

# Lower than Levee...

## Standard??

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<http://www.thetelegraph.com/news/111331/sen-bill-haine-rep-jay-hoffman-weigh-in-on-levee-deregulation-efforts>

## Sen. Bill Haine, Rep. Jay Hoffman weigh in on levee deregulation efforts

<https://www.sciencedaily.com/releases/2018/04/180404133543.htm>

<http://www.environmental-service.org/2018-04-12/environment/treaty-in-levee-wars-called-crucial-for-saving-lives/atc1531>

## Treaty in Levee Wars Called Crucial for Saving Lives

April 12, 2018

Date: April 4, 2018

Source: World's Hope Oceanographic Institution

## How Overbuilt Levees Along the Upper Mississippi River Push Floods Onto Others

By Al Shaw and Lisa Song, March 30, 2018

16 hrs ago

WHAT THE HECK  
IS GOING ON IN  
ILLINOIS?!?!?



# Let Us Tell You

- IDNR/OWR Permits Program
- IDNR/OWR Levee Regulation
- 1993 to Today
- Updating the Administrative Rules
- Current Status



# IDNR/OWR Permit Programs

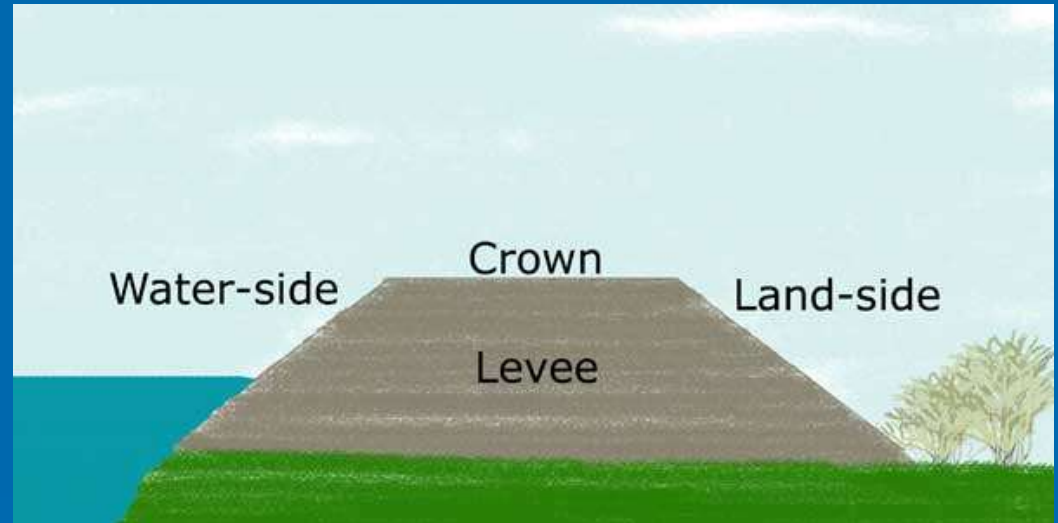
## Administrative Rules

- Rivers, Lakes, and Streams Act (615 ILCS 5)
  - Construction in Floodways of Rivers, Lakes and Streams: Part 3700 Rules (615 ILCS 5/23, 29a, and 35)
  - Rules for Construction and Maintenance of Dams: Part 3702 Rules (615 ILCS 5/23, 23a and 35)
  - Regulation of Public Waters: Part 3704 Rules (615 ILCS 5)
  - Floodway Construction in Northeastern Illinois: Part 3708 Rules (615 ILCS 5/18g and 35)
- Level of Lake Michigan Act (615 ILCS 50)
  - Allocation of Water from Lake Michigan: Part 3730 Rules (615 ILCS 50)



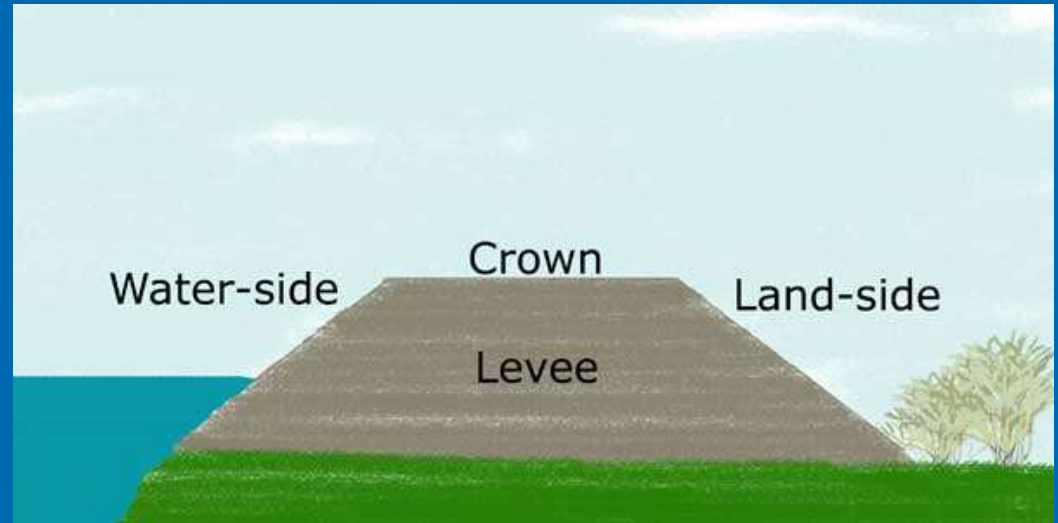
# IDNR/OWR Levee Regulation (Part 3700 Rules)

- Pre 1993 Flood
  - 100-Year Event
  - No Analyses required if Existing Levee Profile > 100-Year



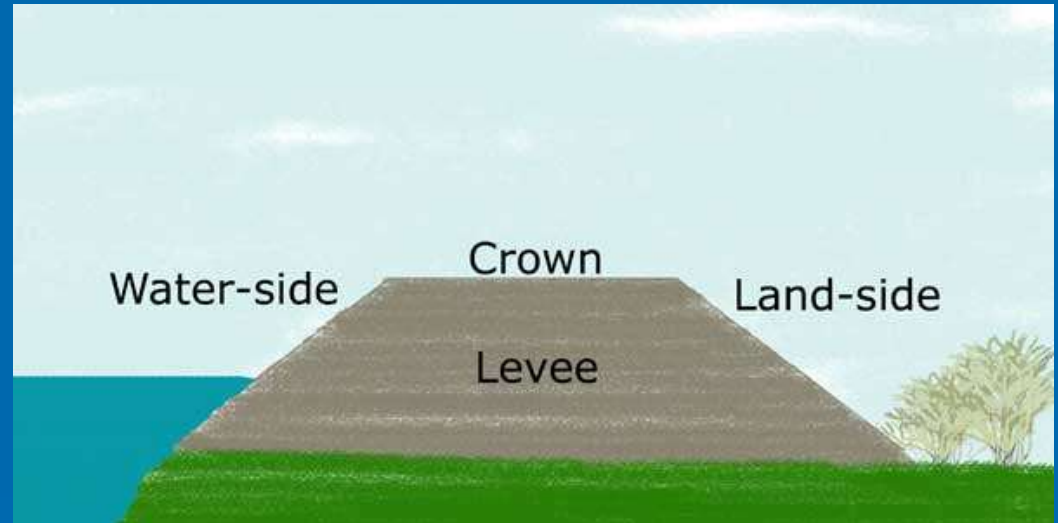
# IDNR/OWR Levee Regulation (Part 3700 Rules)

- Post 1993 Flood (Current)
  - Worst Case Scenario
  - Focused on top of levee, regardless of design event
  - All levees treated the same



# IDNR/OWR Levee Regulation (Part 3700 Rules)

- For both cases
  - WSEL Rise
    - Equal to maximum allowed in rules
      - 0.0 ft
      - 0.1 ft (urban)
      - 0.5 ft (rural)
    - Contained in an easement





# IDNR/OWR Levee Regulation (Part 3700 Rules)

- Why did Levee Regulation Change after the 1993 Flood?
  - Available River Profile Obsolete
  - Avoid Levee “Wars”





# 1993 to Today

- FEMA Map Modernization (2004)
  - Mississippi Levee Systems accredited on Effective FIRM
    - None accredited via 44 CFR 65.10
  - Procedure Memorandum 34 (2005)
    - Accredited Levees must meet 44 CFR 65.10
  - Procedure Memorandum 43 (2007)
    - Provisionally Accredited Levees



# 1993 to Today

- Mississippi River Levee System
  - Receives PAL Status
  - Submits certification package to FEMA
  - Certification Package DENIED by FEMA
    - Package Meets all Certification criteria, but
    - Levee was raised without State of Illinois Authorization
- Response
  - State legislator proposes to eliminate rules oversight for levee systems
  - Joint Resolution (HJR0095) passes in 2014
    - Standard lowered to raises below 500-Year



# 1993 to Today

- Development Pressure
  - Border States have lower standards
  - Perceived disadvantage
- Future Floods



# Updating the Administrative Rules

- Executive Order 2016-13
  - Consistency among Administrative Rules
  - Easily Understood
  - Should not be unduly burdensome
  - Reduce the following by 20%
    - Must
    - Shall
    - May not
    - Required
    - Prohibited



# Updating the Administrative Rules

- All Statewide Permits Rescinded
  - Other DNR Administrative Rule Conflicts
  - Ensure Compliance
- Expanded Exemptions
- Enhanced Violation and Enforcement Procedures
- Elimination of 3700 Rules Guidelines
- **Definition of Worst Case Analyses for Levees\***
  - Revert back to Pre-1993 Flood Standard
  - Part 3708 Rules not changed Post 1993 Flood



# Updating the Administrative Rules

## NOTICE OF DRAFT ADMINISTRATIVE RULE CHANGES

Prior to initiating the formal rule making process through the Illinois Joint Committee on Administrative Rules, the Office of Water Resources has posted the draft Part 3700 rules and changes on the IDNR/OWR website for review and comment as PDF documents. Changes proposed are intended to update, clarify or simplify the current rules as summarized in the supplemental summary change document.

**Please provide any written comments by May 10, 2017 to:**

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[https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules2017\\_ChangesSummary.pdf](https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules2017_ChangesSummary.pdf)

[https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules-2017\\_Proposed.pdf](https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules-2017_Proposed.pdf)

- Draft 3700 Rules on DNR Website
  - Posted on April 9, 2017
- Comments
  - 157 Total
    - Private Citizens
    - Public
      - Federal
      - State
      - Local
    - Private Companies
    - Advocacy Groups



# Current Status

- Updated Draft Rules sent to DNR Legal for review – February 6, 2018
- Senate Bill 2824
  - Introduced On February 13, 2018
  - Amends Rivers, Lakes, and Streams Act
    - Defines Worst Case Scenario for Levees (Same as current 3700 Rule Definition)
  - Assigned to Environment and Conservation Committee
  - Passed out of Committee for Second Reading on March 1, 2018





# Current Status

- House Bill 5130
  - Same proposed changes in SB 2824
  - Introduced on February 16, 2018
  - Assigned to Agriculture and Conservation Committee
- Senate Joint Resolution in Process
  - Forms Task Force to compromise on a solution
  - Adopted by Illinois Senate 5/23
  - Pending in Illinois House
  - Details
    - 22 Members
    - Completed Report due on August 31, 2018



# Something to Ponder...

- Perception of Conflicting Standards
  - Part 3700 Rules
  - 44 CFR 65.10





Questions?

