



State Revolving Fund Loan Programs

Clean Water, Drinking Water, Nonpoint Source

ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

CITY OF KOKOMO

Peak Excess Flow Treatment Facility #2 Project

SRF PROJECT WW 21 07 34 03

DATE: January 19, 2021

TARGET PROJECT APPROVAL DATE: February 19, 2021

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: Peak Excess Flow Treatment Facility #2
City of Kokomo
100 South Union
Kokomo, IN 46901

SRF Project Number: WW 21 07 34 03

Authorized Representative: Mayor Tyler Moore

II. PROJECT LOCATION

The Peak Excess Flow Treatment Facility #2 is located in Howard County, Center township, Kokomo West USGS Quadrangle, township 23N, range 3E in section 2. See Figures 1 and 2.

III. PROJECT NEED AND PURPOSE

The City of Kokomo, Indiana, located in Howard County, is required to implement a Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP) for the purposes of controlling discharges from its Combined Sewer System and improving the water quality of Wildcat Creek and Kokomo Creek. The existing wastewater treatment plant (WWTP) currently receives gravity flow from five major interceptors including: 48-inch Wildcat Creek North, 42-inch Wildcat Creek South, 21-inch Bennett Street, 30-inch Dixon North and 36-inch Pete's Run. The WWTP is also fed by the existing 24-inch Highland Park Pump Station (HPPS) force main. The recommended alternative in the approved LTCP Addendum No. 3 includes adding a new wet-weather treatment facility within the WWTP property to treat additional flow collected by a new 90-inch Wildcat Creek North gravity sewer and an additional 24-inch HPPS force main. The future 90-inch sewer will bring additional CSO from CSOs 014, 016, 018 and 022. The HPPS flow includes a total flow of 22 MGD from CSO 050 to the WWTP.

The Peak Excess Flow Treatment Facility (PEFTF) #2 project will increase the WWTP peak treatment capacity from 80 to 130 MGD. The PEFTF #2 will provide high rate primary equivalent treatment with disinfection, allowing continued compliance with Kokomo's CSO LTCP.

IV. PROJECT DESCRIPTION

Kokomo's wastewater treatment plant is rated at 23.5 MGD average and 40 MGD peak flow. The CSO Long Term Control Plan (LTCP) includes adding a new wet weather treatment facility within the WWTP property to treat additional flow collected by a new 90-inch diameter Wildcat Creek North gravity sewer and an additional 24-inch diameter HPPS force main. The 90-inch diameter sewer will be constructed in a future phase and will alleviate hydraulic conveyance limitations. During wet weather, flow exceeding 40 MGD will be distributed between the existing Peak Excess Flow Treatment Facility (PEFTF) #1 by gravity and the new PEFTF #2 by pumping. All Highland Park flow of 22 MGD will be sent directly to the new PEFTF #2. PEFTF #1 is designed to treat flow exceeding 40 and up to 80 MGD. In order to treat additional wet weather

flow exceeding 80 and up to 130 MGD, a new PEFTF #2 will be constructed.

The Peak Excess Flow Treatment Facility #2 project includes:

- Approximately 3,300 LF of 24-inch diameter force main from the Highland Park Pump Station, conveying up to 22 MGD;
- Standby 3,850 GPM centrifugal pump to be stored at the Highland Park Pump Station;
- 28 MGD capacity PEFTF #2 vertical turbine pump station;
- 50 MGD high rate clarifier system, including flow metering, fine screening, primary clarification and disinfection;
- Chlorination-dechlorination building, including chemical storage tanks and feed system;
- Site work and piping, including headworks junction box, diversion structures, and new outfall; and
- Electrical, instrumentation and controls, including a backup generator and SCADA systems.

The 24-inch force main from the HPPS will be installed via open cut construction along the same path as the existing force main across Kokomo and Wildcat Creeks. The project will add an additional outfall on the western side of Wildcat Creek.

V. ESTIMATED PROJECT COSTS, AFFORDABILITY AND FUNDING

A. Selected Plan Estimated Cost Summary

Construction Costs

28 MGD PEFTF #2 Pump Station	\$ 2,792,300
50 MGD High Rate Clarifier with Fine Screening & Disinfection	6,058,800
Chlorination & Dechlorination Building	1,095,800
Site Work and Site Piping	3,368,300
Electrical, Instrumentation and Controls	1,797,900
Diversion Structures	763,500
24-Inch Diameter Force Main from HPPS and Standby Pump	2,929,400
Mobilization/Demobilization (5%):	941,000
Contingency (10%):	<u>1,975,000</u>

Construction Sub-Total **\$ 21,722,000**

Non-Construction Costs **\$ 2,749,500**

Total Estimated Project Cost **\$ 24,471,500**

- B. The total cost of these projects is estimated to be approximately \$24,471,500. The City of Kokomo will finance the project with a loan from the State Revolving Fund Loan Program for a term and annual fixed interest rate to be determined at loan closing. The actual loan amount will depend on the bids received. 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. This alternative was not considered acceptable as additional wet weather treatment is required to handle the design

storm events. This approach would result in the City violating allowable total CSO volume at the CSO locations. Therefore, this option was not selected.

Maximization of Existing WWTP capacity using the current treatment process: The WWTP is currently rated at 80 MGD hydraulic capacity. The additional wet weather flow exceeds the hydraulic capacity of the existing infrastructure without causing overflows. This alternative was eliminated from the evaluation due to inadequate hydraulic capacity using the existing WWTP infrastructure to treat design storms without causing overflows. This option was not selected.

Peak Excess Flow Treatment Facility Using Conventional Retention Treatment Unit: The total peak excess flow treatment at the WWTP will be increased to 117 MGD, and 130 MGD after the future 90-inch diameter Wildcat Creek North gravity sewer is installed which will alleviate hydraulic conveyance limitations. During wet weather flow conditions, any additional flow beyond 40 MGD would be distributed between the existing PEFTF #1 by gravity and the new PEFTF #2 by pumping. All Highland Park flow of 22 MGD would be directly sent to the new PEFTF #2.

In this alternative, the proposed PEFTF #2 would consist of a 28 MGD pump station, fine screening, *conventional retention treatment unit*, disinfection system, WWTP flow conveyance, HPPS flow conveyance, and a new dedicated outfall. The conventional retention treatment unit would be a rectangular tank system with an approximate footprint of 130'x70' with about 1.0 MG storage, providing 30 minutes of settling at 50 MGD. Flushing gates would be required for cleaning. This option was not selected.

Peak Excess Flow Treatment Facility Using High Rate Clarifier Treatment Unit: The total peak excess flow treatment at the WWTP will be increased to 117 MGD, and 130 MGD after the future 90-inch diameter Wildcat Creek North gravity sewer is installed which will alleviate hydraulic conveyance limitations. During wet weather flow conditions, any additional flow beyond 40 MGD would be distributed between the existing PEFTF #1 by gravity and the new PEFTF #2 by pumping. All Highland Park flow of 22 MGD would be directly sent to the new PEFTF #2.

In this alternative, the proposed PEFTF#2 would consist of a 28 MGD pump station, fine screening, *high rate clarifier treatment unit*, disinfection system, WWTP flow conveyance, HPPS flow conveyance, and a new dedicated outfall. The high rate clarifier treatment unit would consist of two 38-foot diameter tanks with 400,000 gallons of storage each, providing 9 minutes of settling and disinfection time at 50 MGD. High rate clarifier units provide primary clarification and disinfection within the same vessel. No additional coagulant or polymer is required. High rate clarifier units have been shown to provide efficient solids removal, have a smaller footprint, and are easier to drain and keep clean when compared to a retention treatment unit. For these reasons, **this is the selected plan.**

VII. ENVIRONMENTAL IMPACTS OF THE FEASIBLE ALTERNATIVES

A. Direct Impacts of Construction and Operation

Disturbed/Undisturbed Land: Work related to the installation of PEFTF #2 pump station and a second parallel 24-inch force main will be constructed to the WWTP from the HPPS using the open-cut method will occur in areas have been previously disturbed by previous construction activity.

Structural Resources (Figure 3): 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 24-inch force main from the HPPS will be installed via open cut construction along the same path as the existing force main across Kokomo Creek and Wildcat Creek. The project will add an additional outfall on the western side of Wildcat Creek. The project will not adversely affect waters of high quality listed in 327 IAC 2-1-2(3), exceptional use streams listed in 327 IAC 2-1-11(b), or Natural, Scenic and Recreational Rivers and Streams listed in 312 IAC 7-(2), Salmonid Streams listed in (327 IAC 2-1.5-5(a)(3), or waters on the Outstanding Rivers list.

Wetlands (Figure 4): The 24-inch force main from the HPPS will be installed via open cut construction along the same path as the existing force main across Wildcat Creek. The project will add an additional outfall on the western side of Wildcat Creek.

Kokomo Creek and Wildcat Creek are riverine wetlands and will be temporarily impacted by the project. A wetland delineation will be conducted to ensure the extent of the wetland. 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 5): The proposed improvements at the WWTP are located within the Federal Emergency Management Administration (FEMA) 100-year floodplain with a significant portion of the work located within the 100-year floodway of Wildcat Creek. This work will require a floodplain development permit from the City as well as a no-rise certification for the portion of the work within the floodway.

Groundwater: The soils that will be affected by construction of this project have seasonal groundwater table depths of 76-81 cm. This information was obtained from the USDA Web Soil Survey (NRCS). Therefore, it is anticipated that only normal groundwater control measures will be required for the construction of this project. This project will have no impact on local wells, water table, or groundwater quality.

Plants and Animals: The proposed improvements will impact the existing riparian area adjacent to the waterway where the new outfall will be installed on the western side of Wildcat Creek, and the 24-inch force main from the HPPS will be installed via open cut construction along the same path as the existing force main across Wildcat Creek.

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 will not convert prime farmland.

Air Quality: Dust and noise are likely to be caused by construction operations during installation of the proposed facilities. A water truck will be used to reduce dust onsite if required. The WWTP is located in an industrial area of the city, but construction activities will be limited to normal working hours to minimize disturbance to the surrounding neighborhoods. Sound barriers may be temporarily installed if noise pollution becomes a serious problem, but it is not expected that this condition will occur. Construction activities should not impact ozone, airborne pollutants or other current or future air quality concerns.

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 city's PER states: *The City through the authority of its council, planning commission or sewer and drainage boards, will ensure 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 city 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

In correspondence dated June 29, 2020, the Indiana Department of Natural Resources Division of Historic Preservation and Archaeology stated:

Pursuant to Indiana Code 5-1.2-10, Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), and 36 C.F.R. Part 800, the Indiana State Historic Preservation Officer ("Indiana SHPO") is conducting an analysis of the materials dated and received by the Indiana SHPO on May 29, 2020 for the above indicated project in Kokomo, Howard County, Indiana.

Based on our analysis, it has been determined that no historic properties will be altered, demolished, or removed by the proposed project.

If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations, including but not limited to 36 C.F.R. 800.

In correspondence dated June 10, 2020, the United States Fish and Wildlife Service stated:

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

The proposed project consists of upgrades to the Kokomo waste water treatment plant (WWTP), including the construction of a new wet weather treatment facility and a new outfall to Wildcat Creek from that facility. A second parallel 24-inch force main will be constructed to the WWTP from the Highland Park pump station using the open-cut method.

ENDANGERED SPECIES

*The proposed project is within the range of the Federally endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*) and eastern massasauga rattlesnake (*Sistrurus catenatus*). There is no habitat for these species at the project site. Therefore, we concur with your determination that the proposed project is not likely to adversely affect these endangered and threatened species.*

This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. However, should new information arise pertaining to project plans or a revised species list be published, it will be necessary for the Federal agency to reinstate consultation.

In correspondence dated June 30, 2020, 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: The force main proposal crossing Wildcat Creek will require the formal approval for construction in a floodway under the Flood Control Act, IC 14-28-1. Other portions of the project in the floodway will also require the formal approval under the Flood Control Act, IC 14-28-1, 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).

Natural Heritage Database: The Natural Heritage Program's data have been checked. To date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

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/Open Trenching: 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: 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 online 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, at least 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 that are not currently mowed and maintained with a mixture of grasses, sedges, and wildflowers native to Central Indiana and specifically for stream bank/floodway stabilization purposes as soon as possible upon completion; turf-type grasses (including low-endophyte, friendly endophyte, and endophyte free tall fescue but excluding all other varieties of tall fescue) may be used in currently mowed areas only.
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 construct any temporary runarounds, access bridges, causeways, cofferdams, diversions, or pumparounds.
6. Use minimum average 6 inch graded riprap stone extended below the normal water level to provide habitat for aquatic organisms in the voids.

7. *Do not use broken concrete as riprap.*
8. *Underlay the riprap with a bedding layer of well graded aggregate or a geotextile to prevent piping of soil underneath the riprap.*
9. *The sideslopes of the outlet section must be 2:1 or flatter.*
10. *Minimize the movement of resuspended bottom sediment from the immediate project area.*
11. *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.*
12. *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.*
13. *Protect the area around and below any concentrated discharge points, down to the waterway's normal flow level, with an appropriate structural armament such as riprap.*

In correspondence dated December 14, 2020, the Natural Resources Conservation Service stated:

The revised project to proceed with the peak excess flow treatment facility in the City of Kokomo, Howard County, Indiana, as referred to in your letter received July 23, 2020, will not cause a conversion of prime farmland.

VIII. MITIGATION MEASURES

The city's PER states:

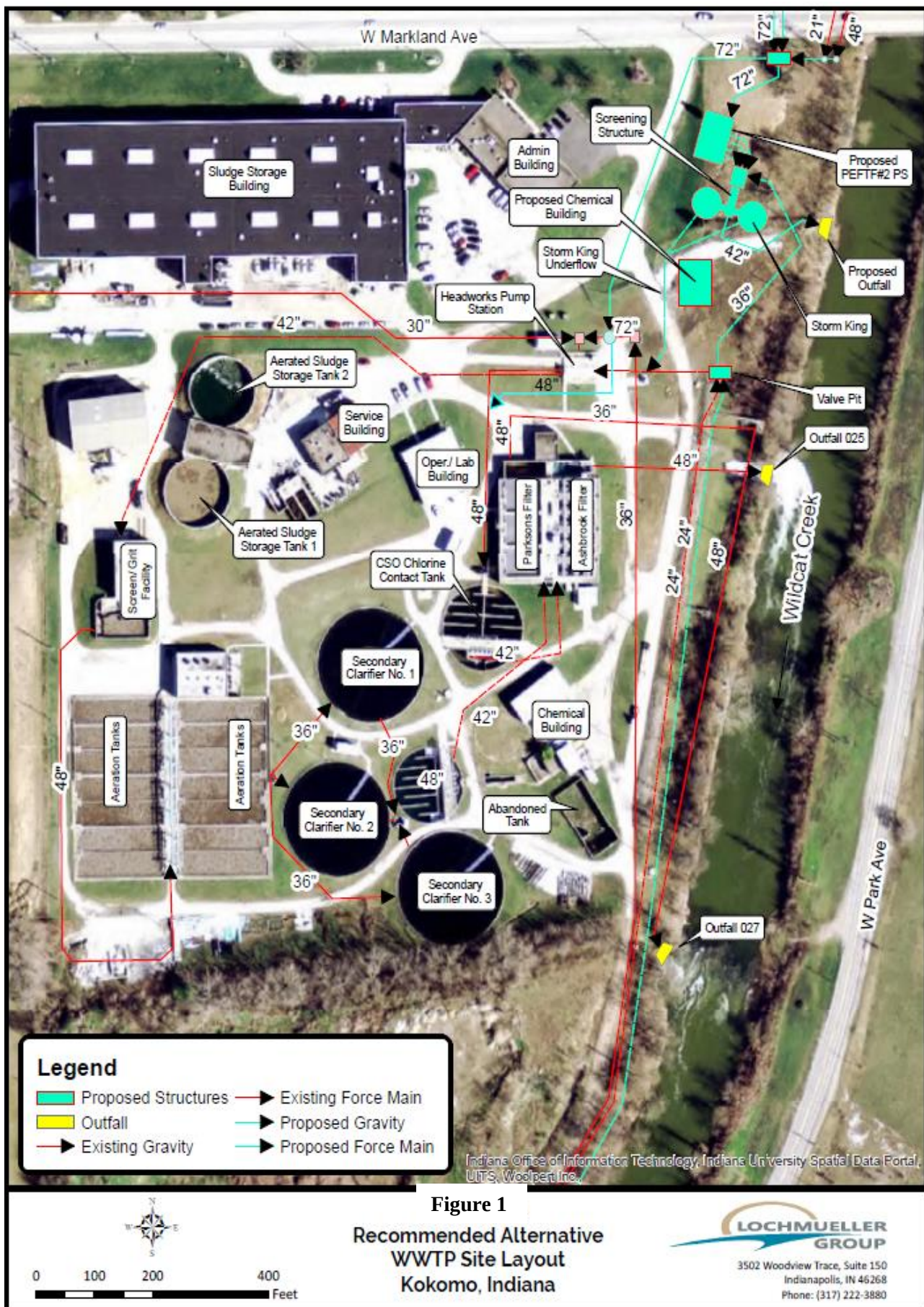
The following measures are recommended to mitigate potential adverse environmental impacts:

1. *Implement appropriate temporary erosion control measures (straw bale barriers, silt fencing, etc.) to prevent soil runoff leaving the construction site.*
2. *Implement all applicable water pollution control measures specified in the Indiana State Highway 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.*
3. *Maintain all equipment to manufactures specifications to minimize construction noise, and where appropriate utilize temporary noise barriers to reduce noise levels.*
4. *Minimize fugitive dust from construction activities by wetting the construction area periodically and constructing wind barriers or treating with chemical stabilizers if necessary.*
5. *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.*

- 6. 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.*
- 7. The contractor shall abide by the rules governing asbestos notification, handling, disposal and contractor licensing should such material be encountered.*
- 8. 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

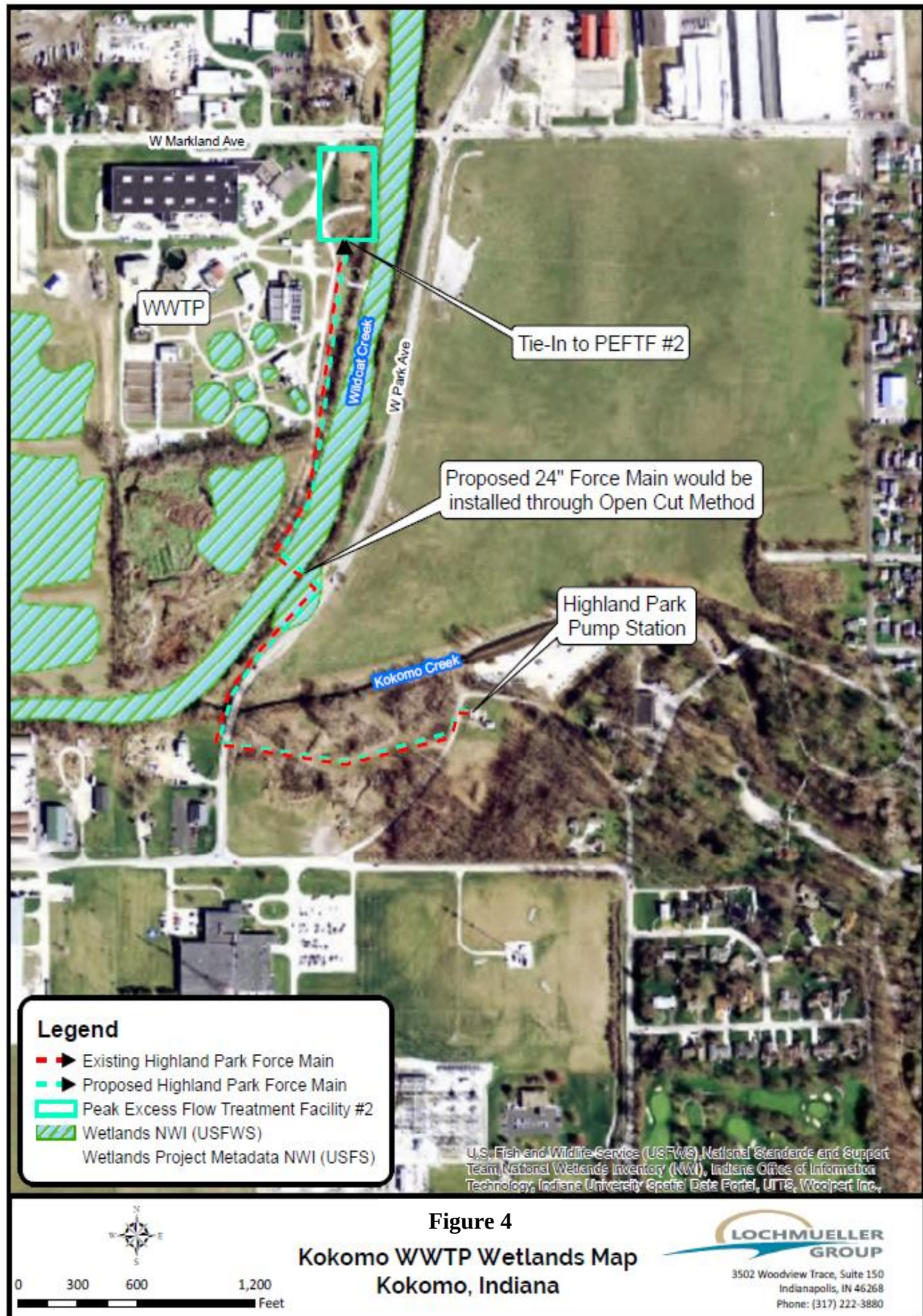
A properly noticed public hearing was held on June 10, 2020 at 10:00 am at the Ralph Neal Council Chambers at City Hall, 100 S. Union Street to discuss the PER. No written comments were received during the 5-day comment period following the hearing.

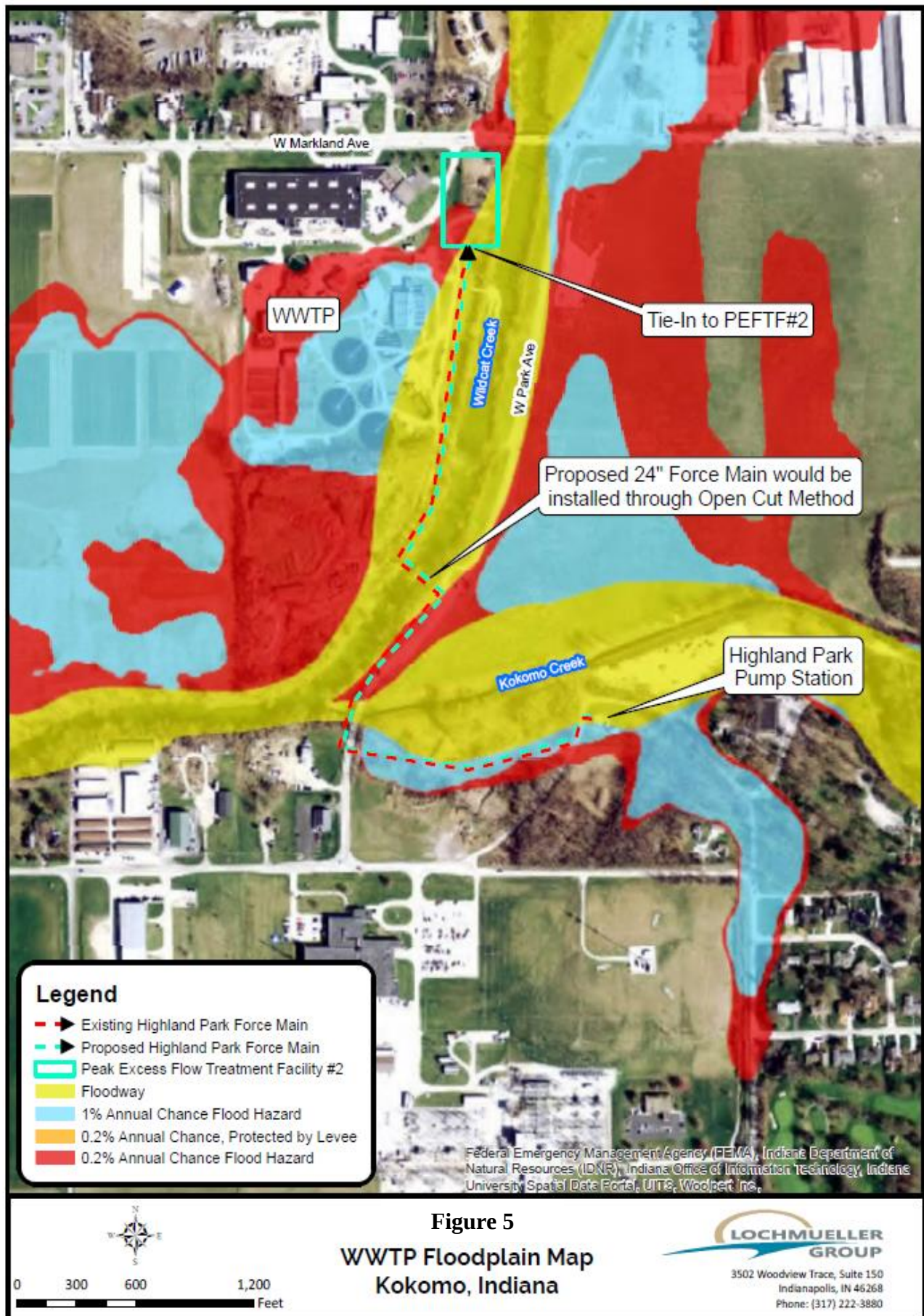


City of Kokomo - Environmental Assessment: Peak Excess Flow Treatment Facility #2 Project
 Distributed January 19, 2021 for 30-day comment period to the public.



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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*)

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*)