

State Statutes to State Regulations



Office of Water Resources

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Where is OWR's directive?

615 ILCS Chapter 5, Section 23

Who needs to follow the directive?

“It shall be the duty of the Department of Natural Resources...with reference to the carrying capacity of all such streams in times of flood and under normal conditions;...”

What is the directive?

“to prevent the carrying capacity of streams to be limited and impaired by fills, deposits, obstructions, encroachments therein...”

“All [legislators] have done is write down certain words which they mean to **apply generally to situations of that kind.** To apply these literally may either pervert what was plainly their general meaning, or leave undisposed of what there is every reason to suppose they meant to provide for. **Thus it is not enough for the judge just to use a dictionary.** If he should do no more, he might come out with a result which every sensible man would recognize to be quite the opposite of what was intended which would contradict or leave unfulfilled its plain purpose.”

- Judge Learned Hand as quoted in Schnapper, 1993, p. 1114-1115

“It shall be the duty of the Department of Natural Resources to maintain stream gauge stations, and to make careful investigations of the streams of the State with reference to the carrying capacity of all such streams in times of flood and under normal conditions; to prevent the carrying capacity of streams to be limited and impaired by fills, deposits, obstructions, encroachments therein, deposit of debris or material of any kind, including trees, tree limbs, logs, shrubbery, or related growths and trimmings therefrom in or upon the bank of any waters and water courses or in such proximity to such waters and water courses or any tributary thereto where the same shall be liable to be washed into or deposited along such waters and water courses, either by normal or flood flows, as a result of storms or otherwise, which may in any manner impede or obstruct the natural flow of such waters and water courses, or bridges over same, to an extent where the same cannot safely dispose of the flood waters which may naturally, lawfully, and properly be discharged therein; to require such changes in bridges across any navigable waters or streams, or bodies of water made navigable, necessary to meet the demands of navigation and commerce thereon; and to establish by regulations water levels below which water cannot be drawn down behind dams from any stream or river within the State of Illinois, in order to retain enough water in such streams to preserve the fish and other aquatic life in the stream, and to safeguard the health of the community. ”

264 WORDS

21 COMMAS

3 SEMICOLONS

“It is a familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within **its spirit nor within the intention of its makers.**”

- Supreme Court as quoted in Schnapper, 1993, p. 1115

Why did they make the directive?

- Too many civil court cases
- Prevent menaces to property and safety

How do we carry out the directive?

Part 3700 Floodway Construction rules

computed



B) in urban areas, the water surface profile increase would not exceed 0.1 foot; or

C) in rural areas, the water surface profile increase would not exceed 0.5 feet; and



computed

“...Updated computational capacity and modeling technologies allow permit applicants to evaluate proposed floodplain construction impacts with greater detail and accuracy. Updated standards will reflect these technological advances.”

- Loren Wobig and Steve Altman (OWR)



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“...prevent the carrying capacity of streams to be limited and impaired by...deposit of debris or material of any kind, **including trees, tree limbs, logs, shrubbery,** or related growths and trimmings therefrom in or upon the bank of any waters and water courses...”



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\$\$\$ REVIEW FEES...

615 ILCS 5/35

References

Paul Mauer, IDNR

Eric Schnapper, *Statutory Misinterpretations: A Legal Autopsy*, 68 Notre Dame L. Rev. 1095 (1993).