

§7-1-3u

Authority of Counties and Municipalities to Treat Streams to Prevent Floods



WV Quick Facts

- **40,000 stream miles***
- **10,000 named streams***
- **1.65 miles of stream for every square mile of land***
- **WV has one of the highest stream densities in North America***

*WV Encyclopedia



WV Quick Facts

- **78 percent covered by forest***
- **12 million of the state's 15.4 million acres***
- **4 of every 5 acres is covered by forest***
- **3rd most heavily forested state in the nation***

*WV Division of Forestry, WV Encyclopedia



WV Code §7-1-3u

County/City authority to treat streams to prevent flooding

*“To protect people and property from floods, counties and municipalities are hereby empowered to **rechannel and dredge streams; remove accumulated debris, snags, sandbars, rocks and any other kinds of obstructions from streams; straighten stream channels; and carry out erosion and sedimentation control measures and programs.***

Any county or municipality which exercises any power or authority set forth in this section shall comply with all applicable provisions of federal and state laws and rules and regulations...



WV Code §7-1-3u cont...

- Counties and cities have authority to impose a levy for flood projects.
- Acquire property for projects.
- Accept funds, services and assistance from state/federal/private sources.
- Issue/sell bonds for flood-related projects.



SCC/WVCA Authority

§19-21A-4. State Conservation Committee:

(13) Upon a Governor's proclamation declaring a state of emergency or federal disaster declaration, the state committee, its employees, or agents may enter any water of the state for the purpose of removing debris and other obstruction which impede water flow and present additional flood hazards. The agency shall make reasonable efforts to secure the permission of the landowner before entering any private property in connection with these removal activities. The exercise of this limited authority does not constitute taking of private property or trespass. This authority shall continue for the duration of the Governor's proclamation or the federal disaster declaration.



§7-1-3u Agreements

Local government agrees to:

- Identify and prioritize potential sites.
- Provide an agreed upon portion of cost-share funding, as determined by the negotiated funding formula for each project and contracting services associated with each project.
- Local governments may provide “in-kind” services or goods in lieu of cash payments.
- Projects not involve the taking of land through eminent domain.
- Obtain all necessary land rights and permits to complete the identified project.
- Advertise and award contracts to complete the agreed upon projects. Each project would have a sub-agreement that defines the project and the scope of work.
- Identify temporary and permanent disposal sites in the county.



§7-1-3u Agreements

WVCA agrees to:

- Work with local government to identify potential sites, project suitability and funding availability.
- Provide technical assistance for the permit, design and construction oversight.
- Provide an agreed upon portion of cost-share funding, as determined by the negotiated funding formula for each project.



Marshall County 2017 Flood



- Repair Little Grave Creek stream bank and replace bridge damaged during 2017 flood event
- Restored access to eight homes
- Cost: \$160,000, all state and local funds
- Collaborative effort with Marshall County Commission, WVCA, NRCS, VOAD and Northern Panhandle Conservation District
- Work conducted in 2018



Randolph County 2019 Flood

- Flood damaged access road to the Judy property and eroded shoulder along U.S. 33.
- Federal repair bid \$249,000.
- WVCA worked with Randolph County Commission to acquire land rights, award contract to local contractor.
- WVCA provided permitting, funding for rock to Department of Highways, funding for the equipment to Randolph County Commission and construction oversight and coordination.
- Final project cost: \$22,103.25.



