



State Revolving Fund Loan Programs

Drinking Water, Clean Water, Nonpoint Source

ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

HELMSBURG REGIONAL SEWER DISTRICT WWTP IMPROVEMENTS AND COLLECTION SYSTEM EXTENSION SRF PROJECT WW 23 05 07 01

DATE: November 18, 2022

TARGET PROJECT APPROVAL DATE: December 19, 2022

I. INTRODUCTION

The above entity has applied to the Clean Water State Revolving Fund (SRF) Loan Program for a loan to finance all or part of the Clean Water project described in the accompanying Environmental Assessment (EA). As part of facilities planning requirements, an environmental review has been completed which addresses the project's impacts on the natural and human environment. This review is summarized in the attached EA, which can also be viewed in color at <http://www.in.gov/ifa/srf/>.

II. PRELIMINARY FINDING OF NO SIGNIFICANT IMPACT (FNSI)

The SRF Wastewater Program has evaluated all pertinent environmental information regarding the proposed project and determined that an Environmental Impact Statement is not necessary. Subject to responses received during the 30-day public comment period, and pursuant to Indiana Code 5-1.2-3, it is our preliminary finding that the construction and operation of the proposed facilities will result in no significant adverse environmental impact. In the absence of significant comments, the attached EA shall serve as the final environmental document.

III. COMMENTS

All interested parties may comment upon the EA/FNSI. Comments must be received at the address below by the target approval date above. Significant comments may prompt a reevaluation of the preliminary FNSI; if appropriate, a new FNSI will be issued for another 30-day public comment period. A final decision to proceed, or not to proceed, with the proposed project shall be effected by finalizing, or not finalizing, the FNSI as appropriate. Comments regarding this document should be sent within 30 days to:

**April Douglas
Environmental Review Coordinator
State Revolving Fund
100 N. Senate Ave. IGCN 1275
Indianapolis, IN 46204
317-234-7294
adouglas@ifa.in.gov**

ENVIRONMENTAL ASSESSMENT

I. PROJECT IDENTIFICATION

Project Name and Address: **WWTP Improvements and Collection System Extension**
Helmsburg Regional Sewer District (HRSD)
4856 Helmsburg Road
Nashville, IN 47448

SRF Project Number: **WW 23 05 07 01**

Authorized Representative: Brian Webb, HRSD Board President

II. PROJECT LOCATION

The proposed project is located in Brown County, Jackson township, Morgantown 24K USGS Quadrangle, township 10N, range 2E and sections 27 and 34. See **Figure 1**.

III. PROJECT NEED AND PURPOSE

The existing steel package WWTP is 26 years old and has several deficiencies including a structural failure of the existing sludge holding tank, failure of standby equipment, and significant deterioration of operating surfaces necessary for the safety of the facility operator. The proposed WWTP Improvements project will replace the existing sludge holding tank, replace failed equipment, and complete miscellaneous structural repairs to allow safe and effective operation of the facility.

The project location is composed of soils poorly suited for septic use and studies of the local watershed have associated high levels of e.coli to failing onsite treatment systems. The Collection System Extension project could add up to 23 connections within the Beanblossom Creek watershed. Five customers along the proposed extension have currently indicated a desire to connect to the proposed sewer, one of which is currently under order to connect by the local Health Department. The construction method for these projects is to be open cut for the 3-inch low pressure sewer lines, laterals, and grinder pumps. The Beanblossom Creek stream crossing for the sewer extension is planned to be directionally drilled, but could be open cut as well.

IV. PROJECT DESCRIPTION

The proposed WWTP Improvements project consists of: demolition of the existing sludge holding tank, failed equipment, and operating surfaces; installation of a new sludge holding tank; installation of a new manual influent bar screen, rotary lobe blower, and automatic transfer switch; and replacement of all operating surfaces.

The proposed Collection System Extension project consists of installation of grinder pump assemblies and appurtenances, low pressure sewer laterals, and approximately 4,300 linear feet of 3-inch low pressure sewer. Individual homeowners will need to properly abandon existing onsite treatment systems. Electrical upgrades may also be required to accommodate the proposed grinder pump systems.

V. ESTIMATED PROJECT COSTS, AFFORDABILITY AND FUNDING

A. Selected Plan Estimated Cost Summary

Construction Costs

New Sludge Holding Tank	\$ 85,000
Equipment Replacement	\$ 36,000
Miscellaneous Structural Repairs	\$ 91,000
Collection System Extension	\$ 483,000

Total Construction **\$ 695,000**

Non-Construction Costs **\$ 310,000**

Total Estimated Project Cost **\$1,005,000**

- B. Total cost of this project is estimated to be approximately \$1,005,000. The Helmsburg Regional Sewer District will finance the project with a loan from the Clean Water SRF Loan Program for a term and annual fixed interest rate to be determined at loan closing. Monthly user rates and charges may need to be analyzed to determine if adjustments are required for loan repayment.

VI. DESCRIPTION OF EVALUATED ALTERNATIVES

The “**No Action**” alternative is not practical, environmentally sound, nor economical. The No Action alternative would not address imminent structural and safety concerns at the WWTP nor would it provide sewer service to the failing septic system identified by the local Health Department. Continued use of the WWTP without repairs could result in physical harm to the operator and potential release of untreated or partially treated wastewater at the WWTP and at failing onsite septic systems along the proposed expansion alignment.

Collection System Extension: This is the selected alternative to provide sewer service to unsewered properties along the proposed alignments, including one property ordered to connect by the local Health Department.

Partial Collection System Extension: This alternative provides potential sewer service to a reduced number of properties. This alternative has a lower capital cost than the selected collection system alternative, but would not provide service to all properties wishing to connect at this time. Therefore, this alternative was rejected.

WWTP Improvements: This is the selected alternative to provide continued treatment of wastewater within the HRSD and safe work conditions for the facility operator.

WWTP Improvements with a Building: This alternative includes a storage building in addition to the selected WWTP Improvements project components. This alternative was determined to be cost-prohibitive and was rejected. The facility operator will continue to store maintenance parts and other needed items offsite.

VII. ENVIRONMENTAL IMPACTS OF THE FEASIBLE ALTERNATIVES

A. Direct Impacts of Construction and Operation

Disturbed/Undisturbed Land: Work related to the installation of sanitary sewers will occur in

disturbed rights-of-way, adjacent to and within roadways, and existing utility trenches. All areas have been previously disturbed by previous construction activity.

Structural Resources (Figure 1): Construction and operation of the project will not alter, demolish or remove historic properties. If any visual or audible impacts to historic properties occur, they will be temporary and will not alter the characteristics that qualify such properties for inclusion in or eligibility for the National Register of Historic Places. The SRF's finding pursuant to Section 106 of the National Historic Preservation Act is: "*no historic properties affected.*"

Surface Waters: The Beanblossom Creek stream crossing for the sewer extension is planned to be directionally drilled, but could be open cut as well. The project will not adversely affect outstanding state resource waters listed in 327 IAC 2-1.3-3(d), exceptional use streams listed in 327 IAC 2-1-11(b), Natural, Scenic and Recreational Rivers and Streams listed in 312 IAC 7-(2), or Salmonid Streams listed in (327 IAC 2-1.5-5(a)(3) or streams on the Outstanding River List for Indiana.

Wetlands (Figure 2): Mitigation measures to lessen and compensate for wetland impacts cited in comment letters about the project from the Indiana Department of Natural Resources and the U.S. Fish and Wildlife Service will be implemented.

Floodplain (Figure 3): The project will not include dredge or fill in the floodway without a permit from IDNR Division of Water.

Groundwater: The project will not negatively impact a drinking water supply or sole source aquifer.

Plants and Animals: The proposed project items will be implemented to minimize impact to non-endangered species and their habitat. Mitigation measures cited in comment letters from the Department of Natural Resources and the U.S. Fish and Wildlife Service will be implemented.

Prime Farmland: The project should not convert prime farmland.

Air Quality: Construction activities may generate some noise, fumes and dust, but should not significantly affect air quality.

Open Space and Recreational Opportunities: The project will neither create nor destroy open space or recreational opportunities.

Lake Michigan Coastal Program: The project will not affect the Lake Michigan Coastal Zone.

National Natural Landmarks: Construction and operation of the proposed project will not affect National Natural Landmarks.

B. Indirect Impacts

The district's Preliminary Engineering Report (PER) states: *The Helmsburg Regional Sewer District will ensure, through local zoning laws or other means, that future development, as well as future wastewater infrastructure projects connecting to SRF-funded facilities, will not adversely affect wetlands, wooded areas, steep slopes, archaeological/historical/structural resources, or other sensitive environmental resources. The Helmsburg Regional Sewer District will require new development and infrastructure projects to be constructed within the guidelines of the U.S. Fish and Wildlife Service, IDNR, IDEM, and other environmental review authorities.*

C. Comments from Environmental Review Authorities

Correspondence regarding the project was sent to the Indiana Department of Natural Resources Division of Historic Preservation and Archaeology on November 5, 2022. As of the publication of this document, there has not been a response received.

Correspondence regarding the project was sent to the United States Fish and Wildlife Service on November 17, 2022. As of the publication of this document, there has not been a response received.

In correspondence dated November 9, 2022 the Department of Natural Resources Environmental Unit stated:

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

*Regulatory Assessment: This proposal may require the formal approval(s) of our agency pursuant to the Flood Control Act (IC 14-28-1) for any proposal to construct, excavate, or fill in or on the floodway of a stream or other flowing waterbody which has a drainage area greater than one square mile, unless it qualifies for a general license under Administrative Rule 312 IAC 10-5 that applies to utility line crossings or outfall structures (see **enclosures**). Please include a copy of this letter with the permit application(s), if required.*

Natural Heritage Database: The Natural Heritage Program's data have been checked. Yellowwood State Forest is located within 1/2 mile west of the project area. The high quality natural communities below have also been documented within 1/2 mile southwest of the project area. The Division of Nature Preserves does not anticipate any impacts to these natural communities as a result of this project.

1. *Highland Rim Dry Upland Forest*
2. *Highland Rim Dry-mesic Upland Forest*

Fish & Wildlife Comments: Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. The following are recommendations that address potential impacts identified in the proposed project area:

1) Directional Boring:

We recommend that all creek or stream crossings be done using a trenchless method. The length of the bore should include any forested riparian areas along the creek to minimize impacts to forested habitat. Install erosion control measures such as silt fencing or other appropriate devices around directional drilling pits in order to prevent drilling mud from leaving the immediate area of the pit or entering the stream.

If the open-trench method is necessary and the only feasible option at any of the planned stream crossings due to the site conditions, then the following measures should be implemented:

- a. *Any open-trench stream crossing should be timed to coincide with the low-water time of year (typically mid- to late-summer).*
- b. *Restore disturbed streambanks using bioengineering bank stabilization methods and revegetate disturbed banks with native trees, shrubs and herbaceous plants. Stream bank slopes after project completion should be restored to stable-slope steepness (not steeper than 2:1).*
- c. *The cleared width through any forested area should be the minimum needed to install the line and no more than 20 feet wide through the forested area to allow the canopy to close over the line.*
- d. *Use graded stone or riprap to protect the section of trench below the normal water level from scour or erosion (any stone or riprap fill in the streambed must not be placed above the existing streambed elevation to avoid creating a fish passage obstruction).*

2)Riparian Habitat:

Place the line within or as close to the cleared road right-of-way as possible to minimize impacts to forested areas. We recommend a mitigation plan be developed (and submitted with the permit application, if required) for any unavoidable habitat impacts that will occur. The DNR's Habitat Mitigation Guidelines (and plant lists) can be found on line at: <http://iac.iga.in.gov/iac/20200527-IR-312200284NRA.xml.pdf>.

Impacts to non-wetland forest of one (1) acre or more should be mitigated at a minimum 2:1 ratio. If less than one acre of non-wetland forest is removed in a rural setting, replacement should be at a 1 :1 ratio based on area. Impacts to non-wetland forest under one (1) acre in an urban setting should be mitigated by planting five trees, 1 inch to 2 inches in diameter-at-breast height (dbh), for each tree which is removed that is 10" dbh or greater (5:1 mitigation based on the number of large trees) or by using the 1 :1 replacement ratio based on area depending on the type of habitat impacted (individual canopy tree removal in an urban streetscape or park-like environment versus removal of habitat supporting a tree canopy, woody understory, and herbaceous layer). Impacts under 0.10 acre in an urban area may still involve the replacement of large diameter trees but typically do not require any additional mitigation or additional plantings beyond seeding and stabilizing disturbed areas. There are exceptions for high quality habitat sites however.

The additional measures listed below should be implemented to avoid, minimize, or compensate for impacts to fish, wildlife, and botanical resources:

1. *Revegetate all bare and disturbed areas with a mixture of native grasses, sedges, wildflowers, and also native hardwood trees and shrubs if any woody plants are disturbed during construction as soon as possible upon completion. Do not use any varieties of Tall Fescue or other non-native plants, including prohibited invasive species (see 312 IAC 18-3-25).*
2. *Minimize and contain within the project limits inchannel disturbance and the clearing of trees and brush.*
3. *Do not work in the waterway from April 1 through June 30 without the prior written approval of the Division of Fish and Wildlife.*
4. *Do not cut any trees suitable for Indiana bat or Northern Long-eared bat roosting (greater than 5 inches dbh, living or dead, with loose hanging bark, or with cracks, crevices, or cavities) from April 1 through September 30.*
5. *Do not excavate in the low flow area except for the placement of riprap.*
6. *Do not construct any temporary runarounds, access bridges, causeways,*

cofferdams, diversions, or pumparounds.

7. Use minimum average 6 inch graded riprap stone extended below the normal water level to provide habitat for aquatic organisms in the voids.

8. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.

9. Seed and protect all disturbed streambanks and slopes not protected by other methods that are 3:1 or steeper with erosion control blankets that are heavy-duty, biodegradable, and net free or that use loose-woven / Leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas.

In correspondence dated October 11, 2022, the Natural Resources Conservation Service stated:

The proposed Helmsburg Wastewater Improvement project in Brown County, Indiana, as referred to in your letter received October 9, 2022, will not cause a conversion of prime farmland.

VIII. MITIGATION MEASURES

Helmsburg's PER states:

The following measures are recommended to mitigate potential adverse environmental impacts:

1. Implement appropriate temporary erosion control measures (straw bale barriers, silt fencing, etc.) to prevent soil runoff leaving the construction site.

2. Protect disturbed slopes with sod or erosion control blankets upon sewer line installation.

3. Minimize fugitive dust from construction activities by wetting the construction area periodically and constructing wind barriers or treating with chemical stabilizers if necessary.

4. Any soil tracking from construction equipment will be removed from the streets on a daily basis.

5. Implement all applicable water pollution control measures specified in the Indiana Department of Transportation Standard Specifications (latest version). Appropriate measures will be taken to prevent siltation of nearby surface and underground water resources with dewatering flows or construction related runoff.

6. Maintain all equipment to manufactures specifications to minimize construction noise, and where appropriate utilize temporary noise barriers to reduce noise levels.

7. The open burning of debris (i.e., trees and shrubs) shall not be allowed unless a permit is obtained from the Indiana State Air Pollution Control Division for such activities.

8. Cutback asphalt or asphalt emulsion containing more than seven percent oil distillable shall not be used during the months April through October pursuant to 326 IAC 805 Asphalt Paving Rule.

9. The contractor shall abide by the rules governing asbestos notification, handling, disposal and contractor licensing should such material be encountered.

10. Construction waste shall be disposed of by the contractor at an acceptable waste disposal landfill. If contaminated soils (including PCB's) are discovered during the project, they may be subject to disposal as either special or hazardous waste as determined by the Office of Solid and Hazardous Waste Management.

IX. PUBLIC PARTICIPATION

A properly noticed public hearing was held on October 19, 2022, at 6:00 pm to discuss the PER. No written comments were received during the 5-day comment period following the hearing.

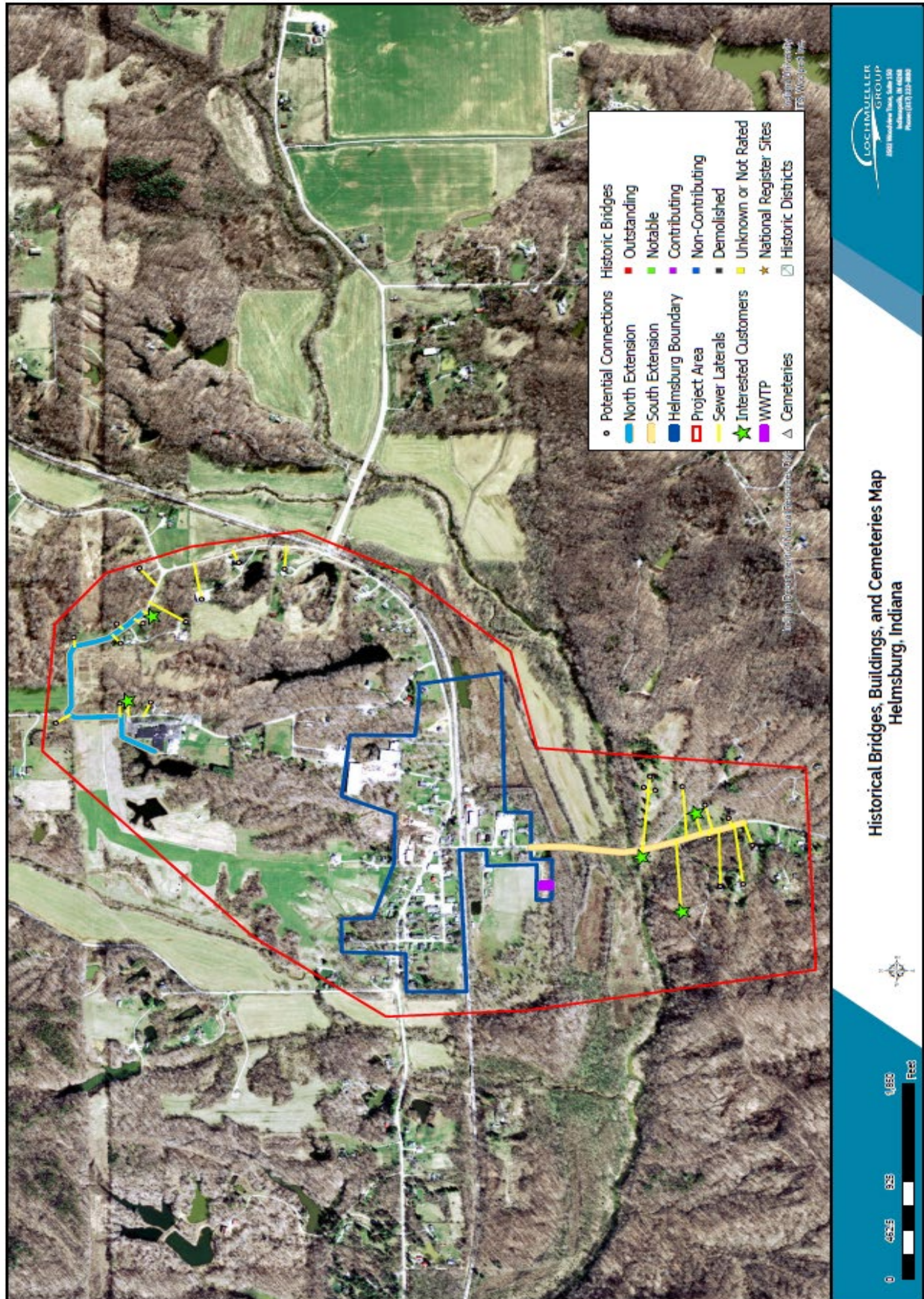
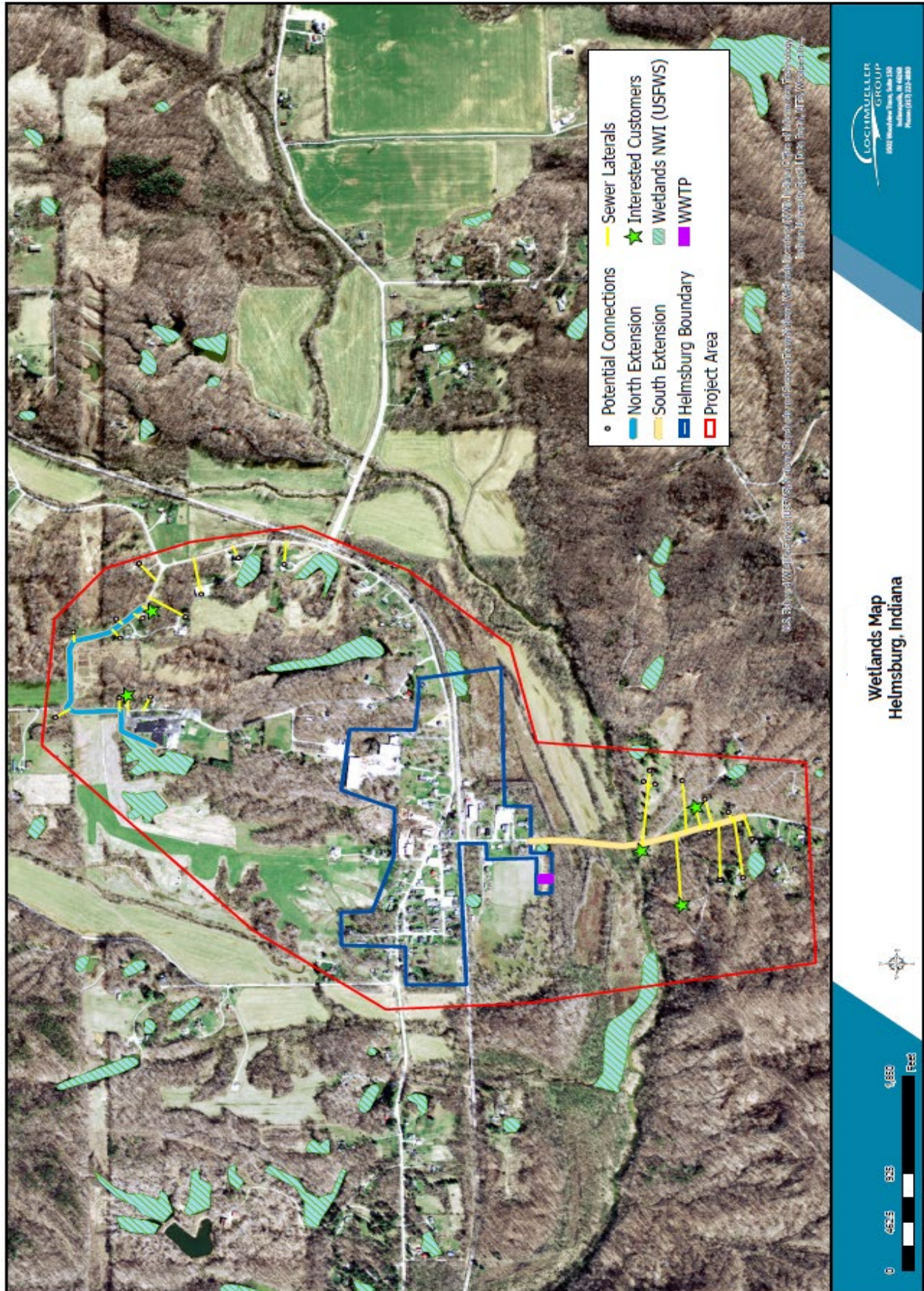


Figure 1 – IHBBC map



**Floodplain Map
Helmsburg, Indiana**

Legend:

- Floodplains - FIRN (Mar 2020)**
 - Floodway
 - 1% Annual Chance Flood Hazard
 - 0.2% Annual Chance Flood Hazard
 - 0.2% Annual Chance Flood Hazard
 - WWTP
- Potential Connections**
- North Extension**
- South Extension**
- Helmsburg Boundary**
- Project Area**
- Sewer Laterals**
- Interested Customers**

Scale: 0, 425.5, 851, 1276.5, 1701, 2126.5, 2551, 2976.5, 3401, 3826.5, 4251, 4676.5, 5101, 5526.5, 5951, 6376.5, 6801, 7226.5, 7651, 8076.5, 8501, 8926.5, 9351, 9776.5, 10201, 10626.5, 11051, 11476.5, 11901, 12326.5, 12751, 13176.5, 13601, 14026.5, 14451, 14876.5, 15301, 15726.5, 16151, 16576.5, 17001, 17426.5, 17851, 18276.5, 18701, 19126.5, 19551, 19976.5, 20401, 20826.5, 21251, 21676.5, 22101, 22526.5, 22951, 23376.5, 23801, 24226.5, 24651, 25076.5, 25501, 25926.5, 26351, 26776.5, 27201, 27626.5, 28051, 28476.5, 28901, 29326.5, 29751, 30176.5, 30601, 31026.5, 31451, 31876.5, 32301, 32726.5, 33151, 33576.5, 34001, 34426.5, 34851, 35276.5, 35701, 36126.5, 36551, 36976.5, 37401, 37826.5, 38251, 38676.5, 39101, 39526.5, 39951, 40376.5, 40801, 41226.5, 41651, 42076.5, 42501, 42926.5, 43351, 43776.5, 44201, 44626.5, 45051, 45476.5, 45901, 46326.5, 46751, 47176.5, 47601, 48026.5, 48451, 48876.5, 49301, 49726.5, 50151, 50576.5, 51001, 51426.5, 51851, 52276.5, 52701, 53126.5, 53551, 53976.5, 54401, 54826.5, 55251, 55676.5, 56101, 56526.5, 56951, 57376.5, 57801, 58226.5, 58651, 59076.5, 59501, 59926.5, 60351, 60776.5, 61201, 61626.5, 62051, 62476.5, 62901, 63326.5, 63751, 64176.5, 64601, 65026.5, 65451, 65876.5, 66301, 66726.5, 67151, 67576.5, 68001, 68426.5, 68851, 69276.5, 69701, 70126.5, 70551, 70976.5, 71401, 71826.5, 72251, 72676.5, 73101, 73526.5, 73951, 74376.5, 74801, 75226.5, 75651, 76076.5, 76501, 76926.5, 77351, 77776.5, 78201, 78626.5, 79051, 79476.5, 79901, 80326.5, 80751, 81176.5, 81601, 82026.5, 82451, 82876.5, 83301, 83726.5, 84151, 84576.5, 85001, 85426.5, 85851, 86276.5, 86701, 87126.5, 87551, 87976.5, 88401, 88826.5, 89251, 89676.5, 90101, 90526.5, 90951, 91376.5, 91801, 92226.5, 92651, 93076.5, 93501, 93926.5, 94351, 94776.5, 95201, 95626.5, 96051, 96476.5, 96901, 97326.5, 97751, 98176.5, 98601, 99026.5, 99451, 99876.5, 100301, 100726.5, 101151, 101576.5, 102001, 102426.5, 102851, 103276.5, 103701, 104126.5, 104551, 104976.5, 105401, 105826.5, 106251, 106676.5, 107101, 107526.5, 107951, 108376.5, 108801, 109226.5, 109651, 110076.5, 110501, 110926.5, 111351, 111776.5, 112201, 112626.5, 113051, 113476.5, 113901, 114326.5, 114751, 115176.5, 115601, 116026.5, 116451, 116876.5, 117301, 117726.5, 118151, 118576.5, 119001, 119426.5, 119851, 120276.5, 120701, 121126.5, 121551, 121976.5, 122401, 122826.5, 123251, 123676.5, 124101, 124526.5, 124951, 125376.5, 125801, 126226.5, 126651, 127076.5, 127501, 127926.5, 128351, 128776.5, 129201, 129626.5, 130051, 130476.5, 130901, 131326.5, 131751, 132176.5, 132601, 133026.5, 133451, 133876.5, 134301, 134726.5, 135151, 135576.5, 136001, 136426.5, 136851, 137276.5, 137701, 138126.5, 138551, 138976.5, 139401, 139826.5, 140251, 140676.5, 141101, 141526.5, 141951, 142376.5, 142801, 143226.5, 143651, 144076.5, 144501, 144926.5, 145351, 145776.5, 146201, 146626.5, 147051, 147476.5, 147901, 148326.5, 148751, 149176.5, 149601, 150026.5, 150451, 150876.5, 151301, 151726.5, 152151, 152576.5, 153001, 153426.5, 153851, 154276.5, 154701, 155126.5, 155551, 155976.5, 156401, 156826.5, 157251, 157676.5, 158101, 158526.5, 158951, 159376.5, 159801, 160226.5, 160651, 161076.5, 161501, 161926.5, 162351, 162776.5, 163201, 163626.5, 164051, 164476.5, 164901, 165326.5, 165751, 166176.5, 166601, 167026.5, 167451, 167876.5, 168301, 168726.5, 169151, 169576.5, 170001, 170426.5, 170851, 171276.5, 171701, 172126.5, 172551, 172976.5, 173401, 173826.5, 174251, 174676.5, 175101, 175526.5, 175951, 176376.5, 176801, 177226.5, 177651, 178076.5, 178501, 178926.5, 179351, 179776.5, 180201, 180626.5, 181051, 181476.5, 181901, 182326.5, 182751, 183176.5, 183601, 184026.5, 184451, 184876.5, 185301, 185726.5, 186151, 186576.5, 187001, 187426.5, 187851, 188276.5, 188701, 189126.5, 1895

Figure 3 – Floodplain Map DNR enclosure (page 1)

ARTICLE 10. FLOOD PLAIN MANAGEMENT

312 IAC 10-2-42 “Utility line crossing” defined

Authority: IC 14-28-1-5; IC 14-28-3-2

Affected: IC 14-27-7; IC 14-28-1; IC 14-28-3

Sec. 42. “Utility line crossing” means the utility crosses the waterway in a straight line at an angle of between forty-five (45) degrees and one hundred thirty-five (135) degrees from the streambank and does not parallel the waterway for more than fifty (50) feet in the floodway before crossing unless the parallel portion of the line is contained within existing road right-of-way. *(Natural Resources Commission; 312 IAC 10-2-42; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3389, eff Jan 1, 2002)*

Rule 5. General Licenses and Specific Exemptions from Floodway Licensing

312 IAC 10-5-0.3 Determining project eligibility for a general license; general criteria

Authority: IC 14-10-2-4; IC 14-28-1-5

Affected: IC 14-28-1; IC 14-29-1

Sec. 0.3. (a) Except as provided in subsections (b) and (c), a project for a utility line crossing, the removal of logjams and obstructions, or the placement of outfall projects within a floodway is eligible for a general license if the project satisfies the requirements of this rule. For the removal of logjams and obstructions, these requirements include the procedures established by section 0.6 of this rule.

(b) Subsection (a) does not authorize a project in any of the following circumstances:

(1) Within a river or stream listed in the Indiana Register at 16 IR 1677 in the Outstanding Rivers List for Indiana unless prior written approval from the division of water’s environmental unit has been obtained.

(2) Within a salmonid stream designated under 327 IAC 2-1.5-5(a)(3).

(3) Within a natural, scenic, or recreational river or stream designated under 312 IAC 7-2.

(4) For a utility line crossing, below the ordinary high watermark of a navigable waterway listed in the Indiana Register at 20 IR 2920 in the Roster of Indiana Waterways Declared Navigable or Nonnavigable unless the utility line is placed beneath the bed of the waterway under section 4(b) of this rule.

(5) Where the project requires an individual permit from the United States Army Corps of Engineers under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

(c) Subsection (a) does not authorize the removal of logjams or obstructions within one-half (½) mile of any of the following:

(1) A species listed in the Indiana Register at 15 IR 1312 in the Roster of Indiana Animals and Plants Which Are Extirpated, Endangered, Threatened, or Rare.

(2) A known mussel resource.

(3) An outstanding natural area, as contained on the registry of natural areas maintained in the natural heritage data center of the department.

(d) The limitations contained in subsection (b) and subsection (c) [subsections (b) and (c)] do not apply to section 7 of this rule.

(Natural Resources Commission; 312 IAC 10-5-0.3; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3875)

312 IAC 10-5-2 General licensing for utility line crossings

Authority: IC 14-10-2-4; IC 14-28-1-5

Affected: IC 14-27-7; IC 14-28-1; IC 14-29-1

Sec. 2. Except as provided in sections 3 and 4 of this rule, a license is required under IC 14-28-1, IC 14-29-1, and 312 IAC 10-4 to place a utility line in or on a floodway where:

(1) the drainage area of a river or stream is at least one (1) square mile at the downstream end of the line’s floodway segment; or

(2) a dam or levee regulated under IC 14-27-7 is affected.

(Natural Resources Commission; 312 IAC 10-5-2; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3394, eff Jan 1, 2002)

312 IAC 10-5-3 Aerial electric, telephone, or cable television lines; general license

Authority: IC 14-10-2-4; IC 14-28-1-5

Affected: IC 14-28-1; IC 14-29-1; IC 14-29-6

Sec. 3. The placement of an aerial electric, telephone, or cable television line is authorized without a written license issued by the department under IC 14-28-1, IC 14-29-1, and 312 IAC 10-4 if:

(1) the activity does not disturb the bed of the waterway beneath the line;

(2) the activity conforms with the minimum clearance requirements of section 4(b)(9) of this rule;

(3) the support mechanisms are located at least seventy-five (75) feet from the top of the bank; and

(4) the utility line crossing is not within the floodway of a natural river, scenic river, or recreational river designated under 312 IAC 7-2.

(Natural Resources Commission; 312 IAC 10-5-3; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3394, eff Jan 1, 2002; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3876)

DNR enclosure (page 2)

312 IAC 10-5-4 Qualified utility line crossings; general license

Authority: IC 14-10-2-4

Affected: IC 13-11-2-260; IC 14-27-7; IC 14-28-1-29; IC 14-33; IC 36-9-27

Sec. 4. (a) This section establishes a general license for the placement of a qualified utility line crossing in a floodway.

(b) A person who wishes to implement a project for the placement of a qualified utility line crossing on a river or stream, other than on a river or stream identified in section 0.3(b) or 0.3(c) of this rule, may do so without notice to the department if the project conforms to the following conditions:

(1) Tree removal and brush clearing shall be contained and minimized within the utility line crossing area. No more than one (1) acre of trees shall be removed within the floodway.

(2) Construction activities within the waterway from April 1 through June 30 shall not exceed a total of two (2) calendar days.

(3) Best management practices shall be used during and after construction to minimize erosion and sedimentation.

(4) Following the completion of construction, disturbed areas shall be reclaimed and revegetated. Disturbed areas shall be mulched with straw, wood fiber, biodegradable erosion blanket, or other suitable material. To prevent erosion until revegetated species are established, loose mulch shall be anchored by crimping, tackifiers, or netting. To the extent practicable, revegetation must restore species native to the site. If revegetation with native species is not practicable, revegetation shall be performed by the planting of a mixture of red clover, orchard grass, timothy, perennial rye grass, or another species that is approved by the department as being suitable to site and climate conditions. In no case shall tall fescue be used to revegetate disturbed areas.

(5) Disturbed areas with slopes of three to one (3:1) or steeper, or areas where run-off is conveyed through a channel or swale, shall be stabilized with erosion control blankets or suitable structural armament.

(6) No pesticide will be used on the banks.

(7) If a utility line transports a substance that may cause water pollution as defined in IC 13-11-2-260, the utility line will be equipped with an emergency closure system.

(8) If a utility line is placed beneath the bed of a river or stream, the following conditions are met:

(A) Cover of at least three (3) feet measured perpendicularly to the utility line is provided between the utility line and the banks.

(B) If the placement of a utility line is not subject to regulation under IC 14-28-1-29, IC 14-33, or IC 36-9-27, cover is provided as follows:

(i) At least three (3) feet, measured perpendicularly to the utility line, between the lowest point of the bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials.

(ii) At least one (1) foot, measured perpendicularly to the line, between the lowest point of the bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of consolidated materials.

(C) If the placement of the utility line is subject to regulation under IC 14-28-1-29, IC 14-33, or IC 36-9-27, cover is provided as follows:

(i) At least three (3) feet, measured perpendicularly to the utility line, between the design bed and the top of the line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials.

(ii) At least one (1) foot, measured perpendicularly to the line, between the design bed and the top of the line or its encasement, whichever is higher, if the bed is composed of consolidated materials.

(D) Negative buoyancy compensation is provided where the utility line has a nominal diameter of at least eight (8) inches and transports a substance having a specific gravity of less than one (1).

(9) If a utility line is placed above the bed of a river or stream, the following conditions are met:

(A) Except as provided in clauses (B) and (C), minimum clearance is provided from the lowest point of the utility line (determined at the temperature, load, wind, length of span, and type of supports that produce the greatest sag) calculated as the higher of the following:

(i) Twelve and one-half (12½) feet above the ordinary high watermark.

(ii) Three (3) feet above the regulatory flood elevation.

(B) If the river or stream is a navigable waterway that is subject to IC 14-28-1, the utility line that crosses over the waterway must be placed to provide the greater of the following:

(i) The minimum clearance required under clause (A).

(ii) The minimum clearance required for the largest watercraft that is capable of using the waterway. The utility must consult in advance with the department to determine the minimum clearance for watercraft at the crossing.

(C) If a utility line is attached to or contained in the embankment of an existing bridge or culvert, no portion of the utility line or its support mechanism may project below the low structure elevation or otherwise reduce the effective waterway area.

(10) A utility line placed in a dam or levee regulated under IC 14-27-7 does not qualify for a general license under this subsection.

(c) A person who elects to act under this section must comply with the general conditions under subsection (b). Failure to comply with these terms and conditions may result in the revocation of the general license, a civil penalty, a commission charge, and any other sanction provided by law for the violation of a license issued under IC 14-28-1 and, if the waterway is navigable, the violation of a license issued under IC 14-29-1. (*Natural Resources Commission; 312 IAC 10-5-4; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3394, eff Jan 1, 2002; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1545; errata filed Mar 13, 2002, 11:51 a.m.: 25 IR 2521; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3876*)