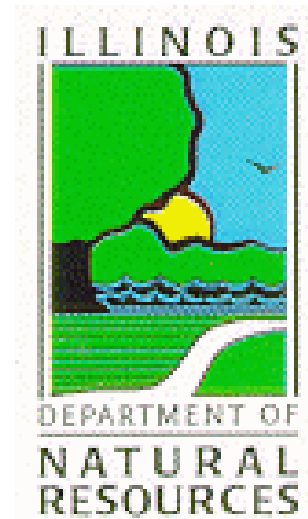


State Owned Properties and the NFIP

Regulating and permitting State development
in the floodplain

Illinois Department of Natural Resources – Office of Water
Resources



Why are we doing this?

State of Illinois is a participating community in the NFIP – and all communities that participate in the NFIP must have an “ordinance” that follows the minimum requirements of 44 CFR 59-79



Illinois currently operates under Executive Order 2006-5



EO 2006-5 requires that “All State Agencies engaged in any development within a Special Flood Hazard Area shall...comply with all requirements of the National Flood Insurance Program (44 CFR 59-79)



EO 2006-5, adopted in 2006, replaced Executive Order Number 4 from 1979.

So...what's the problem?



On November 17, 2022 FEMA sent the Governor of Illinois a letter stating that the Illinois requirements in EO 2006-5 for state owned properties and development activity in the floodplain did not meet the basic standards that FEMA requires.



Illinois was told to make changes (including adopting enforceable rules) in one year.



In January, 2023 Illinois requested a one-year extension to get into compliance – because change takes time...

How to eat an elephant



IDNR tackles the problem

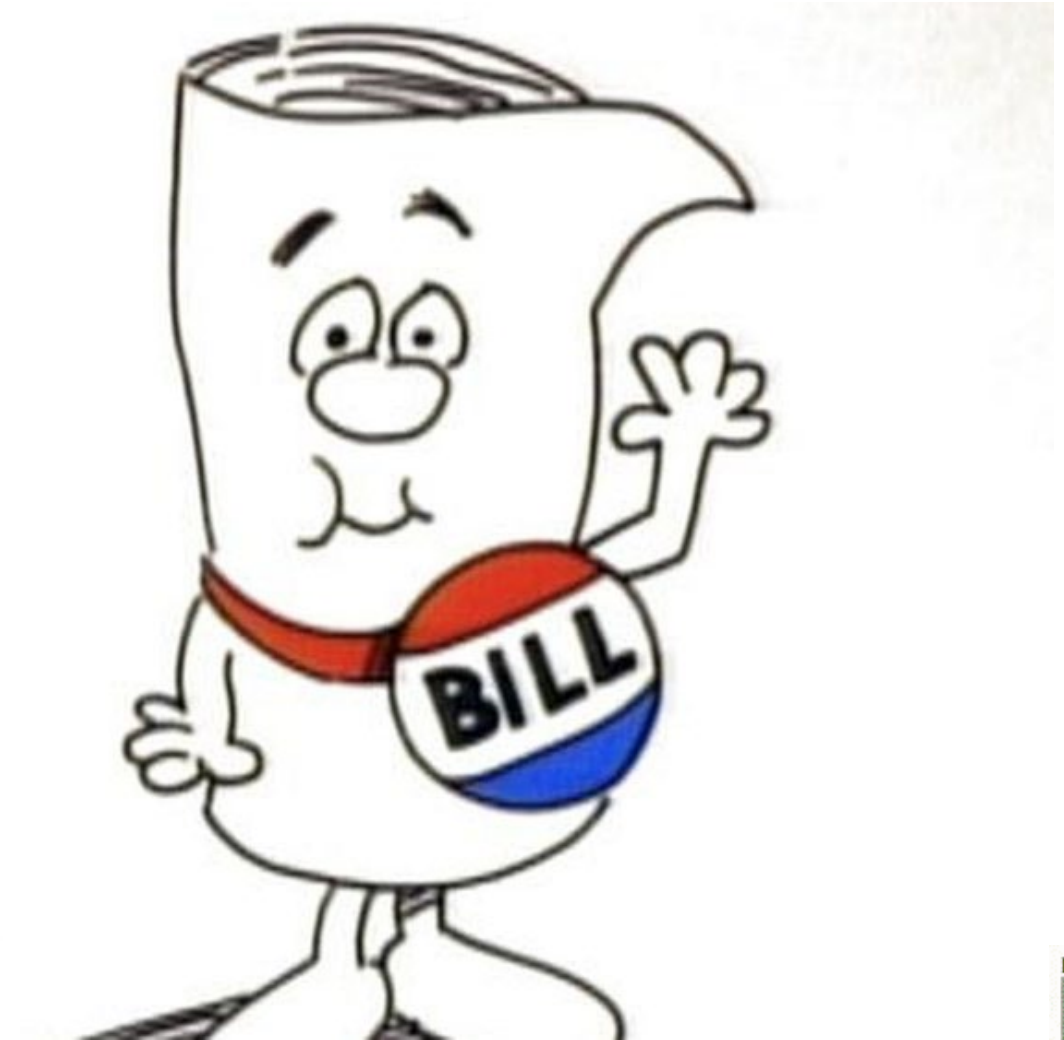
First bite...the Executive Order

The current model of regulating floodplain development by State agencies was reviewed – could we just modify the EO?

We quickly recognized the limits of the EO, and the need for legislation and formal rules to allow one state agency to direct and permit the activity of a sister agency.

Second bite – the legislative process

- IDNR introduced a bill during the November 2023 veto session to allow IDNR to establish a program to review permit all state development activity in the floodplain.
- The proposed legislation included rulemaking authority for IDNR to implement the new permit program.



More collaboration was needed



The Illinois Department of Transportation had questions and concerns with the proposed legislation, so the veto session bill was not pushed and IDNR prepared for the regular Spring session of the Illinois General Assembly.



IDNR staff met with IDOT to address concerns about what constitutes a “critical facility” (i.e., not roads or bridges).

Basic elements of the legislation

- Bills were introduced in both the House and Senate for the Spring, 2024 session to amend the Rivers, Lakes, and Streams Act (615 ILCS 5/40): [HB4207](#) (Rep. Chung) / [SB2628](#) (Sen. Koehler)
 - Requires additional specified requirements to apply to State agencies engaged in any development within a special flood hazard area.
 - Provides the Department of Natural Resources shall adopt an **administrative rule** setting forth a program to ensure certain requirements via the issuance of permits prior to any State agency development within a special flood hazard area.
 - Provides that grants or loans administered by State agencies for financing a development within special flood hazard area shall inform participants in their programs of the existence and location of special flood hazard areas and of any State or local floodplain requirements that are in effect in such areas.
 - Requires State agencies that are responsible for regulating or permitting a development within special flood hazard areas to inform participants in their programs of the existence and location of special flood hazard areas and of any State or local floodplain requirements that are in effect in such areas.
 - Requires State agencies that are engaged in planning programs or programs for the promotion of development to inform participants in their programs of the existence and location of special flood hazard areas and of any State or local floodplain requirements that are in effect in such areas. Requires the Department to provide available flood hazard information to assist State agencies in complying with the established requirements.

The heavy lift is just beginning! If the bill passes, we have a lot more to do to get this program implemented at the state.



Implementing the program



IDNR is looking into the need for an emergency rule that goes into effect when the legislation does to give agencies direction on how the permit program will operate.



Agencies will need to factor in time to allow IDNR to review permits



The IDNR NFIP program staff will be busy providing training to agencies to ensure awareness and compliance

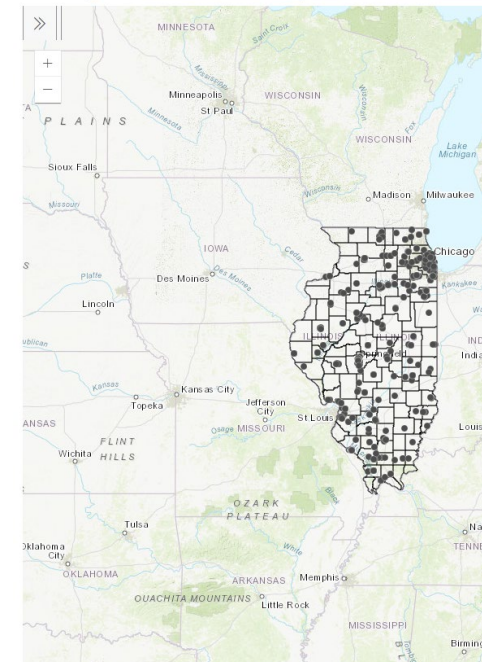


IDNR permit staff will need more caffeine for the increase in permit applications we anticipate

Learning Curves

- IDNR will work with the Illinois Capital Development Board (CDB) to provide education and outreach on the requirements of the State property NFIP program.
- CDB is the State board that is responsible for management of the vertical construction projects and capital planning in Illinois for State Agencies and Higher Education Institution.

Project Webmap

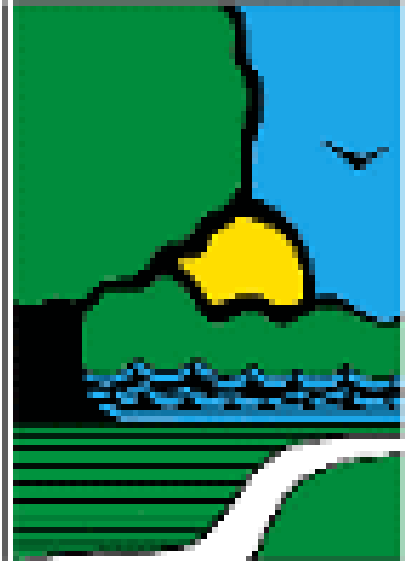


[Project Webmap \(illinois.gov\)](http://illinois.gov)

Making the Changes

- The IDNR itself manages a large number of properties in the floodplain, including the buildings and land in our State parks system. We will have to include outreach to our own Department as this program rolls out.
- The level of current awareness (or lack of) of NFIP requirements for State owned property shows how the EO was not making the impact that was intended.
- The proposed legislation will authorize IDNR to bring more awareness and compliance to floodplain management concerns across the state.

ILLINOIS



**DEPARTMENT OF
NATURAL
RESOURCES**

Questions?

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