

**THIS IS NOT A PERMIT**

**State of Indiana**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Fish and Wildlife**  
**Early Coordination/Environmental Assessment**

**DNR #:** ER-18959

**Request Received:** March 21, 2016

**Requestor:** Surface Transportation Board  
Dave Navecky  
395 E Street SW, Room 1104  
Washington, DC 20423

**Project:** Construction of a 278 mile (52.1 miles in Indiana) rail line from near LaPorte, IN through IL to near Milton, WI, Draft Scope; Docket No. FD 35952

**County/Site info:** Lake - Porter - LaPorte

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

**Regulatory Assessment:** This proposal may require the formal approval(s) of our agency pursuant to the Flood Control Act (IC 14-28-1) for any proposal to construct, excavate, or fill in or on the floodway of a stream or other flowing waterbody which has a drainage area greater than one square mile. Please include a copy of this letter with any permit application(s), if required.

**Natural Heritage Database:** The Natural Heritage Program's data have been checked. The species, managed land, and natural communities below have been documented within 1/2 mile of the project area. The close proximity of construction activities to high quality natural communities may impact drainage in the area. Considerable damage may also be expected if a derailment takes place near the site of these wetlands. To avoid and minimize impacts to nearby wetlands and plants, the Division of Nature Preserves recommends construction activities be confined as much as possible and care and consideration be applied during construction to prevent changing the area's drainage.

A) MANAGED LAND: Kingsbury Fish And Wildlife Area, DNR

B) NATURAL COMMUNITIES:

1. Shrub Swamp
2. Acid Bog
3. Mesic Upland Forest

C) PLANTS:

1. Slim-spike Three-awn Grass (*Aristida intermedia*), state rare
2. Western Silvery Aster (*Aster sericeus*), state rare

D) INSECTS:

1. The Kansas Prairie Leafhopper (*Prairiana kansana*), state endangered
2. Helianthus Leafhopper (*Mesamia stramineus*), state endangered
3. The Four-lined Cordgrass Borer (*Mesapamea stipata*), state endangered
4. Leadplant Leafwebber Moth (*Nephopterix dammersi*), state endangered
5. The Nebraska Silver Bordered Fritillary (*Boloria selene nebraskensis*), state endangered
6. A Noctuid Moth (*Oligia obtuse*), state endangered
7. Opalescent Apamea (*Apamea lutosa*), state endangered
8. Dusted Skipper (*Atrytonopsis hianna*), state threatened

**Attachments:** A - General Information

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9. Mottled Duskywing (*Erynnis martialis*), state threatened
10. Golden Legged Mydas Fly (*Mydas tibialis*), state threatened
11. Big Broad-winged Skipper (*Poanes viator viator*), state threatened
12. Indiangrass Flexamia (*Flexamia reflexus*), state threatened
13. The Prairie Panic Grass Leafhopper (*Polyamia herbida*), state threatened
14. The Many-lined Cordgrass Moth (*Chortodes enervate*), state threatened
15. The Pine Streak (*Faronta rubripennis*), state threatened
16. Newman's Brocade (*Meropleon ambifuscum*), state threatened
17. A Noctuid Moth (*Apamea burgessi*), state threatened
18. Golden Borer Moth (*Papaipema cerina*), state threatened
19. Silphium Borer Moth (*Papaipema silphii*), state threatened
20. Pearly Indigo Borer (*Sitochroa dasconalis*), state threatened
21. Marked Noctuid (*Tricholita notate*), state threatened
22. The Giant Sunflower Borer Moth (*Papaipema maritime*), state threatened
23. Smoky-eyed Brown (*Satyrodes eurydice fumosa*), state threatened
24. Sprinkled Locust (*Chloealtis conspersa*), state rare
25. Nebraska Conehead (*Neoconocephalus nebrascensis*), state rare
26. Little Bluestem Polyamia (*Polyamia caperata*), state rare
27. Sand Panic Grass Leafhopper (*Polyamia obtectus*), state rare
28. Black-dashed Apamea (*Apamea nigrior*), state rare
29. Northern Cloudywing (*Thorybes pylades*), state rare
30. Salt Marsh Wainscot (*Leucania linita*), state rare
31. A Moth (*Leucania inermis*), state rare
32. Gray Comma (*Polygonia progne*), state rare
33. Sedge Skipper (*Euphyes dion*), state rare
34. Purplish Copper (*Lycaena helloides*), state rare
35. Common Roadside-skipper (*Amblyscirtes vialis*), state rare

**E) ANIMALS:**

1. Loggerhead Shrike (*Lanius ludovicianus*), state endangered
2. Blanding's Turtle (*Emydoidea blandingii*), state endangered
3. Franklin's Ground Squirrel (*Spermophilus franklinii*), state endangered
4. American Badger (*Taxidea taxus*), state special concern

**Fish & Wildlife Comments:** In general, the Division of Fish and Wildlife recommends avoiding or minimizing impacts to the following major habitat features to the greatest extent practicable: Kingsbury Fish and Wildlife Area and Kingsbury Creek in LaPorte County; Crooked Creek, Porter County; East Branch Stony Run, Stony Run, Cedar Creek, and West Creek in Lake County; wooded riparian habitat corridors; woodlots; and wetlands.

Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. The following are recommendations that address potential impacts identified in the proposed project area:

1) Animals:

A. Loggerhead Shrike:

Loggerhead shrikes no longer nest in this region of Indiana. Therefore, we do not foresee any impacts to this species as a result of this project.

B. Blanding's Turtle:

Blanding's turtles have been documented near an old abandoned rail line that part of the new Kingsbury line will follow. To avoid impacts to this species, we recommend no wetlands be filled to construct the new rail line and a trenched-in silt fence be installed around the work area and remain in place from March 1 through November 1.

C. Franklin's Ground Squirrel (FGS):

FGSs are primarily found in the extreme Northwest corner of Indiana, including LaPorte,

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Porter, and Lake counties (see attached map of FGS range in Indiana; Johnson and Choromanski, 1992). FGSs are typically found in grassland habitat where woody vegetation is sparse. Due to urban and agricultural development and the destruction of grassland communities in Northwest Indiana, FGS are now mainly found along roadside and railroad right-of-ways (ROW). While three historic records of FGS have been documented within ½ mile of the project corridor, it is possible that other unknown FGS populations would be affected by this project. Therefore, we recommend the following:

- a) Within the project corridor, any area where there is greater than or equal to a 10-meter width of grassland habitat along roadside or railroad ROWs, the presence/absence of FGS should be determined via live trapping between May and August when FGS are most active above ground. Tomahawk single-door live traps should be used and should be set in the early morning, checked at midday, then checked again and closed late afternoon. Ideally, traps are deployed for at least 1.5 days.
- b) If FGS are present, an alternative route should be considered and the FGS location(s) should be reported to Cassie Hudson, assistant nongame biologist with the Indiana Department of Natural Resources, at [chudson@dnr.IN.gov](mailto:chudson@dnr.IN.gov).
- c) If an alternate route cannot be found, then mitigation efforts should be made to replace FGS habitat.
- d) ROWs should be planted with native grasses and forbs. Also, a large component of the FGS diet is vegetation. Therefore, all herbicide applications necessary for proper railroad maintenance should be minimized to the greatest extent practicable.

**D. American Badger:**

Badgers are a wide ranging species that prefer an open, prairie-type habitat, with Indiana being at the eastern edge of their natural range. The range of the badger continues to expand as a result of land-use changes from forest to farmland and open pastureland. Impacts to the American badger or its preferred habitat are unlikely as a result of this project.

**2) Rail Line Route Design:**

Utilize previously disturbed or degraded areas to minimize significant impacts to natural resource habitat. Avoid large, intact areas of native vegetation and habitat. Woodlots, streams, and wetlands are typical areas with native vegetation and habitat. Disturb as narrow an area as possible to help minimize negative impacts. Also consider the impacts of the right-of-way width to the surrounding habitat because it can fragment larger habitat areas and cause significant impacts to forested areas, riparian forested corridors along creeks and rivers, and wetland areas (1 large habitat block is better than 2 small habitat blocks). Where significant impacts to fish, wildlife or botanical resources are likely due to the width of the right-of-way, reduce the width to help avoid those impacts.

All efforts should be made to minimize habitat alterations and impacts to vegetative communities. Staging areas and construction sites should be located in previously disturbed areas and revegetated with native species.

Avoid development in areas that contain high densities of breeding or wintering birds, in high wildlife use areas, migratory staging areas, woodlots, riparian corridors, Audubon Important Bird Areas, and DNR Nature Preserves, State and National Parks, State Forests, Fish & Wildlife Areas, and other publicly owned properties.

**3) Stream Crossing:**

For purposes of maintaining fish passage through a crossing structure, the Environmental Unit recommends bridges rather than culverts and bottomless culverts rather than box or pipe culverts. Wide culverts are better than narrow culverts, and

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culverts with shorter through lengths are better than culverts with longer through lengths. If box or pipe culverts are used, the bottoms should be buried a minimum of 6" (or 20% of the culvert height/pipe diameter, whichever is greater up to a maximum of 2') below the stream bed elevation to allow a natural streambed to form within or under the crossing structure. Crossings should: span the entire channel width (a minimum of 1.2 times the bankful width); maintain the natural stream substrate within the structure; have a minimum openness ratio (height x width / length) of 0.25; and have stream depth and water velocities during low-flow conditions that are approximate to those in the natural stream channel. The new, replacement, or rehabbed structure should not create conditions that are less favorable for wildlife passage under the structure compared to the current conditions.

**4) Bank Stabilization:**

Establishing vegetation along the banks is critical for stabilization and erosion control. In addition to vegetation, some other form of bank stabilization may be needed. While hard armoring alone (e.g. riprap or glacial stone) may be needed in certain instances, soft armoring and bioengineering techniques should be considered first. In many instances, one or more methods are necessary to increase the likelihood of vegetation establishment. Combining vegetation with most bank stabilization methods can provide additional bank protection and help reduce impacts upon fish and wildlife. Information about bioengineering techniques can be found at <http://www.in.gov/legislative/iac/20120404-IR-312120154NRA.xml.pdf>. Also, the following is a USDA/NRCS document that outlines many different bioengineering techniques for streambank stabilization: <http://directives.sc.egov.usda.gov/17553.wba>.

Minimize the use of riprap and use alternative erosion protection materials whenever possible. Where riprap must be used, we recommend placing only enough riprap to provide stream bank toe protection, such as from the toe of the bank up to the ordinary high water mark (ohwm). From the ohwm to the top of the bank, we recommend using erosion control blankets or turf reinforcement mats instead of riprap as these are compatible with vegetation growth and provide equal or better erosion control protection than riprap. The use of erosion control blankets, turf reinforcement mats, and other similar materials seeded with a native plant seed mix will allow a natural, vegetated stream bank to develop that is also protected from erosion problems.

**5) Riparian Habitat:**

We recommend a mitigation plan be developed (and submitted with the permit application, if required) if habitat impacts will occur. The DNR's Floodway Habitat Mitigation guidelines (and plant lists) can be found online at: <http://www.in.gov/legislative/iac/20140806-IR-312140295NRA.xml.pdf>.

Impacts to non-wetland forest of one (1) acre or more should be mitigated at a minimum 2:1 ratio. If less than one acre of non-wetland forest is removed in a rural setting, replacement should be at a 1:1 ratio based on area. Impacts to non-wetland forest under one (1) acre in an urban setting should be mitigated by planting five trees, at least 2 inches in diameter-at-breast height (dbh), for each tree which is removed that is 10" dbh or greater (5:1 mitigation based on the number of large trees).

A native riparian forest mitigation plan should use at least 5 canopy trees and 5 understory trees or shrubs selected from the Woody Riparian Vegetation list or an approved equal. A native riparian forest mitigation plan for impacts of less than one acre in an urban area may involve fewer numbers of species, depending on the level of impact. Additionally, a native herbaceous seed mixture should be planted consisting of at least 10 species of grasses, sedges, and wildflowers selected from the Herbaceous Riparian Vegetation list or an approved equal.

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6) Wetland Habitat:

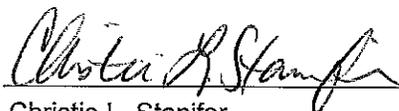
Due to the presence or potential presence of wetlands on site, we recommend contacting and coordinating with the Indiana Department of Environmental Management (IDEM) 401 program and also the US Army Corps of Engineers (USACE) 404 program. Impacts to wetlands should be mitigated at the appropriate ratio (see <http://www.in.gov/legislative/iac/20120801-IR-312120434NRA.xml.pdf>).

The additional measures listed below should be implemented to avoid, minimize, or compensate for impacts to fish, wildlife, and botanical resources:

1. Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue), legumes, and native shrub and hardwood tree species as soon as possible upon completion.
2. Minimize and contain within the project limits inchannel disturbance and the clearing of trees and brush.
3. Do not work in the waterway from April 1 through June 30 without the prior written approval of the Division of Fish and Wildlife.
4. Do not cut any trees suitable for Indiana bat or Northern Long-eared bat roosting (greater than 3 inches dbh, living or dead, with loose hanging bark, or with cracks, crevices, or cavities) from April 1 through September 30.
5. Do not excavate in the low flow area except for the placement of piers, foundations, and riprap, or removal of the old structure.
6. Do not construct any temporary runarounds or causeways.
7. Use minimum average 6 inch graded riprap stone extended below the normal water level to provide habitat for aquatic organisms in the voids.
8. Underlay the riprap with a bedding layer of well graded aggregate or a geotextile to prevent piping of soil underneath the riprap.
9. Minimize the movement of resuspended bottom sediment from the immediate project area.
10. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.
11. Seed and protect all disturbed streambanks that are 3:1 or steeper with heavy-duty net-free biodegradable erosion control blankets to minimize the entrapment and snaring of small wildlife such as snakes and turtles (follow manufacturer's recommendations for installation); seed and apply mulch on all other disturbed areas.
12. Inspect structural erosion and sediment control practices daily and repair as necessary until all construction is complete and disturbed areas are permanently stabilized.

**Contact Staff:**

Christie L. Stanifer, Environ. Coordinator, Fish & Wildlife  
Our agency appreciates this opportunity to be of service. Please contact the above staff member at (317) 232-4080 if we can be of further assistance.



Christie L. Stanifer  
Environ. Coordinator  
Division of Fish and Wildlife

**Date:** May 16, 2016

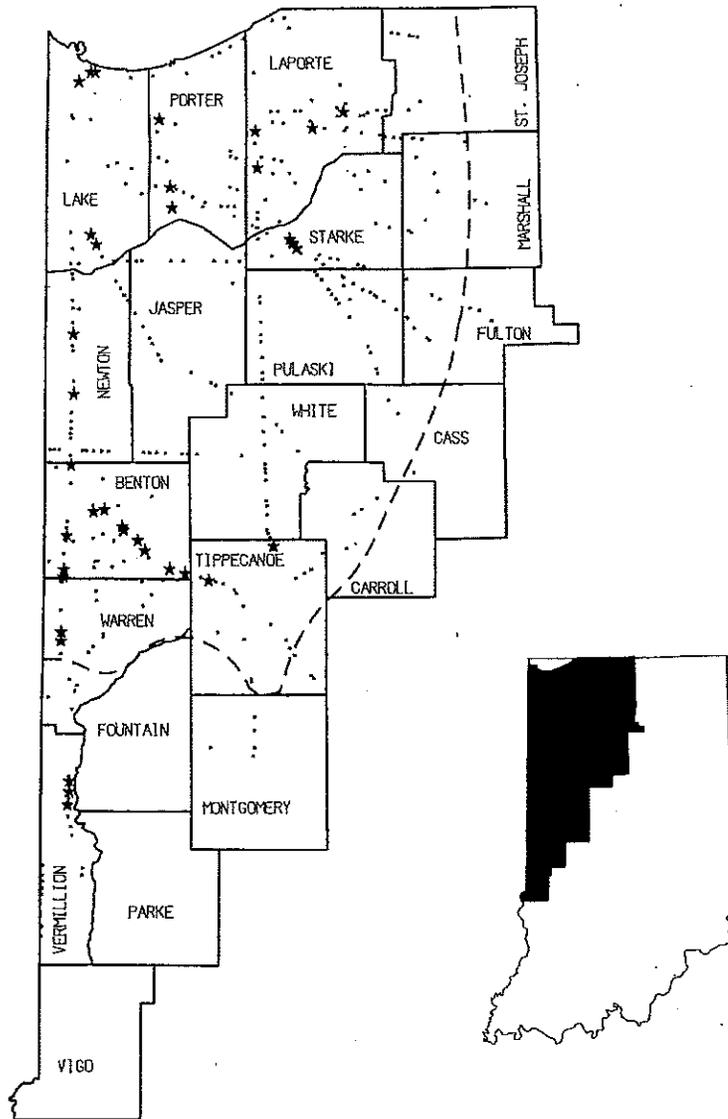


FIG. 1.—Distribution of occupied (stars) and unoccupied (dots) survey sites for Franklin's ground squirrels in NW Indiana, 1984–1990. Dashed line represents historic range as described from Mumford and Whitaker (1982)