



State Revolving Fund Loan Programs

Drinking Water, Clean Water, Nonpoint Source

ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

LEBANON UTILITIES WHOLESALE WATER SUPPLY PHASE 2 SRF PROJECT DW 24 79 06 04

DATE: July 30, 2026

PUBLIC COMMENTS DUE BY: August 29, 2026

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
publiccomments@ifa.in.gov**

ENVIRONMENTAL ASSESSMENT

I. PROJECT IDENTIFICATION

Project Name and Address: Wholesale Water Supply Phase 2
Lebanon Utilities
401 South Meridan Street
Lebanon, IN 46052

SRF Project Number: **DW 24 79 06 04**

Authorized Representative: Sandra Morgan, Chief Financial Officer

II. PROJECT LOCATION

The proposed project is located in Boone County, Center and Washington Townships, Boone and Hazelrigg 24k USGS Quadrangles and the following:
Connection Point 2 - T18N, R1E, Section 11 – Figures A, B-1 and B-2
Water Transmission Lines East – T18N, R1E, Section 10; T18N, R1W, Sections 4 – 9, 12, 13, and 18 – Figures A, C-1, C-2, and E-2
Water Transmission Lines West - T19N, R1W, Sections 14, 15, 22, 23, 27, and 34 – Figures A, D-1, D-2, and E-1

III. PROJECT PURPOSE AND NEED

Lebanon Utilities (LU) currently has a strong supply of water for existing users and projects that have been previously allocated. However, future demand due to regional growth requires a new water supply, along with improvements to LU infrastructure. Along with improvements to LU infrastructure, Citizens Energy Group will supply up to 25 MGD to LU in a phased approach, with up to 2 MGD by 2027, and up to 10 MGD by 2028.

IV. PROJECT DESCRIPTION

Phase 2 of the Wholesale Water Supply project proposes a connection point and water transmission lines. Connection point 2 will be between Citizens Energy Group's water system and Lebanon Utilities water system and will consist of a shared meter vault, two 1-million-gallon ground storage tanks, a booster station, and approximately 50,500 LF of 30-inch diameter water transmission main.

V. ESTIMATED PROJECT COSTS, AFFORDABILITY, AND FUNDING

The total cost of this project is estimated to be approximately \$71,682,000. Lebanon Utilities 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. 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 or economical. The No Action alternative is not a viable option as the City's future water needs exceed the current water supply.

Alternative 1 – Wholesale Water Supply: This alternative will construct infrastructure to connect the existing Lebanon Utilities System and to distribute the wholesale water from the connection points with Citizens Energy Group to its customers. This alternative will consist of a shared meter vault, two 1-million-gallon ground storage tanks, a booster station, and approximately 50,500 LF of 30-inch diameter water transmission main. **This is the recommended alternative.**

Alternative 2 – Additional Groundwater Supply within Lebanon: This alternative is based on a data review and analysis of potential expansion of the Lebanon Utilities groundwater supply. The conclusions were that the potential for expanding the local groundwater supply in Lebanon is limited by multiple factors and further investigations would be needed to determine the maximum amount of additional safe yield. A preliminary estimate of an additional 1 MGD to 2 MGD was found as the most likely safe yield. This alternative was not selected as it will not satisfy the City's future water needs.

Alternative 3 – Additional Water Supply from Clinton County: This alternative evaluated the viability of constructing a new wellfield and water treatment plant within Clinton County and transmission lines to deliver water to Lebanon. The Tipton Complex Aquifer System is located in Clinton County and could potentially provide up to 3 to 5 MGD of supply however would likely take between 4-8 years to get the supply. This alternative was not chosen due as it will not satisfy the City's future water needs or schedule.

Alternative 4 – Additional Water Supply from Tippecanoe County: This alternative evaluated a study done on the Wabash Alluvial Aquifer, which indicated the Wabash River's average flow rate is 2 billion gallons a day. To supply water to Lebanon, a new wellfield, water treatment plant, water transmission mains, and storage tanks would need to be constructed. This would likely take between 5-10 years. This alternative was not chosen due as it will not satisfy the City's future water needs or schedule.

Alternative 5 – Sugar Creek Reservoir: The most significant source of surface water in Boone County is Sugar Creek. A study was performed that evaluated the construction of a reservoir on Sugar Creek. The development of a reservoir would not only bring additional water supply to Lebanon but also would bring added economic benefits. The reservoir would require property acquisition, road modifications, pipeline and utility relocations, and railroad modifications. The timeline to construct a new reservoir would likely be between 20-25 years. This alternative was not selected as it does not meet the City's schedule.

VII. ENVIRONMENTAL IMPACTS OF THE FEASIBLE ALTERNATIVES

A. Direct Impacts of Construction and Operation

Disturbed/Undisturbed Land: The proposed project will occur in disturbed rights-of-way, adjacent to and within roadways, alleys and existing utility trenches. Construction areas on previously undisturbed land were subject to an archaeological investigation.

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. Water mains will cross Prairie Creek several times throughout construction and those crossings will be completed by trenchless methods (Figures E-1 and E-2). Crossings of any ponds or lakes will be avoided and efforts will be made for the alignment of the water mains to avoid crossings of Deer Creek and Big Walnut Creek.

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: Wetlands are not anticipated to be negatively impacted by construction or operation of improvements. Construction of small portions of the water transmission lines may need to cross designated wetlands for Phase 2, specifically along the Big 4 Trail Right-of-Way. The ponds near US 52 will be avoidable during construction. A wetland delineation was performed and two wetlands were identified. Construction of water transmission lines near wetland areas will be performed utilizing trenchless installation methods. Drilling and receiving pits for trenchless installations will fall outside of designated wetland areas.

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. Mitigation measures cited in comment letters or permits by the Indiana Department of Natural Resources will be implemented.

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. 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 Site F will convert prime farmland. Sites E, G, and H will not cause a conversion of 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. The water transmission line Water transmission lines will be installed utilizing trenchless technology under the Big 4 Trail as part of Construction Package “E”. Water transmissions lines within Construction Package “G” will be located within the same corridor of future Big 4 Trail sections that are anticipated to be constructed by others as development occurs.

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

Lebanon Utilities' PER states: *The Lebanon Utilities and City of Lebanon, through local zoning laws, the authority of its council or planning commission, or other means, will ensure 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. The Lebanon Utilities and City of Lebanon will require new development and utility projects to be constructed within the guidelines of the US Fish and Wildlife Service, Indiana Department of Natural Resources, Indiana Department of Environmental Management, and other environmental review authorities.*

C. Comments from Environmental Review Authorities

In correspondence dated July 23, 2026, 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 July 1, 2026, for the above indicated project in Lebanon, Center and Washington Townships, Boone County, Indiana.

In regard to buildings and structures, we have identified the following property within the probable area of potential effects, and we believe that it may meet the criteria of eligibility for inclusion in the National Register of Historic Places (NRHP):

Farm, County Road 100 East near County Road 125 South, Site #011-349-25048: We note that this property is slightly mismapped on the Indiana Historic Buildings, Bridges, and Cemeteries (IHBBC) Map. We will correct this for the future, however please note that this property should be located at 1140 S 100 E.

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

Regarding archaeological resources, thank you for providing the archaeology survey report and related site forms (Connolly and Vehling, 6/29/2026; AR-06-00335). A review of the report indicates that the survey resulted in the documentation of six newly identified archaeological sites (12-Bo-865-870). Staff concur with the archaeologist's recommendations that none of the six sites are eligible for inclusion in the NRHP and no further investigations appear to be necessary at this time.

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 December 5, 2025, the United States Fish and Wildlife Service stated:

The USFWS concluded that the proposed project impacts, Project Code 2026-0022751 (East) and Project Code 2026-0022723 (West), would have a "not likely to adversely affect" determination on the Indiana bat (*Myotis sodalis*). The USFWS proposed several conservation measures which include:

For projects including tree cutting/trimming and/or pesticide application:

- *Tree cutting/trimming and/or pesticide/herbicide application will not impact potential Indiana bat roost trees (trees ≥ 5 inches in diameter [at breast height] with cracks, crevices and/or exfoliating bark).*
- *Tree cutting/trimming will not clear ≥ 5 acres of forest or fragment a connective corridor between two or more forest patches.*
- *Any cutting/trimming of potential roost trees for Indiana bat (trees ≥ 5 inches in diameter [at breast height] with cracks, crevices and/or exfoliating bark) will be limited to the inactive season for Indiana bat: October 1 through March 31 OR November 15 through March 31 if the project is within the vicinity of a hibernaculum.*

For projects installing new or replacing existing permanent lights:

- *When installing new or replacing existing permanent lights, you will use downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting); or for those transportation agencies using the BUG system developed by the Illuminating Engineering Society, the goal is to be as close to 0 for all three ratings with a priority of "uplight" of 0 and "backlight" as low as practicable. You will direct temporary lighting away from suitable Indiana bat habitat during the active season (April through September).*

In correspondence dated April 9, 2026, the Department of Natural Resources Environmental Unit stated:

Project:

Wholesale Water Supply - Phase 2: City of Lebanon water improvements, including construction of water transmission lines, storage tanks, and a booster station

County/Site Info: Boone County

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, for work proposed in the floodway 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 following have been documented within 0.5 miles of the project area:

Package E

*Upland Sandpiper (*Bartramia longicauda*), State endangered
Shorebird Migratory Concentration Area*

Package G
Badger (Taxidea taxus), State special concern
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

The Division of Fish and Wildlife does not expect negative impacts to the Upland Sandpiper or Shorebird Migratory Concentration Areas due to this project.

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 Badger or its preferred habitat are unlikely as a result of this project.

B) Directional Boring

Directional boring is the preferred method for crossing streams with utility lines. Install erosion control measures such as silt fence or other appropriate best management practices around directional drilling pits to prevent drilling mud from leaving the immediate area of the pit or entering the stream. The Division of Fish, Wildlife, and Nature Preserves 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 Clearing Within a Floodway

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 native 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.

D) Tree Clearing Outside a Floodway

The Division of Fish and Wildlife recommends avoiding removing trees to the greatest extent possible and replacing trees that must be removed. Trees are important to fish and wildlife resources in urban and rural areas. Indiana's trees also provide millions of dollars of tangible benefits to Indiana communities by their presence in the urban and rural environment. Their shade and beauty contribute to the quality of life. They provide significant increases in real estate values, create attractive settings for commercial businesses, and improve community neighborhood appeal. Trees decrease energy consumption by providing shade and acting as windbreaks. They reduce water treatment costs and impede soil erosion by slowing the runoff of stormwater. Trees also cool the air temperature, cleanse pollutants from the air, and produce oxygen while absorbing carbon dioxide. Trees are an integral component of the urban and rural environment. The following links give a good overview of the benefits of trees 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).

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. 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 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. Minimize the movement of resuspended bottom sediment from the immediate project area.*
- 10. 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.*
- 11. Seed and protect all disturbed streambanks and slopes not protected by other methods 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). If erosion control blankets are used elsewhere, they shall be of the same type. Seed and apply mulch on all other disturbed areas.

12. Replace each mature tree removed (trees that are 10" diameter-at-breast height/dbh or larger) with 2 native trees of 3-gallon stock or larger.

In correspondence dated January 6, 2026, the Natural Resources Conservation Service stated:

The proposed Lebanon Utilities (F), booster station and tanks project in Boone County, Indiana, as referred to in your letter received December 17, 2025, will cause a conversion of prime farmland.

Site F: Impact

The attached packet of information is for your use completing Parts VI and VII of the AD-1006. After completion, the federal funding agency needs to forward one copy to NRCS for our records.

The proposed Lebanon Utilities (E, G, H), 300-ft utility corridors project in Boone County, Indiana, as referred to in your letter received December 17, 2025, will not cause a conversion of prime farmland.

Sites E,G, H: No impact.

Parts VI and VII were filled out and sent to NRCS on January 19, 2026, fulfilling the above requirements.

VIII. MITIGATION MEASURES

Lebanon Utilities' PER states:

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

Existing top-soil will be reused during the restoration process, if applicable. The amount of dust may be mitigated by periodic wetting of exposed soils to reduce the suspension of particles. Normal daytime hours will be used for work activities to reduce noise impacts.

All unavoidable tree clearing will be performed between October 1-March 31 per the Range-wide Indiana Bat Protection and Enhancement Plan Guidelines.

IX. PUBLIC PARTICIPATION

A properly noticed public hearing was held on December 3, 2025, at approximately 4:15 pm at the Lebanon Municipal Building at 401 South Meridian Street, Lebanon, Indiana 46052, to discuss the PER. The public hearing was also live streamed on Lebanon Utilities' YouTube channel. No written comments were received during the 5-day comment period following the hearing.

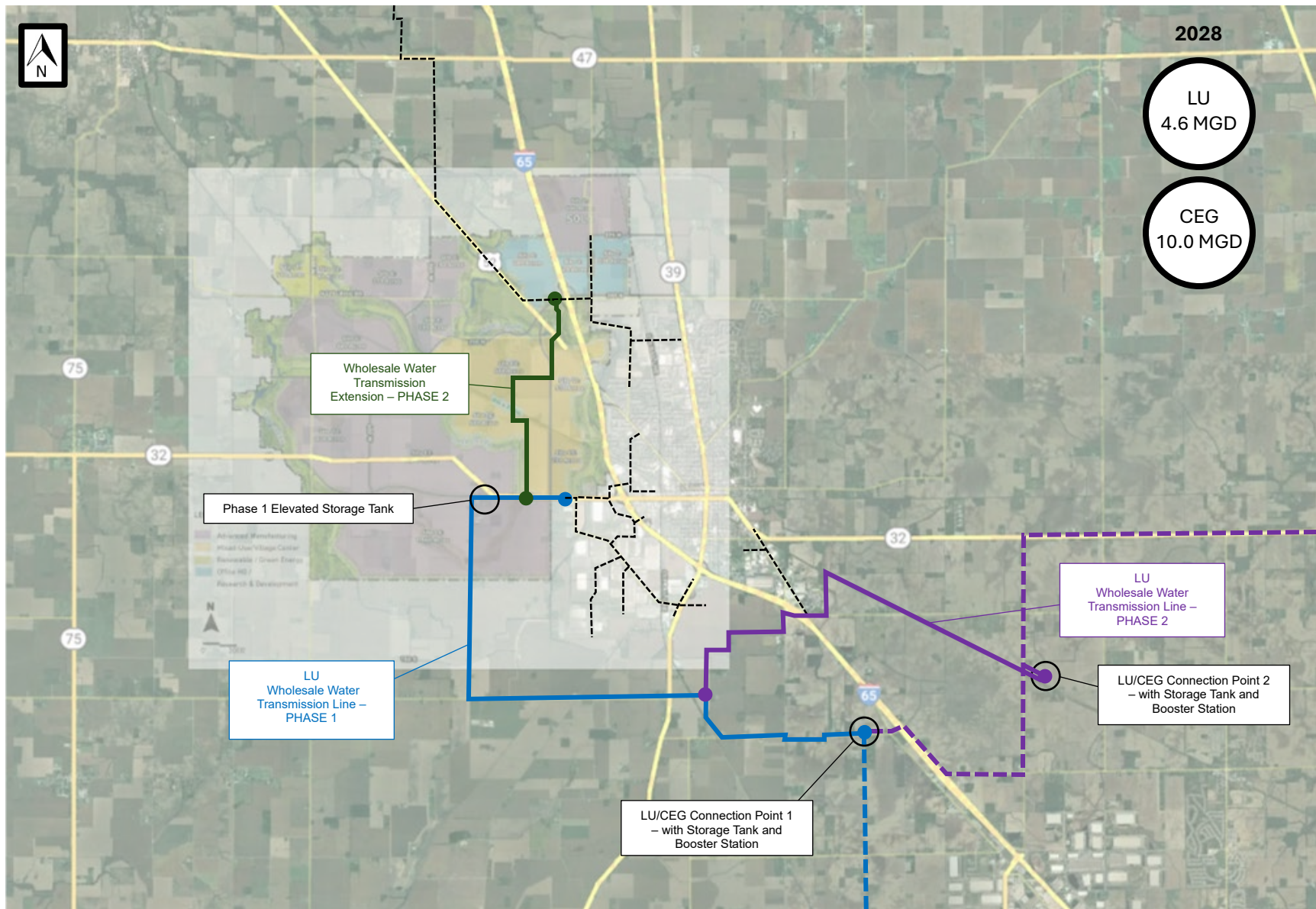
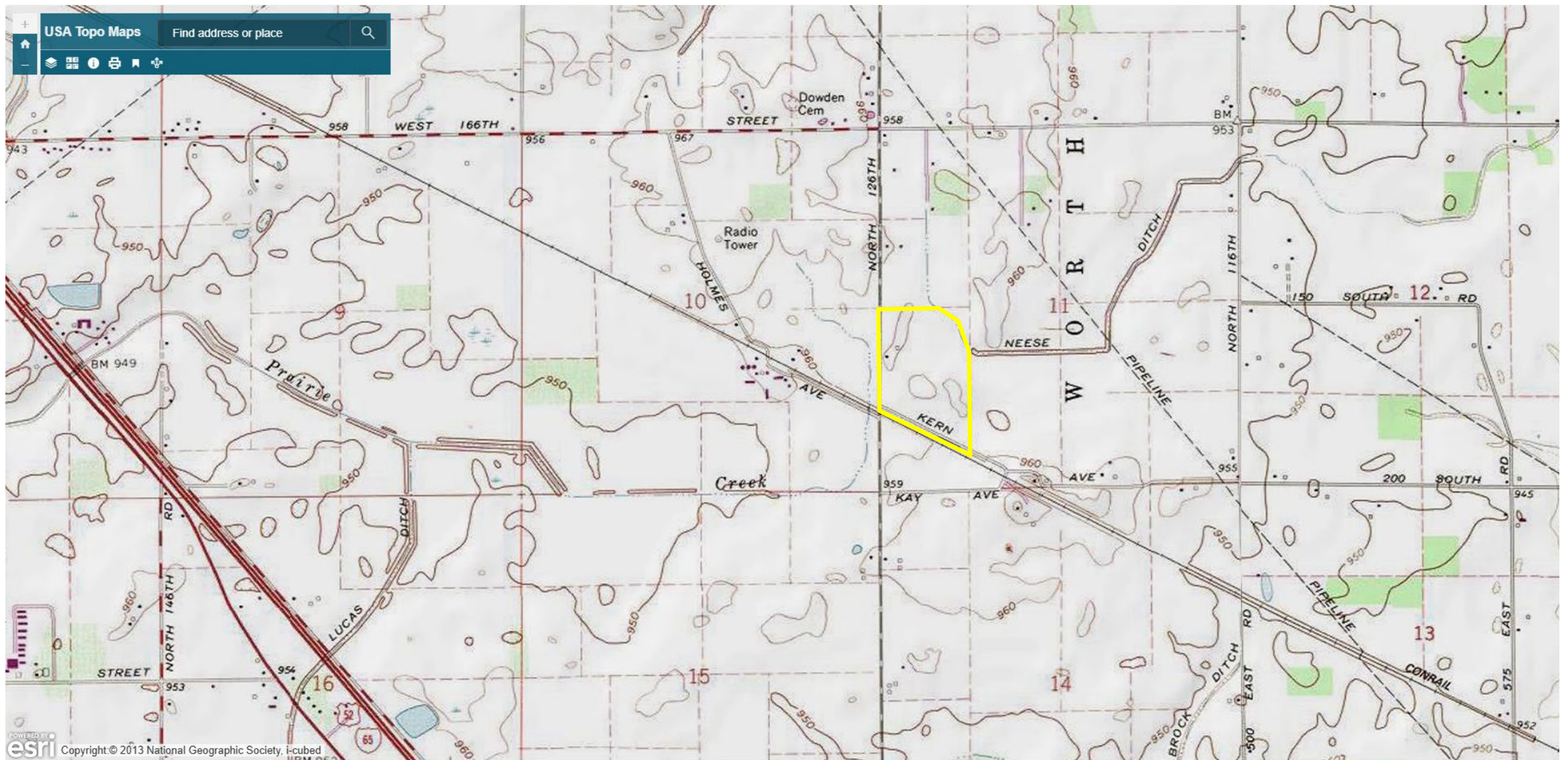


Figure A – WHOLESALE WATER SUPPLY – PHASE 2



LEBANON UTILITIES

PRELIMINARY ENGINEERING REPORT - WHOLESALE WATER SUPPLY – PHASE 2

LU/CEG CONNECTION POINT 2

USGS TOPO MAP

Updated 4/14/2026

Figure B-1



LEBANON UTILITIES

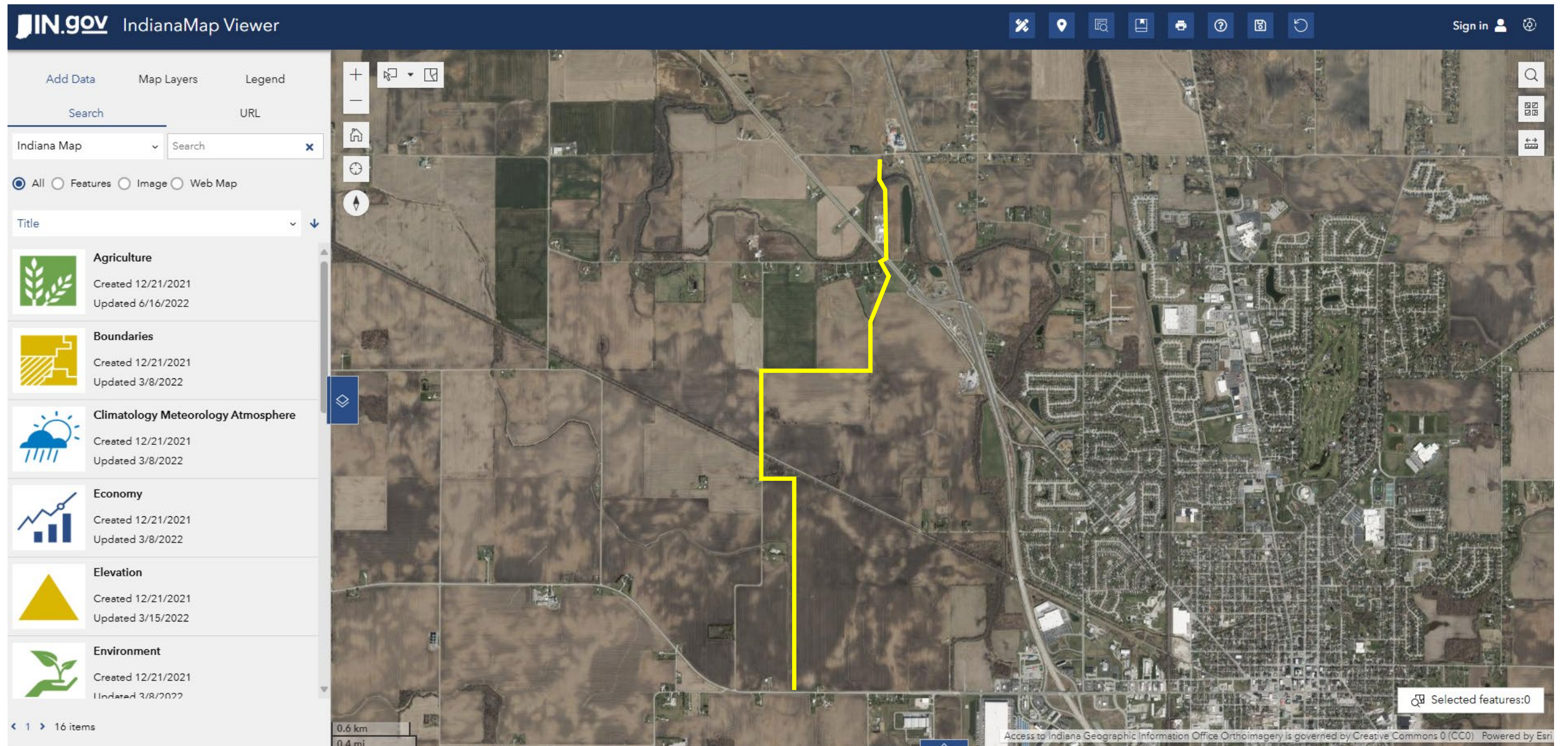
PRELIMINARY ENGINEERING REPORT - WHOLESALE WATER SUPPLY – PHASE 2

LU/CEG CONNECTION POINT 2

AERIAL PHOTOGRAPHY MAP

Updated 4/14/2026

Figure B-2

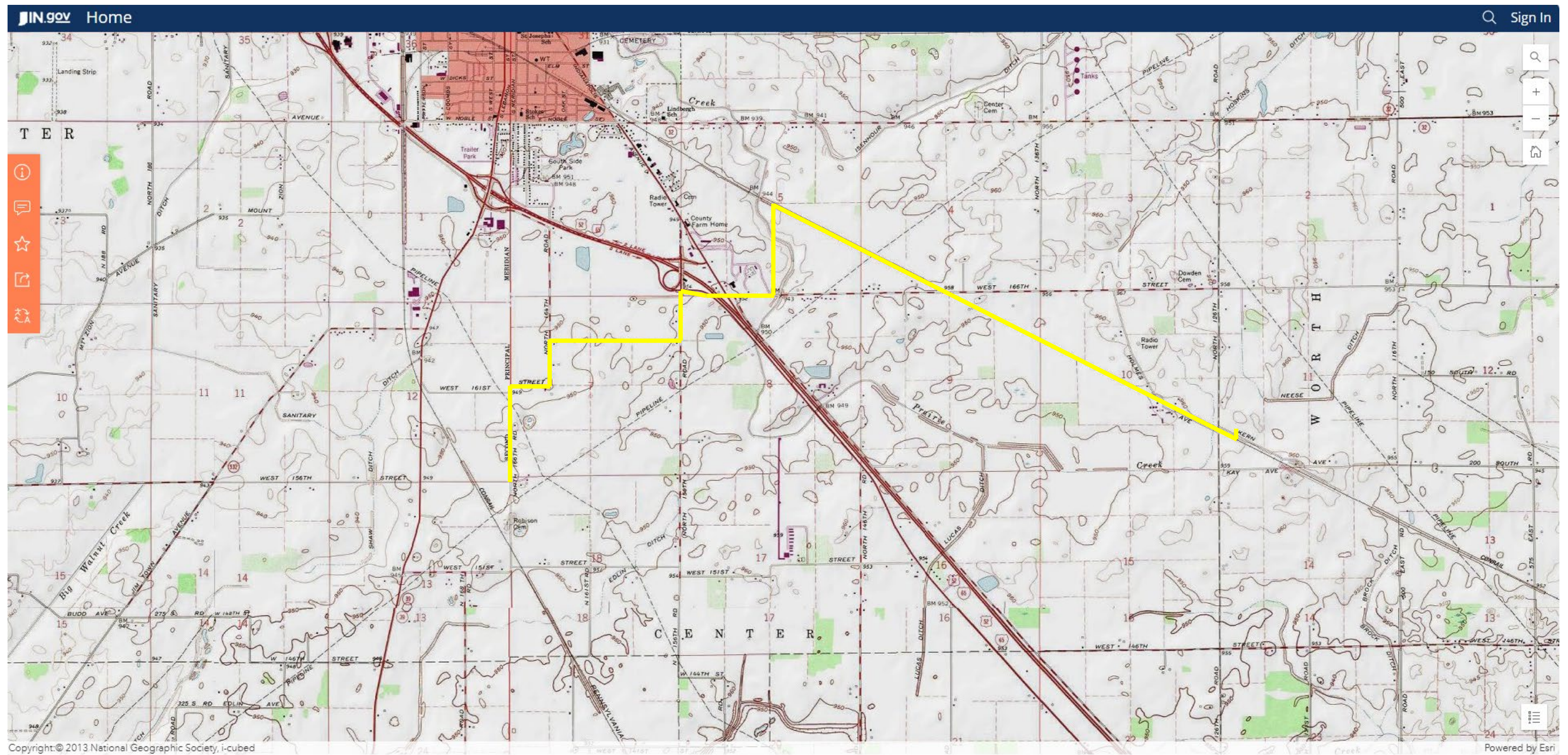


LEBANON UTILITIES

PRELIMINARY ENGINEERING REPORT - WHOLESALE WATER SUPPLY – PHASE 2

WATER TRANSMISSION LINES (WEST) AERIAL PHOTOGRAPHY MAP Updated 6/30/2026

Figure C-2



LEBANON UTILITIES

PRELIMINARY ENGINEERING REPORT – WHOLESALE WATER SUPPLY – PHASE 2

WATER TRANSMISSION LINES (EAST)

USGS TOPO MAP

Updated 10/24/2025

Figure D-1

Figure C-1



Figure E-1



Figure E-2

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 14-27-7.5; 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; readopted filed Jul 21, 2008, 12:00 p.m.: 20080813-IR-312080072RFA; readopted filed Sep 22, 2014, 12:34 p.m.: 20141022-IR-312140065RFA; readopted filed Sep 16, 2020, 8:17 a.m.: 20201014-IR-312200345RFA)

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; IC 14-28-1-22; IC 14-29-1-8

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

Sec. 0.3. (a) Except as provided in subsection (b), a project for a utility line crossing 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 6 of this rule and by IC 14-28-1-22.

(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 fish and wildlife'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 DIN: 20211020-IR-312210433NRA 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) If 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.

(Natural Resources Commission; 312 IAC 10-5-0.3; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3875; readopted filed Jul 21, 2008, 12:00 p.m.: 20080813-IR-312080072RFA; filed Oct 20, 2011, 2:56 p.m.: 20111116-IR-312110170FRA; readopted filed Sep 22, 2014, 12:34 p.m.: 20141022-IR-312140065RFA; readopted filed Sep 16, 2020, 8:17 a.m.: 20201014-IR-312200345RFA; errata filed Oct 31, 2022, 2:45 p.m.: 20221109-IR-312220334ACA)

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 14-27-7.5; 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; readopted filed Jul 21, 2008, 12:00 p.m.: 20080813-IR-312080072RFA; readopted filed Sep 22, 2014, 12:34 p.m.: 20141022-IR-312140065RFA; readopted filed Sep 16, 2020, 8:17 a.m.: 20201014-IR-312200345RFA)

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; readopted filed Jul 21, 2008, 12:00 p.m.: 20080813-IR-312080072RFA; readopted filed Sep 22, 2014, 12:34 p.m.: 20141022-IR-312140065RFA; readopted filed Sep 16, 2020, 8:17 a.m.: 20201014-IR-312200345RFA)

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 14-27-7.5; 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 (12 1/2) 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 boat that is capable of using the waterway. The utility must consult in advance with the department to determine the minimum clearance for boats 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.

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