

#1270

RELEASE DEED BETWEEN INDIANA &
MICHIGAN ELECTRIC CO. AND CITY
OF SOUTH BEND.

RE: DAM ACROSS ST. JOSEPH RIVER

#1270

Recorded in St. Joseph
County Recorder's Office
June 4, 1981
2:49 p.m.
8109702

RELEASE DEED

THIS INDENTURE, made this 1st day of June,
1981, by and between INDIANA & MICHIGAN ELECTRIC COMPANY, an Indiana
Corporation, whose Post Office address is 2101 Spy Run Avenue, P. O.
Box 60, Fort Wayne, Indiana (hereinafter called "Releasor"), and the
MUNICIPAL CITY OF SOUTH BEND, INDIANA, (hereinafter called "Releasee"),

W I T N E S S E T H T H A T :

WHEREAS, by quitclaim deed dated December 8, 1965, Releasor conveyed
to Releasee a dam across the St. Joseph River in the City of South Bend,
St. Joseph County, Indiana, various appurtenant rights and easements
for said dam and a parcel of real estate, which deed is of record in
the Deed Records in the Office of the Recorder of St. Joseph County,
Indiana, in Deed Book 671, Page 428, and

WHEREAS, said deed dated December 8, 1965 contains a restrictive
covenant, wherein Releasor was the Grantor therein and Releasee was the
Grantee therein, providing, in part, as follows:

". . . provided, however, that in the event it becomes
feasible to use all or any part of said property for the
generation of electricity and Grantee or its successors
or assigns do so use it, the property herein conveyed
shall immediately revert to Grantor."

and

WHEREAS, Releasee proposes to undertake a study of the feasibility of generating electricity on said property and wishes to do so free of the possibility of reverter in the event the property is used for the generation of electricity, and

WHEREAS, Releasor is willing to waive its rights in this regard in order to help promote the development of a non-polluting energy source.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived therefrom, the parties hereto do hereby agree as follows:

1. Releasor waives its right to claim a reverter of the property in the event Releasee uses it for the generation of electricity and agrees that the aforementioned restrictive covenant shall be amended to include the generation of electricity as one of the public purposes specifically permitted thereby.

2. Releasee assumes all liabilities, if any, associated with or arising from the use of said property for the generation of electricity.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers the day and year first above written.

INDIANA & MICHIGAN ELECTRIC COMPANY

By W. A. Black
(W. A. Black)

Its: President

Attest:

A. H. [Signature]
Its: Assistant Secretary

MUNICIPAL CITY OF SOUTH BEND, INDIANA

By Roger O. [Signature]

Its: Mayor

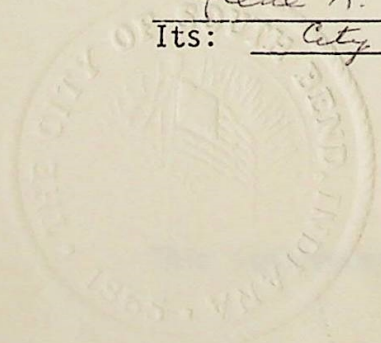
Attest:

Gene K. Gamma
Its: City Clerk

APPROVED
BOARD OF PUBLIC WORKS

JUN 1 1981

[Signature]
[Signature]
[Signature]



STATE OF INDIANA)
COUNTY OF ALLEN) ss:

Before me, a Notary Public in and for said County and State, personally appeared W. A. Black and A. H. STUHLMANN known to me and to me known to be the President and Assistant Secretary of Indiana & Michigan Electric Company, an Indiana corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said Indiana & Michigan Electric Company, as Releasor therein, and that they are duly authorized by it so to do.

Carol K. Putman

Notary Public

CAROL K. PUTMAN, Notary Public
Resident of Whitley County, Indiana
My Commission expires Sept. 29, 1982.

STATE OF INDIANA)
COUNTY OF ST. JOSEPH) ss:

Before me, a Notary Public in and for said County and State, personally appeared Roger O. Parent and John E. Leszczynski, Richard L. Hill, Joseph E. Kernan, known to me and to me known to be the Mayor and members of the Board of Public Works of the Municipal City of South Bend, Indiana and acknowledged the execution of the above and foregoing instrument for and on behalf of said Municipal City of South Bend, Indiana, as Releasee therein, and that they are duly authorized by it so to do.

Patricia E. DeClercq
Notary Public

Patricia E. DeClercq
Resident of St. Joseph County, Indiana
My Commission Expires 5/18/84

This instrument was prepared by W. J. Prochaska, Attorney at Law

June 4, 1961

To: Patrick McFarber
Eugenia Scoville
Steve Compton

From: Board of Public Works

Re: Release Deed - I & M Electric Co.

We are enclosing herein a copy of the Release Deed from the Indiana & Michigan Electric Company wherein I & M waves its right to claim a reverter of the dam across the St. Joseph River in the event the city uses it for the generation of electricity.

The original is being recorded and will be forwarded to I & M as requested.

BOARD OF PUBLIC WORKS

Barbara J. Dyers, Clerk


mm
ALL.

LEGAL DEPARTMENT

INTER-OFFICE MEMO

TO: Barbara Byers

DATE: May 20, 1981

FROM: Eugenia Schwartz 

SUBJECT: Release from I&M

Barb, when the Board of Public Works approves the lease from Indiana & Michigan Electric Co. allowing hydro-electric development at the dam on the St. Joe River, would you please send a copy of that release to Pat McMahon, Steve Compton and me.

Thank you very much for your help.

ESS:az

cc: Pat McMahon
Steve Compton

Call John Fisher

FROM THE DESK OF -

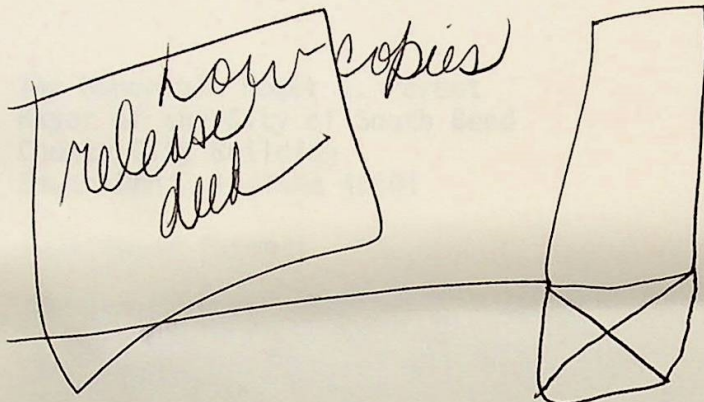
SANDY PARMERLEE
LEGAL DEPARTMENT

Ron Prater

(3)

I + M 219-422-3456

March 27th, 1981



a Preliminary Permit for the application noted that the application contained a covenant which if it becomes feasible to use South Bend or its successors

intarily waive that restriction
comment is a proposed Release

I am also writing to advise you that I&M intends to file a Petition to Intervene in the FERC proceeding on your application for a preliminary permit. The purpose of the intervention is basically to enable I&M to keep abreast of developments in this proceeding. It is not our intention to oppose or protest your application. Rather, our intervention may better enable us to cooperate with you in this undertaking.

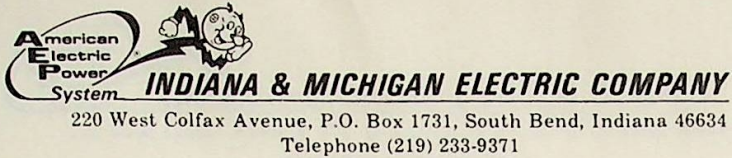
I suggest that we meet in the near future to discuss the Release Deed and how we can be of assistance to you.

Sincerely,

J. L. Flanagan
J. L. Flanagan
Division Manager

JLF/b

Enclosure



March 27th, 1981

The Honorable Roger O. Parent
Mayor of the City of South Bend
County City Building
South Bend, Indiana 46601

Dear Mayor Parent:

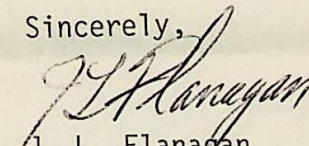
I&M has reviewed South Bend's application for a Preliminary Permit for the proposed South Bend Water Power Project. The application noted that the deed conveying the dam from I&M to South Bend contained a covenant which provides for the reversion of the dam to I&M if it becomes feasible to use the dam for the generation of electricity and South Bend or its successors do so use it.

I am writing to advise you that I&M will voluntarily waive that restriction to the deed. Enclosed for your review and comment is a proposed Release Deed.

I am also writing to advise you that I&M intends to file a Petition to Intervene in the FERC proceeding on your application for a preliminary permit. The purpose of the intervention is basically to enable I&M to keep abreast of developments in this proceeding. It is not our intention to oppose or protest your application. Rather, our intervention may better enable us to cooperate with you in this undertaking.

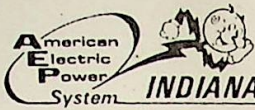
I suggest that we meet in the near future to discuss the Release Deed and how we can be of assistance to you.

Sincerely,


J. L. Flanagan
Division Manager

JLF/b

Enclosure



INDIANA & MICHIGAN ELECTRIC COMPANY

220 West Colfax Avenue, P.O. Box 1731, South Bend, Indiana 46634
Telephone (219) 233-9371

March 27th, 1981

The Honorable Roger O. Parent
Mayor of the City of South Bend
County City Building
South Bend, Indiana 46601

Dear Mayor Parent:

I&M has reviewed South Bend's application for a Preliminary Permit for the proposed South Bend Water Power Project. The application noted that the deed conveying the dam from I&M to South Bend contained a covenant which provides for the reversion of the dam to I&M if it becomes feasible to use the dam for the generation of electricity and South Bend or its successors do so use it.

I am writing to advise you that I&M will voluntarily waive that restriction to the deed. Enclosed for your review and comment is a proposed Release Deed.

I am also writing to advise you that I&M intends to file a Petition to Intervene in the FERC proceeding on your application for a preliminary permit. The purpose of the intervention is basically to enable I&M to keep abreast of developments in this proceeding. It is not our intention to oppose or protest your application. Rather, our intervention may better enable us to cooperate with you in this undertaking.

I suggest that we meet in the near future to discuss the Release Deed and how we can be of assistance to you.

Sincerely,

J. L. Flanagan
Division Manager

JLF/b

Enclosure

WHEREAS, Releasee proposes to undertake a study of the feasibility of generating electricity on said property and wishes to do so free of the possibility of reverter in the event the property is used for the generation of electricity, and

WHEREAS, Releasor is willing to waive its rights in this regard in order to help promote the development of a non-polluting energy source.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived therefrom, the parties hereto do hereby agree as follows:

1. Releasor waives its right to claim a reverter of the property in the event Releasee uses it for the generation of electricity and agrees that the aforementioned restrictive covenant shall be amended to include the generation of electricity as one of the public purposes specifically permitted thereby.

2. Releasee assumes all liabilities, if any, associated with or arising from the use of said property for the generation of electricity.

STATE OF)
COUNTY OF) ss:

Before me, a Notary Public in and for said County and State, personally appeared W. A. Black and known to me and to me known to be the President and Assistant Secretary of Indiana & Michigan Electric Company, an Indiana corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said Indiana & Michigan Electric Company, as Releasor therein, and that they are duly authorized by it so to do.

Notary Public

STATE OF)
COUNTY OF) ss:

Before me, a Notary Public in and for said County and State, personally appeared _____ and _____, known to me and to me known to be the Mayor and _____ of the Municipal City of South Bend, Indiana and acknowledged the execution of the above and foregoing instrument for and on behalf of said Municipal City of South Bend, Indiana, as Releasee therein, and that they are duly authorized by it so to do.

Notary Public

This instrument was prepared by W. J. Prochaska, Attorney at Law

RELEASE DEED

THIS INDENTURE, made this _____ day of _____, 1981, by and between INDIANA & MICHIGAN ELECTRIC COMPANY, an Indiana Corporation, whose Post Office address is 2101 Spy Run Avenue, P. O. Box 60, Fort Wayne, Indiana (hereinafter called "Releasor"), and the MUNICIPAL CITY OF SOUTH BEND, INDIANA (hereinafter called "Releasee"),

W I T N E S S E T H T H A T :

WHEREAS, by quitclaim deed dated December 8, 1965, Releasor conveyed to Releasee a dam across the St. Joseph River in the City of South Bend, St. Joseph County, Indiana, various appurtenant rights and easements for said dam and a parcel of real estate, which deed is of record in the Deed Records in the Office of the Recorder of St. Joseph County, Indiana, in Deed Book 671, Page 428, and

WHEREAS, said deed dated December 8, 1965 contains a restrictive covenant, wherein Releasor was the Grantor therein and Releasee was the Grantee therein, providing, in part, as follows:

". . . provided, however, that in the event it becomes feasible to use all or any part of said property for the generation of electricity and Grantee or its successors or assigns do so use it, the property herein conveyed shall immediately revert to Grantor."

and

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers the day and year first above written.

INDIANA & MICHIGAN ELECTRIC COMPANY

By _____
(W. A. Black)

Its: President

Attest:

Its: Assistant Secretary

MUNICIPAL CITY OF SOUTH BEND, INDIANA

By _____
()

Its: Mayor

Attest:

Its: _____



CITY of SOUTH BEND

ROGER O. PARENT, Mayor

COUNTY-CITY BUILDING SOUTH BEND, INDIANA 46601

BOARD OF PUBLIC WORKS

John E. Leszczynski, President
Richard L. Hill
Joseph E. Kornan

219/284-9412

June 10, 1981

Mr. Ronald E. Prater
General Attorney
Indiana & Michigan Electric Co.
2101 Spy Run Avenue
P. O. Box 60
Fort Wayne, Indiana 46801

Dear Mr. Prater:

In accordance with your letter dated May 26, 1981, we are enclosing herein the original recorded Release Deed between I & M Electric and the City of South Bend for the release of a restrictive covenant in a Quitclaim Deed dated December 8, 1965, wherein I & M conveyed to the city a dam across the St. Joseph River.

The Release Deed stipulates the following:

1. I & M waives its rights to claim a reverter of the property in the event the city uses it for the generation of electricity and I & M agrees that the aforementioned restrictive covenant shall be amended to include the generation of electricity as one of the public purposes specifically permitted thereby.

2. The city will assume all liabilities, if any, associated with or arising from the use of said property for the generation of electricity.

We appreciate your cooperation in this matter.

Very truly yours,

BOARD OF PUBLIC WORKS

Barbara J. Byers
Barbara J. Byers, Clerk

BJB/mm

cc: John E. Leszczynski
J. L. Flanagan

RECORDER'S RECEIPT

No 76753

South Bend, Ind.,

5-4 1981

Received of Board of Public Works

AMOUNT


NO.		AMOUNT
	DEEDS	
	MORTGAGES	
	MECHANICS LIENS	
	U.C.C. FILING	
1	RELEASES <i>Deed</i>	5.70
	ASSIGNMENTS	
	POWERS OF ATTORNEY	
	ART. OF INCORP.	
	PLATS	
	MARGINAL RELEASES	
	MARGINAL ASSIGNMENTS	
	MISCELLANEOUS	

COPIES OF THE FOLLOWING:

	DEED — No.	
	MTG. — No.	
	— No.	
	— No.	
	— No.	
	— No.	
	— No.	

TOTAL \$ 5.70

CHECK \$ _____
 CASH \$ _____
 REFUND \$ _____

Shanda L. Rowak

 ST. JOSEPH COUNTY RECORDER

M.A.

RECEIVED

MAY 28 1981

**CITY OF SOUTH BEND
DEPARTMENT OF LAW**

RONALD E. PRATER

ELECTRIC COMPANY
 Port Wayne, Indiana 46801
 -3456

May 26, 1981

rd
01

executed copies of the Release Deed
al weeks ago.

l properly executed by the City of
n the Recorder of St. Joseph County.
le stamped by the Recorder's Office

Sincerely yours,

Ronald E. Prater

Ronald E. Prater
General Attorney

REP:pcb

Attachments

cc: J. L. Flanagan



INDIANA & MICHIGAN ELECTRIC COMPANY

2101 Spy Run Avenue, P. O. Box 60, Fort Wayne, Indiana 46801

Telephone: (219) 422-3456

RECEIVED

MAY 28 1981

CITY OF SOUTH BEND
DEPARTMENT OF LAW

RONALD E. PRATER

May 26, 1981

Mr. Richard L. Hill
City Attorney
County - City Building
227 W. Jefferson Boulevard
South Bend, Indiana 46601

Dear Mr. Hill:

Enclosed are three executed copies of the Release Deed which we discussed several weeks ago.

Please have the Deed properly executed by the City of South Bend and filed with the Recorder of St. Joseph County. Please return one copy file stamped by the Recorder's Office to me.

Sincerely yours,

Ronald E. Prater
General Attorney

REP:pcb

Attachments

cc: J. L. Flanagan