreement shall, without the prior written consent, of the other party, which shall not be unreasonably withheld, assign the benefit or in any way transfer any claim or obligation under this Agreement or any part hereof. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.

ARTICLE 8: OWNERSHIP OF DOCUMENTS

All report documents produced by Cardno under this Agreement shall be made available to the Client upon receipt of full payment for services rendered. Cardno shall retain ownership of all field notes, computer files and project files used to produce the work products and may make copies of all work products.

ARTICLE 9: CONFIDENTIALITY

Cardno will maintain in confidence the nature of its Services, as well as all information made available to Cardno by Client during the term of this Agreement or resulting from Services performed by Cardno under this Agreement. The confidential obligation imposed on Cardno by Paragraph 9, however, will not extend to any such information insofar as, and from such time as Cardno may disclose (i) as required by law, (ii) pursuant to court order, (iii) to its subcontractors, agents or other representatives as may be reasonably necessary to perform its services hereunder (iv) for the purpose of prosecuting or defending any litigation, or (v) Cardno can show by reasonable proof has been in the public domain. Cardno agrees to use information intended to be kept confidential under this Paragraph 9 solely to provide its Services.

ARTICLE 10: NOTICES

Any notices or written statements hereunder shall be deemed to have been given when mailed by certified or registered mail or via email, with receipt of reply, to the party entitled thereto at its address noted at the top of this Agreement or at such other latest address as it may designate in writing to the other party for this purpose.

ARTICLE 11: NON-SOLICITATION

Neither party shall knowingly solicit, recruit, hire or otherwise employ or retain the employees of the other working under this Agreement during the term of this Agreement and for one (1) year following the termination or expiration of this Agreement without the prior written consent of the other party.

ARTICLE 12: WAIVER

Failure by one party to notify the other party of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.

ARTICLE 13: GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be interpreted and governed by the laws of the place of the project.

ARTICLE 14: LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof. This Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

ARTICLE 15: MODERN SLAVERY AND HUMAN TRAFFICKING

In signing this Agreement, you confirm that your organization:

- (i) does not use any form of forced, compulsory, or slave labour;
- (ii) allows all Personnel to work voluntarily and they are entitled to leave;
- (iii) does not require any form of deposit or bond from Personnel;

- (iv) does not require Personnel to surrender their passports or work permits;
- (v) requires your suppliers to attest to these standards;
- (vi) will report immediately to Cardno any instances or suspicion of modern slavery or human trafficking in your organisation or your supply chain; and
- (vii) where required, provide information on your organizations steps to reduce slavery risk for the purposes of Cardno's statutory reporting.

ARTICLE 16: ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties relating to the subject matter of this Agreement and is the entire understanding and agreement related thereto. This Agreement may be amended by mutual consent of the parties in writing to be attached hereto and incorporated herein, executed by Cardno's and the Client's respective representatives.

The Parties agree and consent to the use of electronic signatures solely for the purposes of executing the Agreement or any related transactional document. Such electronic signature shall be deemed to have the same full and binding effect as a handwritten signature.

Cardno, Inc.	Kankakee River Basin and Yellow River Basin Development Commission
By: _____	By: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____



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Attachment A

Bid Support & Construction Administration

Bid Support

Cardno will provide the following bid support services:

1. Provide Project Documents to Contractors – The Client will be responsible for advertising this project and the prebid meeting. Project Documents will be made available either by directly contacting Cardno or by securing through the Commission's website.
2. Host Prebid Meeting – Cardno will host one onsite prebid meeting for all interested contractors. For the prebid meeting, Cardno will prepare an agenda, sign-in sheet, and any required exhibits to host this meeting. Cardno will mark the limits of construction in advance of this meeting.
3. Prepare Necessary Addendum(s) – Should any additional information be needed to clarify, modify, or support the information in the Project Documents, Cardno will prepare the needed bid addendum(s) to be sent to contractors.
4. Assess Bids & Recommendation for Award – After reviewing and assessing the received contractor bids (including review for responsible and responsive bidders), Cardno will prepare a recommendation for award to be delivered to the Commission. This recommendation will be based on both Cardno's review and discussions with the Commission about submitted bids/Contractors. Cardno will identify a recommended contractor and provide justification for this choice.

Construction Administration

During construction, Cardno will provide the following construction administration services:

1. Shop Drawings, Product Data, and Samples Approval – Cardno will review and approve all required contractor submittals as outlined in Section 01340 in the specifications.
2. Construction Schedule Review & Approval – Cardno will review and approve all required construction schedule submittals as outlined in Section 01310 in the specifications.
3. Application of Payment Review & Recommendation – Cardno will review all applications for payment submitted and make a recommendation for appropriate payment to the Client as outlined in Section 01152 in the specifications.
4. Change Order Review & Recommendation – Cardno will review all Contractor change orders submitted and make a recommendation for approval to the Client as outlined in Section 01153 in the specifications.

The task detailed above will be performed at Cardno's project bill rates, plus expenses.

Estimated Fee : \$4,000.00

**Fee based on up to 23 hours for Engineer and 7 hours for Field Technician.*



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Attachment A

Construction Observation

Construction Observation

Cardno will provide the following Construction Observation services:

1. As-Needed Construction Oversight – Cardno to provide as-needed construction oversight services to assist and direct the selected Contractor. Some aspects of the work may require full-time oversight while other aspects may require less frequent observation and check-ins by Cardno.
2. Routine Update Meetings – Cardno to attend routine project update meetings either on-site or by phone at mutually agreed upon intervals. Any on-site meetings will be coordinated to coincide with dates Cardno will already be on-site for construction oversight.
3. Structure Approvals – Cardno to approve and make record of structures completed to Engineer's requirements and in accordance with the plans.
4. Engineer On-Call Services – The Engineer will make themselves available to the Contractor during normal business hours for the interpretation of the plans where questions may arise and for consultation during construction in the event unforeseen or unusual conditions arise.

The task detailed above will be performed at Cardno's project bill rates, plus expenses.

Estimated Fee: \$25,200.00

**Fee based on up to 32 hours for Engineer and 240 hours for Field Technician.*

Bid Support & Construction Administration

est. \$ 4,000.00

Construction Observation

est. \$25,200.00

Total Project Fee Not to Exceed:

\$29,200.00



Exhibit B – Schedule of Fees, CY2021

Personnel

Field Technician/Technician/ Senior Technician	\$50- 105/hour
Project Assistant/Coordinator	\$75-90/hour
GIS, CAD, or Drafting Consultant	\$85-125/hour
Assistant Staff Consultant	\$85-110/hour
Staff Consultant ¹	\$75- 140/hour
Senior Staff Consultant ²	\$90- 140/hour
Project Consultant ³	\$100-160/hour
Senior Project Consultant ³	\$100-170/hour
Senior Consultant ³	\$110-235/hour
Director ⁴	\$235-350/hour

Notes:

- Hourly staff rates are based on 40hr work weeks, time in excess of 40hrs will be billed at 1.5x standard rates
- Salary staff rates are per hour based on work up to 10 hours per day, and/or 50 hours per week, Monday-Friday, conditions outside of these parameters may be subject to additional fees with client approval.
- Consultant and Director positions include professional Scientist, Ecologist, Economist, Engineer, Archaeologist, Hydrogeologist, Geologist and Planner staff. Consultant hours spent providing expert witness, deposition, or preparation for deposition will be charged at 1½ times the normal billing rate.

Expenses

Communication costs of six percent (6%) of total professional labor billings will be charged in lieu of the actual cost of long distance and cellular telephone costs, WAN or internet costs, paper costs, postage costs, facsimile costs, routine black-and-white copying (less than 500 pages), incidental office supplies, and personal computer usage. Non-routine black-and-white copies will be charged at \$0.25 per page. All in-house color copies will be charged at \$1.00 per 8.5 x 11 page and \$1.90 per 11 x 17 page. Oversized color copies will be as quoted. Each double-sided color or black-and-white copy will be charged as 2 pages. Cardno reserves the right to charge a fuel surcharge if average fuel prices exceed \$4.00 per gallon. This fuel surcharge will be in addition to the below listed standard mileage rates.

Reimbursable Markup (lodging, meals, equipment rental, etc.)	Cost Plus 15%
Subcontractor Markup (*special situations may be at a higher rate)	Cost Plus 15%*
Mileage	\$1.00/mile, portal to portal
Mileage With Trailer	\$1.25/mile, portal to portal
Toll Per Car/SUV	\$1.00 per toll
Toll Per Truck	\$3.75 per toll



Exhibit B – Schedule of Fees, CY2021

EQUIPMENT	RATE	UNIT
Ancabot	\$50	day/each
ArcGIS Online License	\$25	day/each
ArcGIS Tablet	\$25	day/each
ATV/UTV/Snowmobile	\$75	day
Backpack Fish Shocker	\$80	day
Boat/Motor/Trailer	\$100	day
Box Grader	\$80	day
Field Sprayer (25-200 gal)	\$40	day
Field Hand-Tools	\$40	person/day
Fire Pumping Equipment	\$80	day
Fish Shock Boat	\$150	day
Gas Power Tools (chainsaw, auger, pump, etc.)	\$30	day/each
GPS Unit	\$150	day/each
Misc. Mechanized Equipment	\$100-\$300	day
Mist Nets	\$25	sideday
Power Rake	\$100	day
Radio Receiver & Antenna	\$100	day
Radio Transmitters	\$175	each
Surveying Equipment	\$50	day
Tractor	\$225	day
Mower (Bushlog/Roughout mower)	\$50	day
Seed Drill	\$150	day
Trailer	\$50	day
Utility Scanner/Radan 7	\$100	day
Water Level logger	\$100	month

Payment

Cardno invoices will be submitted monthly. Payment is due on or before the thirtieth (30th) day following the date of the invoice. Invoices paid more than thirty (30) days after the invoice date are subject to a finance charge of one percent (1.5%) per month.

Conditions

Cardno specifies that our services are performed, within the limits prescribed by our clients, with the usual thoroughness and competence of the environmental consulting profession. No other warranty or representation, either expressed or implied, is included or intended in our proposals, contracts, or reports.

Rates Subject To Change At Any Time

Effective January 1, 2021 through December 31, 2021.

ATTACHMENT 5

RESOLUTION 2021-01

A RESOLUTION INVITING FORMER COMMISSION MEMBERS TO SERVE ON THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION’S (“the Commission”) TECHNICAL ADVISORY COMMITTEE

WHEREAS, the Commission is a body corporate and politic in the STATE OF INDIANA;

WHEREAS, the Commission receives technical recommendations from a formal advisory committee established under IC 14-13-9;

WHEREAS, the Commission and its mission directly benefit from the collective experience and expertise of its members;

WHEREAS, the Commission values continuity, historical perspective, and retained knowledge;

WHEREAS, former members of the Commission possess specific knowledge of both the Commission and the Kankakee River Basin that is valuable to the Commission; and

WHEREAS, retention of former leaders’ knowledge is a regular feature of organizational models throughout the State of Indiana.

NOW THEREFORE, BE IT ORDAINED that the Commission’s bylaws are amended to read as follows [AMENDMENT IN *ITALICS*]:

VII. TECHNICAL ADVISORY COMMITTEE

Section 1. Establishment

Indiana law establishes a formal advisory committee comprised of the North-Northwest Regional Director of the Indiana Association of Soil and Water Conservation Districts and the Surveyor of each county represented on the Commission. However, if a Surveyor is appointed to the Commission, the county executives in that county shall appoint an advisory committee member in the place of the surveyor.

Section 2. Chair

The first Chair of the Technical Advisory Committee shall be appointed by the Chair of the Commission. The Committee may select other officers it deems necessary. Effective July 1, 2020, all officers shall be elected by a vote of the Committee.

Section 3. Records

The Committee shall keep a record of all of its business and recommendations.

Section 4. Meetings

The Committee shall meet at the direction of the Commission.

Section 5. Duties

At the direction of the Commission, the Committee shall receive information, conduct hearings, and issue written recommendations regarding the Commission's work, projects, and plans.

Section 6. Remuneration for Meetings

Committee members are not entitled to per diem or mileage expense reimbursement, although the Commission may decide to budget resources for this purpose.

Section 7. Former Commission Members

At the conclusion of the service of a member of the Commission, the former Commission member will be invited to serve on the Committee. The former member's term on the Committee will end four (4) four years from the date of the end of the former member's term on the Commission.

Adopted this 15th day of July, 2021

John R. McNamara, Chair

On Behalf of the Kankakee River Basin and Yellow River Basin Development Commission

ATTACHMENT 6

RESOLUTION 2021-03

A RESOLUTION OF THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION (“the Commission”) URGING THE REMOVAL OR RELOCATION OF STATE LINE BRIDGE

WHEREAS, the State Line Road Bridge has carried no vehicular traffic since August 1999; and

WHEREAS, the bridge is structurally unsafe; and

WHEREAS, the Commission has a duty to public safety in primary mission; and

WHEREAS, the State Line Bridge continues to exacerbate local flooding and erosion due to ice jams, trees and debris captured by the bridge; and

WHEREAS, the Kankakee River has experienced nine recorded flood conditions since the bridge’s 1999 closing, including the years of 2005, 2007, 2008, 2009, 2011, 2013, 2015, 2018, 2019, 2020, and 2021; and

WHEREAS, the Commission routinely must remove blockages and heavy debris from the bridge at substantial cost; and

WHEREAS, even in the absence of debris, the bridge itself is not elevated sufficiently to allow the unimpeded flow of water at flood levels; and

WHEREAS, again during just minor flooding in 2021, the bridge trapped significant numbers of logs, trees, trash, and debris that aggravated high water levels; and

WHEREAS, demolition of the bridge would be a preferred option; and

WHEREAS, as a secondary option, any insisted historic significance of the bridge could be preserved by re-locating it to a public site along the Kankakee River or elevating it to a level that would not interrupt the natural flow of water.

NOW THEREFORE BE IT RESOLVED that the Commission urges removal or relocation of the bridge to provide safety for the residents of the Kankakee River Basin in Indiana and Illinois, and to reduce flooding and maintenance demands of the Kankakee River.

Adopted this 15th day of July, 2021

John R. McNamara, Chair

On Behalf of the Kankakee River Basin and Yellow River Basin Development Commission