I. INTRODUCTION

The above entity has applied to the Drinking Water State Revolving Fund (SRF) Loan Program for a loan to finance all or part of the Drinking 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 Drinking Water SRF 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 affected 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: Drinking Water Improvement Projects
North Dearborn Water Corporation
7484 Christina Dr., Suite 103
West Harrison IN, 47060

SRF Project Number: DW 20 16 15 02

Authorized Representative: Steward Cline, President, Board of Directors

II. PROJECT LOCATION

The proposed drinking water improvement projects include, see Figures 1, 2 & 3:

1. 12” Water Transmission Main along North County Line Road –
   a. Cedar Grove and Spades 24K USGS Quadrangles; Dearborn County in Jackson and Kelso Townships, 7N, 2W in sections 2, 3, 4 & 5; and
   b. Cedar Grove and Spades 24K USGS Quadrangles; Franklin County in Highland Township, 8N, 2W in sections 33, 34 & 35;
2. 12” Water Main along Central Drive – Cedar Grove 24K USGS Quadrangle; Dearborn County in Kelso Township; 7N, 2W sections 3 & 10;
3. 8” Water Main along Post 464 Road – Cedar Grove 24K USGS Quadrangle; Dearborn County in Kelso Township; 7N, 2W sections 3 & 10;
4. Well Capacity Upgrade – Whitcomb 24K USGS Quadrangle; Franklin County in Brookville Township; 8N, 2W section 4; and
5. New Water Treatment Plant adjacent to existing plant – Brookville 24K USGS Quadrangle; Franklin County in Brookville Township; 8N, 2W section 8.

III. PROJECT NEED AND PURPOSE

These improvements will benefit all customers with improved water supply, treatment, transmission, and distribution.

IV. PROJECT DESCRIPTION

Construction of a 12” water main along North County Line Road is recommended to improve the North Dearborn Water Corporation’s distribution system on the south side of I-74 by increasing reliability and flow pressure and provide looping of the system. Furthermore, construction of this new water main will provide much greater water pressure and volume of flow for future commercial and industrial growth on the north side of Interstate 74.

Construction of the proposed 12” water main along Central Drive is recommended to allow for water service to existing homes. It will allow for a redundant feed to the 500,000-gallon water storage tank once the main can be extended across I-74. This will also allow for looping to an existing main. This would allow for better fire protection and greater water pressure and volume of flow for future commercial and industrial growth on the north side of I-74.

Construction of the proposed 8” water main along Post 464 Rd. is recommended to allow for water
service to existing homes. This area has experienced growth and there is additional anticipated development. Combined with the County Line Rd. water main and Central Drive water main, this project will ensure better fire protection and greater water pressure and volume of flow for future growth on the north side of I-74.

The recommended well capacity upgrade will increase the pumping capacity of the two existing wells to 1,000 gpm each. This project will include upgrading of the existing well pumps and electrical systems.

The construction of a new water treatment plant is recommended and will allow North Dearborn Water Corporation (NDWC) to replace the existing water treatment plant that is at the end of its planned 25-year useful life. This construction would also allow NDWC to continue its production of water and serving the customers in their service area.

V. ESTIMATED PROJECT COSTS, AFFORDABILITY AND FUNDING

A. Selected Plan Estimated Cost Summary

<table>
<thead>
<tr>
<th>Construction Costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Well Capacity Upgrade</td>
<td>$ 185,000</td>
</tr>
<tr>
<td>New Water Treatment Plant</td>
<td>1,400,000</td>
</tr>
<tr>
<td>Water Transmission Main Co. Line Rd</td>
<td>590,500</td>
</tr>
<tr>
<td>Center Drive Water – 12” Water Transmission Main</td>
<td>331,000</td>
</tr>
<tr>
<td>Post 464 Road – 8” Water Main</td>
<td>217,200</td>
</tr>
<tr>
<td>Estimated Construction Cost</td>
<td>2,723,700</td>
</tr>
<tr>
<td>Contingency</td>
<td>406,800</td>
</tr>
<tr>
<td>Construction Sub-Total</td>
<td>$ 3,130,500</td>
</tr>
</tbody>
</table>

| Non-Construction Costs                   | $ 764,500 |
| Primary Project Total Estimated Project Cost | $ 3,895,000 |

B. The total cost of these projects is estimated to be approximately $3,895,000. The NDWC will finance the project with a loan from the Drinking Water 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 proposed waterworks improvement alternatives for the NDWC include a well capacity upgrade, a new water treatment plant, a new water transmission main along North County Line Road, a new water main along Post 464 Road, and a new water main along Central Drive.

Water supply alternatives are the addition of a new well at the existing well field, upgrade well capacity or the “No Action” alternative to continue to use the existing two wells. The selected alternative is to upgrade the existing well pumps to 1,000 gpm each and electrical systems which will allow for water supply to meet demands.

Water treatment plant alternatives are to construct a new water treatment plant or the “No Action” alternative to continue to use the existing water treatment plant.

VII. ENVIRONMENTAL IMPACTS OF THE FEASIBLE ALTERNATIVES
A. Direct Impacts of Construction and Operation

**Disturbed/Undisturbed Land:** The proposed 12” water mains along North County Line Road and Central Drive as well as the proposed 8” water along Post 464 Rd. will be constructed in easements along the county road right-of-way. Construction will take place primarily on previously undisturbed ground on farm fields and yards. There are some woodlands along portions of the proposed routes. The well capacity upgrade shall take place in the footprint of the existing wells where ground has already been disturbed. The water treatment plant shall be constructed adjacent to the existing water treatment plant building on previously disturbed land.

The **Area of Potential Effect** includes the area where the water mains, the new water treatment plant adjacent to existing plant will be installed, and where the existing wells will be upgraded. Modifying the existing wells will increase the pumping capacity of each of the two existing wells to 1,000 gpm each. This project will include the upgrade of the existing well pumps and electrical systems. The water treatment plant shall be constructed adjacent to the existing water treatment plant building on previously disturbed land. However, all construction activities will be confined to areas previously disturbed by the installation of the existing water wells and water treatment plant; and will not affect historic properties. Construction of the water mains will take place primarily on previously undisturbed ground along roadways and in farm fields and yards. An archaeological investigation took place in June 2021 and no further investigation was recommended.

**Structural Resources (Figures 4, 5 & 6):** 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 proposed water mains on Central Dr. and Post 464 Rd. will cross streams at three (3) locations as shown in Figure 9. Erosion control measures shall be implemented to prevent sediment transport into these streams during construction. The crossings will be completed by open cut method, with rip-rap bank restoration. All comments from the USFWS and IDNR regarding this project shall be incorporated into the construction plans.

**Wetlands:** The proposed project locations are shown with wetlands, floodplains, and stream crossings as shown in Figures 7, 8 & 9. There are no wetlands at the location of the proposed water treatment plant.

Whitewater River is located adjacent to the well field, and there are wetlands located near the site of the proposed well, as shown in Figure 7. No impacts will take place.

The construction of the water transmission mains is shown in relation to wetlands in Figure 9. Closer views of these wetlands are also located in Figures 10 and 11. The water main construction corridor will be approximately 10’ wide. The County Line Rd. water main project mapping on Figure 10 identified a short segment of less than 130 feet along the edge of a wetland identified on the NWI Map. This location will be reviewed in the field. Directional bore method of construction shall be performed if project route is through a wetland area. An IDEM 401 and ACOE 404 Permits will be applied for all applicable waterway and wetland crossings.
Wetland areas adjacent to the project routes will not be impacted by construction or operation of the project. Efforts will be made to restore the creek banks to existing conditions and rip-rap fill will be minimized.

**Floodplain:** There are no floodplains along the water main routes. There are also no floodplains at the new water treatment plant location. Although there are floodplains within the existing well field where the well capacity upgrades will take place, negative long-term environmental consequences to floodplains are not expected.

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

**Plants and Animals:** The Preliminary Engineering Report (PER) states:

_The project will be implemented to minimize impact to non-endangered species and their habitat._

_Construction of the proposed well capacity upgrade and water treatment plant will not require tree removal. The proposed water distribution projects will require the removal of several trees. The removal of mature trees will be avoided where possible, but it will be necessary in some locations, in particular along County Line Rd._

_Approximately 20-30 trees of various diameters will need to be removed with the highest concentration in one section along County Line Rd. as indicated in Figure 5.2.3. Mitigation measures cited in comment letters from the Indiana 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:** The proposed project will have a short-term impact on air quality due to the increased noise and dust generated by construction. Mitigation measures will be implemented to reduce noise, dust, and airborne contaminate as needed and required by the necessary permits.

**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 North Dearborn Water Corporation’s PER states: _The North Dearborn Water Corporation, through the authority of its Board of Directors, will ensure that future development connecting to SRF-funded facilities will not adversely impact archaeological/historical/structural resources, wetlands, wooded areas, or other sensitive environmental resources. North Dearborn Water Corporation will require new drinking water 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 September 10, 2021, 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 August 26, 2021, for the above indicated project in Dearborn and Franklin Counties, Indiana._

Based on our analysis, it has been determined that no historic properties will be altered, demolished, or removed by the proposed project. Thank you for submitting the archaeological site forms. They have been approved.

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 September 28, 2021, 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 (see enclosure). 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._

_To date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the vicinity of the proposed new water main project area. However, the species below have been documented within 1/2 mile of the project areas indicated._

_A) Well Capacity Upgrade Site:_

1. **FISH**: Variegate Darter (Etheostoma variatum); state endangered

2. **MAMMAL**: American Badger (Taxidea taxus); state special concern

_B) Water Treatment Plant: American Badger (Taxidea taxus); state special concern_
Fish & Wildlife Comments: As long as standard erosion control measures are implemented to reduce sedimentation into the waterway, we do not foresee any impacts to the Variegate Darter as a result of this project. Also, badgers are a wide ranging species that prefer an open, prairie-type habitat, with Indiana being at the eastern edge of their natural range. The range of the badger continues to expand as a result of land-use changes from forest to farmland and open pastureland. Impacts to the American badger or its preferred habitat are unlikely as a result of this project.

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) Utility Line Crossings:
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). Information about bioengineering techniques can be found at http://www.in.gov/legislative/iac/20120404-IR-312120154NRA.xml.pdf. Also, the following is a USDA/NRCS document that outlines many different bioengineering techniques for streambank stabilization: http://directives.sc.egov.usda.gov/17553.wba.

   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:


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 mitigation site should be located in the floodway, downstream of the one (1) square mile drainage area of that stream (or another stream within the 8-digit HUC, preferably as close to the impact site as possible) and adjacent to existing forested riparian habitat.

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 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. 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.

8. 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 September 15, 2021, the Natural Resources Conservation Service stated:

*The proposed project to proceed with drinking water improvements in North Dearborn, Dearborn and Franklin County, Indiana, as referred to in your letter received August 20, 2021, will not cause a conversion of prime farmland.*

As of the date of publication, the United States Fish and Wildlife Service has not responded.

**VIII. Mitigation Measures**

The North Dearborn Water Corporation’s PER states:

*Precautions shall be taken during construction to prevent erosion and sediment transport. Efforts shall be made during construction to minimize disturbance of creek and wetland areas. Project plans shall include requirements for construction sequencing and both temporary and permanent erosion control measures. All disturbed areas shall be restored to their condition before construction or permanently stabilized by other means of landscaping. All vegetated land shall be permanently seeded and maintained as necessary until vegetation growth is established.*

*A Rule 5 permit is required through IDEM for Construction/Stormwater Pollution Prevention. This plan shall be approved by the Dearborn County Soil and Water Conservation District and recommend for approval to IDEM.*

*All mitigating measures recommended by reviewing authorities shall be implemented for this project.*

**IX. Public Participation**

A properly noticed public hearing was held on May 10, 2021, at 6:30 pm at the North Dearborn Water Corporation Office, 7484 Christina Drive #103, West Harrison, Indiana to discuss the PER. No written comments were received during the 5-day comment period following the hearing.
Figure 1 – USGS Quadrangle Map of Proposed New Well

Figure 2 - USGS Quadrangle Map of Proposed New Water Treatment Plant
**Figure 3** - USGS Quadrangle Map of Proposed New Water Mains

**Figure 4** – Historic Bridges & Cemeteries Map of Proposed Well Capacity Upgrade
Figure 5 – Historic Bridges & Cemeteries Map of Proposed New Water Treatment Plant

Figure 6 – Historic Bridges & Cemeteries Map of Proposed New Water Mains
Figure 7

Wetlands, Floodplains, and Streams Map of Well Capacity Upgrade

Figure 8

Wetlands, Floodplains, and Streams Map of Proposed New Water Treatment Plant

North Dearborn Water Corporation Environmental Assessment: Drinking Water Improvement Projects
Distributed October 5, 2021 for 30-day comment period to the public.
Figure 9

Wetlands, Floodplains, and Streams Map of Proposed New Water Mains along North County Line Rd., Central Dr., and Post 464 Rd.
Figure 10

Wetlands Map of Proposed New Water Main along North County Line Road
Figure 11

Wetlands Map of Proposed New Water Main along North County Line Road
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 culverts 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(6)(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 (1/2) mile of any of the following:
(1) A species listed in the Indiana Register at 15 IR 1312 in the Roster of Indiana Aquatic 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 13-1-1-269; 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 line 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 14-28-1. (Natural Resources Commission; 312 IAC 10-5-4; filed Jul 5, 2001; 9:12 a.m.: 24 IR 3594, 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 2621, filed Aug 2, 2004, 3:18 p.m.: 27 IR 3876)

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