

Robert W. Brenner, Vanderburgh County Surveyor

**VANDERBURGH COUNTY  
SURVEYOR'S OFFICE**

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**Board of Commissioners**

Vanderburgh County  
Room 305 Civic Center Complex  
One Northwest Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708

December 9, 1991

Dear Board of Commissioners,

Based upon my examination of Pigeon Creek, I ascertain that the portion of Pigeon Creek in Vanderburgh County capable of being declared navigable by the Vanderburgh County Board of Commissioners is as such:

That portion of Pigeon Creek in Vanderburgh County, Indiana from its mouth at the Ohio River to its first crossing of the Vanderburgh/Warrick County line. The length of which is 12.9 (twelve and nine tenths) miles, based on Plate 3 contained within the SUMMARY REPORT, FLOOD PLAIN INFORMATION STUDY, PIGEON CREEK, VANDERBURGH COUNTY, INDIANA, PREPARED FOR, STATE OF INDIANA AND CITY OF EVANSVILLE, BY, U.S. ARMY ENGINEER DISTRICT, LOUISVILLE, CORPS OF ENGINEERS, LOUISVILLE, KY., MAY 1967.

A copy of Plate 3 showing the stream miles above the mouth of Pigeon Creek is included for reference.

Sincerely,

  
Robert W. Brenner  
Vanderburgh County Surveyor

RWB/11f  
enc.

**EXHIBIT "A"**

- 13-2-2 Conservation of potable ground water; mixing of potable and nonpotable waters; use of prolific aquifer; water flood projects
- 13-2-3 Violations

#### 13-2-3-1 Flowing water wells; reduction of flow

Sec. 1. The department of natural resources hereby authorized to require owners of flowing water wells to reduce the flow from such wells as may deem advisable to prevent the loss or waste of potable water which is not being put to a beneficial use. (Formerly: Acts 1957, c.309, s.1.) As amended by P.L.34-1937, SEC.32.

#### 13-2-3-2 Conservation of potable ground water; mixing of potable and nonpotable waters; use of prolific aquifer; water flood projects

Sec. 2. A permit, to be issued free of charge, must be obtained from the department of natural resources to inject, pump, or otherwise introduce potable ground water into any underground formations which contain nonpotable water. Application for said permit shall be made on forms prescribed by the department of natural resources, and the permit shall be issued upon receipt of application, unless the department determines from the application that an investigation is necessary. The department of natural resources shall have the right, after an investigation has been conducted and a hearing has been held, to deny permission to any applicant to inject, pump, or otherwise introduce potable ground water into any underground formations which contain nonpotable water when such practice would constitute a waste of potable ground water or threaten to impair or exhaust the supply of the area and when available nonpotable waters could be used in lieu of potable waters. The use of potable water obtained from a prolific aquifer adjacent to a permanent flowing stream which is rapidly recharged is hereby excluded, provided that the operator shall notify the department of natural resources, on a form prescribed by said department, of any use of said prolific aquifer and include thereon a fair approximation of the volume of potable waters to be used. Any person, firm, or corporation operating a water flood

project using potable ground water on March 11, 1957, shall have the right to continue such flood and to use such additional potable water as may be necessary, provided, however, that should an emergency arise affecting the water supply for household or farm use, in which event the department may, after notice and hearing, order such person, firm, or corporation to cease the use of such potable ground water. (Formerly: Acts 1957, c.309, s.2.) As amended by P.L.34-1937, SEC.33.

#### 13-2-3-3 Violations

Sec. 3. A person who violates this chapter commits a Class C infraction. Each day of violation constitutes a separate offense. (Formerly: Acts 1957, c.309, s.3.) As amended by Acts 1978, P.L.2, SEC.1314.

### Chapter 4. Navigable Waterways

Section	
13-2-4-1	Authority to declare navigability; petition
13-2-4-2	Examination of stream or watercourse; declaration of navigability
13-2-4-3	Repealed
13-2-4-4	Obstructing navigable stream or watercourse; penalties
13-2-4-5	Piers, wharves, docks or harbors
13-2-4-6	Effect of declaration of navigability on mills, dams, aqueducts, bridges, etc.
13-2-4-7	County expenditures to remove obstructions
13-2-4-8	Gates across roads leading to water
13-2-4-9	Erection of structures in or removal of water or material from navigable waterways; permits

#### 13-2-4-1 Authority to declare navigability; petition

Sec. 1. The boards of commissioners in the several counties in this state are authorized to declare any stream or water-course in their respective counties navigable, on the petition of twenty-four (24) freeholders of the county, residing in the vicinity of the stream which it is intended to be declared navigable. (Formerly: Acts 1905, c.167, s.24.)

#### 13-2-4-2 Examination of stream or watercourse; declaration of navigability

Sec. 2. On the filing of the petition provided for in section 1 of this chapter, any such board shall cause an examination of the stream or watercourse intended to be declared navigable to

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be made by some suitable person, who shall ascertain and report to the board the length of the same, and how much thereof is capable of being declared navigable, which report such board shall confirm if satisfied that the stream, if navigable, would be of public utility; and thereupon such board shall declare such stream navigable and cause the report to be recorded on the records of the board, as public highways are recorded. (Formerly: Acts 1905, c.167, s.25.) As amended by P.L.31-1937, SEC.34.

**13-2-1-3 Repealed**

(Repealed by P.L.1-1990, SEC.205.)

**13-2-1-4 Obstructing navigable stream or watercourse; penalties**

Sec. 4. Any person obstructing any stream or water-course declared navigable shall be liable to the same pains and penalties as persons guilty of obstructing public highways; and the general laws governing public highways, and the laying out and working thereof in all other respects, shall, so far as applicable, govern in the defining and working of navigable water-courses. (Formerly: Acts 1905, c.167, s.27.)

**13-2-1-5 Piers, wharves, docks or harbors**

Sec. 5. Any riparian owner of lands within this state bordering upon a navigable stream may build and maintain within his premises so bordering on such stream, and upon the submerged lands beneath the water thereof, piers, wharves, docks or harbors in aid of navigation and commerce, and may use, occupy and enjoy the same as appurtenant to his said lands: Provided, That such piers, docks and wharves shall not extend into such stream further than is necessary to accommodate shipping and navigation, and in no case so as to obstruct the same. (Formerly: Acts 1905, c.167, s.28.)

**13-2-1-6 Effect of declaration of navigability on mills, dams, aqueducts, bridges, etc.**

Sec. 6. The declaration of water-courses as navigable by county boards shall not affect any mill, dam, aqueduct, viaduct, bridge or machinery on any such stream, except in cases where the same has been abandoned for a period of twelve (12) months. (Formerly: Acts 1905, c.167, s.29.)

**13-2-4-7 County expenditures to remove obstructions**

Sec. 7. The boards of commissioners of the several counties shall have power to use such sums as may be appropriated from the county treasury, and as they may deem necessary, to remove obstructions from streams that have been heretofore or may be hereafter declared navigable according to law. (Formerly: Acts 1905, c.167, s.30.)

**13-2-4-8 Gates across roads leading to water**

Sec. 8. Persons living on or owning property along any water-course that is navigable for boats of a large size, are hereby authorized to hang gates at or near the top of the bank, across any road leading down the bank and terminating at such water-course, save in the limits of towns and cities. (Formerly: Acts 1905, c.167, s.34.)

**13-2-4-9 Erection of structures in or removal of water or material from navigable waterways; permits**

Sec. 9. (a) A person, other than a public or municipal water utility, may not:

- (1) place, fill, or erect a permanent structure in;
  - (2) remove water from; or
  - (3) remove material from;
- a navigable waterway without a permit from the department of natural resources.

(b) An application for a permit under this section must be made in a manner prescribed by rule.

(c) The department shall issue a permit if its issuance will not:

- (1) unreasonably impair the navigability of the waterway;
- (2) cause significant harm to the environment; or
- (3) pose an unreasonable hazard to life or property.

(d) A separate permit is not required under this section for an activity permitted under IC 13-2-18.5, IC 13-2-22, IC 13-4.1, IC 13.8