



January 11, 2024

Mr. Bill Crosby
Program Manager
NIPSCO
3001 Leonard Drive
Valparaiso, IN 46383

Re: NIPSCO R.M. Schahfer Generating Station Phase VIII CCR Certification Documentation
R.M. Schahfer Generating Station (FP 37-01)
Wheatfield, Indiana

Dear Mr. Crosby:

Weaver Consultants Group respectfully submits this information that will serve as the necessary information used to certify that the recently constructed Phase VIII landfill cell at the NIPSCO R.M. Schahfer Generating Station (RMSGs), FP 37-01, is in compliance with the CCR rules 257.60 through 257.64. This letter also describes the run on/runoff control system plan as required by 257.81(c)(3)(ii).

The following paragraphs describe the CCR Certification. To assist in the documentation and compliance with these rules, the location restriction has been written out followed by the response in the paragraphs below. 40 CFR Subpart D has been simplified to "CCR Rule" numbers for ease of review:

CCR Rule 257.60: Documentation and certification that Phase VIII was constructed such that there will not be an intermittent, recurring, or sustained hydraulic connection between any portion of the base of the CCR unit and the uppermost aquifer due to normal fluctuations in groundwater elevations.

*Response: In addition to the base liner required by the CCR rules, A hydraulic barrier geomembrane was installed beneath the entirety of the base liner which consists of 60-mil HDPE, textured on both sides. This hydraulic barrier was installed to prevent any portion of the base of the CCR unit and the uppermost aquifer from attaining an intermittent, recurring, or sustained hydraulic connection. **Attachment 1** shows a detail of the typical base liner cross section of Phase VIII. The hydraulic barrier layer was not installed on the east and north overliner on Phase II and Phase IV because the overliner is higher in elevation and provides for more than 5-feet of separation from groundwater.*

The hydraulic barrier design for Phase VIII was submitted to the Indiana Department of Environmental Management (IDEM) as a minor permit

*modification. The intent of the permit modification was to bring the Phase VIII and future Phase VIII base liner design into compliance with 40 CFR Parts 257 and 261. The permit modification was approved by IDEM on May 23, 2018. The permit approval has been included in **Attachment 2** for reference.*

CCR Rule 257.61: Documentation and certification that Phase VIII was not constructed in wetlands.

*Response: A total of approximately 1.02 acres of wetlands were disturbed in order to construct Phase VIII. As a condition of the 404 permit, NIPSCO purchased the required acres of wetland credits from the Kankakee Sands Wetland Mitigation Bank in Newton County, Indiana and the IDNR Stream and Wetland Mitigation Program. The 404 Permit approval has been included in **Attachment 3** for reference.*

CCR Rule 257.62: Documentation and certification that Phase VIII was not constructed within 200 feet of the outermost damage zone of a fault that has had displacement in Holocene time.

*Response: RMSGS Phase VIII was not constructed within 200 feet of the outermost damage zone of a fault that has had displacement in Holocene (<10,000 years) time. **Attachment 4** shows an Area of Interest surrounding the RMSGS which shows that there are no Quaternary (<1,600,000 years) faults.*

CCR Rule 257.63: Documentation and certification that Phase VIII was not constructed within a seismic impact zone.

*Response: RMSGS Phase VIII was not constructed within a seismic impact zone. **Attachment 5** shows the USGS Two-percent probability of exceedance in 50 years map of peak ground acceleration. The RMSGS facility is located within a peak acceleration, as expressed as a fraction of standard gravity (g), of between 0.04 and 0.06 which is below the seismic impact zone limit of 0.1 as defined in 40 CFR 257.53.*

CCR Rule 257.64: Documentation and certification that Phase VIII was not constructed in an unstable area.

*Response: RMSGS Phase VIII was not constructed in an unstable area. **Attachment 6** shows a map from the Indiana Geological Survey (IGS) of unstable areas with a callout to the site location. The site location is not within a known karst or unstable region.*

CCR Rule 257.71: (a) The owner or operator of an existing or new CCR landfill or any lateral expansion of a CCR landfill must design, construct, operate, and maintain: (1) A run-on control system to prevent flow onto the active portion of the CCR unit during the peak discharge from a 24-hour, 25-year storm; and (2) A run-off control system from the active portion of the CCR unit to collect and control at least the water volume resulting from a 24-hour, 25-year storm. (b) Run-off from the active portion of the CCR unit must be handled in accordance with the surface water requirements under 257.3-3.

Response: Run-On Calculation:

Phase VIII of the RMSGS Restricted Waste I Landfill was constructed with an outer perimeter stormwater channel on both the north and west sides of the cell. The outer perimeter ditch conveys stormwater flowing from outside the cell boundary into the channel east, to the main perimeter channel, which flows north into the existing stormwater basin. The inlet elevation of the stormwater basin is approximately 660. As stormwater backs up the perimeter stormwater channel, the emergency overflow of the existing stormwater basin is approximately 663. The north perimeter berm along Phase VIII is the lowest point in the cell. The elevation here is approximately 667.5. Because the stormwater basin overflow elevation is approximately 4.5 feet lower than the lowest point of the Phase VIII perimeter berm, stormwater during a 24-hour, 25-year storm will overflow from the stormwater basin and flow north to the existing drainage channel prior to entering Phase VIII.

Run-Off Calculation:

Phase VIII consists of approximately 21.0 acres (13.5-acre base liner plus 7.5-acre overliner). Before the cell is filled to design top of waste grade, the overliner slope will be open, or partially open, and will absorb any precipitation that falls onto it into the protective cover layer and drainage layer. Once the cell is filled to final grade, the high point at the top of waste is at elevation 728 and causes precipitation to follow on either side of the 728 foot contour lines (see **Figure 1 in Attachment 7**). Also, a rainflap berm is installed above the overliner on the northeast and east portion of Phase VIII to prevent stormwater run-on into the cell. A perimeter berm is constructed on the north side of the cell. To provide sufficient capacity for stormwater runoff during a storm event, a space will be reserved within the lined area during normal landfill operations. To provide the necessary capacity, the waste will be set back 55-feet from the north berm and 26-feet from the west berm to allow for runoff to be captured while it seeps into the protective cover and drainage layer. Rainfall in the area to the west of the high point is

assumed to flow towards the west and north berm (see Figure 1 in Attachment 7). During a 25-year, 24-hour storm (4.7-inches) (see Figure 2 in Attachment 7) across the Phase VIII area (16.3 acres or 710,600 square feet), the cell receives approximately 278,318 cubic feet of rainfall. Assuming a runoff curve number of 85 for bare earth, the cell collects approximately 236,571 cubic feet of runoff after considering infiltration and evapotranspiration. Due to the setbacks listed above, and conservatively neglecting the storage capacity of the drainage layer and protective cover layer, the cell can hold approximately 238,234 cubic feet of liquid in the north and west perimeter setback areas. This is calculated using the cross-sectional areas of the perimeter setback areas as shown on Figure 1 in Attachment 7. Therefore, during a 24-hour, 25-year storm, the site has approximately 1,663 cubic feet of additional runoff storage capacity above the required storage to contain the design storm event.

This report is intended to serve as certification that Phase VIII was constructed in compliance with CCR rules 257.60 through 257.64 and 257.81(c)(3)(ii). If you have any questions or require further information, please do not hesitate to contact either of the undersigned at (574) 271-3447.

Sincerely,

Weaver Consultants Group

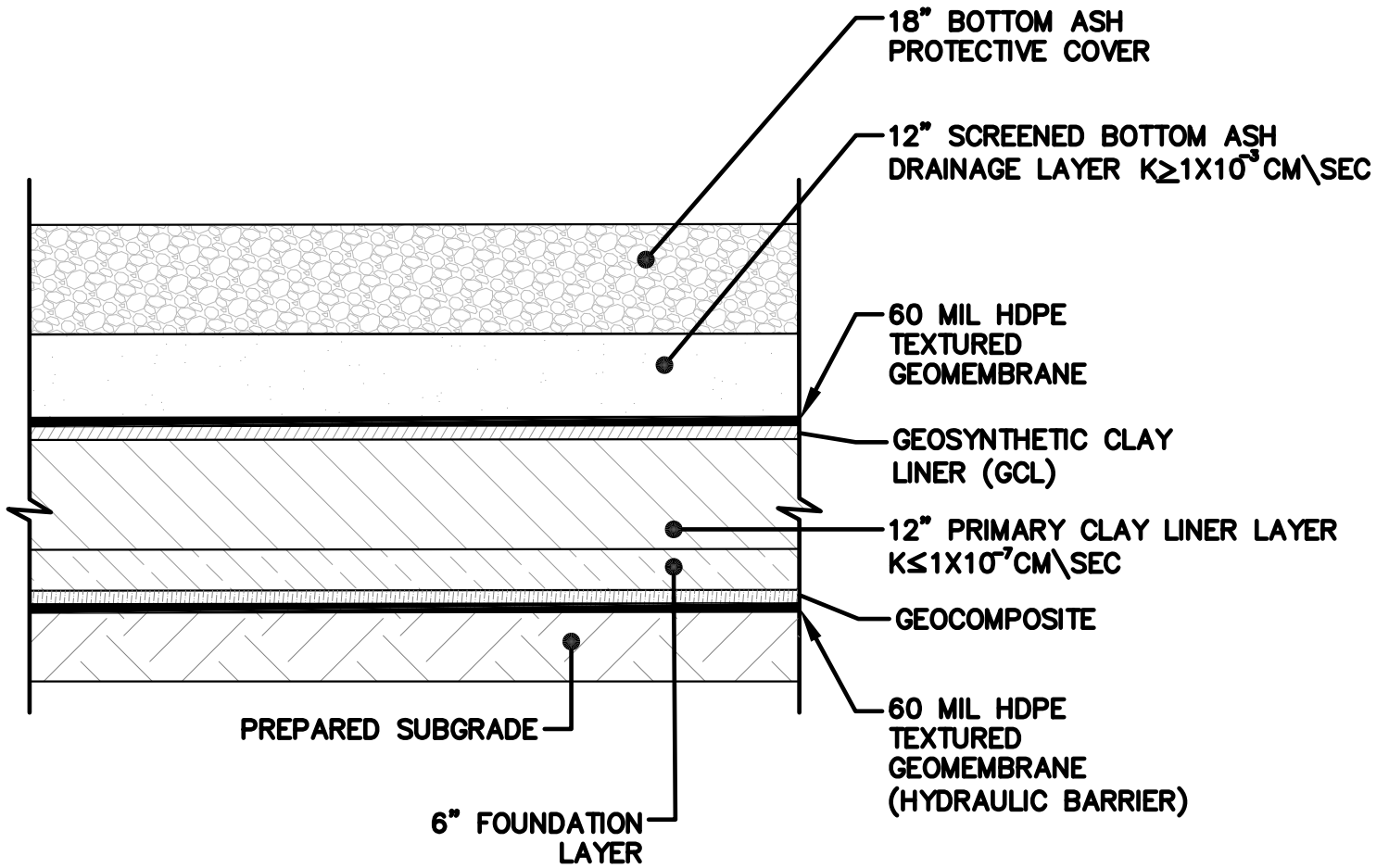


Bryan de Varona, P.E.
Senior Project Director



- Attachments:
- 1) Phase VIII Typical Base Liner Detail
 - 2) IDEM Minor Permit Modification Approval
 - 3) US Army Corps 404 Permit Approval
 - 4) USGS Quaternary Fault Report
 - 5) Two Percent Seismic Probability
 - 6) Indiana Unstable Areas Map
 - 7) Run-On and Run-Off Control System Plan
 - a) Figure 1 – Run-Off/Run-On Demonstration
 - b) Figure 2 – 24-Hour, 25-Year Storm

ATTACHMENT 1
PHASE VIII Typical Base Liner Detail



1 TYPICAL BASE LINER DETAIL
 C-0201 NOT TO SCALE

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PREPARED FOR:



NIPSCO PHASE VIII TYPICAL BASE LINER

ROLLIN M. SCHAFER GENERATING STATION
 WHEATFIELD, INDIANA

REUSE OF DOCUMENTS

THIS DOCUMENT, AND THE DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF WEAVER CONSULTANTS GROUP, AND IS NOT TO BE USED IN WHOLE OR IN PART, WITHOUT THE WRITTEN AUTHORIZATION OF WEAVER CONSULTANTS GROUP.



Weaver
 Consultants
 Group

GRANGER, INDIANA
 (574) 271-3447 www.wcgrp.com

DRAWN BY: SSK
REVIEWED BY: BED
DATE: 01/05/2024
FILE: 0137-300-DWG
CAD: RMS0191.dwg
FIGURE 1

ATTACHMENT 2
IDEM Minor Permit Modification Approval



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

May 23, 2018

Bruno L. Pigott
Commissioner

Northern Indiana Public Service Company
Attn: Kelly R. Carmichael
Director of Environmental Policy and Permitting
801 East 86th Avenue
Merrillville, Indiana 46410

Dear Mr. Carmichael:

Re: Solid Waste Land Disposal Facility
Minor Modification
R.M. Schahfer Generating Station RWS I
Jasper County
SW Program ID 37-01

Northern Indiana Public Service Company's minor modification application for the R.M. Schahfer Generating Station RWS I is approved. You, the permittee, must comply with Indiana's rules for solid waste land disposal facilities (329 IAC 10) and the terms of this approval.

This minor permit modification allows Northern Indiana Public Service Company to revise the final cover design and base grades of the facility to comply with 40 CFR 257.

Public records for your facility are available in IDEM's Virtual File Cabinet (VFC) at www.IN.gov/idem. Documents related to this approval include the application dated November 13, 2017 (VFC #80559408), and supplemental information dated January 17, 2018 (VFC #80597139), January 25, 2018 (VFC #80601688), and April 6, 2018 (VFC #80641029).

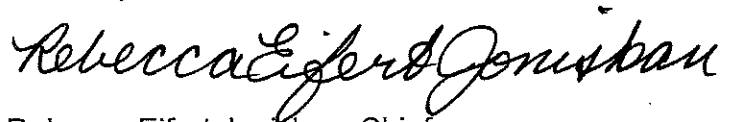
You can review the Indiana Code (IC) and the Indiana Administrative Code (IAC) references in this document at iga.IN.gov. IC references are under the "Laws" link; IAC references are under the "Publications" link.

This approval does not: convey any property rights of any sort or any exclusive privileges; authorize any injury to any person or private property or invasion of other private rights or any infringement of federal, state, or local laws or regulations; or preempt any duty to comply with other state or local requirements (329 IAC 10-13-4(a)).

If you wish to appeal this decision, you must file a request for administrative review with the Office of Environmental Adjudication within 18 days after the postmark of this letter. The enclosed Notice of Decision notifies you of additional important details regarding the appeal process and your rights and responsibilities for filing an adequate and timely appeal.

If you have any questions, please contact Alicia Brown, the permit manager assigned this facility, by dialing (317) 232-8734 or by e-mail at albrown@idem.IN.gov.

Sincerely,



Rebecca Eifert Joniskan, Chief
Permits Branch
Office of Land Quality

Enclosures: Permit Requirements
Notice of Decision
Guide to Appeals Process
Letter to Jasper County Library
Letter to the Rensselaer Republican
Letter to the Remington Press

cc with enclosures: Jasper County Health Department
Jasper County Commissioners
Northwest Indiana Solid Waste Management District
Bin Wu, Northern Indiana Public Service Company
Jeffrey Loewe, NiSource Environmental
Bryan de Varona, P.E., Weaver Consultants Group

PERMIT REQUIREMENTS

The following permit requirements are in addition to or in replacement of the permit requirements of the facility's permit renewal dated October 20, 2014 (VFC #70497401). The permittee must implement this permit modification as specified in the application dated November 13, 2017 (VFC #80559408), and the additional information dated January 17, 2018 (VFC #80597139), January 25, 2018 (VFC #80601688), and April 6, 2018 (VFC #80641029). **Note:** all page numbers are the page numbers of the PDF file referenced in the Virtual File Cabinet (VFC), not the original numbering of the document.

CONSTRUCTION REQUIREMENTS

Former Requirement B3 is replaced with the following requirement:

- B3. The permittee must construct the base grades for Phases VII and VIII of the landfill as shown on Drawing C-0196 titled, "Phase VII & VIII Landfill Proposed Base Grade Plan," revised January 17, 2018 (VFC #80641029, Attachment 1, p. 13 of 123).

Former Requirement B4 is replaced with the following requirement:

- B4. The permittee must test and install all liner and final cover components as specified in the Construction Quality Assurance (CQA) Plan dated August 19, 2014 (VFC #70371315, p. 8-57 of 64), and the addendum dated May 1, 2018 (VFC #82535859).

Former Requirement B6 is replaced with the following requirement:

- B6. The permittee must construct a composite liner system for Phases VII and VIII of the landfill as described below and shown on Drawing C-0201 titled, "Phase VII & VIII Landfill Details-1," revised January 9, 2018 (VFC #80641029, Attachment 1, p. 18 of 123), starting from the subgrade and extending upwards. The permittee must grade the subgrade to have a smooth and uniform surface. The permittee must remove any large rocks or vegetative materials from the subgrade materials.
- a. A 60-mil thick high density polyethylene (HDPE) hydraulic barrier geomembrane
 - b. A geocomposite pressure relief drainage layer
 - c. A 6-inch thick foundation layer

- d. A 2-foot thick compacted clay liner with a hydraulic conductivity no greater than 1×10^{-7} cm/sec or a 1-foot thick compacted clay soil layer overlain by a Geosynthetic Clay Liner (GCL)
- e. A 60-mil thick HDPE geomembrane liner
- f. A 1-foot thick granular drainage layer with hydraulic conductivity of 1×10^{-3} cm/sec or greater
- g. A minimum of 18 inches of protective cover

The following requirements are added as Requirements B8 and B9:

- B8. The permittee must construct the leachate collection system for Phases VII and VIII as shown on Drawing C-0197 titled, "Phase VII & VIII Landfill Proposed Leachate Collection Plan," revised January 9, 2018 (VFC #80641029, Attachment 1, p. 14 of 123), and as detailed on Drawings C-0201 titled, "Phase VII & VIII Landfill Details-1," revised January 9, 2018, C-0202 titled, "Phase VII & VIII Landfill Details-2," revised April 3, 2018, C-0206 titled, "Phase VII & VIII Landfill Details-6," revised January 9, 2018, and C-0207 titled, "Phase VII & VIII Landfill Details-7," revised January 9, 2018 (VFC #80641029, Attachment 1, p. 18 - 19 of 123, and p. 23 - 24 of 123 respectively).
- B9. The permittee must construct the landfill storm water channels as shown on Drawing C-0200 titled, "Phase VII & VIII Landfill Stormwater Management Plan," revised April 3, 2018 (VFC #80641029, Attachment 1, p. 17 of 123).

CLOSURE REQUIREMENTS

Former Requirement F1 is replaced with the following requirement:

- F1. The permittee must comply with the applicable requirements of 329 IAC 10-30 (Closure Requirements) and follow the facility closure plan.

Former Requirement F3 is replaced with the following requirement:

- F3. The permittee must construct the final cover as follows:
 - a. Within 180 days after:
 - (i) Any area of the final cover is filled to its approved elevation, less the thickness of the cover system, or
 - (ii) Receiving its final waste volume.
 - b. As specified in the approved final grading plan:

- (i) For Phases I through V: As shown on Drawing Exhibit 1 titled, "Legend, Abbreviations, and Site Plan," Drawing Exhibit 2 titled, "Landfill Site Plan," and Drawing Exhibit 3 titled, "Landfill Sections," all dated September 23, 2013 (VFC #69871408, p. 1-3 of 3).
 - (ii) For Phases VI through VIII: As shown on Drawing C-0199 titled, "Phase VII & VIII Landfill Proposed Final Cover Plan," revised April 3, 2018 (VFC #80641029, Attachment 1, p. 16 of 123).
- c. The final cover details for the Overliner Final Cover Tie In Detail and the Final Cover Transition Detail as shown on Drawing C-0203 titled, "Phase VII & VIII Landfill Details-3," revised April 3, 2018 (VFC #80641029, Attachment 1, p. 20 of 123).
 - d. Grade and stabilize final cover as specified in 329 IAC 10-28-14.

This facility closure contains 170 acres of composite cover system and 28 acres of clay cover system.

Former Requirement F4 is replaced with the following requirement:

- F4. The permittee must construct the final cover for Phases VI through VIII as shown on Drawing C-0204 titled, "Phase VII & VIII Landfill Details-4," revised April 3, 2018 (VFC #80641029, Attachment 1, p. 21 of 123) with the following components extending upwards from the waste:
- a. 12 inches of compacted clay layer with a hydraulic conductivity no greater than 1×10^{-7} cm/sec or a GCL.
 - b. A 40-mil textured linear low density polyethylene (LLDPE) geomembrane liner.
 - c. 12 inches of sand drainage layer with a hydraulic conductivity no less than 1×10^{-2} cm/sec.
 - d. 18 inches of soil protective layer
 - e. 6 inches of topsoil

POST-CLOSURE REQUIREMENTS

Former Requirement G1 is replaced with the following requirement:

- G1. The permittee must perform post-closure monitoring and maintenance as specified in 329 IAC 10-31. The permittee must submit, within 60 days after receipt of this minor permit modification, a revised post-closure plan to reflect the final cover maintenance costs for the revised final cover specified in Requirement F1 above.

COMPLIANCE SCHEDULE REQUIREMENTS

The following requirement is added to the permit:

- I1. Within 60 days after receipt of this minor permit modification, the permittee must submit a revised closure plan and closure cost estimate compliant with the applicable requirements of 329 IAC 10-30 (Closure Requirements) to reflect the addition of 12 inches of compacted clay, sand drainage layer, and soil protective cover in the final cover system.

NOTICE OF DECISION

Indiana Department of Environmental Management (IDEM)

IDEM issued a permit decision for the Schahfer Generating Station RWS I. This decision allows the facility to revise the final cover design and base grades to comply with 40 CFR 257. The landfill is located 2 miles northeast of the town of Wheatfield, Jasper County, Indiana. A copy of this permit is available for review at the Jasper County Library located at 208 West Susan Street, Rensselaer, Indiana.

It can also be viewed online at IDEM's Virtual File Cabinet (VFC) website using the following steps:

1. Go to <http://vfc.idem.IN.gov/>, which is the VFC's "Document Search" page.
2. Once there, click on the **Alternate Field** dropdown menu.
3. Select **SW Program ID**.
4. Enter the Solid Waste Program ID, **37-01**, in the box to the right of the **Alternate Field** menu.
5. Click the **Search** button, which produces one or more links to the documents for this facility.
6. Click on the **x out of y Pages** dropdown menu to view additional pages with document links.
7. To find and review the permit decision, click the highlighted numbers in the **Doc #** column for the most recent dates listed. If the permit decision is not yet available when you first search, try again later, it will soon be posted.

Challenging this Decision

If you disagree with this decision and wish to challenge it, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a petition for administrative review. If you want the permit put on hold during this administrative review ("stayed"), you must also file a petition for stay. These petitions must be submitted to the Office of Environmental Adjudication (OEA) at the following address within the timeframes below:

**Office of Environmental Adjudication
Indiana Government Center North, Room N103
100 North Senate Avenue
Indianapolis, Indiana 46204**

You will need to include the following in your petitions:

1. Information identifying the decision you are appealing, including the following:
 - name of the facility
 - name of the applicant/permittee
 - permit number
 - date of this notice
2. Information showing you are either:
 - the applicant
 - someone "aggrieved or adversely affected" by the decision, i.e., the decision has a negative impact on you, or

- someone otherwise entitled by the law
- 3. Your name and address, or that of the person making the request that you represent
- 4. Your interest in the decision, or the interest of the person you represent
- 5. Identification of any persons represented by the person making the request
- 6. The reasons for the request, with particular detail
- 7. The issues involved, with particular detail
- 8. Identification of appropriate new permit terms and conditions that you would like to see used to replace existing ones in the permit that you feel do not comply with the laws governing this kind of permit
- 9. A copy of the pertinent portions of the permit, decision, or other order for which you seek review. At a minimum, include the portion of the Commissioner's action that identifies the person to whom the action is directed and the identification number of the action.

Deadlines and Timeframes

Please remember that you must file your petition(s) within the following timeframes:

1. If you read this notice in a newspaper, you must file the petition within 15 days of the notice's publication date (either the date of the printed newspaper, or the notice date given on the newspaper's website).
2. If you received this notice by U.S. mail, you must file the petition within 18 days of the notice postmark date (15 days from the date IDEM mailed the notice, plus 3 days because the notice was sent via U.S. mail).
3. If you received this notice by e-mail, you must file the petition within 15 days of the date IDEM sent the e-mail.
4. If an IDEM representative personally gave ("served") you this notice, you must file the petition within 15 days of the date you were given the notice.

The date your petition(s) will be considered received by ("filed with") the OEA is based on the following:

1. If you or someone else personally brings the petition to OEA, the date you do this.
2. If you mail the petition through the regular US mail, the postmark date on the envelope containing the petition.

3. Or, if you send the petition to OEA through a private carrier like UPS, Federal Express, etc., the date you gave the document to the carrier, as shown by the sales receipt you receive from the carrier.

In order to assist permit staff in tracking any appeals of the decision, please provide a copy of your petition to Alicia Brown, IDEM, Solid Waste Permits, IGCN 1101, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251.

Receiving Updates on the Status of this Decision

The OEA will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders regarding this decision if you submit a written request to the OEA. If you do not provide a written request to the OEA, you will no longer be notified of any proceedings pertaining to this decision.

How to Obtain Additional Information

If you have procedural or scheduling questions regarding your petition, you may contact OEA by dialing (317) 233-0850.

If you have questions regarding other aspects of the permit decision, contact Alicia Brown, the Solid Waste Permit Manager assigned to the facility, by dialing (317) 232-8734 or by e-mail at albrown@idem.IN.gov.

Please bring this matter to the attention of persons you believe may have an interest in it.

ATTACHMENT 3
US Army Corps 404 Permit Approval



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
DETROIT DISTRICT, MICHIANA SECTION
2422 VIRIDIAN DRIVE SUITE #200
SOUTH BEND, INDIANA 46628-3561

April 27, 2023

Regulatory Branch
File No. LRE-2011-00199-137-S22

Northern Indiana Public Service Company (NIPSCO)
Attn: Natalie Skaro
801 East 86 Avenue
Merrillville, Indiana 46410

Dear Ms. Skaro,

We are writing in response to your request for a Department of the Army (DA) permit. Enclosed is a copy of an initial proffered permit for your signature.

Also enclosed with this letter is a document titled "Notification of Appeals Process," which outlines your options regarding the initial proffered permit. If you accept the permit, please sign and return the complete permit by e-mail. Your particular attention is directed to the Special Conditions. Please read these and all other permit conditions before signing. Your signature constitutes your specific agreement to all terms and conditions of the permit. If you accept the initial proffered permit, you do not need to sign or submit the appeals form. Whether you elect to sign the permit or return the appeals document, your response is required within 60 days from the date of this letter.

If you sign the permit, we require a fee of \$100.00 prior to final action on your permit request. Submit the payment electronically at <https://www.pay.gov/public/form/start/996412796>. For instructions on how to submit an online payment please see <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/5786>. The signed copy of the permit (including all pages and drawings) and confirmation of online payment should be e-mailed to our office at Scott.C.Girardi@usace.army.mil. Upon receipt, the District Engineer or his designee is authorized to issue the permit on behalf of the Secretary of the Army by countersigning the draft permits. If issued, we will return the countersigned permit to you.

We are obligated to provide recipients of permits with a jurisdictional determination (JD) when requested to do so. The Corps of Engineers has the following options with respect to JDs: (1) Approved Jurisdictional Determinations (AJD), which are considered "official" JDs and can be administratively appealed; (2) Preliminary Jurisdictional Determinations (PJD), which are non-binding JDs and advise an affected party that the Corps of Engineers believes there may be waters of the United States on the property that fall under the Corps' regulatory authority and enables the Corps and a permit applicant or other affected party to resolve certain jurisdiction and permit issues without expending time on making an official determination of the Corps' jurisdiction; and (3) No

Jurisdiction Determination (NJD), which is used in situations where issuance of a JD is deemed unnecessary by a permit applicant or other affected party because Corps' jurisdiction is undisputed (e.g., work is in a navigable water of the United States) or not subject to question. The NJD option requires less documentation than a PJD and likewise enables the Corps and a permit applicant or other affected party to resolve jurisdiction and permit issues without expending time on an official determination of the Corps' jurisdiction.

Attached to this initial proffered permit is an approved jurisdictional determination (AJD). This jurisdictional determination is valid for a period of five years from the date the AJD was issued unless new information warrants revision of the determination before the expiration date. The AJD was transmitted by letter dated August 04, 2022. Please contact us if you have questions on our appeals process.

Should you have any questions on this matter, please contact Scott C. Girardi at the above address, by E-Mail at Scott.C.Girardi@usace.army.mil, or by telephone at (574) 232-1952 ext. 21968. In all communications, please refer to File Number LRE-2011-00199-137-S22.

We are interested in your thoughts and opinions concerning your experience with the Detroit District, Corps of Engineers Regulatory Program. If you are interested in letting us know how we are doing, you can complete an electronic Customer Service Survey from our web site at: <https://regulatory.ops.usace.army.mil/customer-service-survey/>. Alternatively, you may contact us and request a paper copy of the survey that you may complete and return to us by mail or fax. Thank you for taking the time to complete the survey, we appreciate your feedback.

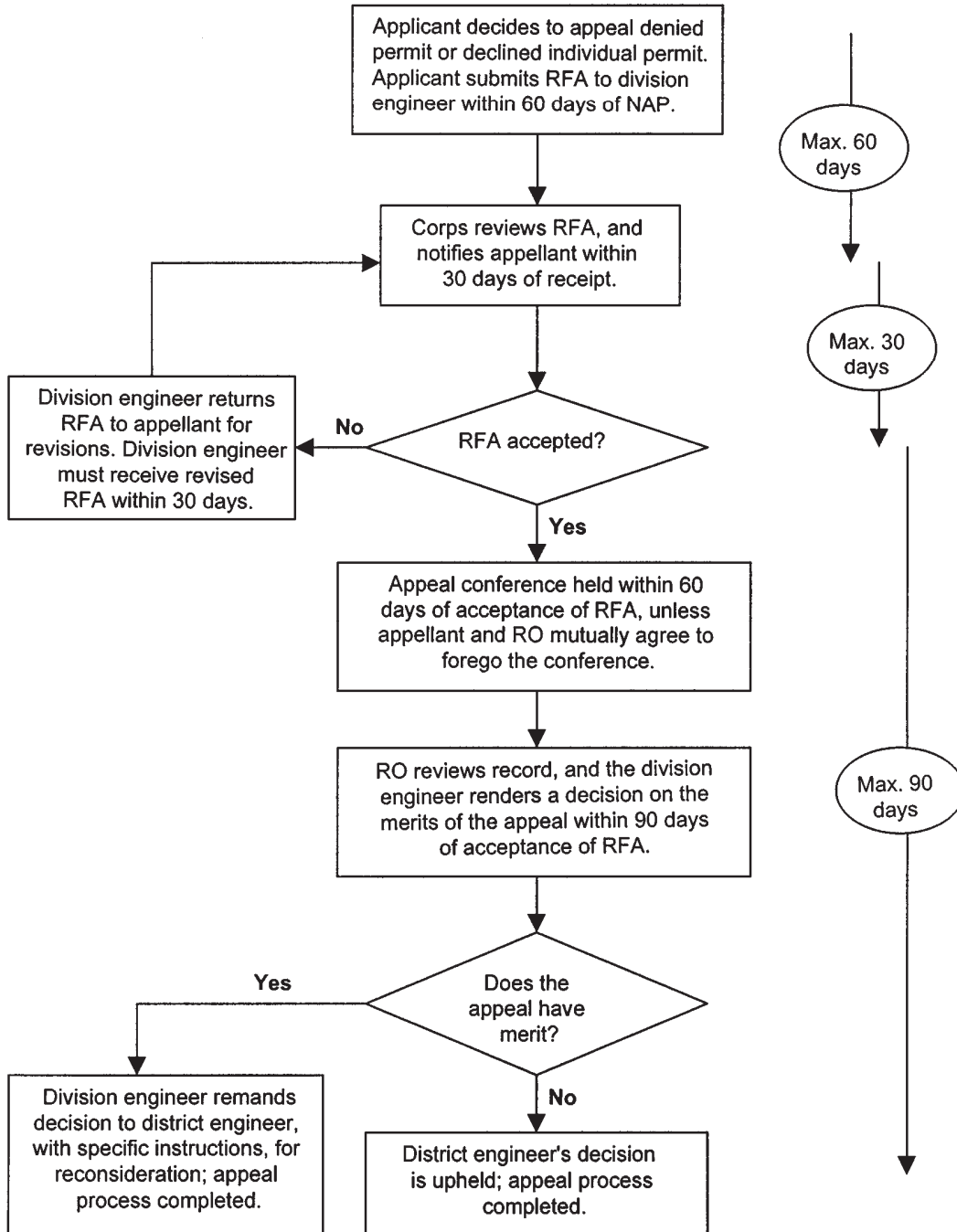
Sincerely,

A handwritten signature in black ink that reads "Aaron W. Damrill". The signature is written in a cursive, flowing style.

Aaron W. Damrill
Chief, Michiana Section
Regulatory Branch

Enclosure

Administrative Appeal Process



NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: NIPSCO, Attn: Natalie Skaro		File Number: LRE-2011-00199-137-S22	Date: April 27, 2023
Attached is:			See Section below
XX	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Scott C. Girardi
Regulatory Project Manager
U.S. Army Corps of Engineers
Detroit District, Michiana Section
2422 Viridian Drive, Suite 200
South Bend, Indiana 46628

Tel. (574) 232-1952 ext. 21968

If you only have questions regarding the appeal process you may also contact:

Katherine A. McCafferty
Regulatory Administrative Appeals Officer
U.S. Army Corps of Engineers,
Great Lakes and Ohio River Division
550 Main Street, Room 10780
Cincinnati, Ohio 45202-3222

e-mail: katherine.a.mccafferty@usace.army.mil

Tel. (513) 684-2699 Fax (513) 684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

DEPARTMENT OF THE ARMY PERMIT

Permittee: Northern Indiana Public Service Company (NIPSCO), Attn: Natalie Skaro

Permit No.: LRE-2011-00199-137-S22

Issuing Office: U.S. Army Engineer District, Detroit

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Discharge a total of approximately 1,065 cubic yards of clean earthen fill material into 0.44-acres of waters of the United States associated with the "Phase VIII Expansion" of the existing coal ash landfill at the R.M. Schahfer Generating Station.

Project Location:

The project site is located within the R.M. Schahfer Generating Station property at 2723 East 1500 North in Wheatfield, Indiana, 46392 (Latitude 41.2166 and Longitude -87.0057, Jasper County).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **April 27, 2026**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately stop work in that area and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Your signature, as permittee, indicates that, as consideration for the issuance of this permit, you voluntarily accept and agree to comply with all the terms and conditions of this permit.
2. Compliance with the conditions in the attached Section 401 Water Quality Certification (401 WQC), dated October 24, 2022, from the Indiana Department of Environmental Management (IDEM), is required for the DA permit to remain valid. Contact the IDEM with questions regarding the 401 WQC or its conditions.
3. All fill shall consist of clean, inert materials from an upland source. The fill material must be free from toxic substances, fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt, oil-based material, or metal.
4. Erosion controls, such as silt fencing, shall be placed to prevent unauthorized discharge material from entering wetlands or waterways. These must be erected prior to starting work, and their effectiveness must be maintained until all work at the site is completed and the area has been stabilized against erosion.
5. After completion of the authorized construction, all disturbed areas shall be permanently stabilized by seeding with native, non-invasive plants and/or by the planting of trees and shrubs native to the area and, if possible, and already represented on the site.
6. The permittee shall provide receipt of payment from the Indiana Department of Natural Resources (IDNR) Stream and Wetland Mitigation Program for the purchase of 0.39-acres of wetland credit in the Kankakee Service Area for impacts to 0.13-acres of scrub-shrub wetland. These credits must be purchased, and receipt provided to this office, prior to the discharge of fill into waters of the United States, as authorized by this permit. Please note that the cost per credit is subject to change. Inquiries regarding credit purchase may be made directly to IDNR by accessing their website at <https://on.in.gov/inswmp>, calling (317) 232-1291, by email at: INSWMP-Inquiry@dnr.in.gov, or in writing at: Indiana Department of Natural Resources, Division of Land Acquisition, 402 West Washington Street, W255A, Indianapolis, Indiana, 46204.
7. The permittee agrees to purchase 0.62-acres of emergent wetland credit from the Kankakee Sands Mitigation Bank in Newton County, Indiana, as compensatory mitigation for impacts to 0.31-acres of emergent wetland. These credits must be purchased, and receipt provided to this office, prior to the discharge of fill into waters of the United States, as authorized by this permit.

Further Information:

1. Congressional Authorities: You have been so authorized to undertake the activity described above pursuant to:

Section 404 of the Clean Water Act

2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural

causes.

- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modifications, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance of the information you provided.

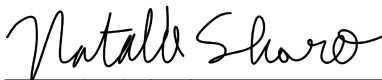
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE)

05/01/2023

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

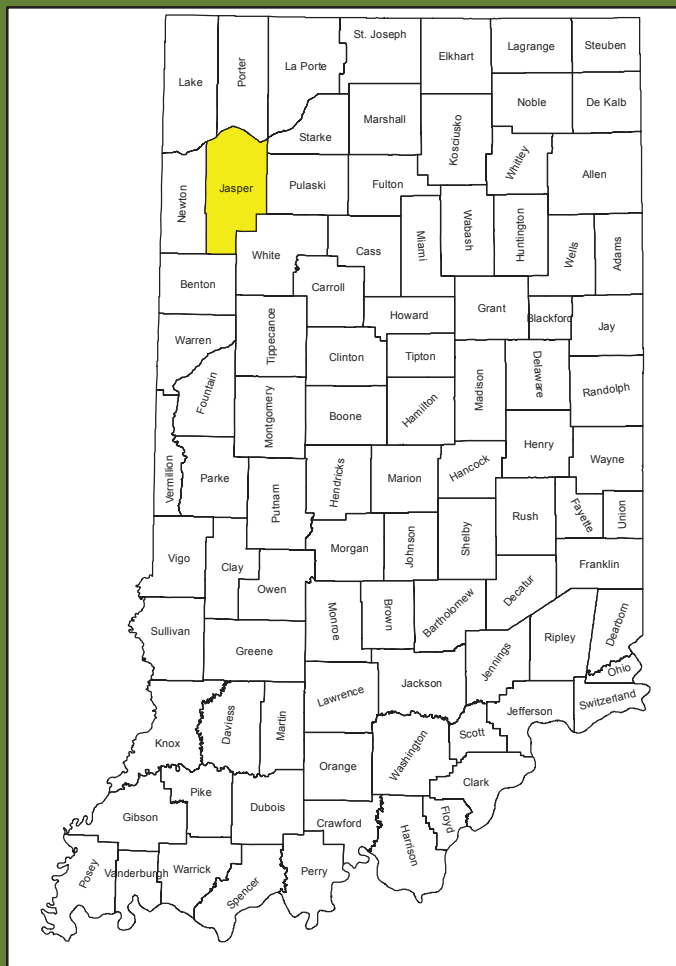
Aaron W. Damrill for:
(DISTRICT ENGINEER)
Brett M. Boyle
Lieutenant Colonel, U.S. Army

(DATE)

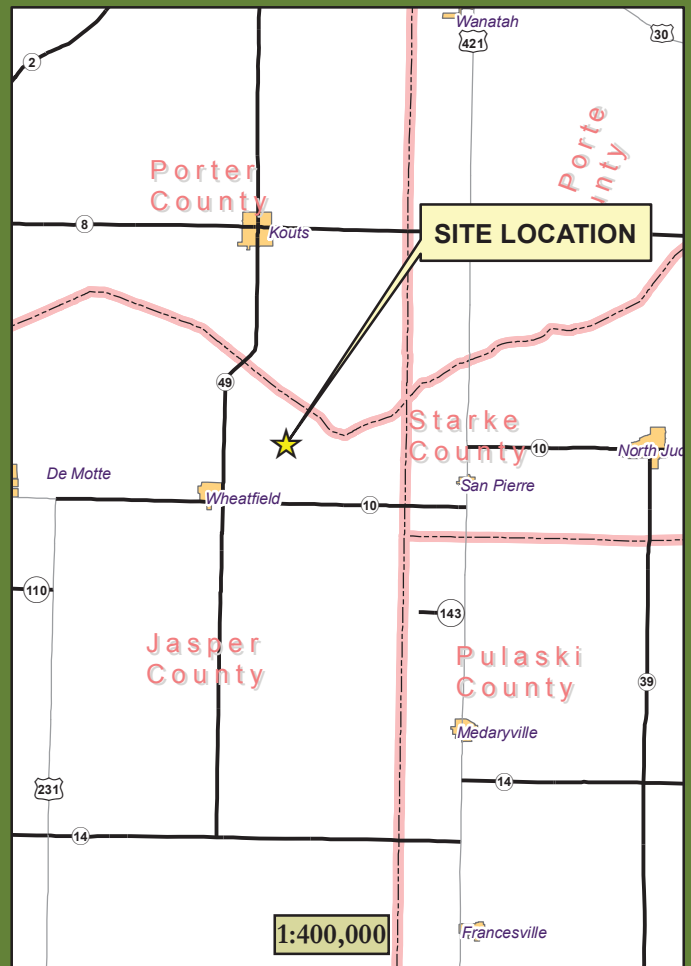
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

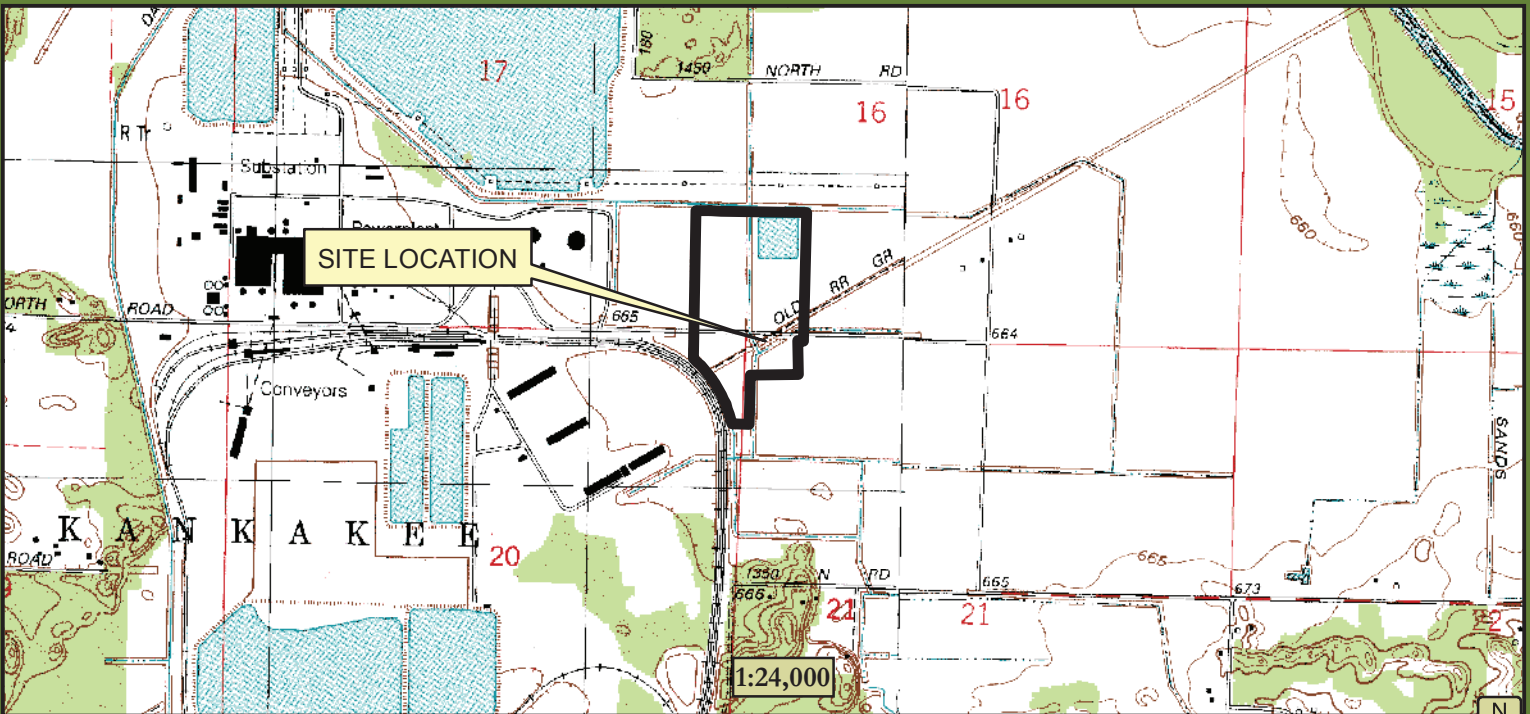
(DATE)



STATE MAP



VICINITY MAP

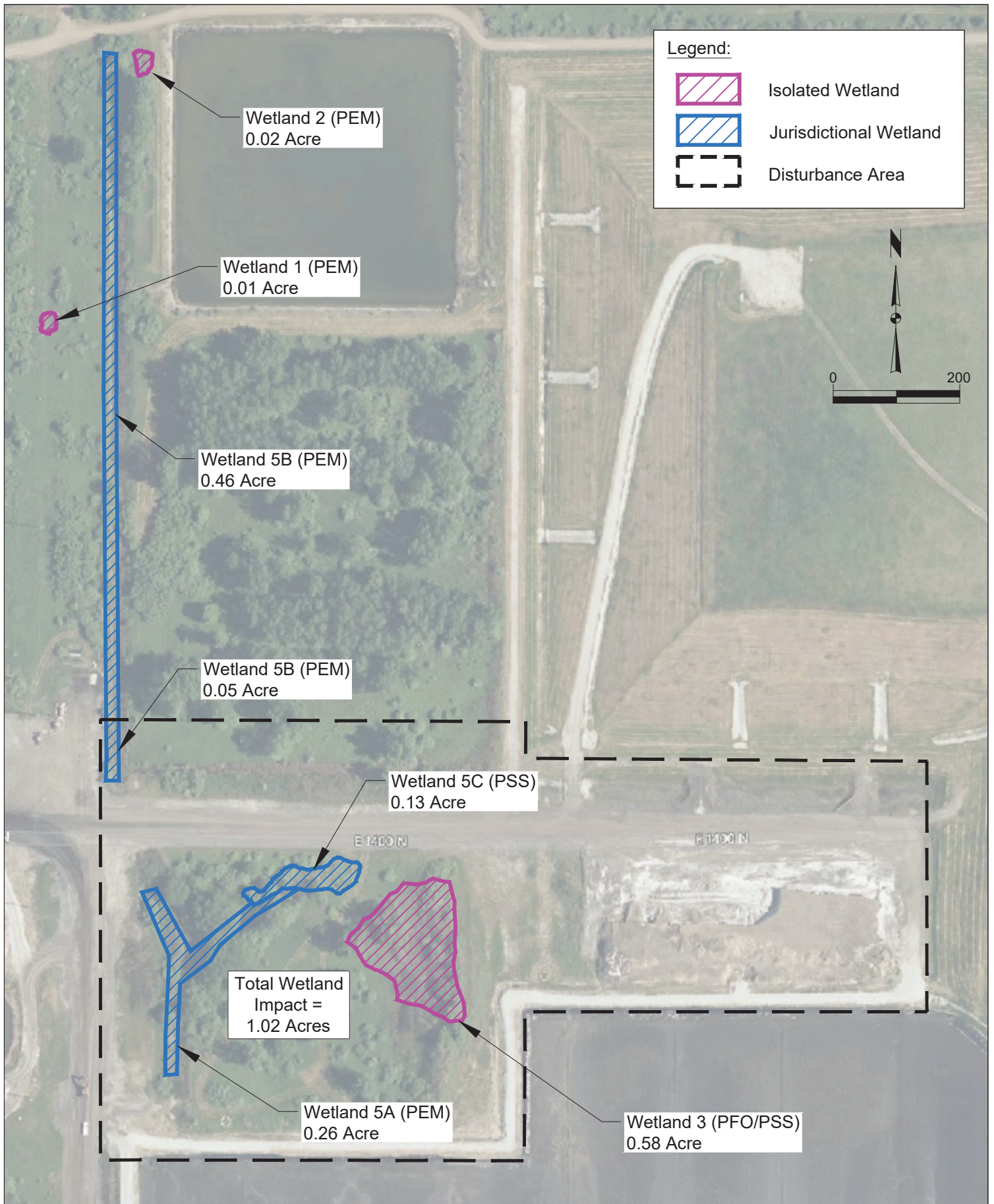


AREA MAP

CB
Christopher B. Burke Engineering, LLC
 PNC Center, Suite 1368 South
 115 West Washington Street
 Indianapolis, Indiana 46204
 (t) 317.266.8000 (f) 317.632.3306

PROJECT: NIPSCO- RMS Landfill Phase VII
 Wetland Delineation
TITLE: SITE LOCATION

PROJECT NO. 13-0056.00023	APPROX. SCALE as shown
DATE: 03/2017	
EXHIBIT 1	



CHRISTOPHER B. BURKE ENGINEERING, LLC
 PNC Center, Suite 1368 South
 115 West Washington Street
 Indianapolis, Indiana 46204
 (317) 266-8000 FAX: (317) 632-3306

TITLE:

Wetland Impact Area

PROJECT:

NIPSCO-RMS Landfill Phase VII
 Wetland Delineation

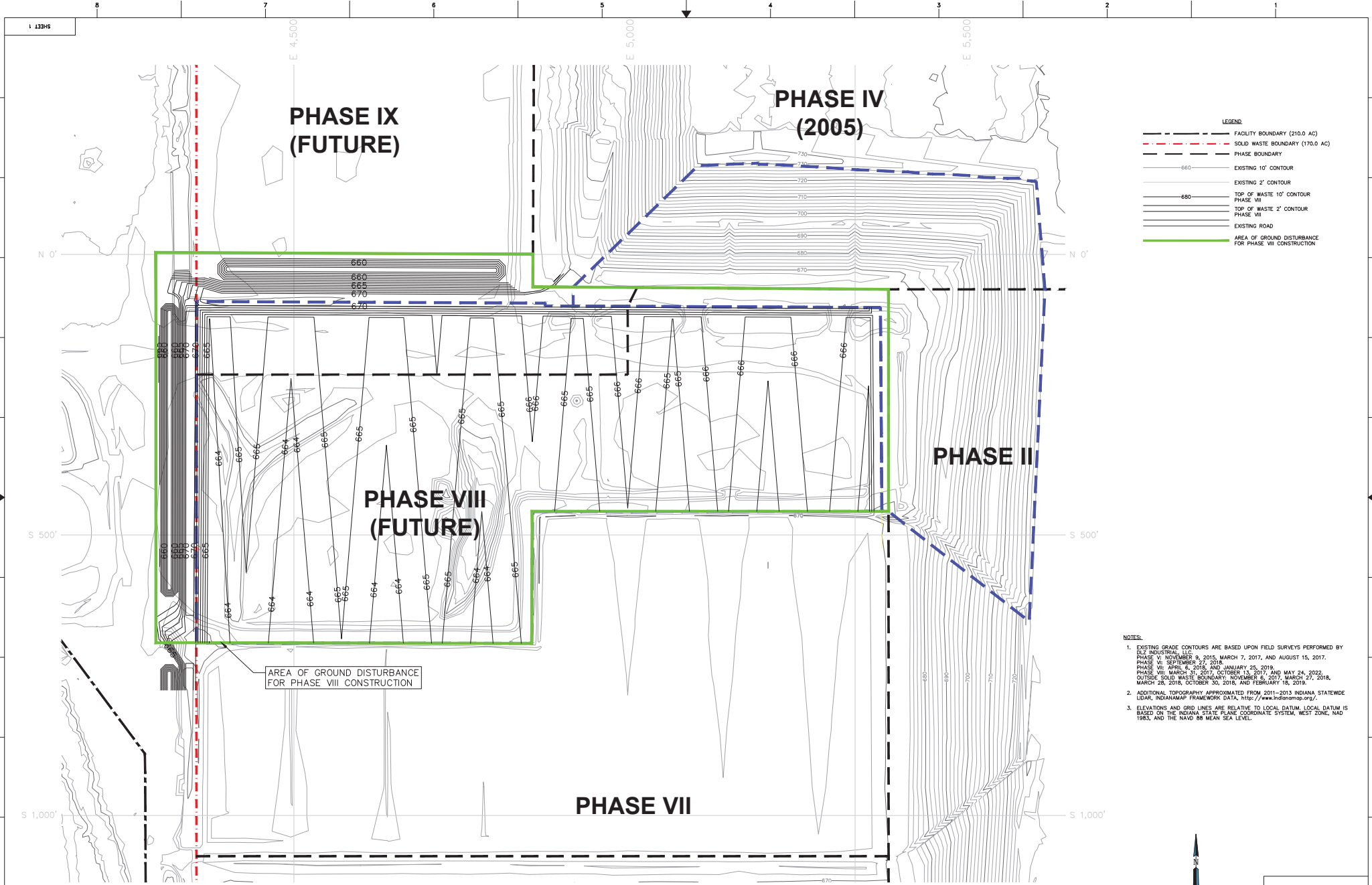
PROJECT NO.

13-0056.00023

SHEET 1 OF 1

DRAWING NO.

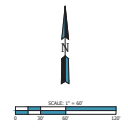
EXH1



LEGEND

- FACILITY BOUNDARY (210.0 AC)
- SOLID WASTE BOUNDARY (170.0 AC)
- PHASE BOUNDARY
- EXISTING 10' CONTOUR
- EXISTING 2' CONTOUR
- 660
- 665
- 670
- 675
- 680
- TOP OF WASTE 10' CONTOUR PHASE VII
- TOP OF WASTE 2' CONTOUR PHASE VII
- EXISTING ROAD
- AREA OF GROUND DISTURBANCE FOR PHASE VIII CONSTRUCTION

- NOTES:**
- EXISTING GRADE CONTOURS ARE BASED UPON FIELD SURVEYS PERFORMED BY ELZ INDUSTRIAL, LLC. PHASE IV: NOVEMBER 9, 2015, MARCH 2, 2017, AND AUGUST 15, 2017. PHASE V: SEPTEMBER 27, 2018. PHASE VI: APRIL 6, 2018, AND JANUARY 25, 2019. PHASE VII: MARCH 31, 2017, OCTOBER 13, 2017, AND MAY 24, 2022. OUTSIDE SOLID WASTE BOUNDARY: NOVEMBER 6, 2017, MARCH 27, 2018, MARCH 28, 2018, OCTOBER 30, 2018, AND FEBRUARY 18, 2019.
 - ADDITIONAL TOPOGRAPHY APPROXIMATED FROM 2011-2013 INDIANA STATEWIDE LIDAR, INDIANAMAP FRAMEWORK DATA, <http://www.in.gov/indstate/037/>.
 - ELEVATIONS AND GRID LINES ARE RELATIVE TO LOCAL DATUM. LOCAL DATUM IS BASED ON THE INDIANA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD 1983, AND THE NAVD 88 MEAN SEA LEVEL.



K:\Bgm\Client Information\0100-0199\0137-NIPSCO_300\DWG\VMS0362.dwg

REV.	W.O.	DESCRIPTION	DATE	APP'D	DATE	APP'D	DATE	APP'D	DATE	APP'D	DATE

DRAWN: M. GAYN **TITLE:** ROLLIN M. SCHAFER GEN. STA.

ENGINEER: B. DE VARONA **LOCATION:** WHEATFIELD, INDIANA

APPROVED: **DETAIL:** PHASE VIII CONSTRUCTION

DATE: 6/13/2022 **AREA OF DISTURBANCE**

SCALE: 1" = 75' **W.O./ACCT. NO. 85823-72**

NIPSCO DRAWING NO. **REV.**

PHASE VIII **SHEET 1**



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

Section 401 Water Quality Certification

IDEM Number: 2022-813-37-MTM-A
USACE Number: LRE-2011-00199-137-S22
Project Name: NIPSCO RSMGS Phase VIII
Authority: 327 IAC 2. CWA Sections: 301, 302, 303, 306, 307, & 401
Date of Issuance: October 24, 2022
Impacts must be completed by: October 24, 2024

Approved:

Brian Wolff, Branch Chief
Surface Water and Operations
Office of Water Quality

Applicant / Permittee:

NIPSCO
Attn: Natalie Conlon
801 E. 86th Avenue
Merrillville, IN 46410

Agent:

Christopher B. Burke Engineering, Ltd.
Attn: Sarah Wright
115 West Washington Street, Suite 1368
Indianapolis, IN 46204

Project Location:

Jasper County

Approximate Center of Project site:
Latitude 41.217205, Longitude -87.005991

Approximately 0.75 miles northwest of the intersection of
CR250E and CR1350N.

Project Description: Discharge fill material into three (3) jurisdictional wetlands (0.26 acre emergent, 0.05 acre emergent and 0.13 acre scrub-shrub) totaling 0.44 acre. It is proposed to mitigate for impacts to the jurisdictional waters by purchasing 0.62 acre of emergent wetland credit and 0.39 acre of wetland credit within the Kankakee Service Area of the Indiana Stream and Wetland Mitigation Program.

The NIPSCO RMSGS is a coal fired electrical generating station produces fly ash which must be disposed of. The purpose of this project is to expand the existing landfill at the NIPSCO RMSGS.

The project will also require the placement of fill material into 0.58 acre of isolated wetland. Impacts to the isolated wetland will be reviewed through IC 13-18-22.

Authorized Impacts

WETLAND IMPACT(S)	Area of Impact (acres)			
	Open Water	Emergent	Scrub/Shrub	Forested
Fill		0.31	0.13	

Project Mitigation

MITIGATION BANKS AND IN-LIEU FEE	Wetland (Acres)		
	Emergent	Scrub/Shrub	Forested
In-Lieu Fee Credits	0.62	0.39	

Mitigation Location: Kankakee Service Area

Application Signed: August 11, 2022

Application Received: August 15, 2022

Based on available information, it is the judgment of this office that the impacts from the proposed project as outlined by this Section 401 Water Quality Certification and described in your application will comply with the applicable provisions of 327 IAC 2 and

Sections 301, 302, 303, 306, and 307 of the Clean Water Act if you comply with the conditions set forth below. Therefore, subject to the following conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 Water Quality Certification for the project described in your application. Any changes in project design or scope not detailed in the application described above or modified by this Section 401 Water Quality Certification are not authorized.

Failure to comply with the terms and conditions of this Section 401 Water Quality Certification may result in enforcement action against you. If an enforcement action is pursued, you could be assessed up to \$25,000 per day in civil penalties. You may also be subject to criminal liability if it is determined that the Section 401 Water Quality Certification was violated willfully or negligently.

Conditions of the Section 401 Water Quality Certification

1.0 General

- (a) Per 33 CFR 325.6(c), 327 IAC 5-2-6, IC 13-15-3-2 the federal license shall have an established timeframe and the state permit must be for a fixed term, no longer than five years. Therefore, all approved discharges must be completed within the term of the valid federal permit, not to exceed five years.
- (b) Per IC 13-14-2-2, the department may inspect public or private property to inspect for and investigate possible violations of environmental management laws. Therefore, the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials must be allowed:
 - (1) to enter your property, including impact and mitigation site(s);
 - (2) to have access to and copy at reasonable times any records that must be kept under the conditions of this certification;
 - (3) to inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facility or device; practices required by this certification; and any mitigation wetland site;
 - (4) to sample or monitor any discharge of pollutants or any mitigation site.

2.0 Mitigation

Per 327 IAC 2, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters.

Mitigation of dredge and fill impacts to Indiana's water resources is required to maintain water quality.

- (a) Per 40 CFR 230.91; 33 CFR 332.3; 327 IAC 2-1; 327 IAC 2-1.5, implementation of the submitted and approved mitigation plan is to ensure the water quality functions of the impacted waters are replaced, preventing a reduction in water quality. Therefore, implement the mitigation plan as described in the application (referred to collectively hereinafter as the "mitigation plan"), and as modified by the conditions of this certification.
- (b) Mitigation via mitigation bank or ILF
Per 33 CFR 332.3 (f); 327 IAC 2-1; 327 IAC 2-1.5 the amount of mitigation required must be listed within the permit.
 - (1) Provide to IDEM proof of the purchase of 1.01 acre of in-lieu fee wetland credits in the Kankakee Service Area from the Indiana Stream and Wetland Mitigation Program (IN SWMP):
 - (A) Within one (1) year of the date of this authorization;
 - (B) Before authorized impacts to waters of the State.

Be aware that credits may not be available at all times.

Failure to purchase credits by the required date may result in additional mitigation requirements to compensate for temporal loss. .

3.0 Erosion and Sediment Control

Per 40 CFR 122.26, 327 IAC 15; 327 IAC 2-1; 327 IAC 2-1.5, the use of appropriate stormwater control measures and maintenance thereof will prevent any sediment laden water from migrating off site and entering waterways and wetlands, potentially impairing water quality. Therefore, the following erosion and sediment control steps must be completed.

- (a) Implement erosion and sediment control measures on the construction site prior to land disturbance to minimize soil from leaving the site or entering a waterbody. Erosion and sediment control measures shall be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities associated with the project. Appropriate measures include, but are not limited to, silt fence, diversions, and sediment traps.
- (b) Monitor and maintain erosion control measures and devices regularly, especially after rain events, until all soils disturbed by construction activities have been permanently stabilized.

- (c) Use run-off control measures, including but not limited to diversions and slope drains. These measures are effective for directing and managing run-off to sediment control measures and for preventing direct run-off into waterbodies.
- (d) Install and make appropriate modifications to erosion and sediment control measures based on current site conditions as construction progresses on the site. The Indiana Storm Water Quality Manual or similar guidance documents are available to assist in the selection of measures that are applicable to individual project sites.
- (f) Implement appropriate erosion and sediment control measures for all temporary run-arounds, cofferdams, temporary causeways, temporary crossings, or other such structures that are to be constructed within any waters of the state. Minimize disturbance to riparian areas when constructing these structures. Structures must be included in reviewed designs or approved by IDEM prior to use. Construct temporary run-arounds, temporary cofferdams, temporary causeways, temporary crossings, or other such structures of non-erodible materials. Temporary crossings and causeways must be completely removed upon completion of the project and the affected area restored to pre-construction contours, grades, and vegetative conditions.
- (g) Install stream pump-around operations in accordance with the plans and ensure in-stream component is constructed of non-sediment producing materials. The discharge at the outlet shall not cause erosion of the stream bottom and banks.
- (h) Direct cofferdam dewatering activities to an appropriate sediment control measure or a combination of measures prior to discharging into a water of the state to minimize the discharge of sediment-laden water.
- (i) Ensure cut and fill slopes located adjacent to wetlands and streams (including encapsulated streams) or that directly discharge to these aquatic features are stabilized using rapid/incremental seeding or other appropriate stabilization measures.
- (j) Stabilize and re-vegetate disturbed soils as final grades are achieved. Initiation of stabilization must occur immediately or, at a minimum, within the requirements of a construction site run-off permit after work is completed. Use a mixture of herbaceous species beneficial for wildlife or an emergent wetland seed mix wherever possible and appropriate. Tall fescue may only be planted in ditch bottoms and ditch side slopes and must be a low endophyte seed mix. Stabilize the channel before releasing stream flows into the channel.
- (k) As work progresses, re-vegetate areas void of protective ground cover. Areas that are to be re-vegetated shall use seeding and anchored mulch. **If**

alternative methods are required to ensure stabilization, erosion control blankets may be used that are biodegradable, 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).

Anchor mulch. Anchoring shall be appropriate for the site characteristics such as slope, slope length, and concentrated flows. **Anchoring methods may not include loose netting over straw, but can range from crimping of straw, erosion control blankets as specified above that minimize wildlife entrapment, or net free blankets.** Tackifiers with mulch and hydro-mulch are acceptable and shall be applied to the manufacturer specifications.

Other Applicable Permits

Based on the proposed land disturbance, a construction stormwater general permit is required for the project. Permit coverage must be obtained prior to the initiation of land-disturbing activities. Information related to obtaining permit coverage is available at www.in.gov/idem/stormwater or by contacting the IDEM, Stormwater Program at 317-233-1864 or via email at Stormwat@idem.IN.gov.

This certification does not relieve you of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits.

This certification does not:

- (1) Authorize impacts or activities outside the scope of this certification;
- (2) Authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
- (3) Convey any property rights of any sort, or any exclusive privileges;
- (4) Preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities; or
- (5) Authorize changes in the plan design detailed in the application.

Notice of Right to Administrative Review (Permits)

If you wish to challenge this permit, you must file a Petition for Administrative Review with the Office of Environmental Adjudication (OEA), and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-

21.5-3-7, IC 13-15-6-1 and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the Office of Environmental Adjudication (OEA) within fifteen (15) days of the issuance of this notice (eighteen (18) days if you received this notice by U.S. Mail), and a copy must be served upon IDEM. Addresses are:

Director	Commissioner
Office of Environmental Adjudication	Indiana Dept. of Environmental Management
Indiana Government Center North	Indiana Government Center North
100 North Senate Avenue, Room N103	100 North Senate Avenue, Room 1301
Indianapolis, Indiana 46204	Indianapolis, Indiana 46204

The petition must contain the following information:

- (a) The name, address and telephone number of each petitioner.
- (b) A description of each petitioner's interest in the permit.
- (c) A statement of facts demonstrating that each petitioner is:
 - (1) a person to whom the order is directed;
 - (2) aggrieved or adversely affected by the permit; or
 - (3) entitled to administrative review under any law.
- (d) The reasons for the request for administrative review.
- (e) The particular legal issues proposed for review.
- (f) The alleged environmental concerns or technical deficiencies of the permit.
- (g) The permit terms and conditions that the petitioner believes would be appropriate and would comply with the law.
- (h) The identity of any persons represented by the petitioner.
- (i) The identity of the person against whom administrative review is sought.
- (j) A copy of the permit that is the basis of the petition.
- (k) A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review of the permit. Examples are:

- (a) Failure to file a Petition by the applicable deadline;
- (b) Failure to serve a copy of the Petition upon IDEM when it is filed; or
- (c) Failure to include the information required by law.

If you seek to have a permit stayed during the administrative review, you may need to file a Petition for a Stay of Effectiveness. The specific requirements for such a Petition can be found in 315 IAC 1-3-2 and 315 IAC 1-3-2.1.

Pursuant to IC 4-21.5-3-17, OEA will provide all parties with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action. If you are entitled to notice under IC 4-21.5-3-5(b) and would like to obtain notices of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action without intervening in the proceeding you must submit a written request to OEA at the address above.

If you have procedural or scheduling questions regarding your Petition for Administrative Review, additional information on the review process is available at the website of the Office of Environmental Adjudication at <http://www.in.gov/oea>.

If you have any questions about this certification, contact Marty Maupin, Project Manager, by email at mmaupin@idem.in.gov or by phone at 317-233-247.

cc: Scott Girardi, South Bend Office, USACE
Sarah Wright, Christopher B. Burke Engineering, Ltd.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): June 03, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Detroit District, Michiana Section, NIPSCO - Schahfer Generating Station JD (2022), LRE-2011-00199-137-J22

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Indiana County/parish/borough: Jasper County City: Wheatfield
Center coordinates of site (lat/long in degree decimal format): Lat. 41.216965° **N**, Long. -87.005930° **W**.
Universal Transverse Mercator: 16

Name of nearest waterbody: Stahlbaum Ditch; Davis Ditch

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Kankakee River

Name of watershed or Hydrologic Unit Code (HUC): HUC 12: 071200010809; Davis Ditch-Kankakee River

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: May 22, 2022

Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **are no** “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: N/A.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: N/A linear feet: N/A width (ft) and/or N/A acres.

Wetlands: 0.91 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): N/A.

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **A total of five (5) potentially jurisdictional waters were assessed within the Review Area. Three (3) waters**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

were determined to be isolated waters and one (1) feature was determined to be a non-jurisdictional swale formed incidental to on-going construction activities. Wetlands 1, 2, and 3, as described in the Wetland Delineation Report (Report) prepared by Christopher B. Burke Engineering, LLC., are all located within an area primarily mapped as Prochaska loamy sand, a hydric soil of Jasper County, on the NRCS Web Soil Survey. The USFWS National Wetland Inventory (NWI) did not indicate the potential presence of wetlands in the areas of Wetlands 1, 2, and/or 3. The isolated wetlands total approximately .61-acres in size. Review of the applicable USGS Topographic maps, USGS National Hydrography Dataset (NHD), aerial imagery, and Beacon GIS for Jasper County, did not indicate the presence of a potential flow path or other potential surface or subsurface hydrologic connection from any of these isolated wetlands to a RPW or TNW. None of the wetlands identified above are separated by a berm or other man-made structure from a surface water. In addition, no evidence suggests that the wetlands support recreational use. No direct evidence was observed of known species that require the wetlands to fulfill their life cycle requirements. Given the heavily industrialized setting of the Review Area, species that require the wetlands have likely been displaced. There is no evidence to support that Wetlands 1, 2, or 3, provide for interstate or foreign commerce since they are not subject to commercial use and are not susceptible for commercial use in the future. In addition, there is no evidence that the non-jurisdictional wetlands support recreational use or support fish or shellfish that can be sold for interstate or foreign commerce. There is also no evidence to support that Wetlands 1, 2, or 3, are used, or could be used, for industrial purposes in interstate or foreign commerce. The non-jurisdictional vegetated swale is dominated by *Phragmites australis*, which is typical for heavily disturbed areas. The data point taken within the swale indicates the Munsell Soil Color is 10YR 2/1 to a depth of 16 inches below the soil surface. This is consistent with hydric soil indicator A12 (Thick Dark Surface), however, this indicator requires a depleted matrix below the dark surface. This was not present. Further, the soil did not meet F6 (Redox Dark Surface) or F7 (Depleted Dark Surface) due to the lack of redox depletions within the soil profile. The non-jurisdictional swale is a result of significant disturbance by the continued construction/development of the coal ash landfill to the south and east. Review of applicable aerial imagery from 2008, 2013, 2015, 2017, 2018, and 2021, indicate continued site disturbance by use/maintenance of the existing haul/access roads to the south and east of the swale by heavy equipment. The non-jurisdictional swale identified as "Incidental Feature" in the Report is not considered a water of the United States, since it does not meet wetland criteria and was formed incidental to on-going construction activities.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: _____ .

Summarize rationale supporting determination: _____ .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”?: _____ .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**

Drainage area: **Pick List**

Average annual rainfall: _____ inches

Average annual snowfall: _____ inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: _____ .

Identify flow route to TNW⁵: _____ .

Tributary stream order, if known: _____ .

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):

Average width: feet
Average depth: feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover:
 Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (check all indicators that apply):
 clear, natural line impressed on the bank the presence of litter and debris
 changes in the character of soil destruction of terrestrial vegetation
 shelving the presence of wrack line
 vegetation matted down, bent, or absent sediment sorting
 leaf litter disturbed or washed away scour
 sediment deposition multiple observed or predicted flow events
 water staining abrupt change in plant community
 other (list):
 Discontinuous OHWM.⁷ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by: Mean High Water Mark indicated by:
 oil or scum line along shore objects survey to available datum;
 fine shell or debris deposits (foreshore) physical markings;
 physical markings/characteristics vegetation lines/changes in vegetation types.
 tidal gauges
 other (list):

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: .

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: .
- Habitat for:
 - Federally Listed species. Explain findings: .
 - Fish/spawn areas. Explain findings: .
 - Other environmentally-sensitive species. Explain findings: .
 - Aquatic/wildlife diversity. Explain findings: .

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: .

Ecological connection. Explain: .

Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- Riparian buffer. Characteristics (type, average width): .
- Vegetation type/percent cover. Explain: .
- Habitat for:
 - Federally Listed species. Explain findings: .
 - Fish/spawn areas. Explain findings: .
 - Other environmentally-sensitive species. Explain findings: .
 - Aquatic/wildlife diversity. Explain findings: .

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N) Size (in acres) Directly abuts? (Y/N) Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
 TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**
 Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
 Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetlands 5A, 5B, and 5C, are all contiguous features located within the center of the Review Area. The "Wetland 5" complex directly abuts the Unnamed Tributary (UNT) to Stahlbaum Ditch immediately north of the Review Area. The UNT to Stahlbaum Ditch is depicted as conveying water in all aerial imagery reviewed from 2008, 2013, 2015, 2017, 2018, and 2021, is described as a Lower Perennial (R2UBFx) Riverine system on the National Wetland Inventory, and is depicted as a blue line perennial stream on the USGS National Hydrography Dataset.**
 Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: **.91** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.⁹**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
 Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
 from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

⁸See Footnote # 3.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.**

- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 0.61 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: "Jurisdictional Waters and Wetland Delineation Report - NIPSCO R.M. Schahfer (RMS) Generating Station", prepared by Christopher B. Burke Engineering, LLC., dated March 2017.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: USGS National Hydrography Dataset.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000, IN-Wheatfield.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey, Jasper County.
- National wetlands inventory map(s). Cite name: USFWS Online Wetland Mapper (NWI).
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): National Regulatory Viewer - Great Lakes and Ohio River Division Imagery, 1998, 2005, 2007, 2012, and 2018; Beacon GIS Jasper County, 2015, 2018, 2021.
or Other (Name & Date): "Jurisdictional Waters and Wetland Delineation Report - NIPSCO R.M. Schahfer (RMS) Generating Station", Appendix A - Project Photos, March 28, 30, 2017.
- Previous determination(s). File no. and date of response letter: LRE-2011-00199-137; Approved Jurisdictional Determination, May 16, 2011.

- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): National Regulatory Viewer - Great Lakes and Ohio River Division 3DEP Hillshade and 3DEM Digital Elevation Model (DEM).

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetland 5A, Wetland 5B, and Wetland 5C, are contiguous features that continue north and directly abut the Unnamed Tributary (UNT) to Stahlbaum Ditch outside of the Review Area. Immediately north of the Review Area, the UNT to Stahlbaum Ditch is a perennial RPW that exhibits an Ordinary High Water Mark with a defined bed and banks. The UNT to Stahlbaum Ditch flows west approximately 570' to its confluence with Stahlbaum Ditch. Stahlbaum Ditch flows approximately 1.2 miles northwest to its confluence with Davis Ditch. Davis Ditch flows approximately 1.55 miles north to its confluence with the Kankakee River (Section 10 TNW). Based upon review of the applicable resources, the "Wetland 5" complex (5A, 5B, and 5C) directly abuts a perennial RPW (UNT to Stahlbaum Ditch) within the tributary system of the Kankakee River (TNW) and is a water of the United States.

AGREEMENT

THIS AGREEMENT made to become effective as of the first day of May 2023 by and between Wetlands Banking Group of Indiana, LLC an Indiana Limited Liability Corporation (hereinafter “WBGIOI”) and NIPSCO (hereinafter “Buyer”).

WHEREAS, the Detroit District and Chicago District of the U.S. Army Corps of Engineers (hereinafter “COE”), U.S. Environmental Protection Agency, Indiana Department of Environmental Management, and U.S. Fish and Wildlife Service (hereinafter collectively “Regulatory Agencies”) have entered into an Interagency Coordination Agreement on Wetland Mitigation Banking Within the State of Indiana (hereinafter “ICA”) providing for the issuance of general permits in Indiana to establish wetland mitigation banks to provide compensatory mitigation for the filling, flooding, excavating or draining of specific waters of the United States and the State of Indiana; and

WHEREAS, said ICA and the State of Indiana statutes both provide for the issuance of permits to the general public in the State of Indiana and certification of wetland banks owned by privately held corporations and authorization of the use of said mitigation banks; and

WHEREAS, WBGIOI has received certification of the Kankakee Sands Wetland Mitigation Bank, (hereinafter “WBGIOI Mitigation Bank”) in accordance with the ICA and the general permit issued in connection with said ICA (hereinafter “General Permit”); and

WHEREAS, Buyer desires to commit to the purchase of wetland credits for offsite wetland mitigation (hereinafter “Credits”) from the WBGIOI Mitigation Bank in accordance with the terms of this Agreement for impacts at the NIPSCO RMSGS Landfill Cell Phase VIII in Lake County, IN located at Wheatfield, Indiana;

NOW, THEREFORE, in consideration of the mutually binding covenants of the parties, it is agreed as follows:

1. WBGIOI has constructed and will monitor the WBGIOI Mitigation Bank in accordance with the terms of the ICA and General Permit.
2. WBGIOI agrees to sell and Buyer agrees to purchase Credits as follows:

a.	Price Per Acre:	\$ 90,000.00
b.	Acres Impacted	0.31 acres
c.	Ratio:	2 to 1
d.	Credits needed	0.62
a*d	Total Purchase Price:	\$ 55,800.00
	Location:	Kankakee Sands Wetland Mitigation Bank

It is understood and acknowledged that this Agreement constitutes an irrevocable commitment by Buyer to purchase an irrevocable commitment by WBGOI to sell credits for the number of acres at the purchase prices set forth above.

3. Buyer acknowledges and understands that, in reliance upon Buyer's commitment under this Agreement, WBGOI has expended substantial sums in connection with the formation and construction of the WBGOI Mitigation Bank. As an inducement to WBGOI to proceed, Buyer shall pay to WBGOI a non-refundable deposit of 20% of Total Purchase Price upon execution of this Agreement. Said deposit shall be applied to the purchase price if the purchase of Credits by Buyer as contemplated by this Agreement is consummated. If said purchase is not consummated due to a default by Buyer, WBGOI shall be free to retain said deposit as liquidated damages. In the event of a default by WBGOI, Buyer shall be entitled to the return of the Earnest Money.

4. **REQUIRED AMOUNT OF CREDITS:** Should the wetland credits required by the Permitting Agencies be increased or decreased from the time of Agreement execution to the time Purchase Price has been paid, the Agreement shall be modified to reflect an adjusted Purchase Price based on the same price per acre as originally set out in this Agreement, if Seller has such credits available.

5. Within 14 days of the effective date of this Agreement, Buyer and WBGOI agree to cooperate to complete documents required by appropriate Regulatory Agencies as such may be necessary for use by Buyer of the Credits to be purchased under this Agreement. Further, Buyer agrees to supply such additional information as requested by Regulatory Agencies as such may be necessary for the prompt and expeditious processing of Buyer's application. Payment of the purchase price, less the deposit set forth above, shall be due and owing upon notice from COE that COE has authorized Buyer's proposed activity in compliance with the terms of the ICA (hereinafter "COE Approval Notice").

6. By execution of this Agreement, WBGOI and Buyer agree to comply with all rules and regulations of the regulatory bodies in connection with the Credits purchased pursuant to this Agreement including, but not limited to, the rules and regulations of the Permit Programs as promulgated by the COE and the State of Indiana. In addition, Buyer agrees to allow the COE or its authorized representative to make periodic inspections at any time deemed necessary in order to insure that the activity being performed under the authority granted to Buyer is in accordance with the terms and conditions of COE rules, regulations and requirements.

7. For purposes of this Agreement, the Expiration Date shall be December 1, 2023.

8. The rights of Buyer under this Agreement shall not be assigned, conveyed, transferred, pledged, encumbered or in any way restricted without prior written consent of WBGOI and, to the extent required under rules, regulations and policies then in effect, without prior written approval of COE and other Regulatory Agencies.

9. All notices to the parties pursuant to this Agreement shall be personally delivered, sent by facsimile transmission or sent by certified mail, return receipt requested, to the following address:

If to WBGOI: Wetlands Banking Group of Indiana
c/o Land and Water Resources, Inc.
9575 West Higgins Road, Suite 801
Rosemont, Illinois 60018
Attention: Mr. John H. Ryan
FAX: (847) 939-5214
Phone: 847-692-7170
Email: jryan@lawrinc.com

If to Buyer: NIPSCO
801 E. 86th Avenue
Merrillville, Indiana 46410
Attention: Natalie Skaro
Phone: 219-742-5633
FAX:
Email: nconlon@nisource.com

If any such notice is given by personal delivery, said notice shall be effective upon the date of delivery. If any such notice is sent by facsimile transmission, said notice shall be effective as of the first business day following proper transmission of said notice. If any such notice is sent by certified mail, said notice shall be effective on the third business day following the date of mailing. The parties may change the address to which notices are to be sent under this Agreement by written notice to the other party.

10. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, representatives and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement to become effective as of the day and year first written above.

WBGOI:

BUYER:

LAND AND WATER RESOURCES, INC.

NIPSCO

By: _____
John H. Ryan, President

By: 

Date: _____

Date: 5-4-2023

Project Name: NIPSCO RMSGS Landfill Cell Phase VIII

Permit Number(s): LRE-2011-00199-137-S22 & IDEM 2022-813-37-MTM-A

ATTACHMENT 4
USGS Quaternary Fault Report

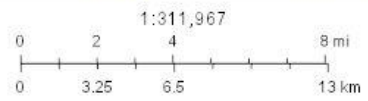


USGS Quaternary Fault Report

Area of Interest (AOI) Information

Area : 359.95 km²

Jun 11 2019 9:37:18 Eastern Daylight Time

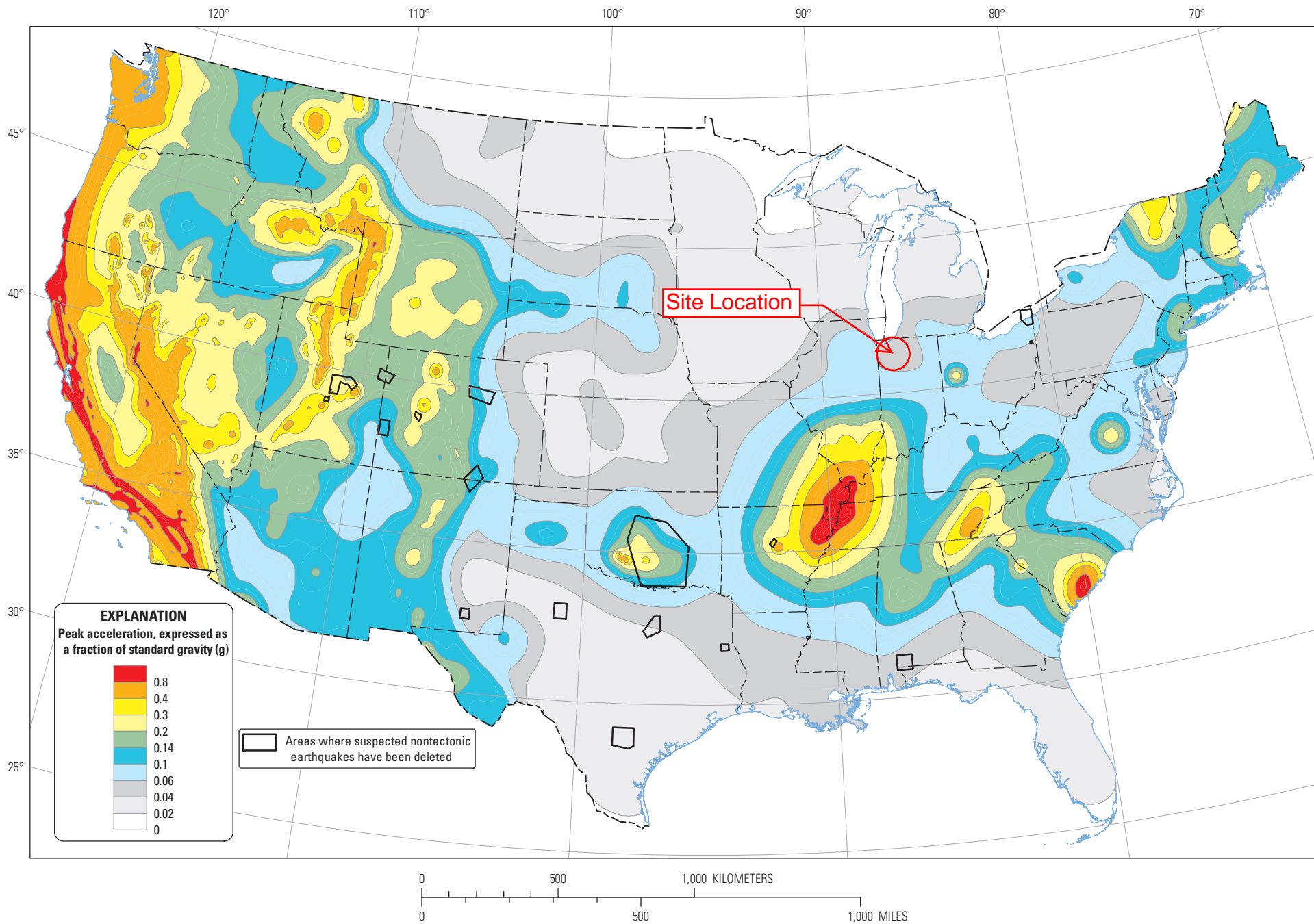


USGS, National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

Summary

Name	Count	Area(km ²)	Length(km)
Quaternary Faults	0	N/A	0

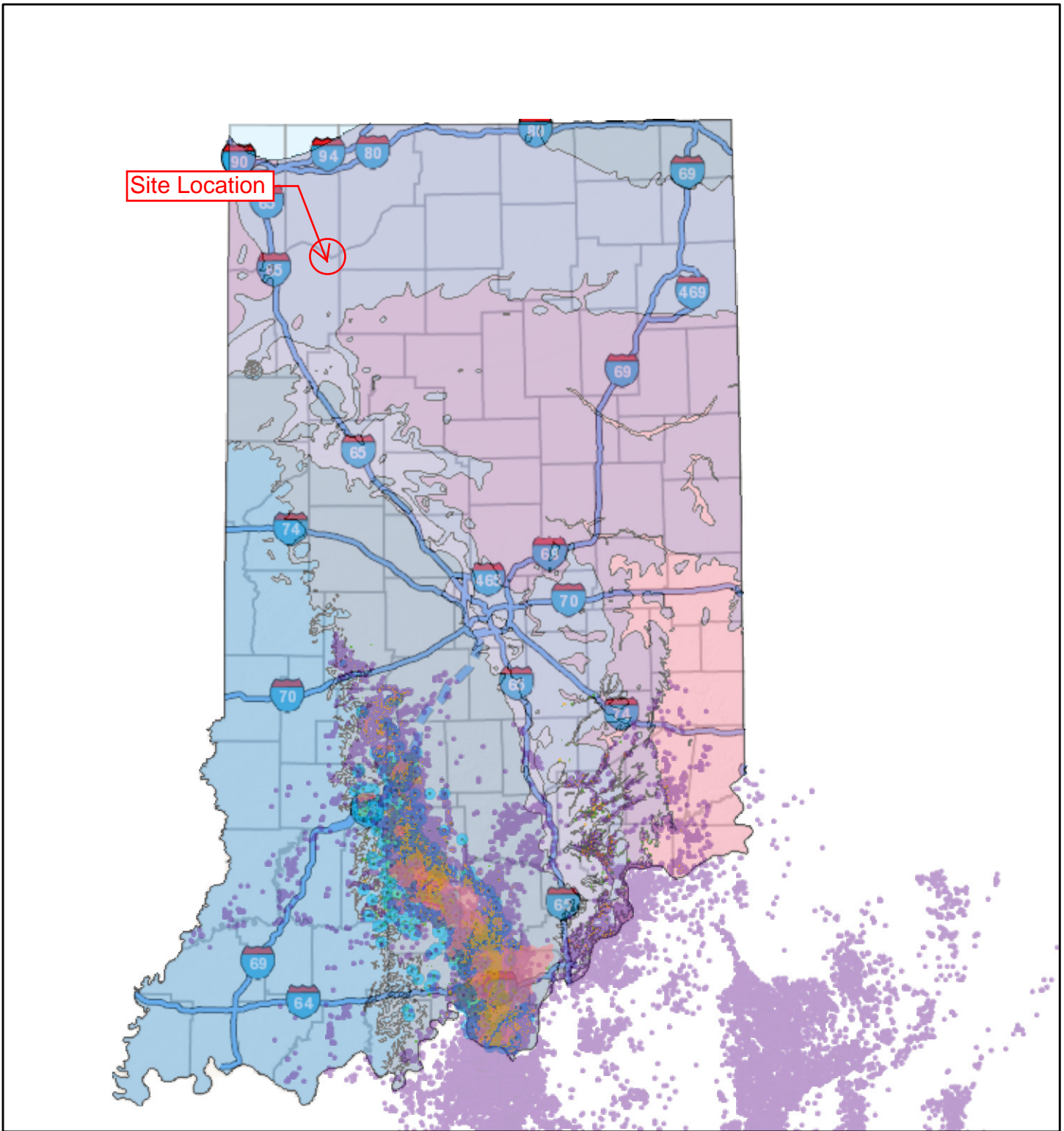
ATTACHMENT 5
Two Percent Seismic Probability



Two-percent probability of exceedance in 50 years map of peak ground acceleration

ATTACHMENT 6
Indiana Unstable Areas Map






Indiana Unstable Area Map







June 11, 2019

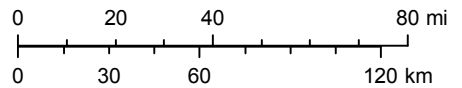
1:2,500,000

Sinkhole Areas and Sinking-Stream Basins

-  Sinkhole Area
-  Sinking Stream Basin
-  Sinkhole Inventory (2011)
-  Karst Springs
-  Karst Area Dye Points

Cave Entrance Density

-  0 - 1
-  2 - 5
-  6 - 10
-  11 - 15



United States Forest Service (USFS)
 Indiana Department of Transportation (INDOT), U.S. Census Bureau (USCB),
 Indiana Geographic Information Council (IGIC), UITS, Indiana Spatial Data
 Portal
 Indiana Geological Survey

ATTACHMENT 7
Run-On and Run-Off Control System

(FUTURE)

55' SETBACK FROM BERM SEE SECTION B-B'

PHASE VIII (FUTURE)

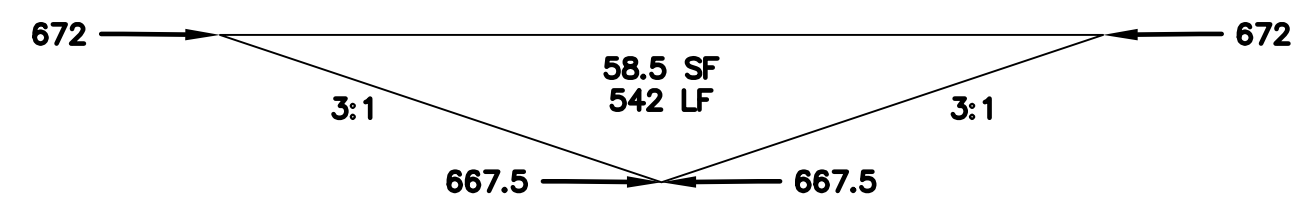
26' SETBACK FROM CREST OF SLOPE SEE SECTION A-A'

PHASE II (CLOSED 1998)

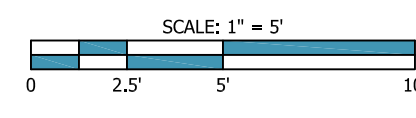
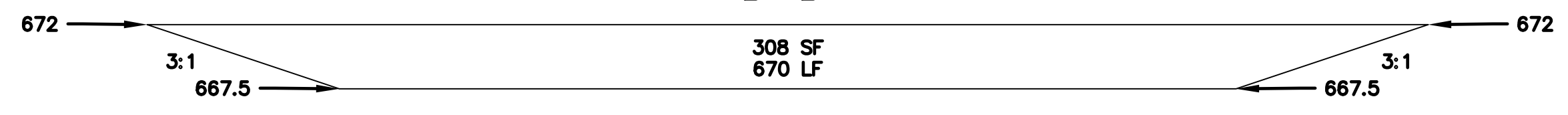
LEGEND

- EXISTING 10' CONTOUR
- EXISTING 2' CONTOUR
- PROPOSED 10' TOP OF WASTE GRADE CONTOUR
- PROPOSED 2' TOP OF WASTE GRADE CONTOUR
- GRADE BREAKLINE
- SOLID WASTE BOUNDARY
- PHASE VII & VIII BOUNDARY
- PHASE BOUNDARY
- STORMWATER DIVERSION BERM
- TEMPORARY LINER TERMINATION BERM

WEST A-A'

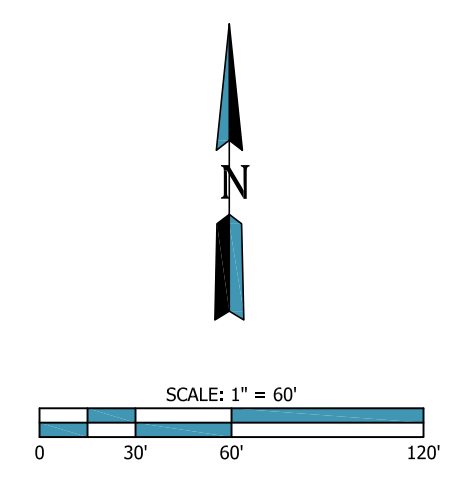


NORTH B-B'



NOTES:

1. PROPOSED BASE GRADE CONTOURS SHOWN ON THIS DRAWING REPRESENT THE TOP OF LINER ELEVATIONS.
2. EXISTING GRADE CONTOURS ARE BASED UPON SURVEYS PERFORMED, MARCH 21, 2022, MAY 20, 2022, OCTOBER 7, 2022, AND OCTOBER 20, 2023, BY DLZ INDUSTRIAL, LLC. ADDITIONAL TOPOGRAPHY APPROXIMATED FROM 2011-2013 INDIANA STATEWIDE LIDAR, INDIANAMAP FRAMEWORK DATA, <http://www.indianamap.org/>.



- DRAFT
- RELEASED FOR BID
- APPROVED FOR CONSTRUCTION
- CLIENT APPROVAL BY: _____

PREPARED FOR:
NIPSCO

RUN-ON/RUN-OFF DEMONSTRATION
2024 CCR CERTIFICATION DOCUMENTATION
RMSG5 RSW 1 LANDFILL
WHEATFIELD, INDIANA

No.	DATE	REVISION DESCRIPTION

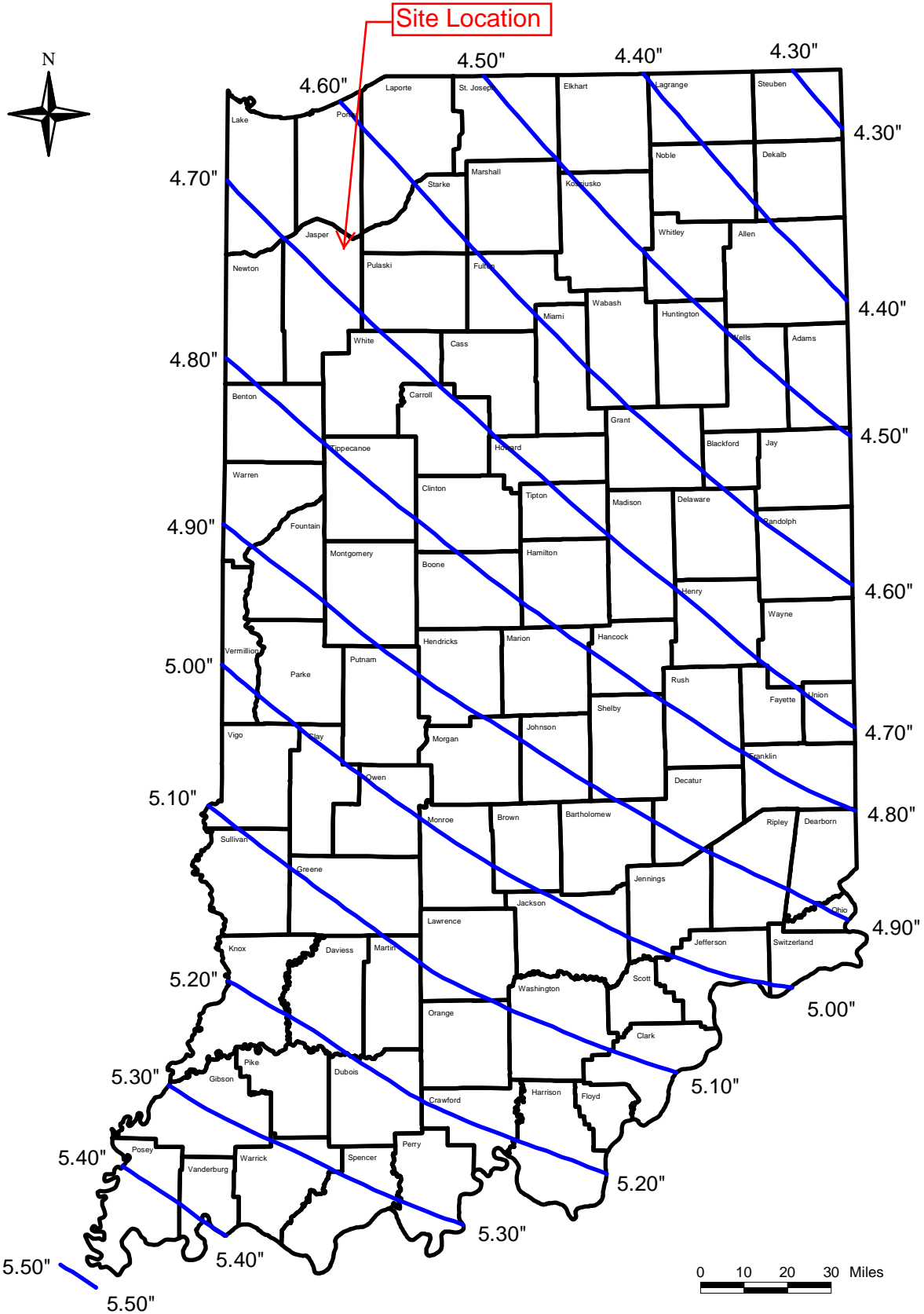
Weaver
Consultants
Group

REUSE OF DOCUMENTS
This document, and the designs incorporated herein, as an instrument of professional service, is the property of Weaver Consultants Group, and is not to be used in whole or in part, without the written authorization of Weaver Consultants Group.

DRAWN BY: SSK
 REVIEWED BY: BED
 DATE: 01/05/2024
 FILE: 0137-300-DWG
 CAD: RMS0401.dwg

FIGURE 1

RAINFALL - 25 YEAR FREQUENCY - 24 HOUR DURATION



REFERENCE
TECHNICAL PAPER NO. 40
NATIONAL WEATHER SERVICE



STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER

