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**State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Water**

Early Coordination/Environmental Assessment**DNR #:** ER-12288**Request Received:** June 28, 2006

Requestor: Federal Energy Regulatory Commission
Honorable Magalie R Salas, Secretary
888 First Street, NE, Room 1A
Washington, DC 20426

PF06-30-000

Project: New natural gas pipeline through central Indiana (from Missouri to Ohio)

County/Site Info: Decatur - Franklin - Hendricks - Johnson - Morgan - Parke - Putnam - Shelby - Vermillion counties

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.

Regulatory Assessment: This proposal will require the formal approval of our agency for construction in a floodway pursuant to the Flood Control Act (IC 14-28-1), unless it qualifies for utility exemption under Administrative Rule 312 IAC 10-5-4 (see enclosure). Please include a copy of this letter with the permit application (if required).

Natural Heritage Database: The Natural Heritage Program's data have been checked. The following species and concerns relate to the proposed pipeline as it goes through Franklin County.

- From mile 386.3 to 386.8 (approximately), the proposed route crosses Possum Hollow, which is a Natural Areas Registry Site. This area should be avoided. It is a priority site for future protection. The following listed state rare species have been reported in the vicinity: yellow lady's slipper (*Cypripedium calceolus parviflorum*), yellow gentian (*Gentiana alba*), arrow-wood (*Viburnum molle*), barrens strawberry (*Waldsteinia fragarioides*), and golden alexanders (*Zizia aptera*).
- At about mile 381.8, the proposed route crosses Whitewater River, which is a state designated Natural and Scenic River.

The following species and concerns relate to the proposed pipeline as it goes through Putnam County.

- From mile 266.2 to 266.8 (approximately), the proposed route crosses steep forested bluffs of Raccoon Creek, and there is a nearby stand of eastern hemlock (*Tsuga canadensis*). Minimize disturbances to forested area, and especially avoid any areas with eastern hemlock.

Fish & Wildlife Comments: This project will cross a number of streams of various sizes. Several of the streams that will be crossed are on the list of Outstanding Rivers and Streams. Care must be taken in these areas to prevent detrimental impacts to fish, wildlife, and botanical resources. This includes negative impacts to scenic areas.

First, evidence needs to be presented that avoidance and minimization efforts were/are made. Using established easements and other disturbed areas, avoiding important habitat features, and maintaining natural stream condition are merely a few of many possible alternatives. Efforts to avoid impacts to Indiana bats also must be provided. This species uses riparian habitat extensively and every effort must be made to avoid destroying possible roost and maternity trees and fragmenting foraging habitat. Mussels are another important resource that could be negatively impacted by this project. The project must avoid known mussel resources. Mussel surveys may be required in some areas.

A relatively narrow strip of vegetated land (riparian buffer) along streams and rivers provides numerous benefits, including: trapping and removing sediment from runoff,

Attachments: A - Utility Exemption Criteria

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stabilizing streambanks and reducing loss of property due to erosion, trapping and removing harmful pollutants that might enter the stream, storing flood waters and decreasing economic losses due to flooding, maintaining habitat for fish and other aquatic animals by reducing stream temperatures and contributing to woody debris and leaf litter in the stream for cover, providing habitat and migration corridors for terrestrial animals, improving the aesthetic appeal of stream corridors and increasing property value, as well as providing recreational and educational opportunities.

Wooded riparian corridors are significant habitat features used by wildlife for travel between larger habitat areas or through congested urban areas. Wooded riparian corridors also provide essential habitat for fish, wildlife, and botanical resources. Riparian habitat corridors are limited, irreplaceable resources that are often the last, good foothold for many native plant and animal communities. Road, bridge, trail, and utility line construction within riparian corridors have seven general effects on fish, wildlife, and botanical resources: mortality from construction activities, mortality from maintenance activities or collision with vehicles, modification of animal behavior, alteration and fragmentation of the physical environment, alteration of the chemical environment, spread of exotic plant species, and increased human use and disturbance of these areas. The evidence from well-designed studies suggests that well-connected riparian habitat corridors are valuable conservation areas for fish, wildlife, and botanical resources.

Currently, it is not clear where the impacts will be, although there will be impacts within the floodway of some waterways. The extent of these impacts is unknown until additional plans are provided.

Within the temporary and permanent easement of a proposed utility line crossing, all disturbed areas must be restored and planted. Trees greater than 10 inches in diameter at breast height should be replaced with container grown saplings at a ratio of 5:1 and the area of disturbance must be seeded with an herbaceous seed mix suitable for forested floodways.

During construction, every effort should be made to avoid damaging or removing existing trees within the temporary and permanent easement unless necessary for construction purposes. Using directional boring techniques when possible will minimize some of the impacts to riparian areas. Hardwood tree plantings shall be located within the permanent and temporary easement, located 10 feet from the centerline of the utility line. Herbaceous vegetation shall be planted in the 10-foot area centered on the pipeline. If the area of permanent disturbance within the floodway is greater than 1 acre or wetland habitats are permanently disturbed, mitigation ratios will increase to 2:1 or greater, depending on site conditions.

In addition, in-stream restoration may be required in some instances, particularly if an open-cut method is used instead of directional boring. Possible restoration examples include riffles, weirs, root wads, boulders, and more. If a streambank is negatively impacted, restoration will be necessary. Areas outside the permanent easement should use bioengineered techniques. Possible restoration techniques within the permanent easement include articulated concrete blocks and other materials that allow vegetation to become established.

Impacts to streams, wetlands, and forested areas needs to be calculated cumulatively for the entire project and mitigated at the appropriate ratio. Also, minimize and mitigate for the impacts to classified forest properties.

Fish, wildlife, and botanical resource losses can be expected to occur as a result of this

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project. These losses can be minimized through implementation of the following measures, in additions to the above recommendations.

Revegetate all bare and disturbed areas within the project area using a mixture of grasses, sedges, wildflowers, shrubs, and trees native to Central Indiana and specifically for stream bank/floodway stabilization purposes as soon as possible upon completion.

minimize and contain within the project limits inchannel disturbance and the clearing of trees and brush, and provide the opportunity to utilize cleared trees of firewood and timber size

Do not work in the waterway from April 1 through June 30 without the prior written approval of the Division of Fish and Wildlife.

Do not cut any trees suitable for Indiana bat roosting (greater than 14 inches in diameter, living or dead, with loose hanging bark) from April 15 through September 15.

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.

Seed and protect all disturbed streambanks and slopes that are 3:1 or steeper with erosion control blankets (follow manufacturer's recommendations for selection and installation) or use an appropriate structural armament; seed and apply mulch on all other disturbed areas.

Contact Staff:

Christie L. Stanifer, Environ. Coordinator, Environmental Unit

Our agency appreciates this opportunity to be of service. Please do not hesitate to contact the above staff member at (317) 232-4160 or 1-877-928-3755 (toll free) if we can be of further assistance.



Jon W. Eggen
Environmental Supervisor
Division of Fish and Wildlife

Date: September 29, 2006

ARTICLE 10. FLOOD PLAIN MANAGEMENT

Rule 5. General Licenses and Specific Exemptions from Floodway Licensing

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

Authority: IC 14-10-2-4; IC 14-28-2-24

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(e) 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 treatment.

(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*)