State Revolving Fund Loan Programs

Drinking Water, Clean Water, Nonpoint Source

ENVIRONMENTAL ASSESSMENT
AND
FINDING OF NO SIGNIFICANT IMPACT

CITIZENS ENERGY GROUP
PROJECT D – LAFAYETTE ROAD (71ST TO 79TH) WATER MAIN EXTENSION
SRF PROJECT DW 24 70 06 05

DATE: June 22, 2026

PUBLIC COMMENTS DUE BY: July 22, 2026

ORIGNAL EA Posted June 24, 2025, with Comment Period that ended July 24, 2025. The amended EA is to public notice adjustments to the tree clearance and the USFWS review and approval of these amendments.

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 (FONSI)

The SRF Drinking Water 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/FONSI. Comments must be received at the address below by the target approval date above. Significant comments may prompt a reevaluation of the preliminary FONSI; if appropriate, a new FONSI 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 FONSI as appropriate. Comments regarding this document should be sent within 30 days to:

State Revolving Fund
100 N. Senate Ave. IGCN 1275
Indianapolis, IN 46204
publicomments@ifa.in.gov

ENVIRONMENTAL ASSESSMENT

I. PROJECT IDENTIFICATION

Project Name and Address:	Project D – Lafayette Road (71st to 79th) Water Main Extension Citizens Energy Group 2020 North Meridian St Indianapolis, IN 46202
SRF Project Number:	**DW 24 70 06 05**
Authorized Representative:	Jeffrey Harrison, President and CEO

II. PROJECT LOCATION

The proposed project is located in Marion County, Pike Township, Zionsville 24k USGS Quadrangle, Township 17N, Range 2E and Sections 27, 28, and 34. See **Figure 1.**

III. PROJECT NEED AND PURPOSE

In concert with Lebanon Utilities (LU), an engineering plan has been developed for Citizens Water to provide an additional water supply of up to 25 million gallons per day (MGD) to Lebanon Utilities to support the regional growth of the City of Lebanon (Lebanon). The Citizens-Lebanon Water Supply program consists of new water mains, booster stations, tanks, and treatment plant upgrades. Regarding sources, Citizens Water's robust regional water system is composed of 10 water treatment plants along with natural water resources including the White River, Fall Creek, four water supply reservoirs (Eagle Creek, Geist, Citizens, and Morse), and groundwater wells.

IV. PROJECT DESCRIPTION

The Citizens-Lebanon Water Supply (CLWS) Program's Project D will construct approximately 6,400 linear feet of 24-inch ductile iron (DI) and/or 30-inch high density polyethylene pipe (HDPE) from the intersection of W 71st St and ending at the intersection of Lafayette Rd and Moore Rd. The proposed project will be completed with a combination of open cut installation of DI pipe and horizontal directional drilling of HDPE pipe for areas unsuitable for open cut installation.

V. ESTIMATED PROJECT COSTS, AFFORDABILITY, AND FUNDING

The total cost of this project is estimated to be approximately $5,829,000. Citizens Energy Group intends to finance the project with a loan from the Drinking Water SRF Loan Program for a term and annual fixed interest rate to be determined at loan closing.

VI. DESCRIPTION OF EVALUATED ALTERNATIVES

The **"No Action"** alternative is not practical, environmentally sound or economical. This alternative includes continuing current operations under existing conditions. The risk posed by not taking action is the inability to provide water service as required for the CLWS program. No Action alternative was

dismissed from further consideration.

Alternative 1 – Installation of 24-inch DI and 30-inch HDPE Main Within a Combination of Easements and ROW: This alternative will construct 6,400 linear feet of 24-inch ductile iron (DI) and/or 30-inch high density polyethylene pipe (HDPE) from the intersection of W 71st St and ending at the intersection of Lafayette Rd and Moore Rd and is anticipated to be completed with open cut installation of DI pipe. The proposed alignment includes locating the water main within easements except where building setbacks, existing utilities, or other constraints require installation within the right of way or pavement. **This is the recommended alternative.**

VII. Environmental Impacts of the Feasible Alternatives

A. Direct Impacts of Construction and Operation

Disturbed/Undisturbed Land: Work related to the installation of the water mains will occur in disturbed rights-of-way, adjacent to and within roadways, alleys and existing utility trenches. All areas have been previously disturbed by previous construction activity.

Structural Resources: 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 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. The project is near Eagle Creek and Bush's Run. The areas of main crossing streams will be installed via horizontal directional drilling.

Mitigation measures to lessen and compensate for stream impacts cited in comment letters or permits from the Indiana Department of Natural Resources , U.S. Army Corps of Engineers, and/or Indiana Department of Environmental Management will be implemented.

Wetlands: The project will not impact wetlands. Mitigation measures to lessen and compensate for wetland impacts cited in comment letters or permits from the Indiana Department of Natural Resources , U.S. Army Corps of Engineers, and/or Indiana Department of Environmental Management will be implemented.

Floodplain: The project will not include dredge or fill in the floodway without a permit from IDNR Division of Water. No change in grade will occur within the floodplain.

Groundwater: The project will not 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. Approximately 3.45 acres of trees will be cleared in the active bat season of April 1 – September 30. A bat habitat assessment was performed on all trees within the designated project limits. Any trees with a diameter at breast height (DBH) greater than 3 inches were assessed for suitable bat habitat. The USFWS reviewed the Bat Habitat Assessment report and determined there is potentially suitable habitat for the Federally endangered Indiana bat and northern long-eared bats. A roost emergence survey on all suitable trees will be conducted in accordance to the standards laid out by the USFWS Range-wide

Indiana Bat and Northern Long-Eared Bat Survey Guidelines, as restated in USFWS correspondence in Part C of this Section.

If bats are observed during the emergence study, select tree removal cannot proceed without additional consultation with the USFWS and IFA.

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: 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

Citizens Energy Group's PER states: *It will be ensured, through local zoning laws, the authority of its council or planning commission, or other means, that future development and utility projects connecting to SRF-funded facilities will not adversely affect wetlands, wooded areas, steep slopes, archaeological/historical/structural resources, or other sensitive environmental resources. New development and utility projects will be required to be constructed within the guidelines of the USFWS, IDNR, IDEM, and other environmental review authorities.*

C. Comments from Environmental Review Authorities

In correspondence dated January 16, 2025, 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 January 3, 2025, for the above indicated project in Marion County, Indiana.*
>
> *In regard to buildings and structures, we have noted the following property listed in the National Register of Historic Places within the probable area of potential effects:*
>
> *Traders Point Eagle Creek Rural Historic District, NR-2105, listed June 17, 2009*
>
> *However, based on the information provided to our office, we do not believe the characteristics that qualify the above identified historic property for inclusion in the National Register will be diminished as a result of this 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 May 22, 2026, the United States Fish and Wildlife Service stated:

IPAC Project Code: 2024-0139822
IPAC Project Name: Project D – Lafayette Rd (71st to 79th) Water Main Extension
Current Project Name: 20ME06926 – Lafayette Rd (71st to 79th)

The proposed action areas for Projects C and D have potentially suitable habitat for the Federally endangered Indiana and northern long-eared bats. After carefully evaluating the details provided and noting the project proponents' commitment to conduct roost emergence surveys at all suitable trees according to the standards laid out in the USFWS Range-wide Indiana Bat and Northern-Long Eared Bat Survey Guidelines, the U.S. Fish and Wildlife Service concurs that the proposed projects are not likely to adversely affect these Federally listed species.

Based on a review of the habitat assessments and study plans for Projects C and D, the Service believes that your proposed emergence survey meets the standards laid out in the USFWS 2026 Range-wide Indiana and Northern Long-eared Bat Survey Guidelines.

As a reminder Emergence survey protocols are as followed (USFWS 2026 Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines Appendix E page 45-49):

1. Bat emergence surveys should begin one half hour before sunset and continue until at least one hour after sunset or until it is otherwise too dark to see emerging bats. The surveyor(s) should be positioned so that emerging bats will be silhouetted against the sky as they exit the roost. Tallies of emerging bats should be recorded every few minutes or as natural breaks in bat activity allow. There should be at least one surveyor per roost. Surveyors must be close enough to the roost to observe all exiting bats but not close enough to influence emergence. That is, do not stand directly beneath the roost, do not make noise or carry on a conversation, and minimize use of lights (use a small flashlight or similar to record data, if necessary). Do not shine a light on the roost as this may prevent or delay bats from emerging. Use of an infra-red, night vision, or thermal-imaging video camera or spotting scope is encouraged but not required. Likewise, use of an ultrasonic bat detector may aid in identifying the exact timing of bats emerging and may be used to help differentiate between low- and high frequency bats species, and therefore, is strongly recommended. If multiple roosts are known within a colony, then simultaneous emergence surveys are encouraged to estimate population size. [NOTE: If a roost cannot be adequately silhouetted, then the local USFWS FO(s) should be contacted to discuss alternative survey methods].
2. Bat activity is affected by weather; therefore, emergence surveys should not be conducted when the following conditions exist: (a) ***temperatures that fall below 50°F (10°C)****;*
(b) ***precipitation, including rain and/or fog, that exceeds 30 minutes or continues intermittently during the survey period****; and (c) sustained wind speeds greater than 9 miles/hour (4 meters/second; 3 on Beaufort scale).*
3. Surveyors should use the Appendix E (or similar) "Bat Emergence Survey Datasheet".
4. Surveyors should also complete an "IBAT and/or NLEB Roost Datasheet" for each roost known to be used by one or more IBAT and/or NLEB (see Appendix D for an example).

If your survey plans change, please notify us and request a review of the changes. If bats are found emerging from any trees, please contact us the following day for further guidance before

removing the tree or conducting another survey of the tree in question. If no bats are found, please submit your findings and inform our office via email that the trees have been removed the following morning and no bats were found.

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 reinitiate consultation.

In correspondence dated February 12, 2025, 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 will require the formal approval for construction in a floodway 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 (see enclosure). Please include a copy of this letter with the permit application if the project does not meet the general license criteria.

Natural Heritage Database:

The Natural Heritage Program's data have been checked. The Division of Nature Preserves does not anticipate any significant impacts to Eagles Crest Nature Preserve, Eagle Creek Park (LWCF) or the State endangered Antmimic Spider (Castianeira alata), which have been documented within .5 mile of the project area in addition to the following:

- *Black-crowned Night-heron (Nycticorax nycticorax), State endangered*
- *Cerulean Warbler (Setophaga cerulea), State endangered*
- *Golden-winged Warbler (Vermivora chrysoptera), State endangered*
- *Henslow's Sparrow (Ammodramus henslowii), State endangered*
- *Least Bittern (Ixobrychus exilis), State endangered*
- *Broad-winged Hawk (Buteo platypterus), State special concern*
- *Colonial Wading Bird Colony*
- *Migratory Bird Concentration Area*
- *Raptor Migratory Concentration Area*
- *Shorebird Migratory Concentration Area*

Fish and 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:

A) Heritage Species

This area is used as a major stopover site for migrating State listed species. Removal of trees to install water mains may have significant negative impacts on the above-listed bird species,

colony, and concentration areas as well as other native migratory birds protected by the Migratory Bird Treaty Act of 1918. To minimize impacts to these species, it is recommended that trees are removed outside of the spring migratory season and the breeding season. The spring migratory and breeding seasons occur between early April and late August.

B) Directional Boring/Open Trenching

Directional boring is the preferred method for crossing streams with utility lines. Install erosion control measures such as silt fence or other appropriate measures around directional drilling pits to prevent drilling mud from leaving the immediate area of the pit or entering the stream. The Division of Fish and Wildlife understands directional boring is not always an option. When using the open trench method, the utility line must be installed as quickly as possible to avoid silt and sediment loading of the stream. The utility line must be covered with graded stone and riprap to prevent erosion of the streambed in the vicinity of the crossing. For streambed stabilization, riprap or other stabilization materials must not be placed in the active stream channel above the existing streambed elevation. This is to prevent obstructions to the movement of aquatic organisms upstream and downstream. Regardless of the installation method used, the utility line must be installed below the existing streambed elevation at least 3 feet, measured perpendicularly to the utility line, between the lowest point of the streambed and the top of the pipeline or its encasement, whichever is higher.

C) Tree Removal

The Division of Fish and Wildlife recommends avoiding removing trees along roadways to the greatest extent possible and replacing trees that must be removed to maintain the economic, aesthetic, and ecological benefits provided by trees. The following links give a good overview of the benefits of a street tree program and how to select the right species to avoid the negative impacts of non-native invasive species such as the common and popular Bradford pear: https://www.in.gov/dnr/forestry/forestry-publications-and-presentations/ (scroll down to the Community & Urban Forestry section).

Additionally, 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: https://www.in.gov/nrc/files/IB-17.pdf.

Impacts to non-wetland forest of one (1) acre or more in a rural or urban area should be mitigated at a minimum 2:1 ratio based on area of impact. Impacts to non-wetland forest under one (1) acre but at least 0.10 acre in a rural or urban area should be mitigated at a minimum 1:1 ratio based on area of impact. Impacts under 0.10 acre in a rural area typically do not require mitigation or additional plantings beyond seeding and stabilizing disturbed areas, though there are exceptions for high quality habitat sites. Impacts under 0.10 acre in an urban area should be mitigated by replacing each mature tree removed (trees that are 10" diameter-at-breast height (dbh)) with two trees of 3-gallon stock or larger. Seeding and stabilizing disturbed areas is required regardless of the impact amount and location.

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 that are not currently mowed and maintained with a mixture of grasses, sedges, and wildflowers native to Central Indiana 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. A native herbaceous seed mixture must include at least 5 species of grasses and sedges and 5 species of wildflowers.

2. Minimize and contain within the project limits in channel 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 (3 inches or greater diameter-at-breast height, 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 pump arounds.

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. Minimize the movement of resuspended bottom sediment from the immediate project area.

10. Do not deposit or allow construction/demolition materials or debris to fall or otherwise enter the waterway. Any incidental fallen material or debris in the waterway must be removed within 24 hours using best management practices, particularly lifting material out of the waterway and not dragging it across the streambed whenever possible.

11. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the waterbody 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.

In correspondence dated December 15, 2024, the Natural Resources Conservation Service stated:

The proposed Project D, Lafayette Road (71st to 79th) Water Main Exchange. Located between the intersection of Lafayette Road and West 71st Street and the intersection of Lafayette Rd and Moore Road, in Marion County, Indiana, as referred to in your letter received September 17, 2024, will not cause a conversion of prime farmland.

VIII. MITIGATION MEASURES

Citizens Energy Group's PER states:

Construction activities are expected to take place during standard working hours. Any night work will be considered on a case-by-case basis. If night work occurs, mitigation measures will be put in place to limit light and noise impacts.

Adequate erosion control measures will be practiced on-site during all construction activities. Mitigation measures to be used at the site may include, but are not limited to, the following:

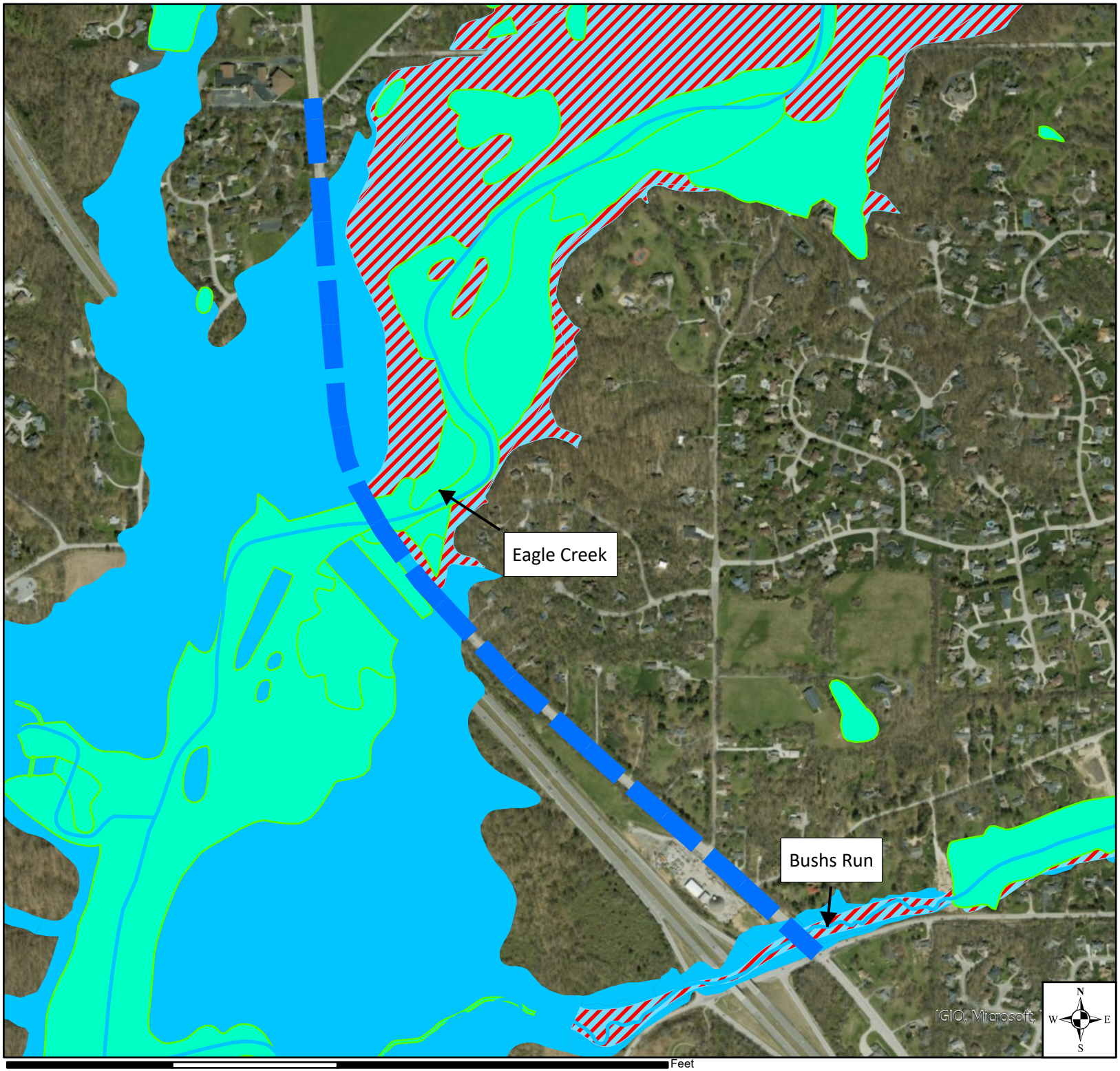
- *Implementing appropriate erosion control measures, such as inlet protection, rock check dams, rip-rap, seeding, mulching, and erosion control mats;*
- *Restoring and stabilizing drainage systems and patterns as soon as possible;*
- *Avoid tracking construction debris and soil onto roadways;*
- *Wetting areas of exposed soil as needed to control dust;*
- *Keeping materials and equipment needed for spill cleanup readily available;*
- *Locating on-site equipment fueling, repair, and maintenance areas away from drainage courses and stormwater structures;*
- *Recycling wastes such as grease, used oil, used oil filters, antifreeze, cleaning solutions, automotive batteries, and hydraulic/transmission fluids, and providing secondary containment/covers for these materials if stored on-site;*
- *Properly disposing of used oils, fluids, and lubricants off-site;*
- *Using only watertight dumpsters for on-site debris collection and providing regular removal of accumulated waste;*
- *Collecting trash from the site often since erosion control devices tent to collect debris;*
- *Inspecting the erosion control devices at least once per week and after each storm event to ensure proper operation;*
- *Covering and storing paints and solvents in their appropriate containers on a previously disturbed or paved level site.*

IX. PUBLIC PARTICIPATION

A properly noticed public hearing was held on September 25, 2024, at 8 am in the Citizens Energy Group Board Room located at 2150 Martin Luther King, Jr. Street, Indianapolis, IN 46202. Four members of the public expressed concerns during the hearing. Those comments were heard and recorded. Five written comments were received following the meeting. All comments were responded to in a timely manner.

A properly noticed public comment period was held from December 17, 2024, through January 6, 2025. No comments were received during this period.

Citizens Energy Group's website is frequently updated with information related to the Citizens-Lebanon Water Supply Program and can be found at https://info.citizensenergygroup.com/clws.



citizens energy group™

June 2026

- Proposed Water Main
- Streams
- Wetlands NWI (USFWS)
- Floodplain
- Floodway

Figure 1

Environmental Map
Citizens-Lebanon Water Supply Program
Project D - Lafayette Rd (71st to 79th)

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)*