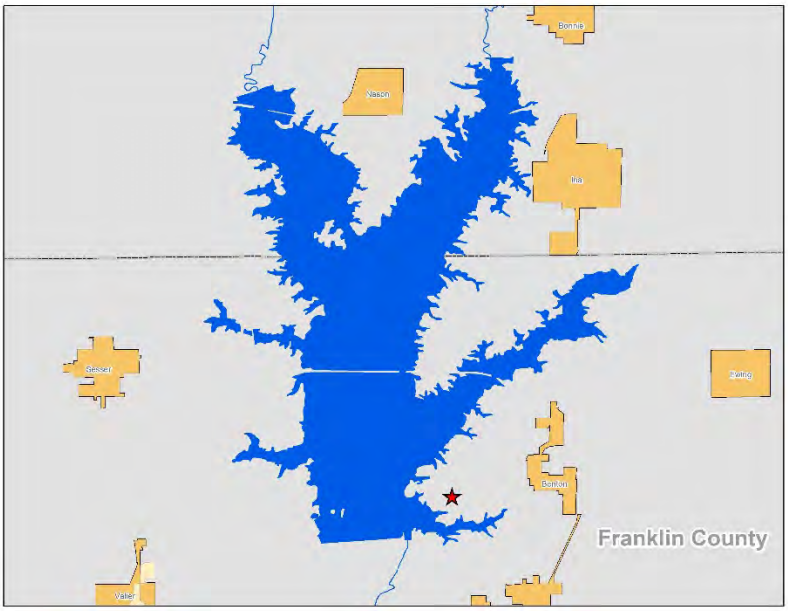
FINAL Environmental Assessment with Finding of No Significant Impact

36-Inch Water Main
Rend Lake
Franklin County, Illinois

October 2018



US Army Corps of Engineers ®
St. Louis District

U.S. Army Corps of Engineers, St. Louis District
Regional Planning and Environmental Division North
Environmental Compliance Section
CEMVP-PD-C
1222 Spruce Street
St. Louis, Missouri 63103-2833

Table of Contents

1. Purpose of and Need for Action

The Rend Lake Conservancy District (RLCD) proposes to install a new 36-inch water main at their water treatment plant located north of Benton, Illinois (Figure 1). The project involves placement of approximately 2.7 miles of water main, 1.2 miles of which would cross U.S. Army Corps of Engineers (USACE) property. RLCD requires a 20-foot permanent easement and a 10-foot temporary construction easement from USACE to install the water main.

RLCD is a multi-county regional government that manages utility and government functions around Rend Lake including water conservation, water treatment and distribution, wastewater collection and treatment, recreation, land management, tourism, and economic development.

The proposed water main is needed to provide redundancy for the existing single 36-inch transmission main which is nearing 50 years old. A recent break in the existing transmission main resulted in a water plant shutdown of nearly two days, causing an interruption of water service to RLCD customers. The interruption caused severe economic hardship to regional businesses such as motels, restaurants, etc. that were forced to close due to lack of water. The water main serves approximately 200,000 customers in 10 counties in the region. Because the existing water main is known to be leaking and has already experienced a break, there is concern that another break with even greater impacts to RLCD customers is likely. Installation of a new water main is critical to supplying reliable drinking water to RLCD customers. A lack of water supply would also be a risk to the health and property of RLCD customers as it would result in limited fire protection.

Engineering Regulation 200-2-2, Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA), provides for District commanders to respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses without first preparing specific documentation and following the procedural requirements of NEPA. The imminent threat of failure of the RLCD public water supply was declared an emergency by St. Louis District Commander memorandum on 31 August 2018. Due to the emergency nature of the project, NEPA documentation is being completed after the initiation of project construction. Coordination with federal and state natural resource agencies and affected Tribes has been initiated.

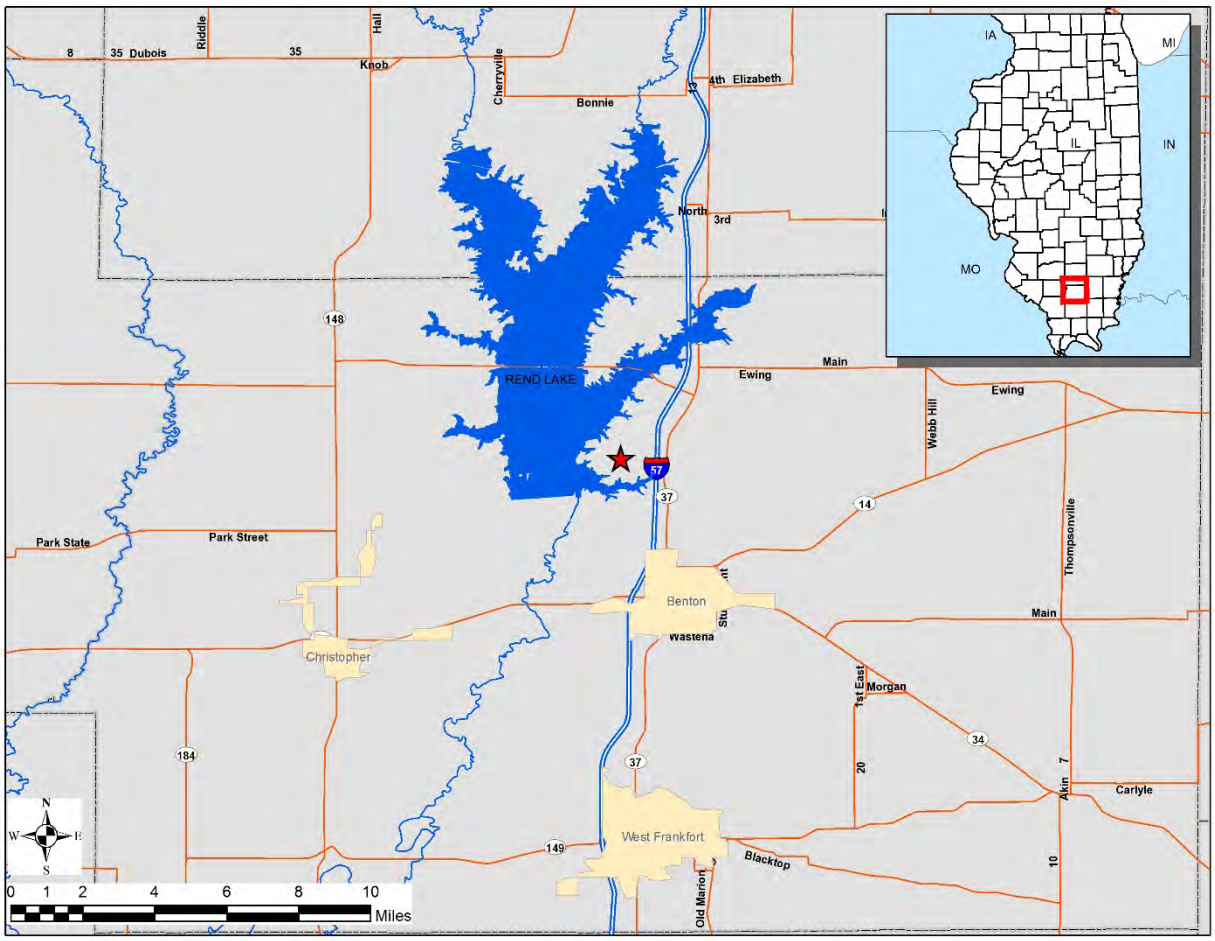


Figure 1. Project location.

2. Alternatives Considered

Alternative 1: No Action Alternative. Under the No Action Alternative, USACE would not grant the required easements and the proposed water main would not be constructed. RLCD would continue to rely on the existing 36-inch transmission main. The No Action Alternative would increase the risk of the water treatment plant not being able to supply customers with water due to failure of the existing transmission main. This is not considered a reasonable alternative given the risk to public water supply and the associated health and safety risks.

Alternative 2: Install new 36-inch water main. Under Alternative 2, USACE would grant the required easements and the proposed water main would be constructed. The water main would be constructed from the Rend Lake Inter-City Water Treatment Plant to the east, on the south side of Marcum Branch Road. 2.7 miles of new pipe would be placed, 1.2 miles of which would cross USACE property. The remaining 1.5 miles of pipe would be located on private property and Illinois Department of Transportation property. A 20-foot permanent easement and a 10-foot

temporary construction easement would be required. The 0.22-acre East Palestine parking lot would be used as a temporary construction staging area.

3. Affected Environment

The proposed water line corridor is located in north central Franklin County, Illinois, on the southeast side of Rend Lake. The proposed water line would be placed to the south of Marcum Branch Road, under Interstate 57 and Illinois Route 37, and to the south of Benton Camp Road (Township 5S, Range 2 and 3E; see Figure 2).

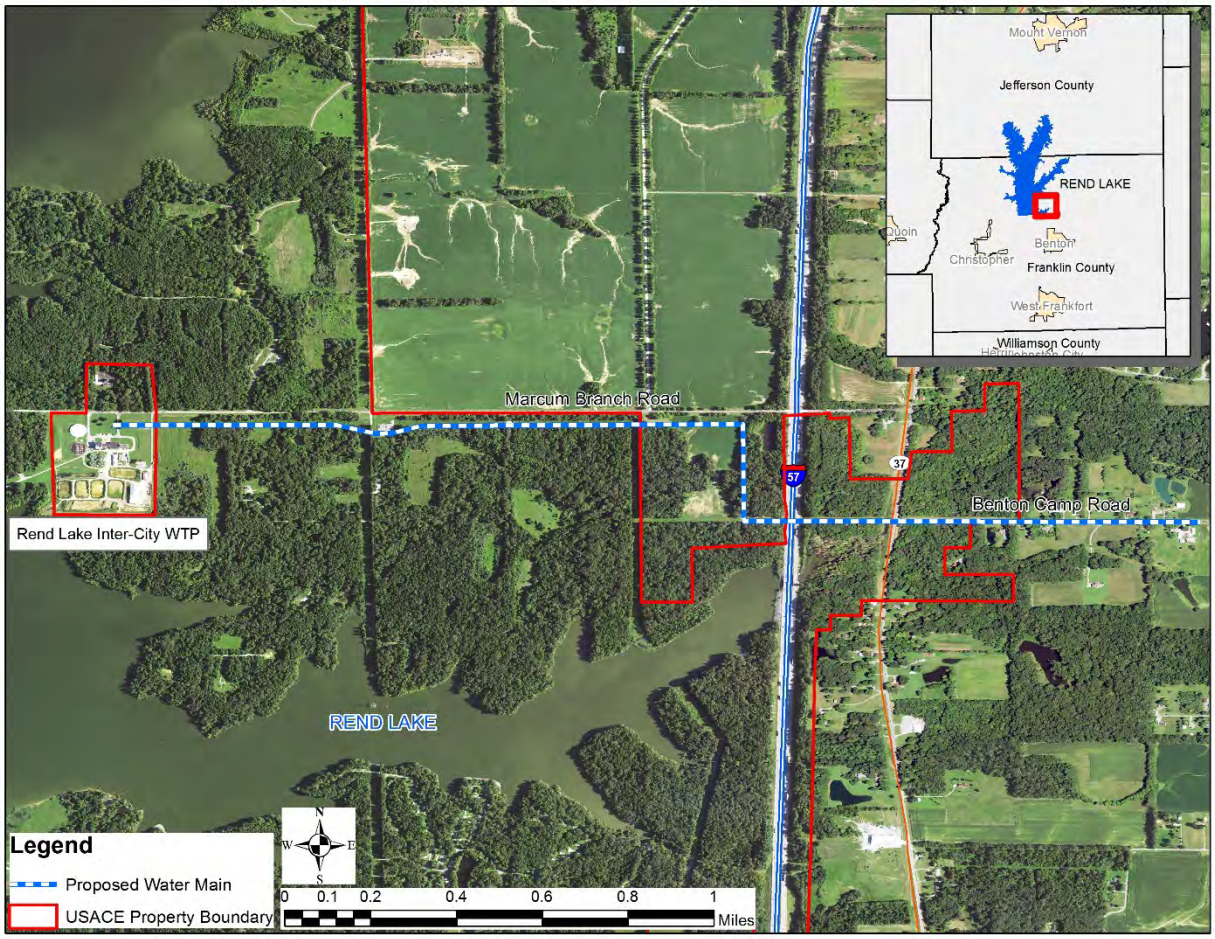


Figure 2. Proposed water main location.

A. Physical Resources

1. **Soils and Prime Farmland.** The Franklin County, IL Soil Survey (USDA 2006) indicates Plumfield, Bluford, Bonnie, and Hickory as the primary soil series within the USACE portion of the proposed project area. These soils are found on a variety of land forms including flood plains, uplands, side slopes, toe slopes, and flats. The parent material of these soil series consist primarily of loess deposits over glacial drift or silty

alluvium. Several of the soil series are considered prime farmland; however, no farmland exists on the USACE portion of the proposed project.

2. **Air Quality and Climate Change.** The Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) for six criteria air pollutants: ozone, particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and lead. EPA regulates these pollutants by developing human health-based or environmentally-based permissible pollutant concentrations. EPA then publishes the results of air quality monitoring, designating areas as meeting (attainment) or not meeting (nonattainment) the standards. Franklin County, Illinois is designated as an attainment area for all six criteria air pollutants (USEPA 2018).

   A large body of scientific evidence indicates that increases in greenhouse gases (GHG) in the Earth's atmosphere are contributing to changes in national and global climatic conditions (Melillo et al. 2014). These changes include such things as increases in average temperature, changes in precipitation patterns, and increases in the frequency and intensity of severe weather events. These changes have the potential to impact a wide sector of the human environment including water resources, agriculture, transportation, human health, energy, and aquatic and terrestrial ecosystems. Therefore, it is important to understand the potential impacts of federal actions on GHG emissions and climate change and the potential changes that may occur to the human environment which could subsequently affect the assumptions made when determining the impacts and efficacy of the federal action in question.

   The Corps is undertaking climate change preparedness and resilience planning and implementation in consultation with internal and external experts using the best available climate science and climate change information. The Corps is preparing concise and broadly-accessible summary reports of the current climate change science with specific attention to Corps missions and operations for the continental United States, Alaska, Hawaii, and Puerto Rico. Each regional report summarizes observed and projected climate and hydrological patterns cited in reputable peer-reviewed literature and authoritative national and regional reports.

   Based on information in the climate change and hydrology literature synthesis report for the Upper Mississippi River region (USACE 2015), the following changes can be expected in the area:
   - Increase in air temperatures
   - Increase in frequency and magnitude of extreme temperature events such as summer heat waves
   - Increase in precipitation and frequency of large storm events
   - Increase in frequency of droughts
   - Potential increase or decrease in streamflow

3. **Water Quality.** Section 303(d) of the Clean Water Act requires states to generate lists of impaired water bodies every two years. Impaired water bodies are those that do not meet state water quality standards for the water bodies' designated uses. Rend Lake was

assessed for the Draft 2018 Illinois Integrated Water Quality Report and was listed on the Clean Water Act Section 303d list of "Category 5 Impaired Waters" (IEPA 2018). The impaired designated uses were "aesthetic quality" and "fish consumption". The potential cause of impairment to aesthetic quality was Total Suspended Solids (TSS). The potential cause of impairment to fish consumption was mercury.

4. **Noise.** Ambient noise in the project area is typical of that generated by wildlife, human activities, and vehicular traffic.

B. Biological Resources

1. **Vegetation.** The vegetation within the proposed project area is dominated by forested areas, interspersed with herbaceous road and utility rights-of-way. A survey of tree species along the length of the proposed water main placement area was conducted in January 2018. The survey showed the overstory of the forested areas is dominated by ash (*Fraxinus),* oak (*Quercus),* maple (*Acer*), elm (*Ulmus*), hickory (*Carya*), and Persimmon (*Diospyros kaki*). The understory is dominated by Bush Honeysuckle (*Lonicera spp.*), Autumn Olive (*Elaeagnus umbellata*), Japanese Honeysuckle (*Lonicera japonica*), Poison Ivy (*Toxicodendron radicans*), and Virginia Creeper (*Parthenocissus quinquefolia*). The road and powerline rights-of-way are dominated by herbaceous vegetation including Broomsedge (*Andropogon virginicus*), foxtail (*Setaria spp.*), and Fescue (*Festuca pratensis*).

2. **Fish and Wildlife.** Rend Lake and its surrounding bottomland hardwood forests and upland agricultural fields support a variety of insects, crustaceans, mollusks, reptiles, amphibians, fish, birds, and mammals. Common fish species that occur within Rend Lake include Largemouth Bass (*Micropterus salmoides*), Bluegill (*Lepomis macrochirus*), sunfish (*Lepomis spp.*), Channel Catfish (*Ictalurus punctatus*), crappie (*Pomoxis spp.*), hybrid striped bass (*Morone saxatilis x Morone chrysops*), and other typical southern Illinois lacustrine species.

3. **Threatened and Endangered Species.** In compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (USFWS) provided a listing of federally threatened or endangered species that may occur in the vicinity of the proposed project. Table 1 provides a list of the federally listed species identified as potentially occurring in the project area.

Table 1. List of federally threatened and endangered species and their habitat provided by USFWS on 6 July 2018.

Common Name (Scientific Name)	Classification	Habitat
Indiana Bat (*Myotis sodalis)*	Endangered	Hibernacula: caves and mines; maternity and foraging habitat: small stream corridors with well-developed

		riparian woods; upland and bottomland forests
Northern Long-Eared Bat (*Myotis septentrionalis*)	Threatened	Hibernacula: caves and mines; swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Piping Plover (*Charadrius melodus*)	Endangered	Lake Michigan beaches but migrates through Franklin County

C. Socioeconomic Resources

1. **Economy.** The project area is located on USACE-owned land near Rend Lake and the North Marcum Recreation Area. The project provides approximately 5 billion gallons of water per year from Rend Lake to approximately 200,000 residential, commercial, and industrial customers in ten counties in southern Illinois.

2. **Recreation.** Popular recreational activities on and near Rend Lake include boating, camping, hunting, fishing, swimming, bird watching, nature study, golfing, biking, and hiking. The North Marcum Recreation Area offers visitors picnic and boat ramp facilities. The public lands in the proposed location of the water line are open to hunting.

3. **Historic and Cultural Resources.** Portions of the project area were previously surveyed for historic and cultural resources and no significant historic properties were identified within the project area at that time (De Mott et al. 1987). The Illinois State Historic Preservation Officer indicated that, based on the information provided, no historic properties would be affected and no objections to the project were raised (see Appendix A). However, approximately 1.3 miles of the proposed water main corridor passing through USACE-owned land had not been previously surveyed for cultural resources. In compliance with the National Historic Preservation Act, as amended, 54 USC § 300101, et seq. and federal regulation 36 CFR Part 800, USACE requested that this portion of the project corridor be surveyed for historic properties. Accordingly, a Phase I archaeological survey of the proposed water main corridor was completed on 22 August 2018 (Sadler 2018). The project corridor was shovel tested at 15-meter intervals along a single transect. No historic properties were identified within the corridor.

4. **Environmental Justice.** Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, directs federal agencies to identify and address any disproportionately high adverse human health or environmental effects of federal actions to minority and/or low-income populations. CEQ guidance on conducting Environmental Justice analyses in NEPA documents (CEQ 1997) indicates that a minority population exists where the percentage

of minorities in an affected area either exceeds 50 percent or is meaningfully greater than in the general population or other appropriate unit of geographic analysis. The CEQ guidance also recommends utilizing the Census Bureau's statistical poverty thresholds in determining low-income populations. The Census Bureau defines a "poverty area" as a census tract with 20 percent or more of its residents below the poverty threshold.

Based on U.S. Census Bureau data (Table 2) minority populations of greater than 50% or meaningfully greater than the general population do not exist in the project area. However, U.S. Census Bureau data indicate that 20.9% of census tract 405 in the project area (Figure 3) and 21.5% of Franklin County are below the poverty threshold. These areas would, therefore, be considered poverty areas.

Table 2. Demographic data for the project area.

Race	Census Tract 405		Franklin County		Illinois	
	Number	%	Number	%	Number	%
White	2,738	95.60	38,420	97.26	9,270,907	72.14
African American	6	0.21	241	0.61	1,837,612	14.30
Asian	80	2.79	222	0.56	655,799	5.10
American Indian and Alaska Native	0	0.00	123	0.31	29,399	0.23
Native Hawaiian and Pacific Islander	8	0.28	28	0.07	4,186	0.03
Other race	0	0.00	75	0.19	753,559	5.86
Two or more races	32	1.12	394	1.00	300,222	2.34
All Minorities	126	4.40	39,503	2.74	12,851,684	27.86

Source: U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates. Accessed August 2018. https://factfinder.census.gov.

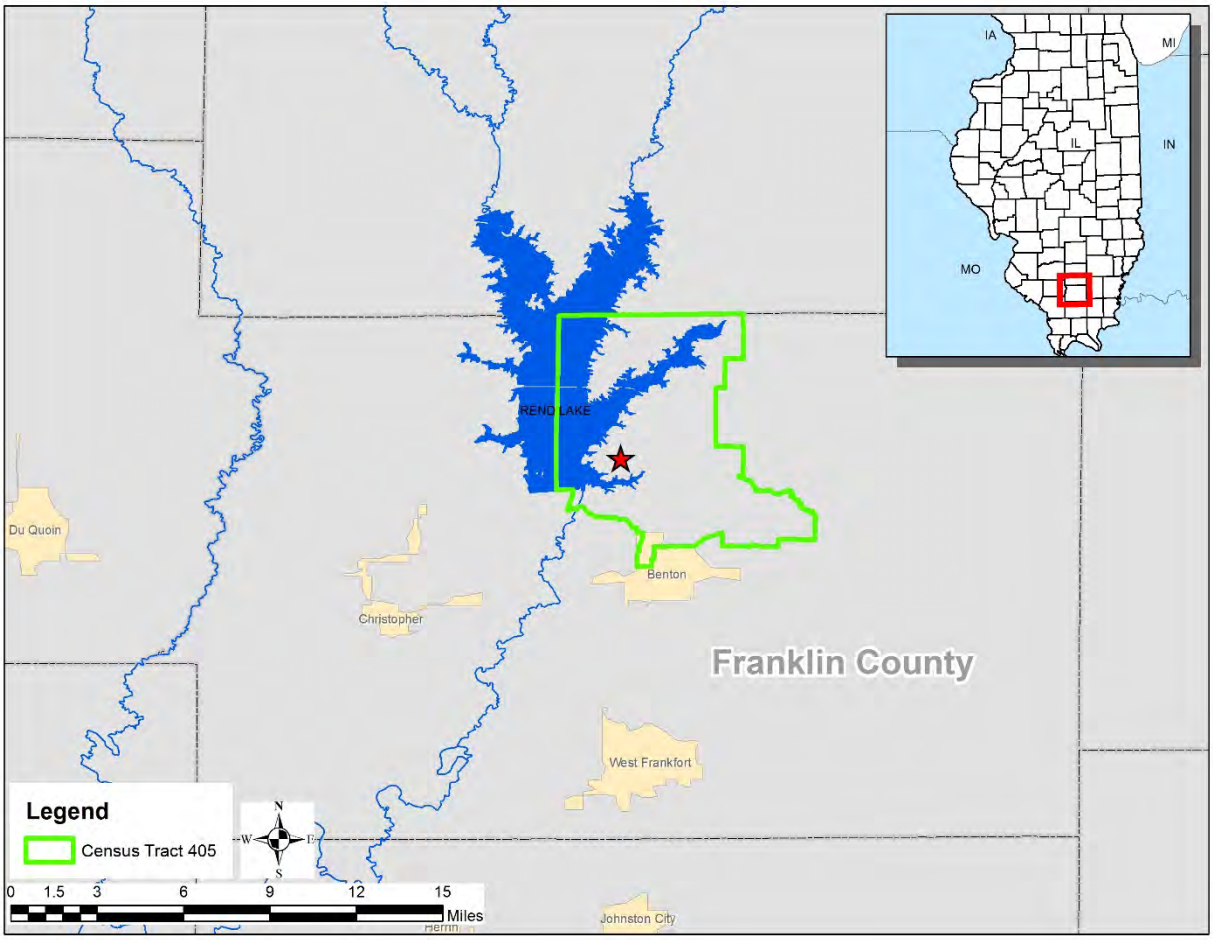


Figure 3. Location of Census Tract 405.

4. Environmental Consequences of the Proposed Action

A. Physical Resources

1. **Soils and Prime Farmland.** Soil resources would be temporarily disturbed by pipeline installation activities but would be returned to grade after project completion and would be planted with an approved mixture of Illinois native grasses and vegetation as specified to prevent soil erosion on the site. The mixture will be approved by USACE personnel prior to planting. No irreversible conversion of prime, unique, or important farmland to non-agricultural use is anticipated.

2. **Air Quality and Climate Change.** Equipment used for construction activities would generate emissions from the use of petroleum products but impacts would be temporary, minor, and local in nature. Air quality in the vicinity of the work area would be expected to be similar to existing conditions and impacts to climate change would be negligible.

   Climate change is likely to affect air temperatures and precipitation trends in the area long-term. However, these changes are not anticipated to appreciably change the

anticipated impacts of the project on the physical, biological, or socioeconomic resources in the area.

3. **Water Quality.** Construction activities associated with placement of the water line are anticipated to have minor, short-term adverse impacts on water quality in the immediate vicinity of the construction area. However, adverse impacts will be minimized by adherence to best management practices as imposed by permit conditions. Due to Rend Lake being on the 303(d) list for TSS, IEPA permit conditions require that measures designed for at least a 25-year, 24-hour rainfall event be incorporated into construction activities to prevent further impairment (see Appendix B). Water quality conditions are anticipated to return to pre-project conditions shortly after construction ceases.

   The amount of water that RLCD is allowed to withdraw from Rend Lake is limited by the existing water supply contract between RLCD and the State of Illinois. Replacement of the existing 36-inch water line would not change the water withdrawals governed by the existing water supply contract.

4. **Noise.** Construction activities associated with placement of the water line would cause an increase in local noise levels. The expected increase would be short-term and negligible relative to normal traffic, residential, and recreational activities. Noise levels would return to pre-project conditions upon completion of construction.

B. Biological Resources

1. **Vegetation.** Potential wetland impacts include a 20-foot portion through a riverine area, 415 feet through a scrub shrub area, and 62 feet through emergent wetlands. Any potential wetland impacts would be minimized by use of directional boring where possible to minimize trench cutting. Where directional boring is not an option, wetland impacts will be minimized by adherence to best management practices as imposed by applicable nationwide permit general conditions, special permit conditions, and associated Illinois Environmental Protection Agency water quality certification conditions (see Appendix B). Special permit conditions require that "…the site shall be restored to pre-project conditions including elevations, soil substrate, and vegetation."

   Based on recent surveys of the proposed project area, it is anticipated that approximately 190 trees would need to be removed to allow placement of the new water line. Loss of the trees would be compensated for by planting 60 balled and burlapped trees (6-10' tall) of designated species in accordance with tree planting specifications as per USACE special clauses in the lease document.

2. **Fish and Wildlife.** Upland wildlife species may be temporarily displaced during construction of the water line when tree clearing occurs and equipment is utilized to install the water line. Impacts are anticipated to be short-term and temporary.

   Aquatic species may be temporarily displaced by construction activities associated with wetland areas. These impacts are anticipated to be short-term and temporary and wetland areas will be restored to pre-project conditions after construction.

3. Threatened and Endangered Species – Biological Assessment.

Indiana Bat – The range of the Indiana Bat includes much of the eastern half of the United States, including southern Illinois. Indiana Bats migrate seasonally between winter hibernacula and summer roosting habitats. Winter hibernacula include caves and abandoned mines. Females emerge from hibernation in late March or early April to migrate to summer roosts. During the summer, the Indiana Bat frequents the corridors of small streams with well-developed riparian woods, as well as mature upland forests. It forages for insects along stream corridors, within the canopy of floodplain and upland forests, over clearings with early successional vegetation (old fields), along the borders of croplands, along wooded fencerows, and over farm ponds in pastures. Females form nursery colonies under the loose bark of trees (dead or alive) and/or cavities, where each female gives birth to a single young in June or early July. A maternity colony may include from one to 100 individuals. A single colony may utilize a number of roost trees during the summer, typically a primary roost tree and several alternates. Some males remain in the area near the winter hibernacula during summer months, but others disperse throughout the range of the species and roost individually or in small numbers in the same types of trees as females.

The leading causes of the Indiana Bat population decline include disturbance, vandalism, improper cave gates and structures, natural hazards such as flooding or freezing, microclimate changes, land use changes in maternity range, and chemical contamination. To avoid incidental take of this species, the Service recommends tree clearing activities not occur during the period of 1 April to 30 September. In addition, trees suitable for bat roosts or maternity colonies should not be removed without first performing a bat survey.

Based on recent surveys of the proposed project area, it is anticipated that approximately 190 trees would need to be removed to allow placement of the new water line. However, it was determined that only one of the trees located on USACE property and three located on private property were potential roost trees. These trees were removed prior to the April 1 to September 30 roost season to avoid any potential impacts to Indiana Bats. RLCD coordinated removal of the trees with USFWS. The remaining trees that may need to be removed during the summer roost season are not suitable Indiana Bat roost trees. Tree removal and other construction-related activities could disturb bats foraging or roosting in the vicinity of construction operations, but this impact would be minor and short-term in nature and would not be expected to significantly disrupt normal behavior patterns. It is our determination that the proposed action ***may affect but is not likely to adversely affect*** the Indiana Bat.

Northern Long-Eared Bat – The Northern Long-Eared Bat is a federally threatened bat species. The Northern Long-Eared Bat is sparsely found across much of the eastern and north central United States and all Canadian provinces from the Atlantic Ocean west to the southern Yukon Territory and eastern British Columbia. Northern Long-Eared Bats spend winter hibernating in large caves and mines. During summer, this species roosts singly or in colonies underneath bark, in cavities, and in crevices of both live and dead

trees. Foraging occurs in interior upland forests. Forest fragmentation, logging, and forest conversion are major threats to the species. One of the primary threats to the Northern Long-Eared Bat is the fungal disease whitenose syndrome which has killed an estimated 5.5 million cave-hibernating bats in the Northeast, Southeast, Midwest, and Canada.

Based on recent surveys of the proposed project area, it is anticipated that approximately 190 trees would need to be removed to allow placement of the new water line. However, it was determined that only one of the trees located on USACE property and three located on private property were potential roost trees. These trees were removed prior to the April 1 to September 30 roost season to avoid any potential impacts to Northern Long-Eared Bats. RLCD coordinated removal of the trees with USFWS. The remaining trees that may need to be removed during the summer roost season are not suitable Northern Long-Eared Bat roost trees. Tree removal and other construction-related activities could disturb bats foraging or roosting in the vicinity of construction operations, but this impact would be minor and short-term in nature and would not be expected to significantly disrupt normal behavior patterns. It is our determination that the proposed action ***may affect but is not likely to adversely affect*** the Northern Long-Eared Bat.

Piping Plover – Piping Plover inhabit wide, flat, open sandy beaches with little grass or vegetation. This migratory species spends its springs and summers in the northern U.S. and Canada along the shorelines of the Great Lakes. In the fall, plovers migrate south and over winter along the Gulf Coast. Declines in the species have been attributed to habitat alteration as beaches have been lost to commercial, residential, and recreational developments. The species is sensitive to the presence of humans and predation. Disturbances have been known to cause birds to abandon nests.

There is no known Piping Plover habitat in the area of the proposed action. It is our determination that the proposed action would have ***no effect*** on the Piping Plover.

Bald Eagle - Although the Bald Eagle was removed from the federal list of threatened and endangered species in 2007, it continues to be protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). The BGEPA prohibits unregulated take of bald eagles, including disturbance. The USFWS developed the National Bald Eagle Management Guidelines to provide landowners, land managers, and others with information and recommendations regarding how to minimize potential impacts to Bald Eagles, particularly where such impacts may constitute disturbance. No Bald Eagle nest trees are known to occur in the immediate vicinity of the work area at this time. If any nest trees are identified in the work area, the National Bald Eagle Management Guidelines will be implemented to minimize potential impacts and appropriate coordination with the USFWS will be conducted.

C. Socioeconomic Resources

1. **Economy.** Implementation of the proposed action would ensure continued reliable provision of approximately 5 billion gallons of water per year from Rend Lake to the roughly 200,000 residential, commercial, and industrial customers in ten counties in

southern Illinois. The project would provide temporary construction jobs and boost the local economy.

2. **Recreation.** Temporary disruption of recreational activities along the length of the water line placement corridor could occur during construction due to construction-related noise and tree removal activities. This disruption would be minor, intermittent, and short-term in nature and would cease upon completion of construction.

3. **Historic and Cultural Resources.** No historic properties have been identified within the project corridor and, therefore, the proposed undertaking is not anticipated to have any adverse effects on significant cultural resources. Should any potentially significant resources be discovered during construction activities, all activities will cease and coordination with appropriate state and federal personnel will take place.

4. **Environmental Justice.** Due to the fact that population statistics for the area indicate that low-income populations do exist in the vicinity of the proposed action (see Section 3), the possibility exists for the proposed action to disproportionately affect those populations. However, given the very localized, minor, and temporary nature of the potential adverse impacts of the proposed action and given that the goal of the proposed action is to ensure reliable delivery of water to all customers, no disproportionately high adverse impacts to low-income populations are anticipated.

D. Cumulative Impacts

The Council on Environmental Quality (CEQ) regulations define cumulative impacts as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." (40 CFR §1508.7). Table 3 below summarizes the cumulative impacts associated with the proposed action. Due to the localized, minor, short-term nature of the potential impacts associated with the proposed action, no significant adverse cumulative impacts are anticipated.

Table 3. Summary of Cumulative Impacts.

Resource	Past Actions	Present Actions	Future Actions	Proposed Action
Soils and Prime Farmland	Loss of soils due to land management practices; loss of prime farmland due to conversion to non-ag uses; institutional/societal recognition of the importance of soils and prime farmland with formation of Soil Conservation Service (now Natural Resources Conservation Service); passage of the Farmland Protection Policy Act to minimize conversion of farmland to non-ag uses by federal programs	Continued recognition of the importance of soils and prime farmland; continued loss of prime farmland due to population growth and conversion to non-ag uses	Continued recognition of the importance of soils and prime farmland; continued loss of prime farmland due to population growth and conversion to non-ag uses	Temporary disturbance of soils by water line installation activities; no conversion of farmland
Air Quality and Climate Change	Increasing human populations and industrialization result in deterioration of air quality; establishment of Clean Air Act, NEPA, USEPA, air quality standards improve conditions; attainment of NAAQS in project area; increasing global greenhouse gas emissions lead to climate change	Continued population growth and development result in increased potential for air quality impacts; continued attainment status in project area; continued regulation enforcement; increasing societal recognition of climate change causes and consequences; global greenhouse gas emissions continue to increase	Continued population growth and development result in increased potential for air quality impacts; continued attainment status in project area; increasing societal recognition of climate change causes and consequences; possible stabilization/reduction in global greenhouse gas emissions through societal recognition and regulation	Temporary, minor, localized impacts to air quality due to use of construction equipment
Water Quality	Increasing human populations and industrialization result in increased water quality problems; establishment of Clean Water Act, NEPA, USEPA, state environmental agencies and associated regulations greatly improve conditions	Continued population growth and development result in increased potential for water quality impacts; Rend Lake listed on 303(d) list due to TSS and mercury; continued regulation enforcement and societal recognition prevent water quality degradation	Continued population growth and development result in increased potential for water quality impacts; improvement in Rend Lake TSS and mercury levels and eventual removal from 303(d) list; continued regulation enforcement and societal recognition prevent water quality degradation	Minor, short-term impacts to water quality in immediate vicinity of construction activities

Resource	Past Actions	Present Actions	Future Actions	Proposed Action
Noise	Institutional recognition through the Noise Control Act of 1972; typical noises associated with traffic, residential, and recreational activities in area	Continued institutional recognition through the Noise Control Act of 1972; typical noises associated with traffic, residential, and recreational activities in area	Continued institutional recognition through the Noise Control Act of 1972; typical noises associated with traffic, residential, and recreational activities in area	Minor, short-term increase in noise levels associated with construction activities; noise levels would return to pre-project conditions upon completion of construction
Vegetation	Establishment of wetland and riparian corridor vegetation communities subsequent to construction of lake; invasive plant species cause declines in native species; societal/institutional recognition of importance lead to establishment of Clean Water Act	Continued declines due to invasive species; continued regulation enforcement and societal recognition	Continued declines due to invasive species; continued regulation enforcement and societal recognition	Minimization of impacts to wetlands by use of best management practices and restoration to pre-project conditions; loss of trees along length of construction corridor with mitigation through planting 60 balled and burlapped trees (6-10' tall) of designated species in accordance with tree planting specifications as per USACE special clauses in the lease document
Fish and Wildlife (including T&E species)	Transformation of river system from natural condition to lake system causes shift in fish and wildlife communities; introduction of exotic species/reduced native species biomass; recognition of T&E species through Endangered Species Act; listing of multiple T&E species in project area	Maintenance of current habitat conditions through lake and land management activities; native species continue to be impacted by exotic species	Maintenance of current habitat conditions through lake and land management activities; native species continue to be impacted by exotic species	Temporary displacement of fish and wildlife species during construction activities; may affect but not likely to adversely affect Indiana Bat and Northern Long-Eared Bat; no effect on Piping Plover
Economy	Improved local/regional economy due to construction of lake and associated tourism/recreation increases, drinking water supply, etc.	Continued local/regional economy benefits of lake and associated amenities	Continued local/regional economy benefits of lake and associated amenities	Continued reliable provision of water from Rend Lake to roughly 200,000 residential, commercial, and industrial customers; temporary

Resource	Past Actions	Present Actions	Future Actions	Proposed Action
				increase in construction jobs
Recreation	Recreation opportunities created by construction of lake and development of associated riparian habitat	Recreation activities continue to be a major use of lake resources	Recreation activities continue to be a major use of lake resources	Minor, intermittent, short-term disruption of recreational activities along the length of the water line placement corridor due to construction-related noise and tree removal activities
Historic and Cultural Resources	Historic and cultural resources subjected to natural processes and manmade actions (e.g., erosion, floodplain development); recognition of importance of historic and cultural resources through National Historic Preservation Act (and others)	Historic and cultural resources continue to be impacted by human activities as well as natural processes; continued societal recognition of importance of historic and cultural resources	Historic and cultural resources continue to be impacted by human activities as well as natural processes; continued societal recognition of importance of historic and cultural resources	No known historic and cultural resources would be affected

5. Coordination

Notification of the Draft Environmental Assessment and unsigned Finding of No Significant Impact was sent to officials, agencies, organizations, and individuals for public review and comment (Table 4). Additionally, an electronic copy was available during the public review period (6 September – 6 October 2018) on the USACE St. Louis District's website at:

http://www.mvs.usace.army.mil/Missions/Programs-Project-Management/Plans-Reports/

Tribal Consultation. In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), and its implementing regulation 36 CFR 800, the District has notified all 28 Native American tribes with which it regularly consults of this emergency project and has initiated consultation. Further, Engineering Regulation 200-2-2, Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA), provides in paragraph 8 (Emergency Actions), for District Commanders to respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses without first preparing specific documentation and following the procedural requirements of other sections of this regulation. Therefore, the District has notified the tribes of this emergency project and has initiated consultation, but due to the nature of this emergency, work may proceed prior to the 30-day review period under Section 106 and the release of the EA for public review.

Comments Received. As a result of the 30-day public review period, the District received comments from the Shawnee Tribe, the Osage Nation, the Delaware Nation, the Quapaw Nation, the Illinois Department of Agriculture, the Miami Tribe of Oklahoma, and the U.S. Fish and Wildlife Service. Comments can be found in Appendix A.

Table 4. A letter regarding the availability of the Draft Environmental Assessment and unsigned FONSI was sent to the following:

Matt Mangan Acting Field Supervisor U.S. Fish and Wildlife Service Marion Illinois Sub-Office 8588 Route 148 Marion, IL 62959	Adam Rawe Resource Planner Impact Assessment Section Illinois Department of Natural Resources 1 Natural Resources Way Springfield, IL 62702
Sierra Club Illinois Chapter 70 E. Lake Street, Suite 1500 Chicago, IL 60601	The Nature Conservancy Chicago Office 8 South Michigan Avenue Suite 900 Chicago, Illinois 60603
Traci McCauley Natural Resources Illinois Department of Agriculture 801 Sangamon Ave. P.O. Box 19281 Ag Bldg – FL 001 Springfield, IL 62794	Jeff Kruchten Acting Illinois State Historic Preservation Officer Illinois Department of Natural Resources 1 Natural Resources Way Springfield, IL 62702
The Honorable Richard Durbin U.S. Senator IL 711 Hart Senate Building Washington, D.C. 20510	The Honorable Tammy Duckworth U.S. Senator IL 524 Hart Senate Building Washington, D.C. 20510
The Honorable Mike Bost U.S. House of Representatives 12th Congressional District of Illinois 1440 Longworth House Office Building Washington, DC 20515	Ivan Dozier State Conservationist NRCS Illinois State Office 2118 W. Park Court Champaign, IL 61821
Ronald Moore Izaak Walton League of America-Illinois Division 55 Ridgecrest Drive Decatur, IL 62521-5425	Kenneth Westlake Office of Enforcement and Compliance Assurance U.S. EPA-Region 5 77 W. Jackson Blvd. Chicago, IL 60604
Illinois Environmental Protection Agency 1021 N Grand Ave E Springfield, IL 62702	

6. Relationship of the Proposed Action to Environmental Requirements

Federal Laws[1]	**Compliance Status**
Abandoned Shipwreck Act of 1987, as amended, 43 USC § 2101, et seq.	Full
American Indian Religious Freedom Act, as amended, 42 USC § 1996	Full
Archaeological and Historic Preservation Act, as amended, 54 USC § 312501, et seq.	Full
Bald and Golden Eagle Protection Act, as amended, 16 USC § 668, et seq.	Full
Clean Air Act, as amended, 42 USC § 7401, et seq.	Full
Clean Water Act, as amended, 33 USC § 1251, et seq.	Full
Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC § 9601, et seq.	Full
Endangered Species Act, as amended, 16 USC § 1531, et seq.	Full
Farmland Protection Policy Act, as amended, 7 USC § 4201, et seq.	Full
Federal Water Project Recreation Act, as amended, 16 USC §460l-12, et seq. and 16 USC § 662	Full
Fish and Wildlife Coordination Act, as amended, 16 USC § 661, et seq.	Full
Flood Control Act of 1944, as amended, 16 USC § 460d, et seq. and 33 USC § 701, et seq.	Full
Food Security Act of 1985, as amended, 16 USC § 3801, et seq.	Full
Land and Water Conservation Fund Act of 1965, as amended, 16 USC § 460l-4, et seq.	Full
Migratory Bird Treaty Act of 1918, as amended, 16 USC § 703, et seq.	Full
National Environmental Policy Act, as amended, 42 USC § 4321, et seq.	Full
National Historic Preservation Act, as amended, 54 USC § 300101, et seq.	Full
National Trails System Act, as amended, 16 USC § 1241, et seq.	Full
Noise Control Act of 1972, as amended, 42 USC § 4901, et seq.	Full
Resource Conservation and Recovery Act, as amended, 42 USC § 6901, et seq.	Full
Rivers and Harbors Appropriation Act of 1899, as amended, 33 USC § 401, et seq.	Full
Wilderness Act, as amended, 16 USC § 1131, et seq.	Full
Executive Orders[2]	
Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, EO 12898, February 11, 1994, as amended	Full
Floodplain Management, EO 11988, May 24, 1977, as amended	Full
Invasive Species, EO 13112, February 3, 1999, as amended	Full
Protection and Enhancement of Environmental Quality, EO 11991, May 24, 1977	Full
Protection and Enhancement of the Cultural Environment, EO 11593, May 13, 1971	Full
Protection of Wetlands, EO 11990, May 24, 1977, as amended	Full
Recreational Fisheries, EO 12962, June 7, 1995, as amended	Full
Responsibilities of Federal Agencies to Protect Migratory Birds, EO 13186, January 10, 2001	Full
Trails for America in the 21st Century, EO 13195, January 18, 2001	Full

[1] Also included for compliance are all regulations associated with the referenced laws. All guidance associated with the referenced laws were considered. Further, all applicable Corps laws, regulations, policies, and guidance have been complied with but not listed fully here.

[2] This list of Executive Orders is not exhaustive and other Executive Orders not listed may be applicable.

Applicable permits:
Nationwide Permit No. 12 – Utility Line Activities. This Nationwide Permit authorizes activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States provided the activities meet specific criteria and comply with the Nationwide Permit General Conditions (see Appendix B). The District Engineer has further conditioned the permit to include special conditions with which the permittee must comply (see Appendix B). The Illinois Environmental Protection Agency Division of Water Pollution Control has conditionally issued general Section 401 Water Quality Certification for this Nationwide Permit, subject to special and general conditions (see Appendix B).

7. List of Preparers

Name	Role
Jennifer Wilson, Realty Specialist	Real Estate
Chris Koenig, Archaeologist and Tribal Liaison	Tribal Coordination
Lara Anderson, Archaeologist	Archeological Compliance
Jeff Asbed, Assistant District Counsel	Legal Review
Alan Edmondson, Project Manager	Regulatory Compliance
Kip Runyon, Fish Biologist	Environmental Assessment

8. Literature Cited

CEQ (Council on Environmental Quality). 1997. Environmental justice: guidance under the National Environmental Policy Act. CEQ, Washington, D.C.

De Mott, C.A, R.C. De Mott, and W.I. Woods. 1987. Federal Lands Cultural Resources Survey, Project No. 603001, Rend Lake Vicinity, Franklin County. Prepared for Old Ben Coal Company by Southern Illinois University at Edwardsville (SIUE) Contract Archaeology Program (CAP).

IEPA. 2018. Illinois Integrated Water Quality Report and Section 303(d) List, 2018. Draft report 6/15/2018.

Melillo, J. M., T. C. Richmond, and G. W. Yohe, Eds. 2014. Climate change impacts in the United States: the third National Climate Assessment. U.S. Global Change Research Program. doi:10.7930/J0Z31WJ2.

Sadler, R. 2018. Phase I Cultural Resources Survey and Assessment of a Portion of the Rend Lake Conservancy District's Proposed RLCD-16-05 Secondary WTP Discharge Line Construction Corridor, Located Near Rend Lake, Franklin County, Illinois. Prepared for Rend Lake Conservancy District by American Resources Group, Ltd., Carbondale, IL.

U.S. Census Bureau. 2018. 2012-2016 American Community Survey 5-Year Estimates. Accessed August 2018. https://factfinder.census.gov.

USACE. 2015. Recent US Climate Change and Hydrology Literature Applicable to US Army Corps of Engineers Missions – Water Resources Region 07, Upper Mississippi. Civil Works Technical Report, CWTS-2015-13, USACE, Washington, DC.

USEPA. 2018. U. S. Environmental Protection Agency green book nonattainment areas for criteria pollutants as of June 30, 2018. https://www.epa.gov/green-book. Accessed 6 July 2018.

USDA. 2006. Natural Resource Conservation Service. Soil Survey of Franklin County, Illinois.

FINDING OF NO SIGNIFICANT IMPACT

36-Inch Replacement Water Main
Rend Lake
Franklin County, Illinois

I. In accordance with the National Environmental Policy Act I have reviewed and evaluated the documents concerning the Proposed Action by Rend Lake Conservancy District (RLCD) to replace a 36-inch water supply line on Corps of Engineers property at Rend Lake. The purpose of this project is to continue to deliver water to approximately 200,000 customers in 10 counties in the area. A recent break in the existing transmission main resulted in a water plant shutdown of nearly two days, causing an interruption of water service to RLCD customers. Because the existing water main is known to be leaking and has already experienced a break, there is concern that another break with even greater impacts to RLCD customers is likely. Installation of a new water main is critical to supplying reliable drinking water to RLCD customers. A lack of water supply would also be a risk to health and property of RLCD customers as it would result in limited fire protection. Engineering Regulation 200-2-2, Environmental Quality, Procedures for Implementing the National Environmental Policy Act provides for District commanders to respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses without first preparing specific documentation and following the procedural requirements of NEPA. I declared the imminent threat of failure of the RLCD public water supply an emergency by memorandum on 31 August 2018. Due to the emergency nature of the action, NEPA documentation is being completed after the initiation of project construction.

II. As Part of this evaluation I considered:
   a. Existing resources and the No Action Alternative.
   b. Impacts to existing resources from the Proposed Action.

III. The environmental consequences of the Proposed Action on the physical, biological, and socioeconomic resources of the project area have been evaluated. My evaluation of significant factors has contributed to my finding:
   a. There would be no significant impacts to Federally listed threatened or endangered species, including Indiana Bats, Northern Long-Eared Bats, and Piping Plover.
   b. There would be no appreciable degradation to the physical environment (e.g., soils, air quality, and water quality).
   c. There would be no significant impacts to the biological components of the project (e.g., vegetation, wildlife, aquatic organisms).
   d. No adverse impacts to historic properties are anticipated.
   e. The "no action" alternative was evaluated and determined to be unacceptable because it did not address the purpose and need for the Proposed Action.
   f. No significant cumulative impacts are anticipated.

IV. Based on the evaluation and disclosure of impacts contained within the Environmental Assessment, I find no significant impacts to the human environment are anticipated to occur as a result of the Proposed Action. The Proposed Action has been coordinated with the appropriate resource agencies, and there are no significant unresolved issues. Therefore, an Environmental Impact Statement will not be prepared prior to proceeding with the Proposed Action as identified in this Environmental Assessment.

23 OCT 2018
Date

Bryan K. Sizemore
Colonel, U.S. Army
District Commander

APPENDIX A: AGENCY AND TRIBAL COORDINATION

EcoCAT
Ecological Compliance Assessment Tool

Applicant:	Natasha Sims	*IDNR Project Number:*	1804022
Contact:	Natasha Sims	*Date:*	11/13/2017
Address:	11231 Marucm Branch Road Benton, IL 62812	*Alternate Number:*	RLCD-16-05, 1803922
Project:	Secondary WTP Discharge Line		
Address:	11228 Marcum Branch Road, Benton		

Description: Project will leave the Water Plant located 130 ft south of Marcum Branch road and head east towards interstate 57. It will turn south just before the bridge and proceed south to the power lines. The line will then turn east about 30 ft south of the power lines. It will follow the power lines till it crosses under Interstate 57 and Highway 37. After Highway 37, it will stay on the south side of Benton Camp Road till it reaches the Union Pacific Railroad tracks and connects into an existing water main running north and south located on the west side of the tracks.

Natural Resource Review Results

Consultation for Endangered Species Protection and Natural Areas Preservation (Part 1075)

The Illinois Natural Heritage Database contains no record of State-listed threatened or endangered species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location.

Consultation is terminated. This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary. Termination does not imply IDNR's authorization or endorsement.

Location

The applicant is responsible for the accuracy of the location submitted for the project.

County: Franklin

Township, Range, Section:
5S, 2E, 36
5S, 3E, 31
5S, 3E, 32

IL Department of Natural Resources Contact
Brandon Jackson
217-785-5500
Division of Ecosystems & Environment

Government Jurisdiction
Rend Lake Conservnacy District
Natasha Sims
11231 Marcum Branch Road
Benton, Illinois 62812

Disclaimer

The Illinois Natural Heritage Database cannot provide a conclusive statement on the presence, absence, or condition of natural resources in Illinois. This review reflects the information existing in the Database at the time of this inquiry, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, compliance with applicable statutes and regulations is required.

Terms of Use

By using this website, you acknowledge that you have read and agree to these terms. These terms may be revised by IDNR as necessary. If you continue to use the EcoCAT application after we post changes to these terms, it will mean that you accept such changes. If at any time you do not accept the Terms of Use, you may not continue to use the website.

1. The IDNR EcoCAT website was developed so that units of local government, state agencies and the public could request information or begin natural resource consultations on-line for the Illinois Endangered Species Protection Act, Illinois Natural Areas Preservation Act, and Illinois Interagency Wetland Policy Act. EcoCAT uses databases, Geographic Information System mapping, and a set of programmed decision rules to determine if proposed actions are in the vicinity of protected natural resources. By indicating your agreement to the Terms of Use for this application, you warrant that you will not use this web site for any other purpose.

2. Unauthorized attempts to upload, download, or change information on this website are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and/or the National Information Infrastructure Protection Act.

3. IDNR reserves the right to enhance, modify, alter, or suspend the website at any time without notice, or to terminate or restrict access.

Security

EcoCAT operates on a state of Illinois computer system. We may use software to monitor traffic and to identify unauthorized attempts to upload, download, or change information, to cause harm or otherwise to damage this site. Unauthorized attempts to upload, download, or change information on this server is strictly prohibited by law.

Unauthorized use, tampering with or modification of this system, including supporting hardware or software, may subject the violator to criminal and civil penalties. In the event of unauthorized intrusion, all relevant information regarding possible violation of law may be provided to law enforcement officials.

Privacy

EcoCAT generates a public record subject to disclosure under the Freedom of Information Act. Otherwise, IDNR uses the information submitted to EcoCAT solely for internal tracking purposes.

EcoCAT
Ecological Compliance Assessment Tool

ILLINOIS DEPARTMENT OF NATURAL RESOURCES

EcoCAT Receipt

Project Code 1804022

APPLICANT	DATE
Natasha Sims Natasha Sims 11231 Marcum Branch Road Benton, IL 62812	11/13/2017

DESCRIPTION	FEE	CONVENIENCE FEE	TOTAL PAID
EcoCAT Consultation	$ 500.00	$ 11.75	$ 511.75

TOTAL PAID $ 511.75

Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702
217-785-5500
dnr.ecocat@illinois.gov

ILLINOIS DEPARTMENT OF NATURAL RESOURCES

Illinois Department of **Natural Resources**

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Bruce Rauner, Governor
Wayne A. Rosenthal, Director

Marion County
Benton
Markum Branch Rd., Benton Camp Rd.
COESTL, RLCD-16-05
Water main extensions - Secondary WTP Discharge Line

PLEASE REFER TO: SHPO LOG #009111517

December 5, 2017

Natasha Sims
Rend Lake Conservancy District
11231 Marcum Branch Road
P.O. Box 907
Benton, IL 62812

Dear Madam:

We have reviewed the documentation submitted for the referenced project(s) in accordance with 36 CFR Part 800.4. Based upon the information provided, no historic properties are affected. We, therefore, have no objection to the undertaking proceeding as planned.

Please retain this letter in your files as evidence of compliance with section 106 of the National Historic Preservation Act of 1966, as amended. This clearance remains in effect for two (2) years from date of issuance. It does not pertain to any discovery during construction, nor is it a clearance for purposes of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440).

If you are an applicant, please submit a copy of this letter to the state or federal agency from which you obtain any permit, license, grant, or other assistance. If further assistance is needed contact Joe Phillippe of my office at 217/785-1279 or joe.phillippe@illinois.gov.

Sincerely,

Rachel Leibowitz, Ph.D.
Deputy State Historic
Preservation Officer

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
1021 North Grand Avenue, East; Post Office Box 19276; Springfield, IL 62794-9276
Division of Public Water Supplies Telephone 217/782-1724

PUBLIC WATER SUPPLY CONSTRUCTION PERMIT

SUBJECT: REND LAKE INTER-CITY WATER SYSTEM (Franklin County – 0555100)

Permit Issued to:
General Manager
11231 Marcum Branch Road
Benton, IL 62812

PERMIT NUMBER: 0557-FY2018

DATE ISSUED: February 13, 2018
PERMIT TYPE: Water Main Extension

The issuance of this permit is based on plans and specifications prepared by the engineers/architects indicated, and are identified as follows. This permit is issued for the construction and/or installation of the public water supply improvements described in this document, in accordance with the provisions of the "Environmental Protection Act", Title IV, Sections 14 through 17, and Title X, Sections 39 and 40, and is subject to the conditions printed on the last page of this permit and the ADDITIONAL CONDITIONS listed below.

FIRM: Rend Lake Conservancy District
NUMBER OF PLAN SHEETS: 19
TITLE OF PLANS: "Rend Lake Conservancy District, Secondary WTP Discharge Line, *SR*"

PROPOSED IMPROVEMENTS:

The installation of approximately 13,917 feet of 36-inch or 42-inch water main.

ADDITIONAL CONDITIONS:

1. The proposed water main sample plan has been found to be acceptable. Satisfactory disinfection shall be demonstrated in accordance with the requirements of 35 Ill. Adm. Code 602.310.

2. An operating permit shall not be issued until this Agency is informed as the diameter of the water main installed.

3. There are no further conditions to this permit.

DCC:GAZ

cc: Rend Lake Conservancy District
Marion Regional Office

David C. Cook, P.E.
Acting Manager Permit Section
Division of Public Water Supplies

STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

The Illinois Environmental Protection Agency Act (Illinois Compiled Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

These standard conditions shall apply to all permits which the Agency issues for construction or development projects which require permits under the Division of Water Pollution Control, Air Pollution Control, Public Water Supplies and Land and Noise Pollution Control. Special conditions may also be imposed by the separate divisions in addition to these standard conditions.

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year after this date of issuance unless construction or development on this project has started on or prior to that date. (See below)

2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted the Illinois Pollution Control Board.

3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.

4. The permittee shall allow any agent duly authorized by the Agency upon the presentation of credentials:

a. to enter at reasonable times the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit.

b. to have access to and copy at reasonable times any records required be kept under the terms and conditions of this permit.

c. to inspect at reasonable times, including during any hours or operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit.

d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants.

e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.

5. The issuance of this permit:

a. shall not be considered as in any manner affecting the title of the permits upon which the permitted facilities are to be located;

b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;

c. does not release the permittee from compliance with the other applicable statues and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;

d. does not take into consideration or attest to the structural stability of any units or parts of the project;

e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability directly or indirectly for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.

6. These standard conditions shall prevail unless modified by special conditions.

7. The Agency may file a complaint with Board of modification, suspension or revocation of a permit:

a. upon discovery that the permit application misrepresentation or false statements or that all relevant facts were not disclosed; or

b. upon finding that any standard or special conditions have been violated; or

c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

For Division of Public Water Supply Construction Permits, construction on this project, once started, may continue for four years before this permit expires. A request for extension shall be filed at least 90 day
prior to the permit expiration date.

From:	Koenig, Christopher J Jr CIV (US)
To:	"snease@astribe.com"; "Brett Barnes"; "tonya@shawnee-tribe.com"; "sbird@ukb-nsn.gov"; "Kimberly Penrod"; "lheady@delawaretrib.org"; "kelli.mosteller@potawatomi.org"; "melissa.cook@fcpotawatomi-nsn.gov"; "Earl Meshigaud"; "Doug Taylor"; "Jason S. Wesaw - THPO"; "jrw@pbpnation.org"; "Bill L. Quackenbush"; "Randy Teboe"; "Lance Foster"; "rfields@iowanation.org"; "kentcollier@kickapootribeofoklahoma.com"; "fred.thomas@ktik-nsn.gov"; "lisa.montgomery@sacandfoxenviro.org"; Buffalo, Jonathan; "Diane Hunter"; "Andrea Hunter"; "lpappenfort@peoriatribe.com"; "ebandy@quapawtribe.com"; "pcross@caddonation.org"
Cc:	Asbed, Jeffrey E CIV USARMY CEMVS (US); Hance, Rochelle R CIV USARMY CEMVS (US); Johnson, Brian L CIV USARMY CEMVS (US)
Subject:	Rend Lake Conservancy District Emergency Water Main Installation
Date:	Thursday, September 06, 2018 9:54:00 AM
Attachments:	Rend Lake Emergency Waterline.pdf
Importance:	High

Good Morning.

The United States Army Corps of Engineers, St. Louis District (District) is notifying your tribe of an imminent threat of failure of public water supply within the District, in Franklin County, Illinois. The District Commander signed a Memorandum for Record (MFR) declaring this situation an emergency on August 31, 2018 to prevent or reduce imminent risk of life, health, property, or severe economic losses (MFR attached). Due to the nature of this emergency project, the District is emailing its consulting tribes the information. A letter (example attached) discussing this project was also sent to your tribe today.

The District greatly appreciates your timely review of this project. If your tribe has any immediate issues, questions, or concerns about this emergency project, please contact me to discuss.

Thank you,

Chris Koenig, M.A., RPA
Archaeologist and Tribal Liaison
USACE St. Louis District
MCX-CMAC-EC-Z
1222 Spruce Street
St. Louis, MO 63103
Office: 314-331-8151
Work Cell: 314-356-0483
Chris.J.Koenig@usace.army.mil

DEPARTMENT OF THE ARMY
ST. LOUIS DISTRICT, CORPS OF ENGINEERS
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103-2833

September 4, 2018

Engineering and Construction Division
Curation and Archives Analysis Branch

The Historic Preservation Office
Tribal Historic Preservation Officer
Absentee-Shawnee Tribe
2025 S. Gordon Cooper Drive
Shawnee, OK 74810-9381

Dear Tribal Historic Preservation Officer:

The United States Army Corps of Engineers, St. Louis District (District) is notifying your tribe of an imminent threat of failure of public water supply within the District, in Franklin County, Illinois (Figure 1). On May 16, 2018 a break in a water supply pipeline operated by the Rend Lake Conservancy District (RLCD) resulted in a water plant shutdown for nearly two days causing an interruption of water service to many of RLCD's customers. Therefore, because the existing water main is known to be leaking and experienced the recent break, there is concern that another break with greater impacts is likely.

The RLCD requested (letter enclosed) an easement for a water main across approximately 1.2 miles of Corps of Engineers' fee title lands (running parallel with the existing water main) at Rend Lake, Illinois (Figure 2). The RLCD, in a letter dated August 2, 2018 has requested an expedited Environmental Assessment (EA) process in order to obtain the easement necessary to install a new 36-inch water main, serving nearly 200,000 Southern Illinois' residents in 10 counties (letter enclosed). The District Commander signed a Memorandum for Record (MFR) declaring this situation an emergency on August 31, 2018 to prevent or reduce imminent risk of life, health, property, or severe economic losses (MFR enclosed).

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), and its implementing regulation 36 CFR 800, the District is notifying all the Native American tribes with which it regularly consults of this emergency project and is initiating consultation. Further, Engineering Regulation 200-2-2, Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA), provides in paragraph 8 (Emergency Actions), for District Commanders to respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses without first preparing specific documentation and following the procedural requirements of other sections of this regulation. Therefore, the District is notifying the tribes of this emergency project and initiating consultation, but due to the nature of this emergency, work may proceed prior to the 30 day review period and release of the EA for public review.

RLCD received Illinois State Historic Preservation Office (IL SHPO) concurrence that no historic properties are effected for the project on December 7, 2017. However, upon review, the District did not fully concur with the IL SHPO based on the fact that not all the District's property had been previously surveyed for historic properties. The District requested the RLCD hire an archaeological contractor to survey portions of District property that had not been previously

surveyed. RLCD submitted a survey report to the District on August 30, 2018. The District concurs with their findings of no adverse effects to historic properties.

Based on historic background research, previous archaeological investigations, the findings of the archaeological survey performed by American Resource Group, Ltd., and the Illinois State Historic Preservation Office's overall concurrence, the District's current opinion is this emergency project will have no adverse effects on historic properties.

The District greatly appreciates your timely review of this project. If your tribe has any immediate issues, questions, or concerns about this emergency project, please contact Chris Koenig at (314) 331-8151 or email at chris.j.koenig@usace.army.mil.

Sincerely,

Signed

Rochelle Hance
Chief, Curation and Archives
Analysis Branch

Enclosures

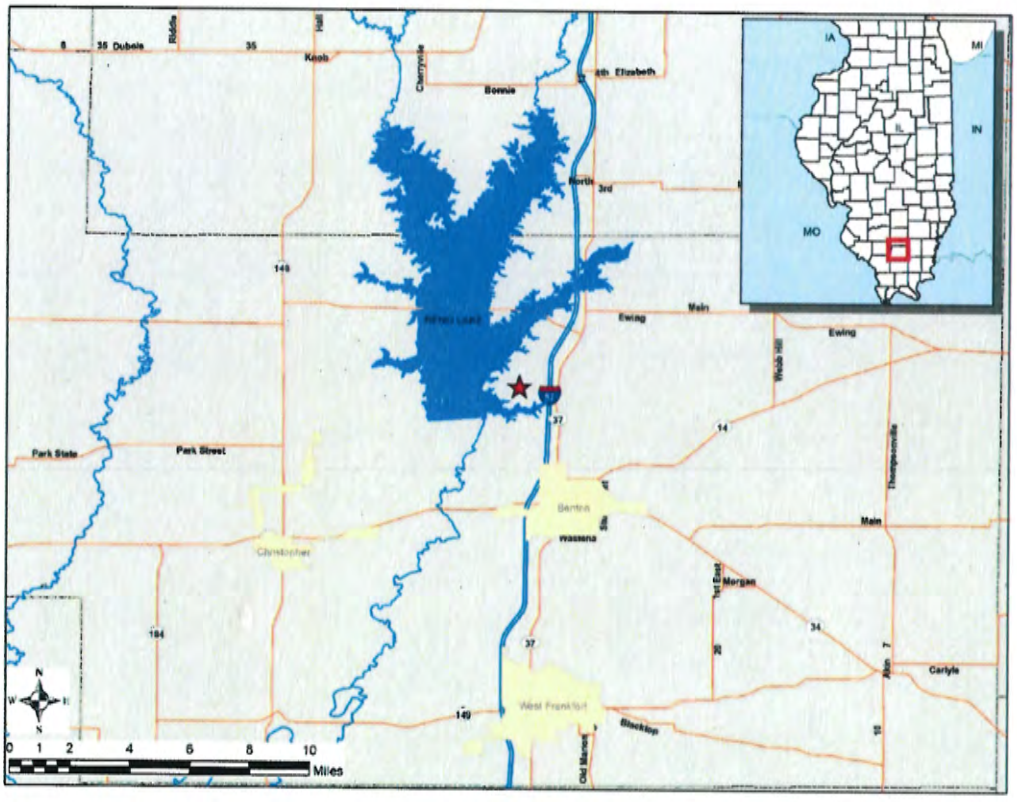


Figure 1. Project location.

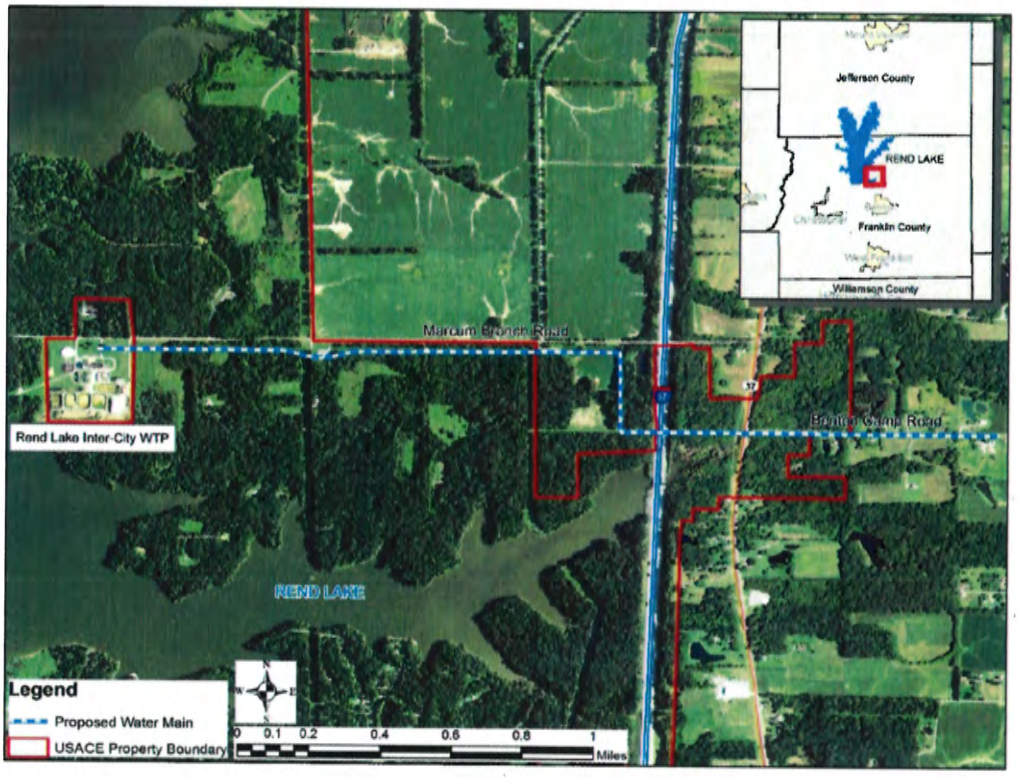


Figure 2. Proposed water main location.

DEPARTMENT OF THE ARMY
ST. LOUIS DISTRICT, CORPS OF ENGINEERS
1222 SPRUCE STREET
ST. LOUIS MO 63103-2833

CEMVS-DE

August 31, 2018

MEMORANDUM FOR RECORD

SUBJECT: Imminent Threat of Failure of Public Water Supply, Rend Lake Project, St. Louis District, Illinois

1. Reference attached letter from RLCD, dated April 4, 2018, requesting an easement for a water main across approximately 1.2 miles of Corps of Engineers' fee title lands. Included with the original formal request was the following: project overview map, detailed plan/profile sheets showing the project location, USACE deeds, all necessary environmental permits and coordination with State agencies, and nationwide permit.

2. Reference attached letter from RLCD, dated July 31, 2018, requesting an expedited Environmental Assessment (EA) process in order to obtain the easement necessary to install a new 36-inch water main, serving nearly 200,000 Southern Illinois' residents in 10 counties.

3. On May 16, 2018, a break in the water supply pipeline resulted in a water plant shutdown for nearly two (2) days causing an interruption of water service to many of RLCD's customers for at least that period of time. Because the existing water main is known to be leaking and has already experienced a break, there is concern that another break with even greater impacts is likely.

4. Engineering Regulation 200-2-2, Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA), provides in paragraph 8 (Emergency Actions), for District Commanders to respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses without first preparing specific documentation and following the procedural requirements of other sections of this regulation. NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable. Such documentation may also be accomplished after the completion of emergency work, if appropriate.

5. Coordination and consultation with other Federal and State agencies has already been completed, including all permitting actions. Based on preliminary analyses of the potential impacts associated with the proposed action and coordination with other Federal and State agencies to date, no significant adverse environmental impacts are anticipated. NEPA documentation in support of the installation of the new 36-inch water main will consist of an

Environmental Assessment and draft Finding of No Significant Impact to be circulated in September for a 30-day public review.

6. One of Rend Lake's project purposes is water supply. Project authorization documents point to Rend Lake's water supply as "a major social/economic asset". USACE currently has a water supply contract with the State of Illinois. Further, the State of Illinois assigned to RLCD their right to withdraw water from Rend Lake and sell such water to domestic, industrial, municipal, and other water supply purposes, per Contract No. RL-65-1, as amended. The current water supply pipeline has been in service for nearly 50 years, dating back to construction of Rend Lake and the associated infrastructure.

7. Installation of a new water main is critical in supplying reliable drinking water to approximately 200,000 customers in southern Illinois. A lack of water is a risk to health as well as a risk to property as it would also result in limited fire protection.

8. Based upon applicable regulations and guidance, I consider the current water supply supported by Rend Lake to be under an imminent threat of failure due to the age of the infrastructure and the timing of installation with the winter months approaching. I have determined that such failure would result in a risk to health and safety, as well an economic detriment to industry and municipalities in the southern Illinois region. I also find that this threat will continue to exist until the installation of a new reliable water main is completed. The District will continue preparing an environmental assessment of the impacts associated with the installation of the new water main, and release the document for public and agency review and comment as soon as possible.

In compliance with ER 200-2-2, paragraph 8.

for BRYAN K. SIZEMORE, PMP
COL, EN
Commanding

2 Enclosures:

1. Letter from RLCD, 4 April 2018
2. Letter from RLCD, 31 July 2018

REND LAKE CONSERVANCY DISTRICT

P.O. BOX 907 ■ 11231 MARCUM BRANCH ROAD ■ BENTON, ILLINOIS 62812
TELEPHONE: (618) 439-4321 ■ FAX: (618) 439-2400

April 4, 2018

Ms. Jackie Taylor
US Army Corps of Engineers
Rend Lake Project Office
11981 Rend City Road
Benton, IL 62812

Re: Rend Lake Conservancy District
RLCD-16-05
Secondary WTP Discharge Line
Easement Request

Dear Ms. Taylor:

The Rend Lake Conservancy District is requesting an easement to install a new water main across US Army Corp of Engineers property. This project is approximately 2.7 miles of 36-inch water main and appurtenances, and is located north of Benton, Illinois (Township 5S Range 2 & 3E). The project will cross approximately 1.2 miles of US Army Corp of Engineers. The remaining 1.4 miles will be located in new private easements and Illinois Department of Transportation property. The proposed water main will provide redundancy for the existing single 36-inch transmission main serving approximately 200,000 customers in 10 counties. The transmission main is nearing 50 years old.

The District is requesting a 20-ft permanent easement and 10-ft temporary construction easement for the water main project.

The following documents are included:

- Project Overview map showing USACOE property
- Detailed plan/profile sheets showing the project location
    - Request for 20-ftpermanent and 10-ft temporary construction easements
    - Request to utilize the East Palestine Parking lot for construction staging if needed
    - Request to encase (PVC pipe) the existing USACOE 4-inch sewer force main 25-ft either side of the water main crossing (IEPA sewer crossing requirement for water mains)
- USACOE Deeds (8)
- Environmental Permits
    - IEPA Construction Permit
    - IDNR EcoCAT- no endangered species
    - FWS Letter- concurrence that the project is not likely to adversely affect the Indiana bat, northern long-eared bat, and piping plover
    - IHPA Signoff
    - USACOE Nationwide Permit (Utility Line Activities)

A tree mitigation plan will be submitted to the USACOE Rend Lake Project Office for review, coordination, and approval. The District is also awaiting a response from Southeastern Electric stating

the District may encroach upon their existing power line easement. This document will be submitted as soon as the District receives it.

Please let me know if you have any questions or need additional information. You may contact me at (618) 439-4321 or by email at stowle@rendlake.org.

Sincerely,

Sarah Towle, P.E.
District Engineer
Rend Lake Conservancy District

Enclosures

REND LAKE CONSERVANCY DISTRICT

P.O. BOX 907 ■ 11231 MARCUM BRANCH ROAD ■ BENTON, ILLINOIS 62812
TELEPHONE: (618) 439-4321 ■ FAX: (618) 439-2400

August 2, 2018

Jennifer Wilson
Real Estate Division
U.S. Army Corps of Engineers
1222 Spruce Street
St. Louis, MO 63103-2822

Re: Rend Lake Conservancy District
RLCD-16-05 Secondary WTP Discharge Line
Easement Request

Dear Ms. Wilson:

The District would like to offer any assistance in expediting the Environmental Assessment required in granting a water main easement for the above referenced project. The proposed water main is critical in providing nearly 200,000 Southern Illinois residents in 10 counties with reliable drinking water. The District has a single 36-inch water main leaving the water plant for approximately 3.5 miles to supply all customers. The proposed 36-inch water main project will parallel the existing 3.5 mile line. The District plans to keep both lines in operation to provide redundancy.

On May 16th, 2018, a break on the 50 year old, 36-inch water main leaving the plant resulted in a water plant shutdown for 35 hours and hence interruption of water service to many of the District's customers as well as boil orders. The District is concerned about the potential for another serious water break due to a known leak on the line. This leak cannot be fixed until the proposed parallel water main is in operation. Another water crisis could be averted with the construction of the proposed parallel line.

Please let me know if any additional information and/or assistance is needed. You may reach me at stowle@rendlake.org or (618) 439-4321.

Sincerely,

Sarah Towle, P.E.
District Engineer

Tribal Leaders

Governor	Edwina Butler-Wolfe	Absentee-Shawnee Tribe	2025 S. Gordon Cooper Drive		Shawnee	OK	74810-9381
Chairman	John Barret	Citizen Potawatomi Nation	1601 S. Gordon Cooper Drive		Shawnee	OK	74801
President	Deborah Dotson	Delaware Nation of Oklahoma	P.O. Box 825		Anadarko	OK	73005
Chief	Chester Brooks	Delaware Tribe of Indians	5100 Tuxedo Boulevard		Bartlesville	OK	74006
Chief	Glenna J. Wallace	Eastern Shawnee Tribe of Oklahoma	P.O. Box 350		Seneca	MO	64865
Chairman	Ned Daniels	Forest County Potawatomi	P.O. Box 340		Crandon	WI	54520
Chairman	Kenneth Meshigaud	Hannahville Indian Community	N 14911 Hannahville B-1 Road		Wilson	MI	49896-9728
President	Wilford Cleveland	Ho-Chunk Nation of Wisconsin	P.O. Box 667		Black River Falls	WI	54675
Chairman	Tim Rhodd	Iowa Tribe of Kansas and Nebraska	3345 Thrasher Road, #8		White Cloud	KS	66094
Chairman	Bobby Walkup	Iowa Tribe of Oklahoma	Route 1, Box 721		Perkins	OK	74059
Chairman	Lester Randall	Kickapoo Tribe of Indians of Kansas	P.O. Box 271		Horton	KS	66439
Chairman	David Pacheco	Kickapoo Tribe of Oklahoma	P.O. Box 70		McCloud	OK	74851
Chairman	Scott Sprague	Match-e-be-nash-she-wish Potawatomi	2872 Mission Dr.		Shelbyville	MI	49344
Chief	Douglas Lankford	Miami Tribe of Oklahoma	202 S. Eight Tribes Trail	P.O. Box 1326	Miami	OK	74355
Chairman	Jaime Stuck	Nottawaseppi Band of Huron Potawatomi	2221—1 & 1/2 Mile Road		Fulton	MI	49052
Chief	Craig Harper	Peoria Tribe of Indians of Oklahoma	118 S. Eight Tribes Trail	P.O. Box 1527	Miami	OK	74355
Chairman	John P. Warren	Pokagon Band of Potawatomi	P.O. Box 180	58620 Sink Road	Dowagiac	MI	49047
Chairwoman	Liana Onnen	Prairie Band Potawatomi Nation	Government Center	16281 Q Road	Mayetta	KS	66509
Chairperson	Tiauna Carnes	Sac & Fox Nation of Missouri in Kansas and Nebraska	305 N. Main Street		Reserve	KS	66434
Principal Chief	Kay Rhoads	Sac & Fox Nation of Oklahoma	920883 S Highway 99	Building A	Stroud	OK	74079
Chairman	Anthony Waseskuk	Sac & Fox Tribe of the Mississippi in Iowa	349 Meskwaki Road		Tama	IA	52339
Chairman	Ron Sparkman	Shawnee Tribe	P.O. Box 189		Miami	OK	74355
Principal Chief	Geoffrey Standing Bear	The Osage Nation	P.O. Box 779		Pawhuska	OK	74056
Chairman	John Berrey	The Quapaw Tribe of Indians	P.O. Box 765		Quapaw	OK	74363
Chief	Joe Bunch	United Keetoowah Band of Cherokee of Oklahoma	P.O. Box 746		Tahlequah	OK	74464
Chairman	Frank White	Winnebago Tribe of Nebraska	P.O. Box 687		Winnebago	NE	68071
Chairman	Tamara Francis	Caddo Nation	P.O. Box 487		Binger	OK	73009

Cultural Reps

Historic Preservation Office	Tribal Historic Preservation Officer	Absentee-Shawnee Tribe	2025 S. Gordon Cooper Drive		Shawnee	OK	74810-9381
Kelli Mosteller	Tribal Historic Preservation Officer	Citizen Potawatomi Nation	Cultural Heritage Center	1601 S. Gordon Cooper Drive	Shawnee	OK	74801
Kim Penrod	Director Cultural and Historic Preservation	Delaware Nation of Oklahoma	P.O. Box 825		Anardarko	OK	73005
Larry Heady	THPO Special Assistant	Delaware Tribe of Indians	1929 E. 6th ST		Duluth	MN	55812
Brett Barnes	Historic Preservation Office	Eastern Shawnee Tribe of Oklahoma	P.O. Box 350		Seneca	MO	64865
Melissa Cook	Tribal Historic Preservation Officer	Forest County Potawatomi	Cultural Center, Library & Museum	8130 Mishkoswen Drive, P.O. Box 340	Crandon	WI	54520
Earl Meshigaud	Historic Preservation Office	Hannahville Indian Community	P.O. Box 351, Highway 2 & 41		Harris	MI	49845
William Quackenbush	Tribal Historic Preservation Officer	Ho-Chunk Nation of Wisconsin	P.O. Box 667		Black River Falls	WI	54675
Lance Foster	Tribal Historic Preservation Officer	Iowa Tribe of Kansas and Nebraska	3345 Thrasher Road		White Cloud	KS	66094
Robert Fields	Historic Preservation Office	Iowa Tribe of Oklahoma	Route 1, Box 721		Perkins	OK	74059
Fred Thomas	Vice Chair	Kickapoo Tribe of Indians of Kansas	P.O. Box 271		Horton	KS	66439
Kent Collier	Historic Preservation Office	Kickapoo Tribe of Oklahoma	P.O. Box 70		McCloud	OK	74851
Sydney Martin	Historic Preservation Office	Match-e-be-nash-she-wish Potawatomi	2872 Mission Drive		Shelbyville	MI	49344
Diane Hunter	Tribal Historic Preservation Officer	Miami Tribe of Oklahoma	202 S. Eight Tribes Trail	P.O. Box 1326	Miami	OK	74355
Douglas Tylor	Interim Tribal Historic Preservation Officer	Nottawaseppi Band of Huron Potawatomi	2221—1 1/2 Mile Road		Fulton	MI	49052
Logan Pappenfort	Historic Preservation Office	Peoria Tribe of Indians of Oklahoma	118 S. Eight Tribes Trail	P.O. Box 1527	Miami	OK	74355
Jason Scott Wesaw	Tribal Historic Preservation Officer	Pokagon Band of Potawatomi	P.O. Box 180	58620 Sink Road	Dowagiac	MI	49047
Warren Wahweotten	Tribal Council Member	Prairie Band Potawatomi Nation	Government Center	16281 Q Road	Mayetta	KS	66509
Lisa Montgomery	Environmental Protection Agency Director	Sac & Fox Nation of Missouri in Kansas and Nebraska	305 N. Main Street		Reserve	KS	66434
Historic Preservation Office	NAGPRA/Historic Preservation Office	Sac & Fox Nation of Oklahoma	920883 S. Highway 99	Building A	Stroud	OK	74079
Johnathan Buffalo	Historic Preservation Office	Sac & Fox Tribe of the Mississippi in Iowa	349 Meskwaki Road		Tama	IA	52339
Tonya Tipton	Historic Preservation Office	Shawnee Tribe	P.O. Box 189		Miami	OK	74355
Andrea Hunter	Historic Preservation Office	The Osage Nation	627 Grandview Avenue		Pawhuska	OK	74056
Everett Brandy	Tribal Historic Preservation Officer	The Quapaw Tribe of Indians	P.O. Box 765		Quapaw	OK	74363
Sheila Bird	Tribal Historic Preservation Officer	United Keetoowah Band of Cherokee of Oklahoma	P.O. Box 746		Tahlequah	OK	74464
Randy Tebeo	Tribal Historic Preservation Officer	Winnebago Tribe of Nebraska	P.O. Box 687		Winnebago	NE	68071
Phil Cross	Tribal Historic Preservation Officer	Caddo Nation	P.O. Box 487		Binger	OK	73009

From:	Koenig, Christopher J Jr CIV (US)
To:	Runyon, Kip R CIV USARMY CEMVP (US); Anderson, Lara S CIV USARMY CEMVS (US)
Subject:	Fwd: [Non-DoD Source] RE: Rend Lake Conservancy District Emergency Water Main Installation
Date:	Tuesday, September 11, 2018 7:09:22 AM

Chris Koenig, M.A., RPA
Archaeologist and Tribal Liaison
USACE St. Louis District
MCX-CMAC-EC-Z
1222 Spruce Street
St. Louis, MO 63103
Office: 314-331-8151
Work Cell: 314-356-0483
Chris.J.Koenig@usace.army.mil

From: tonya@shawnee-tribe.com <tonya@shawnee-tribe.com>
Date: September 10, 2018 at 4:44:33 PM CDT
To: Koenig, Christopher J Jr CIV (US) <Christopher.J.Koenig@usace.army.mil>
Subject: [Non-DoD Source] RE: Rend Lake Conservancy District Emergency Water Main Installation

This letter is in response to the above referenced project.

The Shawnee Tribe's Tribal Historic Preservation Department concurs that no known historic properties will be negatively impacted by this project.

We have no issues or concerns at this time, but in the event that archaeological materials are encountered during construction, use, or maintenance of this location, please re-notify us at that time as we would like to resume immediate consultation under such a circumstance.

If you have any questions, you may contact me via email at tonya@shawnee-tribe.com

Thank you for giving us the opportunity to comment on this project.

Sincerely,

Tonya Tipton
Shawnee Tribe

-----Original Message-----
From: Koenig, Christopher J Jr CIV (US) <Christopher.J.Koenig@usace.army.mil>
Sent: Thursday, September 6, 2018 9:54 AM
To: snease@astribe.com; 'Brett Barnes' <BBarnes@estoo.net>; tonya@shawnee-tribe.com; sbird@ukb-nsn.gov; kpenrod <kpenrod@delawarenation.com>; lheady@delawaretrib.org; kelli.mosteller@potawatomi.org; melissa.cook@fcpotawatomi-nsn.gov; Earl Meshigaud <earlmeshigaud@hannahville.org>; Doug Taylor <doug.taylor@nhbpi.com>; Jason S. Wesaw - THPO <Jason.Wesaw@pokagonband-nsn.gov>; jrw@pbpnation.org; Bill L. Quackenbush <Bill.Quackenbush@ho-chunk.com>; Randy Teboe <randy.teboe@winnebagotribe.com>; Lance Foster <lfoster@iowas.org>; rfields@iowanation.org; kentcollier@kickapootribeofoklahoma.com; fred.thomas@ktik-nsn.gov; lisa.montgomery@sacandfoxenviro.org; Buffalo, Jonathan <director.historic@meskwaki-nsn.gov>; Diane Hunter <dhunter@miamination.com>; Andrea Hunter <ahunter@osagenation-nsn.gov>; 'lpappenfort@peoriatribe.com' <lpappenfort@peoriatribe.com>; ebandy@quapawtribe.com; pcross@caddonation.org
Cc: Asbed, Jeffrey E CIV USARMY CEMVS (US) <Jeffrey.E.Asbed@usace.army.mil>; Hance, Rochelle R CIV USARMY CEMVS (US) <Rochelle.R.Hance@usace.army.mil>; Johnson, Brian L CIV USARMY CEMVS (US) <Brian.L.Johnson@usace.army.mil>
Subject: Rend Lake Conservancy District Emergency Water Main Installation
Importance: High

Good Morning,

The United States Army Corps of Engineers, St. Louis District (District) is notifying your tribe of an imminent threat of failure of public water supply within the District, in Franklin County, Illinois. The District Commander signed a Memorandum for Record (MFR) declaring this situation an emergency on August 31, 2018 to prevent or reduce imminent risk of life, health, property, or severe economic losses (MFR attached). Due to the nature of this emergency project, the District is emailing its consulting tribes the information. A letter (example attached) discussing this project was also sent to your tribe today.

The District greatly appreciates your timely review of this project. If your tribe has any immediate issues, questions, or concerns about this emergency project, please contact me to discuss.

Thank you,

Chris Koenig, M.A., RPA
Archaeologist and Tribal Liaison
USACE St. Louis District
MCX-CMAC-EC-Z

1222 Spruce Street
St. Louis, MO 63103
Office: 314-331-8151
Work Cell: 314-356-0483
Chris.J.Koenig@usace.army.mil

Osage Nation Historic Preservation Office

𐓏𐒰𐓓𐒰𐓓𐒷 𐒼𐓂𐓆𐓎 𐒼𐓎𐓄𐒷𐒰

Date: September 11, 2018 **File: 1718-3757IL-9**

RE: USACE St. Louis District - Emergency water main installation at Rend Lake Conservancy District, Franklin County, IL

St. Louis District, USACE
Chris Koenig
1222 Spruce Street
St. Louis, MO 63103

Dear Mr. Koenig,

The Osage Nation Historic Preservation Office has evaluated your submission and concurs that the proposed USACE St. Louis District - Emergency water main installation at Rend Lake Conservancy District, Franklin County, IL most likely will not adversely affect any sacred properties and/or properties of cultural significance to the Osage Nation. **The Osage Nation has no further concern with this project.**

In accordance with the National Historic Preservation Act, (NHPA) [54 U.S.C. § 300101 et seq.] 1966, undertakings subject to the review process are referred to in 54 U.S.C. § 302706 (a), which clarifies that historic properties may have religious and cultural significance to Indian tribes. Additionally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties (36 CFR Part 800) as does the National Environmental Policy Act (43 U.S.C. 4321 and 4331-35 and 40 CFR 1501.7(a) of 1969). **The Osage Nation concurs that the St. Louis District, USACE has fulfilled NHPA compliance by consulting with the Osage Nation Historic Preservation Office in regard to the proposed USACE St. Louis District - Emergency water main installation at Rend Lake Conservancy District, Franklin County, IL.**

The Osage Nation has vital interests in protecting its historic and ancestral cultural resources. We do not anticipate that this project will adversely impact any cultural resources or human remains protected under the NHPA, NEPA, the Native American Graves Protection and Repatriation Act, or Osage law. **If, however, artifacts or human remains are discovered during project-related activities, we ask that activities cease immediately and the Osage Nation Historic Preservation Office be contacted.**

Should you have any questions or need any additional information please feel free to contact me at the number listed below. Thank you for consulting with the Osage Nation on this matter.

John Fox
Archaeologist

627 Grandview * Pawhuska, OK 74056 Telephone 918-287-5328 * Fax 918-287-5376

From: Koenig, Christopher J Jr CIV (US)
To: Runyon, Kip R CIV USARMY CEMVP (US); Hoerner, Melissa L CIV USARMY CEMVS (US)
Cc: Anderson, Lara S CIV USARMY CEMVS (US); Johnson, Brian L CIV USARMY CEMVS (US)
Subject: Rend Lake Waterline Delaware Nation Response
Date: Wednesday, September 19, 2018 6:26:06 AM

Kip,

Kim Penrod with the Delaware Nation called me yesterday about the Rend Lake Waterline Project. She stated the Nation has no issues.

Thanks and please let me know if you have any questions,

Chris Koenig, M.A., RPA
Archaeologist and Tribal Liaison
USACE St. Louis District
MCX-CMAC-EC-Z
1222 Spruce Street
St. Louis, MO 63103
Office: 314-331-8151
Work Cell: 314-356-0483
Chris.J.Koenig@usace.army.mil

QUAPAW NATION

P.O. Box 765
Quapaw, OK 74363-0765

(918) 542-1853
FAX (918) 542-4694

September 25, 2018

Department of the Army
St. Louis District, Corps of Engineers
1222 Spruce Street
St. Louis, Missouri 631103-2833

Attn: Engineering and Construction Division
Curation and Archives Analysis Branch

Re: Imminent threat of failure of public water supply within district, Franklin County, Illinois

To Whom It May Concern:

This project is outside of the current area of interest for the Quapaw Nation; therefore, the Quapaw Nation does not desire to comment on this project at this time. Thank you for your efforts to consult with us on this matter.

Sincerely,

Everett Bandy

Everett Bandy, THPO
Quapaw Nation
P.O. Box 765
Quapaw, OK 74363
(p) 918-238-3100

Illinois Department of Agriculture

Bruce Rauner, Governor
Raymond Poe, Director

Bureau of Land and Water Resources

State Fairgrounds · P.O. Box 19281 · Springfield, IL 62794-9281 · 217/782-6297 · TDD 866/287-2999 · Fax 217/557-0993

September 27, 2018

Mr. Kip Runyon (PD-P)
U.S. Army Engineer District, St. Louis
Regional Planning and Environmental Division North
122 Spruce Street
St. Louis, MO 63103-2833

Re: Draft Environmental Assessment and Finding of No Significant Impact (FONSI)
Rend Lake Conservancy District – Installation of New Water Main
Franklin County, Illinois
U.S. Army Corps of Engineers

Dear Mr. Runyon:

The Illinois Department of Agriculture (IDOA) has examined the above-referenced project for its potential impact to agricultural land in order to determine its compliance with the Illinois Farmland Preservation Act (505 ILCS 75/1 et seq.). Our analysis also relates to the federal Farmland Protection Policy Act (7 USC 4201 et seq.), which specifies that federal actions affecting farmland conversion shall be consistent with state and local programs to protect farmland. Due to the emergency nature of the project, NEPA documentation is being completed after the initiation of project construction.

The Rend Lake Conservancy District (RLCD) is experiencing breaks in the existing 36-inch transmission main, forcing a shutdown of water transmission to RLCD customers in 10 regional counties. There is concern for another major water main break. The project is needed to provide redundancy for the existing single 36-inch transmission main which is nearing 50 years old.

RLCD proposes to install a new 36-inch water main at their water treatment plant north of Benton, Illinois. The project involves the construction of ±2.7 miles of water main, with 1.2 miles crossing U.S. Army Corps of Engineers (USACE) property. A 20-foot permanent easement and a 10-foot temporary construction easement was required from USACE to install the water main.

Vegetation within the proposed project area is dominated by forested areas, interspersed with herbaceous road and utility rights-of-way. Soil resources would be temporarily disturbed by pipeline installation activities but would be returned to grade after completion. No conversion of prime or important farmland to non-ag use is anticipated. All construction is adjacent to existing roads and utility rights-of-way.

Because the project minimally impacts agricultural land and conversion of agricultural land is not anticipated, the IDOA has determined the project complies with the Illinois Farmland Preservation Act.

Sincerely,

Steve Chard, Acting Chief
Bureau of Land and Water Resources

SDC:JL/TS
cc: Agency project file

Miami Tribe of Oklahoma

3410 P St. NW, Miami, OK 74354 ● P.O. Box 1326, Miami, OK 74355
Ph: (918) 541-1300 ● Fax: (918) 542-7260
www.miamination.com

October 2, 2018

Chris Koenig
Department of the Army
St. Louis District Corps of Engineers
1222 Spruce Street
St. Louis, MO 63101-2833

Re: Rend Lake Project, Failure of Public Water Supply – Comments of the Miami Tribe of Oklahoma

Dear Mr. Koenig:

Aya, kikwehsitoole – I show you respect. My name is Diane Hunter, and I am the Tribal Historic Preservation Officer for the Federally Recognized Miami Tribe of Oklahoma. In this capacity, I am the Miami Tribe's point of contact for all Section 106 issues.

The Miami Tribe offers no objection to the above-mentioned project at this time, as we are not currently aware of existing documentation directly linking a specific Miami cultural or historic site to the project site. However, as this site is within the aboriginal homelands of the Miami Tribe, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery. In such a case, please contact me at 918-541-8966 or by email at dhunter@miamination.com to initiate consultation.

The Miami Tribe accepts the invitation to serve as a consulting party to the proposed project. In my capacity as Tribal Historic Preservation Officer I am the point of contact for consultation.

Respectfully,

Diane Hunter

Diane Hunter
Tribal Historic Preservation Officer

United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Southern Illinois Sub-Office (ES)
8588 Route 148
Marion, Illinois 62959

FWS/SISO

October 2, 2018

Colonel Bryan K. Sizemore
U.S. Army Corps of Engineers
St. Louis District
1222 Spruce Street
St. Louis, Missouri 63103-2833

Attn: Kip Runyon, CEMVP-PD-P

Dear Colonel Sizemore:

Thank you for your letter dated September 6, 2018, requesting review of the Draft Environmental Assessment (EA) and unsigned Finding of No Significant Impact (FONSI) addressing the proposed placement of a 36-inch water main near Rend Lake in Franklin County, Illinois. The proposed project involves placement of approximately 2.7 mile of water main, of which 1.2 miles would cross USACE property. Alternatives considered for this project included no action and the preferred alternative described above. These comments are prepared under the authority of and in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.); the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*); and, the National Environmental Policy Act (83 Stat. 852, as amended P.L. 91-190, 42 U.S.C. 4321 et seq.).

Fish and Wildlife Resources

The Service has no objection to the proposed project; however, we recommend that any tree clearing and wetland impacts be avoided or minimized to the greatest extent possible.

Threatened and Endangered Species

To facilitate compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, Federal agencies are required to obtain from the Fish and Wildlife Service (Service) information concerning any species, listed or proposed to be listed, which may be present in the area of a proposed action. The list for the proposed project area includes the endangered Indiana bat (*Myotis sodalis*), endangered piping plover (Charadrius meodus), and threatened northern long-eared bat (*Myotis septentrionalis*). There is no designated critical habitat in the project area at this time.

Information provided in the EA indicates that suitable habitat does not exist in the project area for the piping, thus the Corps has determined the proposed project will have no effect on this species. This precludes the need for further action on this project as required under Section 7 of the Endangered Species Act of 1973, as amended, for these species. Information in the EA indicates that tree clearing is being proposed and has previously been coordinated with the Service; therefore, the Corps has determined that the proposed project is not likely to adversely affect the Indiana bat and northern long-eared bat. Based on the information provided, the Service concurs that the proposed project is not likely to adversely affect the Indiana bat and northern long-eared bat.

Although the bald eagle has been removed from the threatened and endangered species list, it continues to be protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). The Service developed the National Bald Eagle Management Guidelines to provide landowners, land managers, and others with information and recommendations regarding how to minimize potential project impacts to bald eagles, particularly where such impacts may constitute "disturbance," which is prohibited by the BGEPA. The Service is unaware of any bald eagle nests in the proposed project area; however, if a bald eagle nest is found in the project area or vicinity of the project area then our office should be contacted and the guidelines implemented. A copy of the guidelines is available at:

http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf

We concur with the Corps' FONSI. Thank you for the opportunity to comment on the EA. For additional coordination, please contact me at (618) 998-5945.

Sincerely,

/s/ Matthew T. Mangan

Matthew T. Mangan
Fish and Wildlife Biologist

cc: IDNR (Rawe)

APPENDIX B: PERMITS

DEPARTMENT OF THE ARMY
ST. LOUIS DISTRICT CORPS OF ENGINEERS
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103-2833

REPLY TO
ATTENTION OF:

March 9, 2018

Regulatory Branch
File Number: MVS-2017-898

Ms. Sarah Towle
Rend Lake Conservancy District
11231 Marcum Branch
Benton, IL 62812

Dear Ms. Towle:

We have reviewed your application for a project known as *RLCD 16-05 Secondary Water Treatment Plant Discharge Line.* This project includes the installation of a 36-inch transmission water main for a length of approximately 2.7 miles in Franklin County, Illinois. The proposed line will cross through wetlands during the installation process. Wetland impacts include a 20-foot portion through a riverine area, 415 feet of a shrub scrub area, and 62 feet of emergent wetlands. Construction through wetlands will be minimized by boring sections where possible. Where directional boring is not an option, best management practices will be used to minimize trench cutting.

The location is in Hartford, Illinois and wholly located in Section 36 of Township 05 South, Range 02 East. The location of the project is in and adjacent to Rend Lake, an impoundment of the Big Muddy River, a tributary to the Mississippi River, a navigable in-fact river.

The Corps of Engineers has determined that this activity is authorized under Section 10 of the Rivers and Harbors Act by existing Department of the Army nationwide permits for *Utility Line Activities,* as described in the January 6, 2017, Federal Register, Reissuance of Nationwide Permits; Notice (82 FR 1987), Appendix A (B) (12). **This NWP verification is valid until March 18, 2022**, unless the District Engineer modifies, suspends, or revokes the nationwide permit authorization in accordance with 33 CFR 330.5(d). If you commence, or are under contract to commence, this activity before the nationwide permit expires, you will have 12 months from that date to complete the activity under the present terms and conditions of this NWP. Enclosed is a copy of the nationwide permit and conditions and management practices with which you must comply.

In accordance with General Condition number 30 of the Nationwide Permit, a compliance certification (Attachment A of this package) must be completed within 30 days of project completion or the permit issuance may be revoked and considered null and void.

The District Engineer has further conditioned the permit to include the following special conditions:

1. That the Permittee notify the Corps should any change in size, location of methods to accomplish the work occur. Changes could potentially require additional authorizations from the Corps as well as other federal, state or local agencies.

2. Temporary construction access, structures or fills shall be removed once the maintenance activity is complete and the site shall be restored to pre-project conditions including elevations, soil substrate, and vegetation.

3. All unused excavated material shall be placed on an upland site and should not impact any jurisdictional waters of the United States. If you believe you may impact any wetlands or jurisdictional waters with the remaining excavated material you shall contact our office prior to completing the work.

4. All tree removal shall be avoided to the maximum extent practical to complete the project.

5. The project site may contain suitable summer roosting habitat for the endangered Indiana Bat (Myotis sodalis) and threatened Northern long-eared bat (Myotis septentrionalis). Tree clearing must not occur between April 1 and September 30 in order not to disturb the summer roosting period of the species.

This review is applicable only to the permit program administered by the Corps of Engineers. It does not eliminate the need to obtain other federal, state or local approvals before beginning work. This permit does not convey property rights, nor authorize any injury to property or invasion of other rights.

The Illinois Environmental Protection Agency Division of Water Pollution Control (IEPA/WPC) has conditionally issued general Section 401 Water Quality Certification for this nationwide permit, subject to the special conditions and three general conditions (see enclosure). These conditions are part of the Corps permit. If you have any questions regarding the water quality certification conditions, you may call Mr. Darin E. LaCrone, IEPA/WPC, at 217-782-0610.

You are reminded that the permit is based on submitted plans. Variations from these plans shall constitute a violation of Federal law and may result in the revocation of the permit. If this nationwide permit is modified, reissued, or revoked during this period, the provisions described at 33 CFR 330.6(b) will apply.

If you have any questions please contact me at (314) 331-8811. Please refer to file number 2017-898. The St. Louis District Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to go to our Customer Service Survey found on our web site at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

EDMONDSON.ALAN.ROBERT.1086925350

Alan Edmondson
Project Manager
Regulatory Branch

Copy Furnished:
Altman, IDNR-OWR
LaCrone, IEPA

ATTACHMENT A

COMPLETED WORK CERTIFICATION

Date of Issuance: March 9, 2018

File Number: MVS-2017-898

Name of Permittee: Ms. Sarah Towle, Rend Lake Conservancy District

Name of Project: RLCD 16-05 Secondary Water Treatment Plant Discharge Line

River Basin/County/State: Big Muddy/Franklin/Illinois

Project Manager: Edmondson

Upon completion of this activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Attn: Regulatory Branch (OD-F)
1222 Spruce Street
St. Louis, Missouri 63103-2833

(Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification or revocation.)

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

_____ _____

Signature of Permittee **Date**

2017 Nationwide Permit Summary

U.S Army Corps Of Engineers
St. Louis District

Issued: March 19, 2017 **Expires: March 18, 2022**

No. 12 Utility Line Activities

(NWP Final Notice, 82 FR, 1985)

Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) the activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

Note 4: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 5: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 6: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 7: For overhead utility lines authorized by this NWP, a copy of the PCN and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Note 8: For NWP 12 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal,

relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre- construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (*e.g.*, National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: *http://www.rivers.gov/*.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which ''may affect'' a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for

the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity ''may affect'' or will have ''no effect'' to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have ''no effect'' on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species- specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the ''take'' of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (*e.g.,* an ESA Section 10 Permit, a Biological Opinion with ''incidental take'' provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word ''harm'' in the definition of ''take'' means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide Web pages at *http://www.fws.gov/* or *http://www.fws.gov/ipac* and *http://www.nmfs.noaa.gov/pr/species/esa/* respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether ''incidental take'' permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre- construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)).

When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the

activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non- Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.,* on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed $^1/_{10}$-acre and require pre- construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of $^1/_{10}$-acre or less that require pre- construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult- to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.,* conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species.
The width of the required riparian area will address documented water quality or aquatic habitat loss concerns.
Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.,* riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may

waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (*e.g.,* resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2- acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee- responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee- responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

_____
(Transferee)

_____ (Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ''USACE project''), the prospective permittee must submit a pre- construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is ''no effect'' on listed species or ''no potential to cause effects'' on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (*e.g.,* a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and

other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:*

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or
54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (*i.e.,* NWPs 21, 29, 39, 40, 42, 43,
44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands,

cannot exceed 1/2- acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (*e.g.,* partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (*e.g.,* watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (*e.g.,* streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

E. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term ''discharge'' means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource

function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that are filled or excavated as a result of the regulated activity.

Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (*i.e.,* spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of ''open waters'' include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre- construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re- establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic

resource area, restoration is divided into two categories: Re- establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (*i.e.,* spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term ''single and complete project'' is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (*i.e.,* a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term ''single and complete project'' is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of ''independent utility''). Single and complete non-linear projects may not be ''piecemealed'' to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (*i.e.,* by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States. If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of ''waterbodies'' include streams, rivers, lakes, ponds, and wetlands.

[FR Doc. 2016–31355 Filed 1–5–17; 8:45 am]

BILLING CODE 3720–58–P

STATE OF ILLINOIS
CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION
2017 GENERAL AND SPECIFIC CONDITIONS
NWP 12 – UTILITY LINE ACTIVITIES

These conditions ensure that the activities carried out under Nationwide Permits (NWPs) do not violate the Water Quality Standards of the State of Illinois resulting in permanent damage to habitat, increased turbidity, reduced bank and channel stability, and/or impacts to the biological and chemical integrity of the waters. These conditions are in addition to, not a replacement for, those conditions included by the federal authorities. Proposed projects authorized by the NWPs listed above that cannot be conducted within the conditions listed below must apply for individual Clean Water Act Section 401 Water Quality Certification.

Applications for certification should be sent to the Illinois Environmental Protection Agency, Division of Water Pollution Control, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois, 62794-9276. An issued certification becomes part of the Clean Water Act Section 404 Permit. Therefore, it expires with the 404 Permit unless explicitly stated otherwise.

GENERAL CONDITIONS FOR ALL NWPs

1. An individual 401 water quality certification will be required for any activities permitted under these Nationwide Permits for discharges to waters designated by the State of Illinois as Outstanding Resource Waters under 35 Ill. Adm. Code 302.105(b).

2. Projects requiring authorization under Section 404 of the Clean Water Act must implement Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts to aquatic resources during and after construction. If the project involves a water with an approved Total Maximum Daily Load (TMDL) allocation for any parameter, measures which ensure consistency with the assumption and requirements of the TMDL shall be included. TMDL program information and water listings are available at www.epa.state.il.us/water/tmdl/. If the project involves an impaired water listed on the Illinois Environmental Protection Agency's Section 303(d) list for suspended solids, turbidity, or siltation, measures designed for at least a 25year, 24-hour rainfall event shall be incorporated. Impaired waters are identified at www.epa.state.il.us/water/tmdl/303d-list.html.

3. Prior to proceeding with any work in accordance with any Nationwide Permit, potential impacts to threatened or endangered species shall be identified through use of the State's Ecological Compliance Assessment Tool (EcoCAT) at http://dnrecocat.state.il.us/ecopublic/. If potential impacts to State threatened or endangered species are identified, the Illinois Department of Natural Resources shall be consulted with.

SPECIFIC CONDITIONS FOR NWP 12 – Utility Line Activities

1. Case-specific water quality certification from the Illinois EPA will be required for:
   A. activities in the following waters:
      i. Lake Calumet
      ii. Fox River (including the Fox Chain of Lakes)
      iii. Lake Michigan

iv. Chicago Sanitary and Ship Canal
v. Calumet-Sag Channel
vi. Little Calumet River
vii. Grand Calumet River
viii. Calumet River
ix. Pettibone Creek (in Lake County)
x. South Branch of the Chicago River (including the South Fork)
xi. North Branch of the Chicago River (including the East and West Forks and the Skokie Lagoons)
xii. Chicago River (Main Stem)
xiii. Des Plaines River
xiv. Kankakee
xv. All Public and Food Processing Water Supplies with surface intake facilities. The Illinois EPA's Division of Public Water Supply at 217/782-1020 may be contacted for information on these water supplies.

B. activities in the following waters if material is sidecast into waters of the State or wetlands:
i. Saline River (in Hardin County)
ii. Richland Creek (in St. Clair and Monroe Counties)
iii. Rock River (in Winnebago County)
iv. Illinois River upstream of mile 229.6 (Illinois Route 178 bridge)
v. Illinois River between mile 140.0 and 182.0
vi. DuPage River (including the East and West Branches)
vii. Salt Creek (Des Plaines River Watershed)
viii. Waukegan River (including the South Branch)

2. Section 401 water quality certification is hereby issued for all other waters, with the following conditions:

A. The applicant for Nationwide Permit 12 shall not cause:
i. violation of applicable provisions of the Illinois Environmental Protection Act;
ii. water pollution defined and prohibited by the Illinois Environmental Protection Act;
iii. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation; or
iv. interference with water use practices near public recreation areas or water supply intakes.

B. The applicant for Nationwide Permit 12 shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.

C. Material resulting from trench excavation within surface waters of the State may be temporarily sidecast adjacent to the trench excavation provided that:
i. Sidecast material is not placed within a creek, stream, river or other flowing water body such that material dispersion could occur;
ii. Side cast material is not placed within ponds or other water bodies other than wetlands; and

iii. Sidecast material is not placed within a wetland for a period longer than twenty (20) calendar days. Such sidecast material shall either be removed from the site (refer to Condition 2.F), or used as backfill (refer to Condition 2.D and 2.E).

D. Backfill used within trenches passing through surface water of the State, except wetland areas, shall be clean course aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
   i. Particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using a #230 U.S. sieve; or
   ii. Excavation and backfilling are done under dry conditions.

E. Backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.

F. All material excavated which is not being used as backfill as stipulated in Condition 2.D and 2.E shall be stored or disposed in self-contained areas with no discharge to waters of the State. Material shall be disposed of appropriately under the regulations at 35 Il. Adm. Code Subtitle G.

G. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant for Nationwide Permit 12 shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant for Nationwide Permit 12 shall be responsible for obtaining an NPDES Storm Water Permit required by the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.

H. The applicant for Nationwide Permit 12 shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 2016).

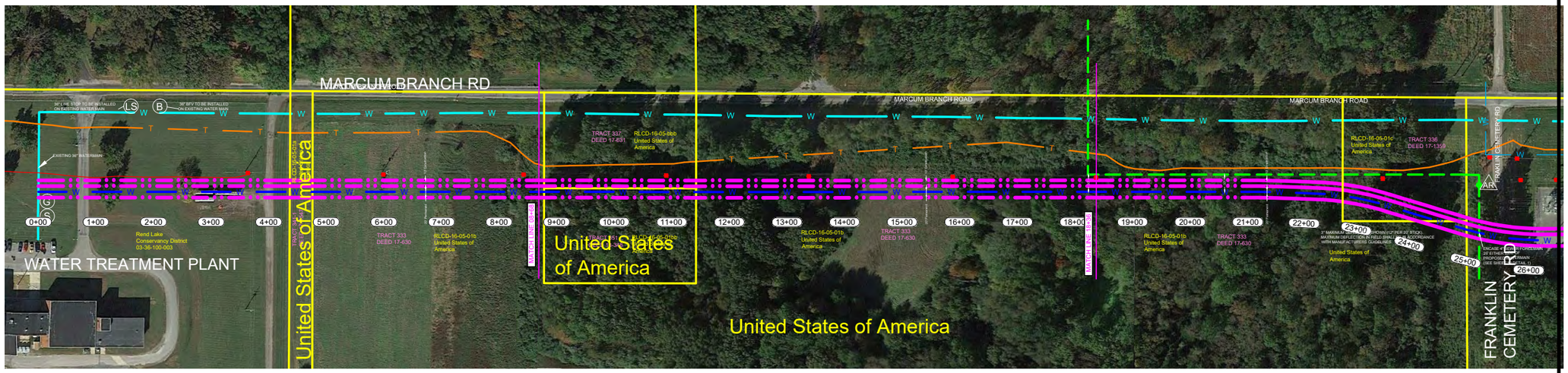
I. The use of directional drilling to install utility pipelines below surface waters of the State is hereby certified provided that:
   i. All pits and other construction necessary for the directional drilling process are located outside of surface waters of the State;
   ii. All drilling fluids shall be adequately contained such that they cannot cause a discharge to surface waters of the State. Such fluids shall be treated as stipulated in Condition 2.F; and
   iii. Erosion and sediment control is provided in accordance with Conditions 2.B, 2.G, and 2.H.

J. Temporary work pads, cofferdams, access roads and other temporary fills shall be constructed of clean coarse aggregate or non-erodible non-earthen fill material that will not cause siltation. Material excavated or dredged from the surface water or wetland shall not be used to construct the temporary facility. Sandbags, pre-fabricated rigid materials, sheet piling, inflatable bladders and fabric lined basins may be used for temporary facilities.

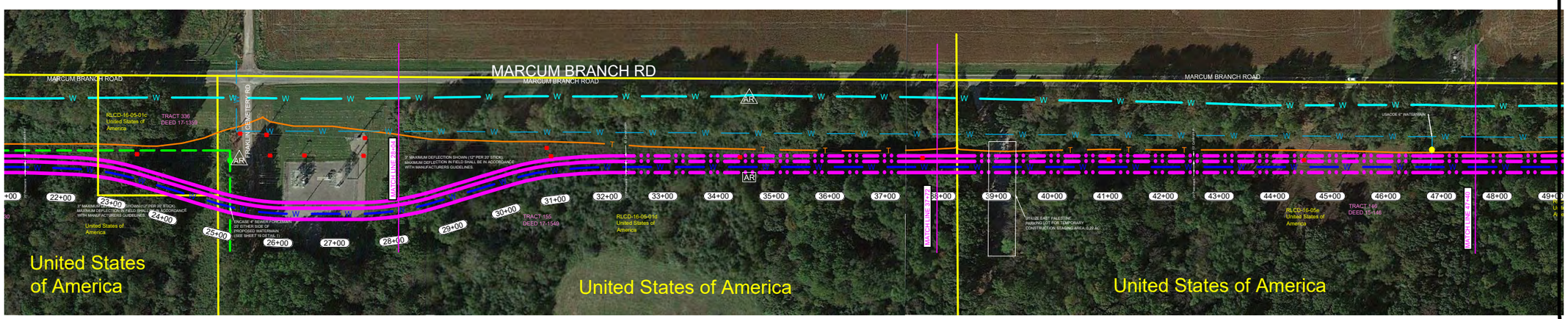
K. The applicant for Nationwide Permit 12 that uses temporary work pads, cofferdams, access roads or other temporary fills in order to perform work in creeks, streams, or rivers for construction activities shall maintain flow in the these waters during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.

L. Permanent access roads shall be constructed of clean coarse aggregate or non-erodible nonearthen fill material that will not cause siltation. Material excavated or dredged from the surface water or wetland shall not be used to construct the access road in waters of the state. The applicant for Nationwide Permit 12 that constructs access roads shall maintain flow in creeks, streams and rivers by installing culverts, bridges or other such techniques.

APPENDIX C: PLATES



TOTAL PERMANENT EASEMENT = 2.77 ACRES
TOTAL CONSTRUCTION EASEMENT = 1.62 ACRES



General Notes

EXISTING 36" WATERMAIN

PROPOSED 36" or 42" WATERMAIN

PROPERTY BOUNDARY BASED ON COUNTY DATA

EASMENT BOUNDARY

TELEPHONE

EXISTING 4" COE SEWER FORCE MAIN

EXISTING 4" COE SEWER FORCE MAIN FROM PLANS

EWING/INA WATERMAIN

COE 6" WATERMAIN

ELECTRIC LINE

POWER POLES

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

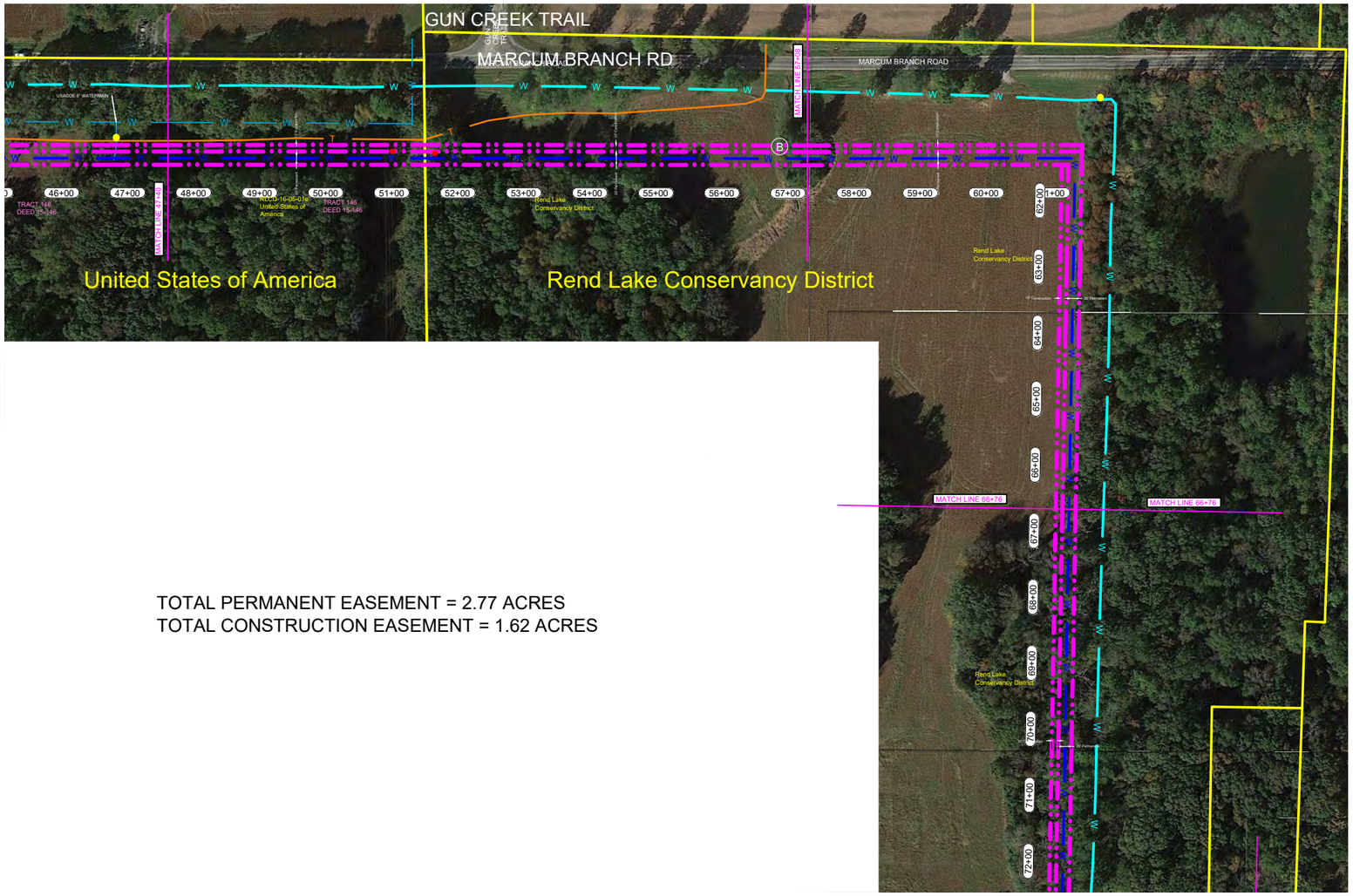
SECONDARY WTP DISCHARGE LINE

PLAN VIEW

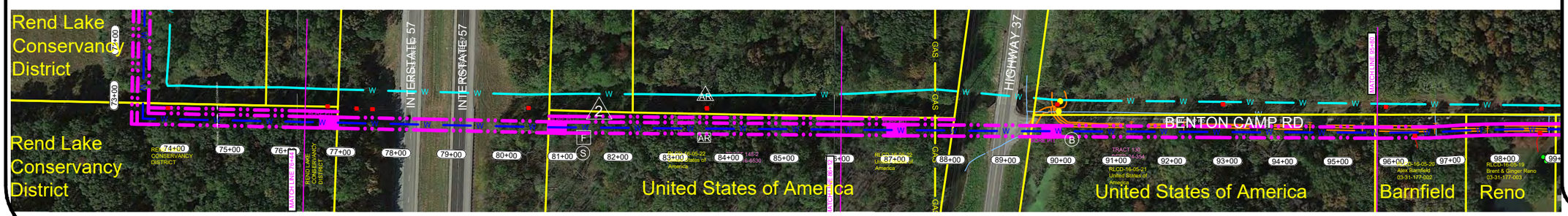
Project: RLCD 16-05

Date: 12-15-2017

Sheet: 1



TOTAL PERMANENT EASEMENT = 2.77 ACRES
TOTAL CONSTRUCTION EASEMENT = 1.62 ACRES



General Notes

EXISTING 36" WATERMAIN

PROPOSED 36" or 42" WATERMAIN

PROPERTY BOUNDARY BASED ON COUNTY DATA

EASEMENT BOUNDARY

TELEPHONE

EXISTING 4" COE SEWER FORCE MAIN

EXISTING 4" COE SEWER FORCE MAIN FROM PLANS

EWING/INA WATERMAIN

COE 6" WATERMAIN

ELECTRIC LINE

POWER POLES

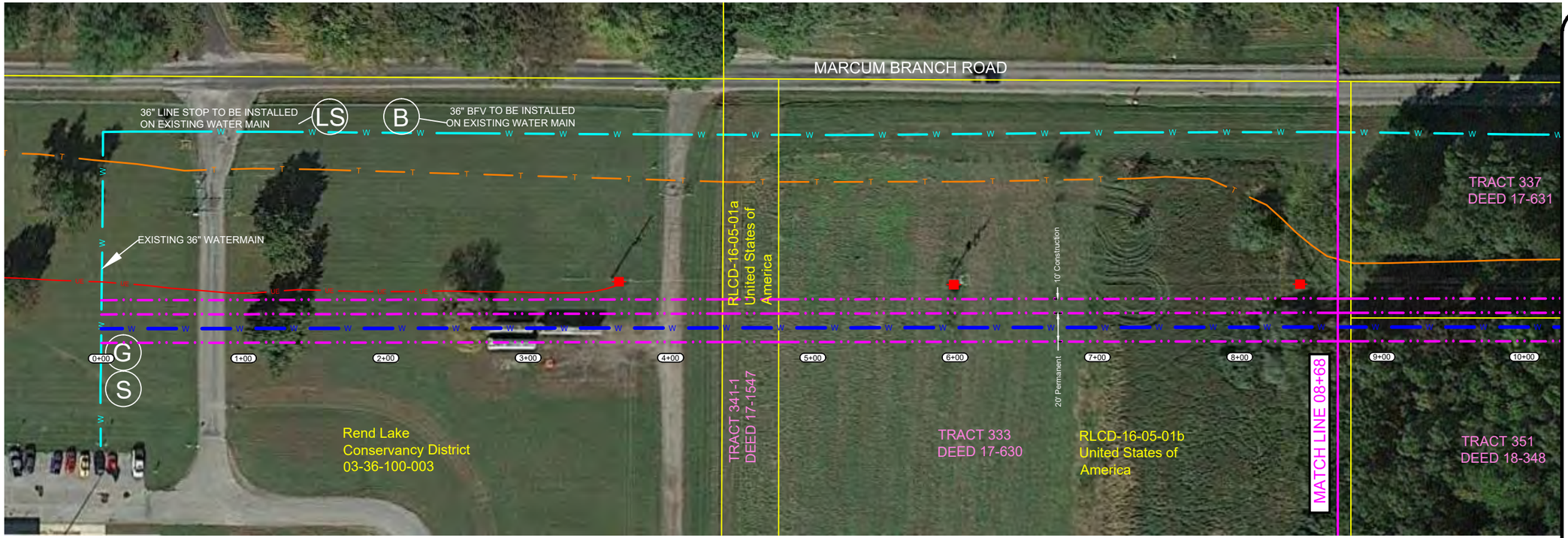
No.	Revision/Issue	Date

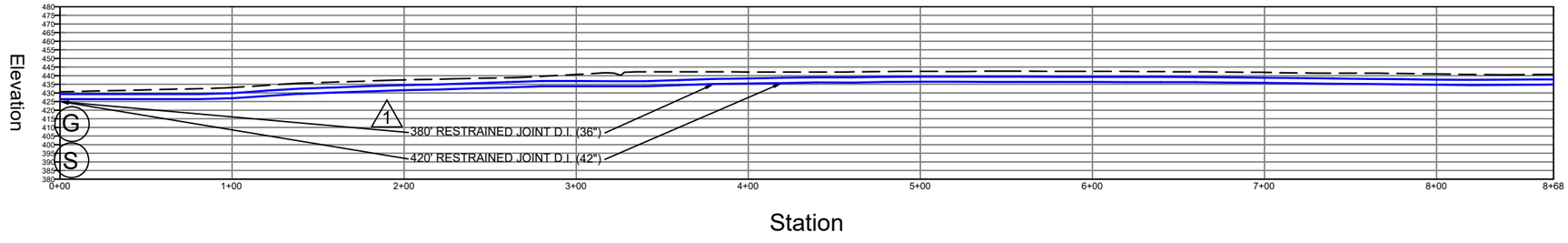
REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

SECONDARY WTP DISCHARGE LINE

PLAN VIEW

Project: RLCD 16-05
Date: 12-15-2017
Sheet: 2





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

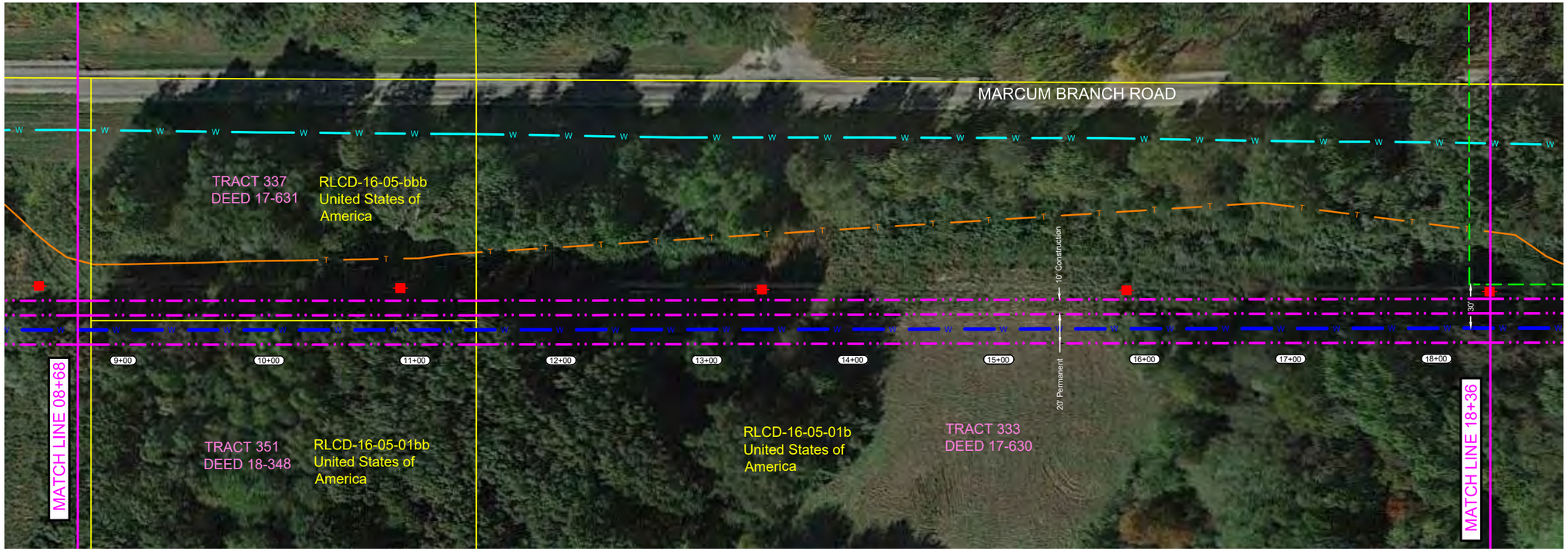
SECONDARY WTP
DISCHARGE LINE

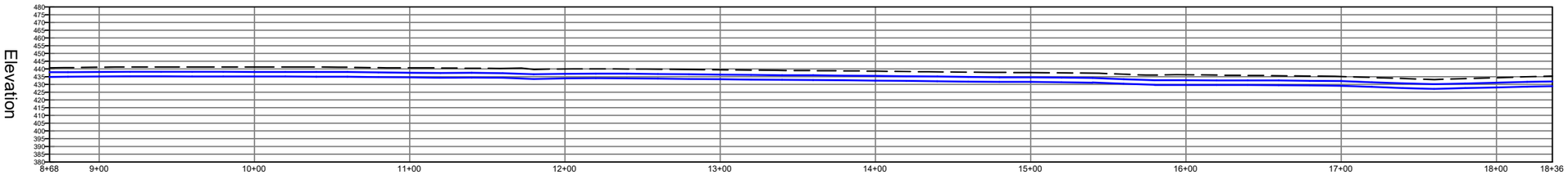
PLAN & PROFILE
STATION 00+00 TO 08+68

Project: RLCD 16-05

Date: 1-15-2018

Sheet: 4 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

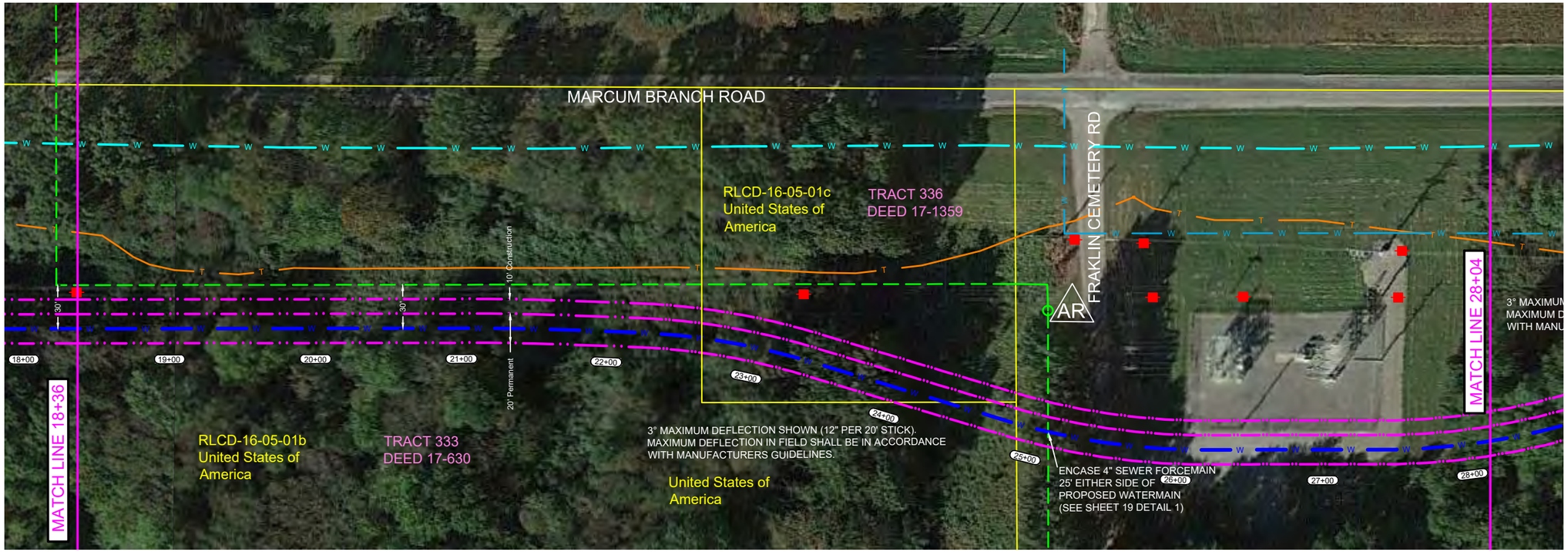
SECONDARY WTP
DISCHARGE LINE

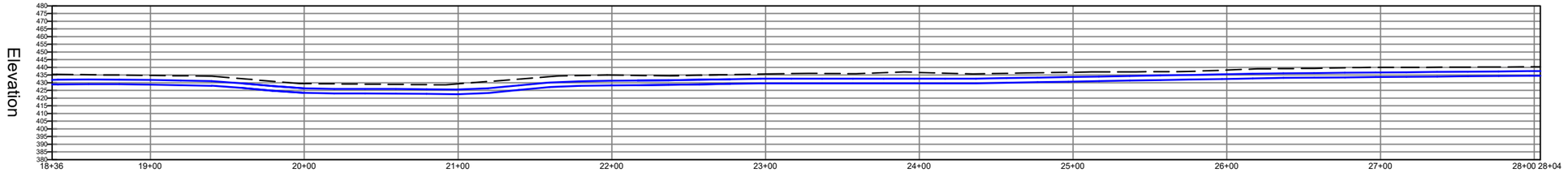
PLAN & PROFILE
STATION 08+68 TO 18+36

Project
RLCD 16-05

Date
1-15-2018

Sheet
5 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

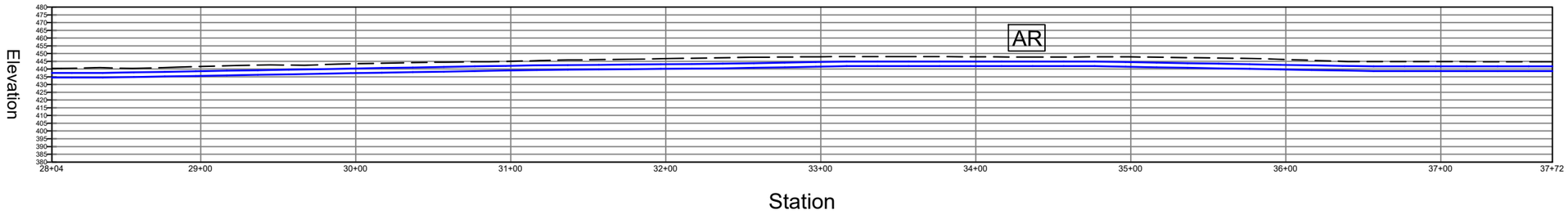
SECONDARY WTP
DISCHARGE LINE

PLAN & PROFILE
STATION 18+36 TO 28+04

Project
RLCD 16-05

Date
1-15-2018

Sheet
6 of 20



General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

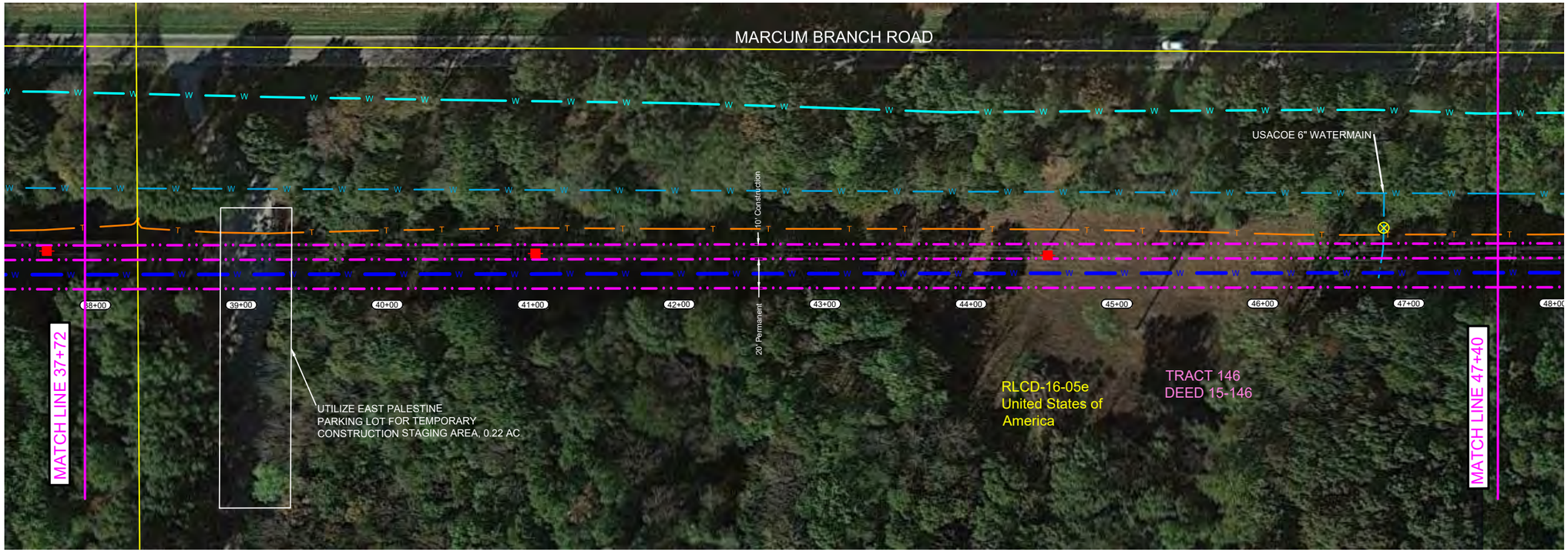
SECONDARY WTP
DISCHARGE LINE

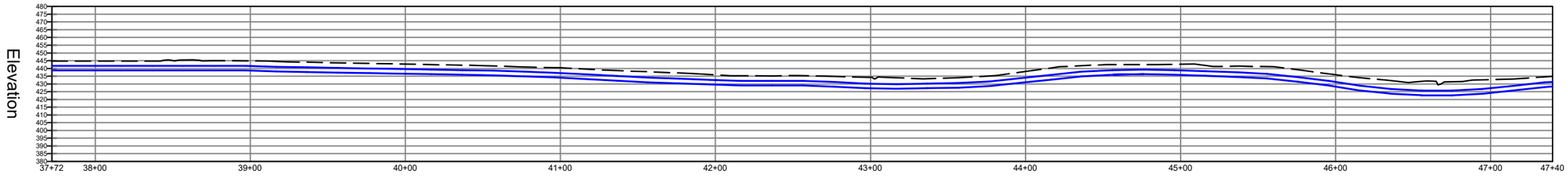
PLAN & PROFILE
STATION 28+04 TO 37+72

Project
RLCD 16-05

Date
1-15-2018

Sheet
7 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

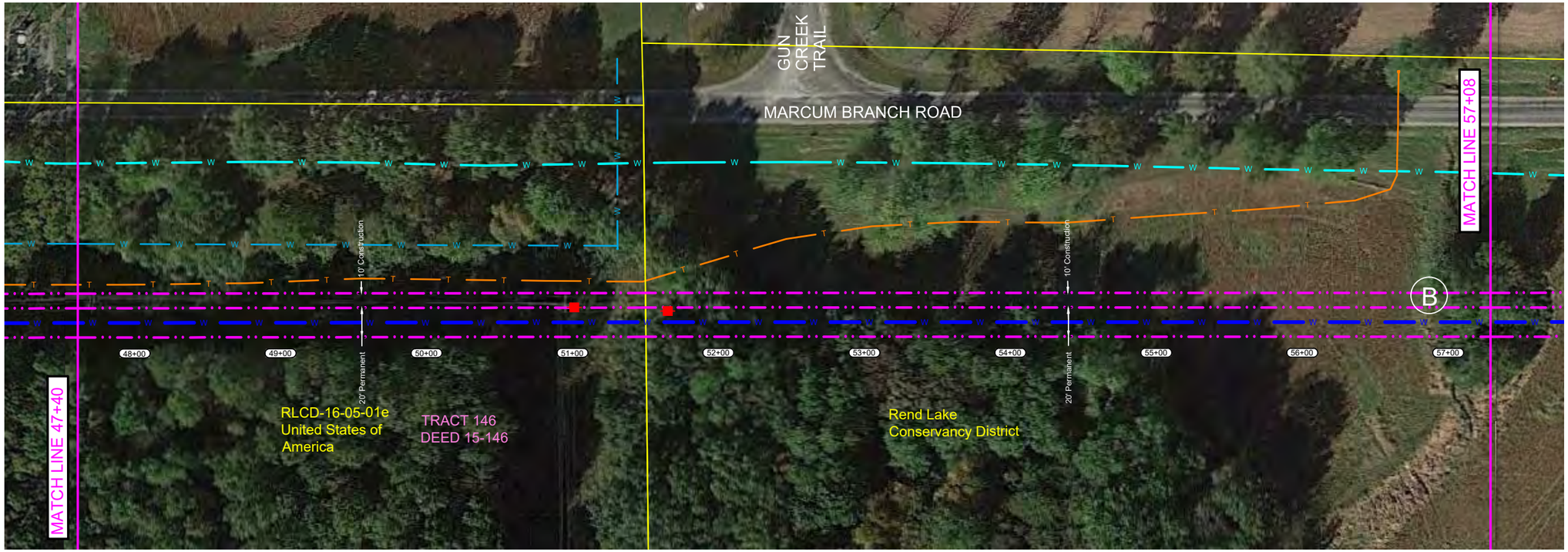
SECONDARY WTP
DISCHARGE LINE

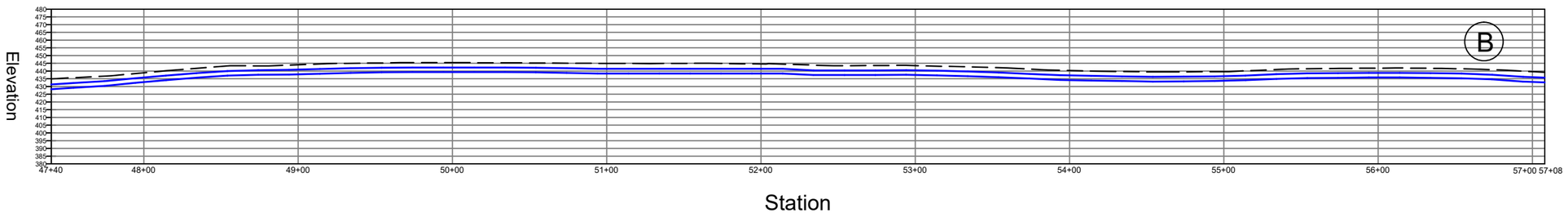
PLAN & PROFILE
STATION 37+72 TO 47+40

Project
RLCD 16-05

Date
1-15-2018

Sheet
8 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

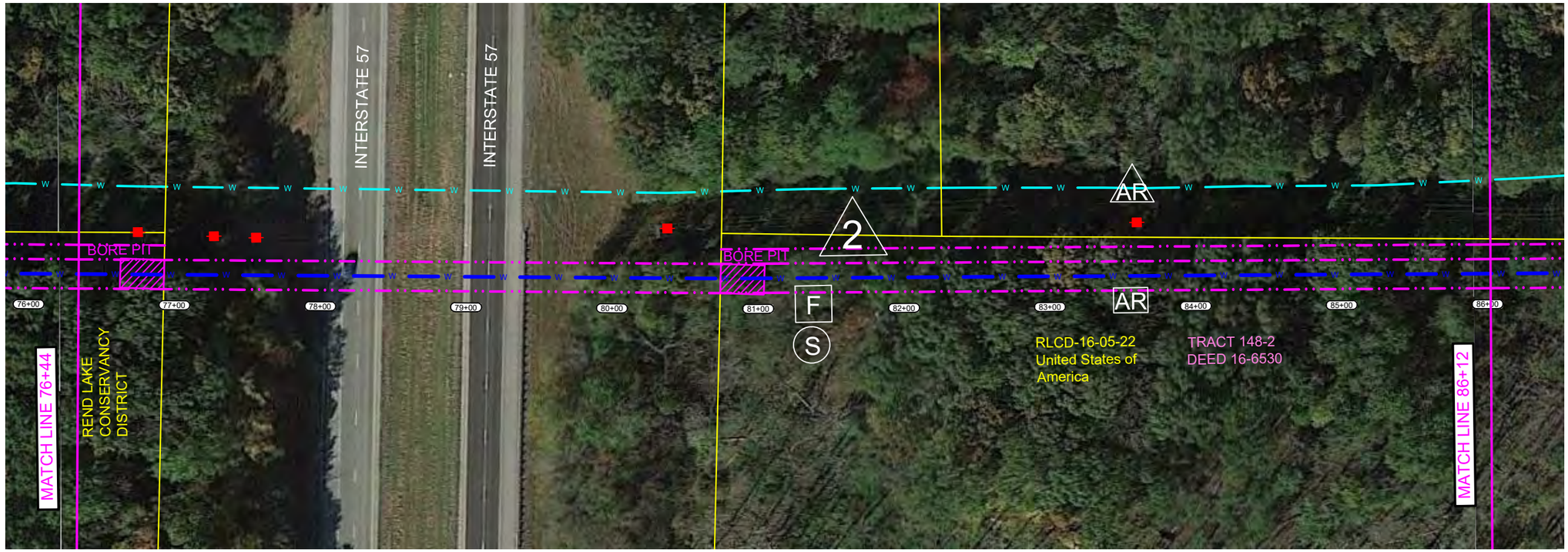
SECONDARY WTP
DISCHARGE LINE

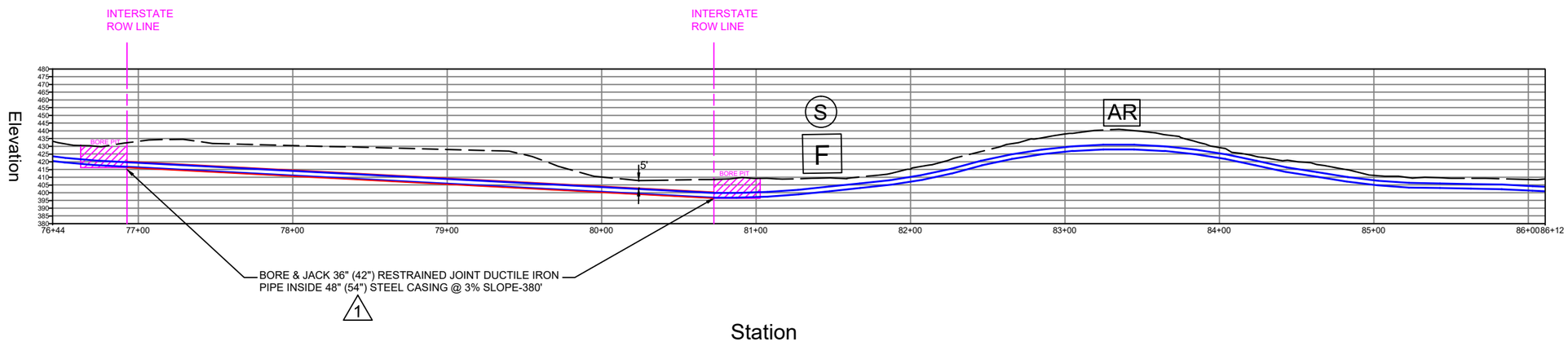
PLAN & PROFILE
STATION 47+40 TO 57+08

Project
RLCD 16-05

Date
1-15-2018

Sheet
9 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

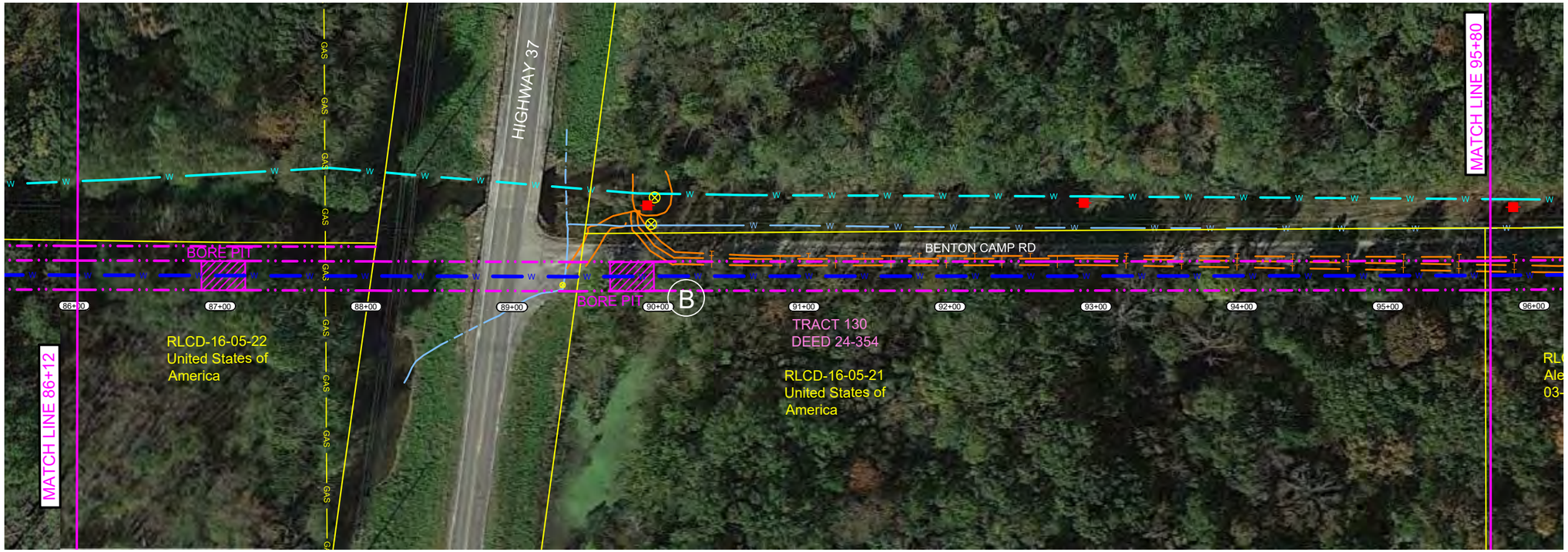
SECONDARY WTP
DISCHARGE LINE

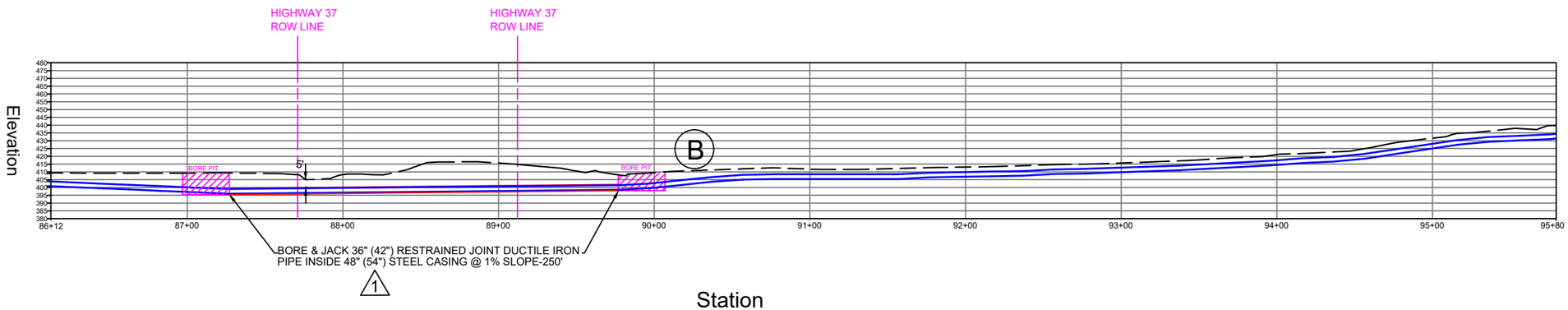
PLAN & PROFILE
STATION 76+44 TO 86+12

Project: RLCD 16-05

Date: 1-15-2018

Sheet: 12 of 20





General Notes

0 50' 100'

No.	Revision/Issue	Date

REND LAKE CONSERVANCY DISTRICT
11231 MARCUM BRANCH ROAD
BENTON, IL 62812

SECONDARY WTP
DISCHARGE LINE

PLAN & PROFILE
STATION 86+12 TO 95+80

Project
RLCD 16-05

Date
1-15-2018

Sheet
13 of 20