

Report to the Advisory Council and Request for Approval of the Contract between the State of Indiana and Stucker Fork Conservancy District for water withdraw from Hardy Lake; Administrative Cause No. 24-WA-024

Stucker Fork Exhibit:

THIS CONTRACT, entered into this _____ day of _____, 20___, by and between the State of Indiana (hereinafter called the State), acting by and through the Department of Natural Resources, an agency and instrumentality of the State of Indiana, and the Stucker Fork Conservancy District (hereinafter called the District), the said District created under the laws of the State of Indiana,

WITNESSETH THAT:

WHEREAS, to further the development of Indiana and to provide for the development of regional water supplies, the State entered into contract No. QC-69-1 pursuant to (then) IC 13-2-1-7 with the District on the 17th day of February, 1969, for the sale by the State and the purchase by the District of raw water from the Quick Creek Reservoir (now called Hardy Lake);

WHEREAS, the District was enabled by this contract for a supply of raw water from Hardy Lake to supplement the flow of the Muscatatuck River to construct a treatment and distribution system to serve industrial, commercial, and residential users in a region consisting of six counties (Scott, Jefferson, Washington, Jackson, Clark and Jennings), where public water supply was needed both for reasons of public health and economic development;

WHEREAS, an extension of contract QC-69-1 was entered into on the 24th day of April, 1980, between the State and the District as the District was planning extensive improvements to both its treatment and distribution facilities that the District financed with the issuance of a further series of water revenue bonds that matured in 40 years from the date of the contract, and the District needed the contract extended through the final maturity date of said bond issue;

WHEREAS, the State is authorized and empowered, pursuant to the authority of Indiana Code 14-25-2, to contract to provide certain minimum quantities of stream flow or to sell water on a unit pricing basis for water supply purposes from the water supply storage in such reservoir impoundments or portions there as have heretofore or may be financed by the State of Indiana; and

WHEREAS, the District desires to purchase raw water from Hardy Lake for water supply purposes;

NOW, THEREFORE, the parties do mutually agree as follows:

ARTICLE 1. Sale of Water by the State. In consideration of the payments to be made to the State by the District as hereinafter provided, the State agrees to sell to the District, from the water supply storage space in Hardy Lake, between elevations 570.0 and 600.0 feet (mean sea level, 1929 adjustment, measured at the dam), all of the raw water up to the hydrologic capability of the reservoir for water supply purposes.

ARTICLE 2. Purchase of Water by the District. In consideration of the raw water to be made available by the State in Hardy Lake for withdrawal by the District, as hereinbefore provided,

AGENDA ITEM #4

the District agrees to buy from the State raw water for water supply purposes in excess of that which it may or can obtain from the Muscatatuck River, all in accordance with the rates, prices, terms, and conditions of this contract.

The District may in addition to obtaining its raw water supply from the Muscatatuck River and Lake Hardy acquire additional sources of supply from well fields to be owned by the District.

The District agrees to pay the State for raw water released by it from Hardy Lake at the rate set forth in IC 14-25-2-3, which is \$33.00 per 1,000,000 gallons of water.

The District further agrees to pay an annual minimum of two thousand five hundred dollars (\$2,500.00) for the purchase of raw water whether or not its usage would produce said amount in revenue to the State in one year.

The total volume released for each calendar year (herein defined as the twelve-month period ending on December 31 of each year) shall be determined from the staff gage and weir rating data hereinafter provided for.

ARTICLE 3. Term. This Contract shall be and continue in full force and effect from the date of approval thereof by the Governor of Indiana and shall continue for a period of 50 years, subject to renewal as provided in Article 4.

ARTICLE 4. Renewal. Upon expiration of the period prescribed in Article 3, the parties to this contract shall have the right, subject to the required approval of appropriate authorities, to enter into a separate or supplemental agreement, mutually acceptable to both parties, for the further withdrawal by the District of raw water for water supply purposes from Hardy Lake for water supply purposes.

ARTICLE 5. Determination of Volumes and Access to Records. For the purpose of determining the amounts of water to be paid for, the District shall be granted permission to enter the State property during regular business hours to read the staff gage at the outlet of Hardy Lake for flow determination based on established weir rating data. Such access will be by foot traffic only and shall not cause damage to State property. The District shall provide the State, in writing, the name(s) of District employees authorized to read the staff gage. The State shall provide the District with flow calculations, based on the designed and functional weir as determined by a Registered Professional Engineer in the State of Indiana. The State shall cause the weir and staff gage to be maintained, repaired, or replaced as necessary for the purpose of determining flow measurement. An authorized representative of the District shall request, in writing, that the State release the requested daily flow. The State shall track operational status of the structure, reporting flow based on the weir measurements on a monthly basis. The State shall provide an annual summary of discharge to the District on or before thirty (30) days following the date of December 31st of each year. The District shall approve the flow measurements or provide documentation that demonstrates volumes other than those reported by the State. The State will maintain the discharge channel to be open flow to the boundary of the State property. The State shall not be responsible for flow that occurs beyond the boundary of State property.

ARTICLE 7. Payments. Payments to be made by the District to the State pursuant to this Contract shall be made payable to the Treasurer of the State of Indiana and shall be delivered to the Department of Natural Resources, or its successor, at Indianapolis, Indiana. Payments shall be due on or before 90 days following the date of December 31st of each year.

ARTICLE 8. Availability and Allocation Factors. The State shall never be liable to the District for failing to supply water pursuant to this Contract when water is physically not available due to cause beyond the control of the State nor when an emergency develops which affects the safety of the structure and a temporary drawdown of the water is required to make necessary repairs.

ARTICLE 9. Source of Water Withdrawn. It is expressly understood and agreed that raw water to be made available to the District by the State from Hardy Lake is to be taken from the lake storage capacity between elevations 570.0 and 600.0 feet (mean sea level, 1929 adjustment, measured at the dam) and that the undertakings of the State with respect to the availability of water to the District pursuant to this Contract are conditioned upon the availability of the District to withdraw water to a minimum lake level of 570.0 feet.

ARTICLE 10. Water Quality. This Contract is for the sale of raw water from the water supply storage space in Hardy Lake, and it is expressly understood and agreed by the parties hereto that the State makes no representation or guarantee, implied or otherwise, as to the quality of such raw water.

ARTICLE 11. Public Water Supply. Plans and specifications for all structures and facilities to be used to withdraw, handle, convey, treat, or distribute water from Hardy Lake under the terms of this Contract shall be submitted to and approved by the Indiana Department of Environmental Management before any water is withdrawn. Plans and specification for all structures and facilities to be used to handle, convey, treat or discharge domestic, industrial, commercial or agricultural wastes, created by or in connection with water withdrawn under the terms of this Contract, shall be submitted to and approved by the Indiana Department of Environmental Management before such wastes are created. One copy of all such approved plans and specifications shall be furnished to the State by the District. For breach or violation of this covenant, the State shall have the right to annul this Contract without liability.

ARTICLE 12. Permits and Easement. The District shall solely be responsible for obtaining at its own expense, permits or easement for the use of lands owned by others necessary for installation, maintenance and operation of all structures and facilities other than those provided by the State for the withdrawal of water from Hardy Lake for its use and/or for the disposal of wash water, sewage or other wastes form the water treatment plant.

ARTICLE 13. Structure and Facility Costs. It is understood and agreed that the design, financing, construction, maintenance and operation of any and all structures and facilities other than those provided by the State, of every nature or kind necessary or incidental to the withdrawal, processing, and transportation of water from the water supply storage space in Hardy Lake for the benefit of the District and/or for the disposal of any wash water, sewage or other wastes from the water treatment plant shall be at the sole expense of the District.

ARTICLE 14. Review and Approval of Plans. The District shall submit complete and detailed plans and specifications for all modification or improvements to the raw water withdrawal facilities and equipment it uses to the State for review and approval prior to construction.

ARTICLE 15. Default. In the event of default by either party under this Contract, the other party may give written notice to the defaulting party of such default. Should the defaulting party fail to cure the default within 60 calendar days from the date of such notice, the other party shall have the right to terminate this Contract. This right shall be cumulative of all other rights and remedies for default. Notices required or useful under this Contract shall be deemed given when mailed by registered or certified mail to the State at Indianapolis, Indiana, and to the District at Scottsburg, Indiana.

ARTICLE 16. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier/delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:
Director
Department of Natural Resources, Division of Water
402 W Washington St., Room W264
Indianapolis, IN 46204

B. Notices to the District shall be sent to:
Stucker Fork Water Conservancy District
P.O. Box 276
Scottsburg, IN 47171

**State of Indiana
Department of Natural Resources
Division of Water**

Department Memorandum

Date: October 24, 2024

To: Natural Resources Advisory Council

From: Celena Langlois; IDNR, Division of Water

Subject: Summary of Public Meetings held for contract application ST 24-001 between Stucker Fork Conservancy District and The State of Indiana for withdrawal of water from Hardy Lake for the purpose of Public Water Supply.

The State of Indiana is authorized under Indiana Code 14-25-2 to sell water on a unit pricing basis for water supply purposes or low-flow augmentation from the water supply storage in reservoir impoundments, or portions of the impoundments that are financed by the State. The Department of Natural Resources, Division of Water, acts as administrator for these contracts. The provisions of IC 14-25-2 and Rule 312 IAC 6.3 require that a written application to request a contract be submitted to the Department, and that public meetings be held to gather testimony on the request. The division director shall appoint a Department employee to serve as public hearing officer for the meetings. No longer than thirty (30) days after a public meeting is held, the Advisory Council shall submit to the Commission a report summarizing the public meeting.

Contract Request Summary

Stucker Fork Conservancy District previously held an existing water supply contract **QC-69-1** pursuant to (then) IC 13-2-1-7 with the District of February 17th, 1969, for the sale of raw water from the Quick Creek Reservoir (now called Hardy Lake). An extension to the original contract was issued on April 24th, 1980. Stucker Fork Conservancy District uses this water supply as supplemental to the flow of the Muscatatuck River for the industrial, commercial, and residential users of Clark, Jackson, Jefferson, Jennings, Scott, and Washington County.

A contract for the sale of water on a unit pricing basis that is entered into under IC 14-25-2 must provide for compensation to the state at the rate of not less than thirty-three dollars (\$33) per one million (1,000,000) gallons of water. The recently expired contract with Stucker Fork Conservancy District has generated an average of \$4,100 per year in revenue in the last 20 years.

In accordance with Rule 312 IAC 6.3-3-1, a written request is to be submitted to the Division of Water, and must include the following information:

- 1) **Contract Applicant:** Stucker Fork Water Conservancy District, P.O. Box 276
Scottsburg, IN 47171
- 2) **Proposed Use:** Public Water Supply
- 3) **Location of Withdrawal:** Hardy Lake is in Jefferson and Scott Counties; water is released from Hardy Lake's Dam
(Township 4N Range 7E Section 14) See Map provided.
- 4) **Proposed Term:** Fifty (50) years
- 5) **Requested Withdrawal:** All raw water from elevations 570.0 and 600.0 (mean see level, 1929 adjustment, measured at the dam).
- 6) **Measurement:** Weir discharge
- 7) **Summary of Alternatives and Justification:** Hardy Lake was constructed to be Stucker Forks's alternative water supply from Stucker Fork primary supply, the Muscatatuck river, is too low as has been since Hardy Lake construction.
- 8) **Contingency Plan:** See attached application.
- 9) **Conservation Plan:** See attached application.

Hardy Lake Available Water Supply Storage:

Total water supply storage in Hardy Lake is between elevations 570 and 600 feet, National Geodetic Vertical Datum, 1929 adjustment, measured at the dam. The State of Indiana has the right to 100% of this water supply storage, an amount estimated to be 12,000 acre feet, for the purposes of water supply and low-flow regulation (provided the designated space is physically available). This reservoir was built for the citizens of Stucker Fork as has an alternative water source since 1969.

Public Meetings Summary and Public Comment

Public meetings were conducted by Public Hearing Officer and Division of Water personnel Celena Langlois and Carly Miles, to gather testimony on the application for Contract Number **ST 24-001** between the Stucker Fork Conservancy District and the State of Indiana. The meetings took place in the following two (6) counties, as required by IC 14-25-2-2.5 (h) and 312 IAC 6.3-3-3:

- July 1, 2023 – Jefferson County, Madison, IN; and

- July 1, 2023 – Jennings County, Vernon, IN; and
- July 1, 2023 – Jackson County, Seymour, IN; and
- July 2, 2023 – Clark County, Henryville, IN; and
- July 2, 2023 – Washington County, Salem, IN; and
- July 2, 2023 – Scott County, Scottsburg, IN.

A brief presentation was presented outlining the provisions of IC 14-25-2 and Rule 312 IAC 6.3 which govern the Department's authority to enter into water supply contracts. (See attached.) Available water supply data was provided for Brookville Lake as well as established water supply priorities, the nature of the pending request and the application specifics, factors the Natural Resources Commission may consider during review and acting upon a request, and the process by which the Commission makes a determination to deny, condition, or approve a contract.

There was zero public participation at the public meetings in Jefferson, Jennings, Jackson, Clark, and Washington County.

One member of the public participated in the Scott County Meeting: this member indicated that he was “for” the contract with no additional comment.

Conclusions and Recommendations:

The fifty (50) year contract term and annual withdrawal limit of the 12,000 acre foot water supply will allow Stucker Fork to continue to use Hardy Lake as a supplemental supply. The Division of Water staff believe that the volume of water available from Hardy Lake is adequate to satisfy the supplemental needs for the fifty (50) year term of the contract. This lake's water supply is totally contracted out to Stucker Fork as the driving factor behind the building of this reservoir.

Potential impact to the recreational facilities of the reservoir is expected to be negligible.

Therefore, the public hearing officer requests the Advisory Council recommends the Natural Resource Commission approve Water Supply Contract **ST 24-001** between the Stucker Fork Conservancy District and the State of Indiana.

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

3/9/20 Phone Conversation w/ Randy Needler
water supply from intake on Hardy Lake
AGENDA ITEM #4
last 2-3 years → ~~current~~ supplies Treatment plant @ Austin
Jackson Co. - water could also be provided to
Tennessee and Washington Co.
Jackson,

Bradley M. Dick

Direct Dial: (317) 684-5970

Fax: (317) 228-0970

E-Mail: BDick@boselaw.com

Reservoir in Scott & Tipton Co.

March 6, 2020

VIA CERTIFIED MAIL

Natural Resources Commission
100 North Senate Avenue, Room N103
Indianapolis, Indiana 46204

Indiana Department of Natural Resources
402 West Washington Street
Indianapolis, Indiana 46204

RE: Renewal of Stucker Fork Conservancy District Contract for Water Supply from
Hardy Lake

Natural Resources Commission and Indiana Department of Natural Resources:

This firm represents the Stucker Fork Conservancy District ("Stucker Fork"). This is a request, under Ind. Code Chapter 14-25-2, for Stucker Fork to take water from Hardy Lake on a unit pricing basis.

In the 1960s, Stucker Fork was created to provide water service to communities in southern Indiana, and Hardy Lake was constructed to supply Stucker Fork with a supplemental source of water. Since that time, Stucker Fork has had a contract with the State to take water from Hardy Lake on a unit pricing basis. Stucker Fork's contract with the State, as amended, expires this year. Therefore, Stucker Fork desires to enter a contract for water on a unit pricing basis as needed as a supplemental water supply to the Muscatatuck River.

In support of the request, Stucker Fork provides the following responses, under 312 IAC 6.3-3-2:

1. Contact information:

Stucker Fork Conservancy District
2260 US-31 Austin, Indiana 47102
Contact person: Randy Needler
812-794-0650
Sfork1@c3bb.com

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2. Representative

Bradley Dick
Bose McKinney & Evans
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
bdick@boselaw.com

3. Water is released from the Hardy-Lake-dam main valve. A map depicting the location of the main valve is attached as Exhibit A.
4. Stucker Fork provides water service to its approximately 7,800 customers.
5. Stucker Fork serves customers in Clark, Jackson, Jennings, Jefferson, Scott, and Washington counties.
6. Proposed daily limit: The current agreement provides that the State provides Stucker Fork “between elevations 570.0 and 600.0 (mean sea level, 1929 adjustment, measured at the dam) all of the raw water up to the hydrological capability of the reservoir for water supply purposes.” 312 IAC 6.3-2-5 also provides that the minimum stream flow for Hardy Lake is “five-tenths (0.5) cubic feet per second.”
7. Stucker Fork proposes a 50-year contract.
8. The Department of Natural Resources (“DNR”) devised the method of measuring release from Hardy Lake and measured the rate of release. DNR opened the main valve $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, and then 1 full turn, and DNR then measured and calculated the volume of release in gallons. Stucker Fork reports annually to DNR Water Rights and Use Division the date and set point of the main valve when it is opened and closed. DNR employees open and close the main valve.
9. Alternatives considered: Hardy Lake was constructed to be Stucker Fork’s alternate water supply from Stucker Fork’s primary water supply, which is the Muscatatuck River.

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10. Hardy Lake is the most economically feasible choice for Stucker Fork because the lake was constructed to provide Stucker Fork with an alternate water supply.
11. Stucker Fork has a water treatment plant in Austin, Indiana. It serves approximately 5% of Stucker Fork's service area, though the Austin treatment plant serves several large volume users. The Austin treatment plant does not provide service to all of Stucker Fork's service area. The Austin treatment plant uses on average 2.5 to 3 million gpd, and has a rated capacity of 7 million gpd. The Muscatatuck River is the primary source of water for the Austin treatment plant. Hardy Lake is Stucker Fork's alternate source of water for the Austin treatment plant when the Muscatatuck River is too low, and Hardy Lake was constructed to be Stucker Fork's alternate source of water.

In addition, Stucker Fork has the Marble Hill well field with five wells. The Marble Hill well field can produce 10 million gpd, the five wells are capable of producing 5 million gpd, and the treatment plant for the Marble Hill well field can treat 4 million gpd. The Marble Hill well field serves approximately 95%, in area, of Stucker Fork's system, and does not serve the entire system.

If additional information is needed to process this request, please let me know at your earliest convenience.

Sincerely,



Bradley M. Dick

cc: Elizabeth Gamboa
Vanessa Gonzalez

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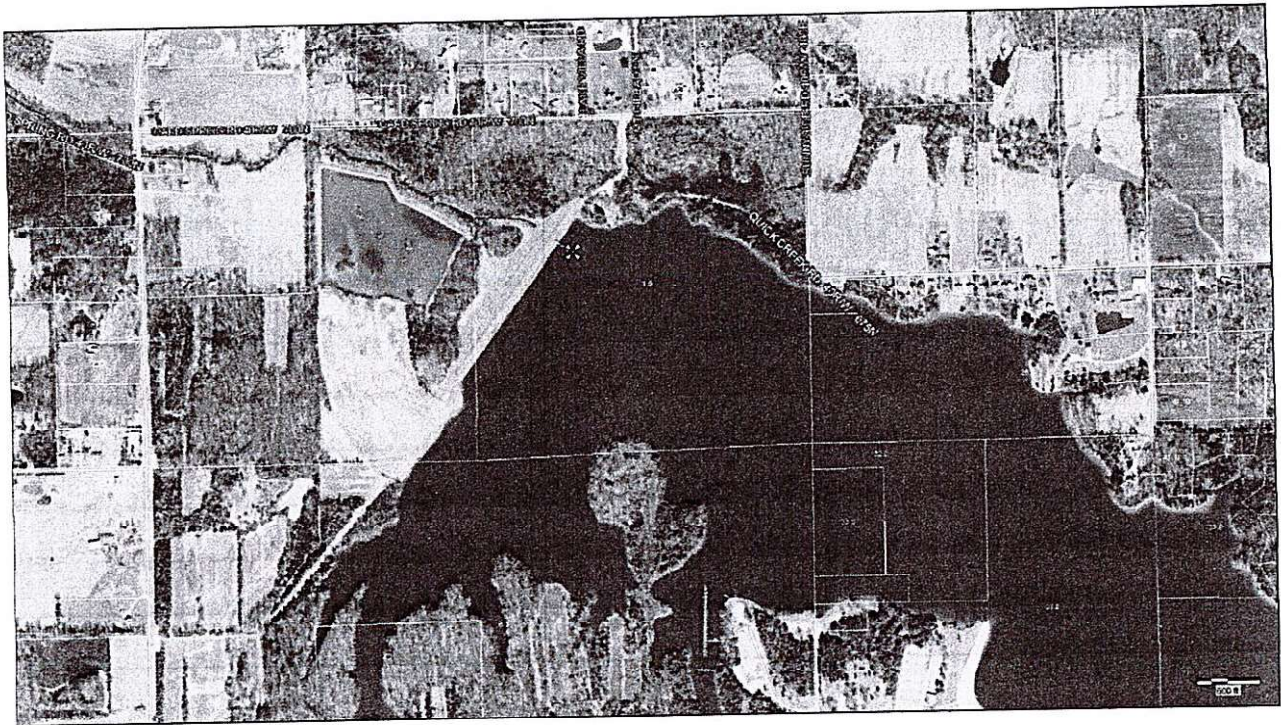
THINK GIS Search For... Id Ftr Id Hco Zm Box Zm Out Home Prev Sew Print Help Layers Index Clear Parcel Tools Tools login Hover mode

Prev Next Clear Close

Get Coordinates

Deg-Min-Sec:	N 38 deg 47 min 29.48 sec W 85 deg 42 min 32.87 sec
Deg-Min:	N 38 deg 47.4914 min W 85 deg 42.5476 min
Deg:	N 38.791523 deg W 85.709131 deg
State Plane 1301 IN_E Nad 83	E 315980ft N 1290529ft
UTM Zone 16	E 612108m N 4294433m
USNG	16S FH 1211 9443

The map displays an aerial view of a landscape with a large, irregularly shaped pond in the center-left. The pond is surrounded by land parcels, some of which are labeled with parcel numbers (e.g., 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000). A coordinate cursor is positioned over a parcel on the right side of the pond, displaying the coordinates listed in the table. The map interface includes a search bar, navigation tools, and a 'Get Coordinates' panel on the left.



Type notes here

Printed
03/02/2020

The purpose of this map is to display the geographic location of a variety of data sources frequently updated from local government and other agencies. Neither WTH Technology nor the agencies providing this data make any warranty concerning its accuracy or merchantability. And no part of it should be used as a legal description or document.

Get Coordinates



Deg-Min-Sec:	N 38 deg 47 min 29.48 sec W 85 deg 42 min 32.87 sec
Deg-Min:	N 38 deg 47.4914 min W 85 deg 42.5478 min
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State Plane 1301 IN_E Nad 83	E 315980ft N 1290529ft
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USNG	16S FH 1211 9443