

1. Statutory & Procedural Completeness

1.1 Can total project capacity, container count, or footprint increase after approval without a new application and public hearing?

No. Total capacity, container count, and footprint are fixed by this approval and cannot increase without a new application, notice, and public hearing.

The approval sets three hard limits for each project: (1) capacity of 80 MW for Liberty I and 300 MW for Liberty II, the maximum power each project can deliver to the grid; (2) a maximum of 128 battery containers for Liberty I and 368 for Liberty II, as shown on the site development plans; and (3) the physical footprint shown on those plans. Under the current zoning ordinance, exceeding any of these limits would require a new or amended site development plan and special exception requiring a notice and public hearing.

The site plans show the maximum number of battery containers that may be installed for this project. Batteries lose some capacity as they age, and so additional containers may be installed over time, within the approved layout, to maintain the approved power capacity. Because the site plans already reflect the maximum end-of-life buildout, any augmentation must occur within the approved layout and may not exceed the approved container count, footprint, or capacity. Each addition requires a building permit issued by the County.

To remove any doubt, Jupiter Power will make these written Commitments, recorded against the property and binding on Jupiter Power and any subsequent owner. Jupiter Power proposes the following Commitment for each project, with the figures for Liberty I and Liberty II shown in brackets, respectively:

Project Size and Augmentation Limits:

(a) Capacity. The battery energy storage system on the Real Estate shall not exceed [80 MW / 300 MW] (AC) of nameplate capacity at the point of interconnection.

(b) Container Count. No more than [128 / 368] battery containers shall be installed on the Real Estate at any time.

(c) Footprint. All battery containers and related equipment shall be located within the area depicted on the approved site development plan, as it may be modified by the Madison County BZA as part of a special exception petition.

(d) Augmentation. "Augmentation" means the addition or replacement of battery containers or modules solely to maintain the capacity approved in subsection (a) as batteries degrade. Augmentation is permitted only within the limits of subsections (a) through (c) and is subject to all required County building permits.

(e) Modification. Any increase beyond the limits of subsections (a) through (c) requires modification of this Commitment by the County after notice and a public hearing.

(f) Successors. This Commitment runs with the land and binds the owner and all subsequent owners, operators, and other persons acquiring an interest in the Real Estate.

2. Land Use & Comprehensive Plan

2.1 If agricultural land preservation is a part of the Comprehensive Plan, how does this proposed project fit?

The Liberty projects support the objectives of the Madison County Comprehensive Plan. The Plan identifies urban sprawl as the leading cause of farmland loss. The Liberty projects introduce none of the housing, services, or population density typically associated with sprawl. The Plan also directs the County to plan infrastructure improvements, including power substations, in advance of anticipated growth. The Liberty projects are exactly the kind of infrastructure contemplated by the Plan.

The Madison County Comprehensive Plan guides zoning decisions. It is not itself a zoning ordinance. The Plan describes itself, at page 28, as "a statement of objectives for future development." Under IC 36-7-4-603, the Plan Commission and the Board of Commissioners must pay "reasonable regard" to the Comprehensive Plan when considering rezoning, together with the other factors that section lists, and Indiana courts have held that no one of those factors controls. The Liberty projects are consistent with the objectives the Plan sets for this area, and the Plan's own language supports Liberty.

On farmland conversion: The remonstrance brief quotes the Plan's observation that agricultural land, once converted, rarely reverts to farming. The remonstrance omits the sentence that follows, which identifies the cause. The full passage, at page 177, reads: "Agricultural land developed into a higher use is unlikely to be used for agricultural purposes again. The leading cause of losing agricultural land is urban sprawl, because it is often a more economically attractive alternative to a standard farming operation." The Liberty projects are not urban sprawl. Under Jupiter Power's commitment, they introduce no new housing, no new municipal services, and no new population density. Under Jupiter Power's proposed commitment, all land outside the approved site plan will remain in agricultural use or in its current undeveloped state.

On water and environmental impact: Page 177 of the Plan identifies the environmental concern behind rural development as groundwater pollution from septic systems serving sprawled, unserved development. That concern does not apply here. The Liberty projects do not introduce new wells, new septic systems, or new wastewater demand of the kind the Plan is warning against.

On infrastructure: The Plan repeatedly identifies inadequate electrical infrastructure as a strain on growth in Madison County:

- Page 112 directs that "utilities and infrastructure must meet high performance levels... and must be efficiently planned to meet the future demands of expanding residential, commercial, and industrial uses."
- Page 116 specifically identifies electric power as the preferred alternative in areas without natural gas service — exactly the rural geography at issue here.
- Page 184 documents public input from rural residents complaining that "power voltage is not being maintained at a level necessary for increased development," input serious enough that it prompted discussion of forming a Rural Electric Membership Corporation.
- Pages 225 and 231 direct the County to proactively plan power substation and infrastructure improvements ahead of anticipated growth and to survey businesses about their utility needs.

In other words, the Plan doesn't just tolerate energy infrastructure investment, it calls for it. Read in full, the Comprehensive Plan supports the Liberty projects. They preserve farmland outside the site plan, add none of the development the Plan identifies as the cause of farmland loss, and they deliver the electric infrastructure the Plan directs the County to plan for.

2.2 Does the rezone as filed apply only to the developed footprint or to the full 140 acres, and can approval be conditioned so that no use other than BESS is possible on the rezoned land, regardless of the underlying industrial classification?

The rezoning petition applies to the full acreage of both parcels. Under IC 36-7-4-1015, a written commitment made in connection with a rezoning is enforceable, and a use the commitment prohibits is prohibited even where the zoning district would otherwise allow it. Jupiter Power's amended commitment below limits the Real Estate to BESS and agricultural use, confines the BESS to the areas shown on the site plans, and keeps all remaining land in agriculture or its current undeveloped state. The rezoning therefore will prohibit other industrial uses and limit the portion of the overall tract that can be used for a BESS.

The proposed Commitment confines BESS use to the acreage shown on the final approved Site Plans. Any expansion beyond that footprint would require a further amendment to the Commitment, approved through the same notice, hearing, and approval process as the original petition. The restriction runs with the land and cannot be altered without that same public process.

Commitment: *The Real Estate shall only be used for BESS, as defined below, and for agricultural use. The Real Estate shall not be used for the following uses: sewage treatment plant, industrial uses (high impact), mineral extraction and processing, and Commercial Solar Energy Systems (SES), as each is defined in the Madison County Zoning Ordinance; provided, however, that such prohibited uses shall not be construed as prohibiting a BESS (defined below). a. Notwithstanding anything herein to the contrary, any BESS use of the Real Estate shall be confined solely to those portions of the Real Estate depicted and designated for BESS use on the site plan submitted in connection with this rezoning petition, attached hereto as "Exhibit C" (the "Site Plan"), subject to modification by the Madison County BZA during the Special Exception process. No BESS use, structure, equipment, or improvement shall be constructed, installed, or operated on any portion of the Real Estate outside the boundaries shown on the Site Plan. b. Any portion of the Real Estate not depicted on the Site Plan as developed for BESS use shall remain in agricultural use, or in its current undeveloped state, and shall not be used for BESS, high-impact industrial use, or any other use prohibited above, subject to minor modifications required by the Madison County BZA as part of a special exception application. c. Any material expansion of the BESS footprint beyond the boundaries shown on the Site Plan, or any use of the Real Estate for BESS purposes outside those boundaries, shall require a further amendment to this Commitment, approved through the same notice, hearing, and approval process applicable to the original rezoning petition, unless such changes are required by the Madison County BZA as part of a special exception application.*

2.3 Why was this specific site selected over the I&M-adjacent parcel?

Indiana Michigan Power (I&M) regularly evaluates its need for new generation. When a need is identified, I&M typically issues a request for proposals (RFP), and companies developing energy resources within I&M's territory submit competitive bids, as I&M has a statutory requirement to show that any project acquired is evaluated with respect to a competitive process. I&M then selects the resources that are most cost-effective and best meet its

customers' needs. This competitive process allows I&M to secure least-cost resources across its service territory, rather than preselecting projects it develops itself — resulting in better projects at lower cost for its customers.

The I&M property north of the Fall Creek substation is not a workable site for a storage facility. Overhead transmission lines cross those parcels on their way to the substation. A facility there would have to be built around those lines and outside their right of way, which leaves insufficient room for it, and would constrain future changes to the routing of lines into a substation that is a permanent part of the grid.

3. Safety

3.1 Are the NFPA 855-required items listed in the remonstrance materials (HMA, ERP, maintenance/inspection plan, community risk analysis, decommissioning plan, FMEA, etc.) legally required to be complete at the rezone stage, or can they be satisfied through staged submission with binding conditions of approval?

Rezoning is the first of many approvals required to construct and operate the Liberty projects, and the documents listed as required by the remonstrance are, by design, produced later in that sequence. The HMA evaluates the final, specific equipment design against code; it cannot be finalized before that equipment is tested. Siting is decided now, on the setbacks, layout, and fire safety approach already in the record. If the HMA or CRA later identifies any issue, Jupiter Power must redesign and obtain re-approval before it can build.

Jupiter Power anticipates using Samsung batteries manufactured in Kokomo, which are currently undergoing testing, and expects to receive the data needed to finalize the required documents by the end of 2026. Under Indiana HEA 1173, the Indiana Department of Homeland Security must issue a permit before construction of a regulated BESS may begin. To obtain the permit, Jupiter Power must submit plans demonstrating compliance with NFPA 855 for state review and approval. The project will then be inspected during construction, and the facility must remain compliant throughout its operating life. HEA 1173 does not require these documents to be completed during the land use permitting stage; instead, it requires them to be completed and approved before construction begins and the project becomes operational.

In addition to complying with HEA 1173, Jupiter Power has already committed to producing and sharing the following reports with the County: Hazard Mitigation Analysis (HMA), Community Risk Analysis (CRA), Emergency Response Plan (ERP), and Fire Protection Site Master Plan (FMP).

Each document Jupiter Power has committed to produce is described below, followed by the other items the remonstrance lists, the schedule, and the proposed amended commitment.

Hazard Mitigation Analysis (HMA)

An NFPA 855 and IFC-required third-party fire safety engineering risk evaluation that is provided to the authority having jurisdiction (AHJ) over the BESS container and the facility. HMAs tie together information on the BESS assembly, applicable codes, building code analysis, inspection testing and maintenance (ITM), fire testing, and modeling analysis. The HMA evaluates the safety mitigations and measures in place at both the BESS container and site levels to determine whether identified risks are adequately addressed or if additional recommendations are needed to ensure the facility does not pose a threat to the community and first responders.

Emergency Response Plan (ERP)

An NFPA 855-required pre-planning documentation identifying hazards and response tactics for BESS emergencies. The plan includes responses for facility ancillary equipment, such as transformers, breakers, switchers, and other facility-specific equipment that may be present.

Community Risk Analysis (CRA)

A supplemental risk assessment document above the minimum code requirements. The CRA is a plume dispersion study that analyzes the risks to the surrounding community from gases that may be released in the event of BESS failures. The CRA will inform the site design, such that no harmful impacts to the community from a BESS failure exist beyond the project property lines.

Fire Protection Site Master Plan

A preliminary conceptual drawing that shows the facility layout with a focus on fire safety features. The plan is intended as a reference tool for the AHJ, Fire Code Official (FCO), and Fire Departments during their review of the facility and to provide input to the facility's fire safety and response. The plan typically includes the facility equipment arrangement, fire access roads, fire department connection, and fire alarm system components.

The other items listed by the remonstrance are either components of these documents or are addressed elsewhere:

- Failure Modes and Effects Analysis (FMEA): Failure mode analysis performed as part of the HMA.
- Large-scale fire testing: UL 9540A Large Scale Fire Test has been completed; its results feed directly into the HMA.
- Safety data sheets: Issued by the manufacturer for the selected equipment and provided to responders with the ERP.
- Maintenance and inspection plan: Inspection, testing, and maintenance requirements are evaluated in the HMA and will be documented in a site-specific plan before operation.
- Decommissioning plan: The items that the decommissioning plan must cover are outlined in commitment 5 of the Written Commitments submitted with this application. If the plan does not adequately address these items prior to construction, Jupiter Power may not commence construction.

Anticipated Schedule:

- Equipment UL9540 listing: Estimated before the end of 2026
- HMA, ERP, CRA, and Fire Protection Site Master Plan finalized: pending draft Q4 2026

The Commission's decision is a land use approval conditioned on Jupiter Power meeting its commitments. If Jupiter Power does not produce these documents and share them with the County, the use is not permitted. The County therefore keeps oversight of these safety documents after rezoning. To reinforce that, Jupiter Power proposes the following amended commitment so the County can review and comment on the safety documents before construction:

To more adequately address the concerns raised at the Plan Commission, Jupiter Power proposes updating commitment 4 of the Written Commitments to read as follows:

Commitment: *Prior to the commencement of construction of a BESS on the Real Estate, Owner shall submit to the Board of Commissioners of Madison County, Indiana (the "Commissioners"), an Emergency Response Plan*

(the "Emergency Response Plan"). The Emergency Response Plan shall reflect the approach to fire safety outlined in the Fire Safety Approach document attached to the Site Development Plan Project Description as Appendix F. Prior to the commencement of construction of a BESS on the Real Estate, Owner shall also submit to the Commissioners a Hazard Mitigation Analysis (the "HMA"), a Community Risk Analysis (the "CRA"), and a Fire Protection Site Master Plan (the "FMP"), each prepared for the specific BESS equipment to be installed on the Real Estate. The Emergency Response Plan shall be consistent with the HMA, the CRA, and the FMP.

3.2 Is Jupiter Power planning to amend its site plan to incorporate runoff containment features that will address potential contaminants from spills & leaks?

Yes, Jupiter Power is proposing to amend the site plan to include an impervious paved surface across the entire site that will drain into an isolated and lined detention basin. This detention basin will be equipped with an outflow apparatus that can be closed remotely or manually in the event of a spill or leak, effectively containing any potential pollutants.

The water in this detention basin can then be tested for any potential contamination, drained, and properly and safely disposed of. Due to the increase in impervious paved area, the currently designed detention basin may need to increase in size, so no possibility of overflow is introduced.

To that end, Jupiter Power proposes that the following commitment be incorporated into the written commitments:

Commitment: *The final approved site plan shall incorporate an impervious paved surface across the entire site that shall drain into an isolated and lined detention basin. This detention basin shall be equipped with an outflow apparatus that can be closed remotely or manually in the event of a spill or leak.*

3.3 Are the fire incidents cited by the remonstrance representative of the facility proposed for Liberty I & II? In particular, what battery chemistry and facility design were involved in the most severe of those incidents, and do any of them match what is proposed here?

Battery storage fires have become far rarer as safety standards have advanced, with incident rates falling by 99% from 2018 to 2025. Indiana made the national fire code for these systems state law in HEA 1173. The incidents the remonstrators rely on most heavily are based on older designs built before these safety standards were in place and are not comparable to what is proposed here. By contrast, Liberty I & II will use American-made LFP batteries in outdoor, individually containerized units tested to UL 9540A and spaced per NFPA 855, so that a failure in one unit is designed to stay in that unit and responders can work from a safe distance without entering a structure.

The most severe incidents the remonstrators cite — Moss Landing, Otay Mesa, Escondido, and Surprise — share two features: each used NMC (nickel-manganese-cobalt) battery chemistry, and each housed its batteries inside a building. Liberty I & II will not use either, and both features matter. The remonstrance materials acknowledge that NMC chemistries are more prone to thermal runaway than LFP (lithium iron phosphate), which is why LFP is now favored for stationary utility storage. NMC batteries also contain nickel, manganese, and cobalt which have been cited as a concern. LFP batteries contain none of the three. And when batteries are grouped together inside a building, heat and gas build up, a failure in one rack can spread to others and cascade through the entire system, and firefighters must work inside or immediately next to the burning structure. That combination, rather than lithium-ion storage itself, produced the multi-day, large-scale events the remonstrance describes.

Three outdoor, containerized incidents cited by the remonstrance were much smaller in scope. One, at Parkfield, involved NMC-chemistry containers — again, a chemistry not proposed here. The other two, both in Warwick, NY, involved LFP batteries, but each incident traced to a specific cabinet design defect that allowed water into the enclosure and triggered thermal runaway — a flaw in one manufacturer's product, not in the chemistry. That manufacturer has since exited the market, and those units are no longer produced.

3.4 What is the realistic Hydrogen Fluoride exposure risk to off-site residents from a fire at this facility?

A release of hydrogen fluoride from a fire at the Liberty facilities would not be expected to present a hazard to neighboring residents. Air monitoring conducted during actual battery energy storage system fires supports this conclusion.

During the January 2025 fire at the Moss Landing facility in California, the U.S. Environmental Protection Agency (EPA) operated nine air monitoring stations, three of which were located in residential areas as far as 3.6 miles from the facility. EPA reported that air quality measurements did not exceed health action levels at any time. A separate six-day assessment of surrounding neighborhoods, conducted by the Center for Toxicology and Environmental Health, recorded no detections of hazardous hydrogen fluoride. Community air monitoring conducted during six additional battery fires between 2019 and 2024, in Surprise, Arizona; Escondido, California; Melba, Idaho; and East Hampton, Lyme and Warwick, New York, likewise identified no contaminant concentrations rising to a level of public health concern or requiring remediation.

These results are consistent with the physical behavior of hydrogen fluoride. The gas is released gradually over the duration of a fire rather than all at once, and heat from the fire carries the resulting plume upward, where it disperses before reaching ground level. Hydrogen fluoride is highly soluble in water and breaks down in the presence of atmospheric moisture. It also binds readily to surfaces, including the interior of the battery enclosure and the smoke particles with which it is released. In controlled testing, airborne concentrations decline by half within 10 to 20 minutes after release ceases. Dispersion modeling and measurements from prior incidents indicate that its effects are limited to the immediate vicinity of the affected equipment, within the facility's property boundary, and that the gas decays before leaving that area.

The Liberty facilities may not be constructed unless this conclusion is demonstrated for the specific equipment to be installed. Prior to construction, Jupiter Power will submit to the Madison County Board of Commissioners a Community Risk Analysis presenting plume modeling for that equipment. If the analysis indicates harmful exposure beyond the property line, Jupiter Power must redesign the facility before construction may proceed.

Jupiter Power will also train responding fire departments in battery emergency response, including the use of real-time air monitoring.

3.5 Is stored chemical energy in a BESS accurately described by the remonstrance as a TNT-equivalent blast risk, and if not, what is the actual hazard profile the facility is designed and staffed to handle?

No, the blast risk for a BESS is not equivalent to TNT, and the comparison is highly misleading. There are two types of explosion classifications: detonation and deflagration. Detonation is when an explosion has a supersonic flame front and instantaneous overpressure, whereas deflagration is when an explosion has a subsonic flame front with gradual pressure increase. A TNT-equivalent blast risk is a hazard that may result in detonation. Accumulation of flammable gases inside a BESS creates a deflagration risk, not detonation, and is therefore not a TNT-equivalent blast risk.

As required by NFPA 855, BESS technologies are equipped with an explosion prevention system such as a combustible concentration reduction (CCR) system. The CCR system activates upon detection of flammable gases at 10% of their lower flammability limit (LFL). A CCR system shall keep combustible gas levels below 25% of the LFL as required by NFPA 855, meaning the gas concentration is not high enough to ignite. BESS technologies are additionally required by NFPA 855 to have an explosion control system, such as a deflagration panel. The deflagration panel is intended to rupture at a specific internal pressure to vent expanding gases, flames, and pressure upwards and away from adjacent enclosures. The deflagration panel provides an additional layer of protection for adjacent enclosures, should the CCR system fail.

These protections, together with the separation of outdoor containers across the site, are designed to confine any deflagration to the affected container and keep its effects within the facility.

3.6 Why is a defensive/monitored burn the standard, recommended response for lithium battery fires, and what specifically protects nearby residents during that window?

National fire guidance directs firefighters to protect the equipment around a battery unit rather than spraying the unit itself, and trained departments now follow that approach. Water does not extinguish a battery fire and can prolong it. Withholding water from the involved container also greatly reduces runoff from it. Throughout an incident, the fire department monitors air quality. Data from prior events at outdoor storage facilities show no harmful levels off site.

3.7 Is 30,000 gallons of on-site water actually the relevant metric for this facility's fire-response design, and where does firewater runoff go?

Because water is not applied to the burning container, it is used defensively and in comparatively small quantities to protect uninvolved adjoining equipment. The 30,000-gallon tank is currently the proposed on-site water storage capacity. Jupiter Power will work with South Madison Fire Territory prior to construction if it is determined that more water capacity is desired or a different approach is preferred. Firewater runoff is captured by Jupiter Power's proposed paved site surface and lined pond.

3.8 Does an event at this facility actually require evacuation or shelter-in-place at the scale represented by the remonstrance?

No fire event at any of the container-based outdoor storage sites that have had fires has shown the need for large-scale evacuations or shelter-in-place orders. Plume modeling conducted for BESS projects has also not shown the assumptions made in the remonstrance report to be accurate. As fire departments have gained greater knowledge of what these events look like in practice, evacuations and shelter-in-place orders have been greatly reduced or eliminated entirely. Instead of initiating an evacuation order out of an abundance of caution, trained fire departments now typically rely on air monitoring during an emergency to determine if the need exists. Ultimately, any evacuation or shelter-in-place order is given by the appropriate first responding authority, not by the project owner or developer, but improved testing, design, and coordination with first responders on outdoor container-based systems like the ones proposed have made those orders increasingly rare.

3.9 How much ethylene glycol is stored on site and what are the containment mechanisms in place to rule out groundwater contamination in case of a leak or spill?

No coolant is stored anywhere on the site outside the sealed battery containers. Each BESS container has approximately 50 gallons of a 50% ethylene glycol, 50% water mixture. It is the same automotive-grade coolant for use in cars and trucks. This mixture is one of the most commonly used heat transfer fluids used in cars, trucks, agricultural vehicles, and commercial and industrial applications including building HVAC systems and airplane de-icing. The coolant is ordered pre-mixed, and no on-site mixing will be conducted. Occasionally, recharge and replacement of the coolant will be conducted by site technicians, a process no different than standard HVAC/chiller maintenance. The used coolant will be contained per the manufacturer's recharge procedure and properly disposed of at a chemical disposal facility.

Should a leak occur, the container has several measures to detect and contain a spill. Detection occurs by means of low-pressure alarms in the coolant loop and spill sensors at the bottom of each container. The container itself is IP-55 rated and has a catch basin on the bottom to contain any leaks including the full 50 gallons plus margin. Site technicians will have spill kits and PPE available that are able to clean up coolant spills quickly and safely.

In the extremely unlikely event that any coolant escapes the container, it would reach the impervious paved surface and drain to the lined detention basin, where the outflow can be closed and the coolant recovered without having reached soil or groundwater.

4. Sound

4.1 What sound levels will nearby homes receive?

With both facilities running together at full output, the highest modeled level at any nearby home is 51 dBA, 59 dBC and 60 dBZ, at the homes near the intersection of E 800 S and S 400 E. Other homes in the vicinity receive lower sound levels, and no nearby home will receive sound with prominent tones. In its report, County staff reviewed a level of 51 to 60 decibels and wrote that it "seems credible based on visits to other similar facilities and would be within the bounds of the Madison County noise ordinance."

4.2 How were those levels determined?

The updated studies model the specific equipment Jupiter Power expects to install at Liberty I and Liberty II, using equipment-specific sound data that was not available when the original studies were prepared. Like the original studies, they model the maximum sound levels of the individual facilities as well as both facilities combined. In response to the questions raised at the hearing, the updated studies also report C-weighted (dBC) sound levels, which apply little adjustment to low-frequency sound, and unweighted (dBZ) sound levels, which apply no frequency adjustment, alongside the industry-standard A-weighted (dBA) levels. They also assess prominent tones in the sound received at nearby homes.

4.3 Why do the studies not include the transmission lines?

Transmission line sound is not expected to affect nearby homes. Audible sound from high-voltage lines, known as corona noise, occurs mainly on lines that carry over 300 kV, and in wet and highly humid weather. In wet weather, 345 kV lines typically produce 40 dBA or less at 150 feet, and every home is farther than

that from the planned Liberty lines. When it is raining, the rain itself raises background sound levels. The homes nearest to the projects are next to the existing Fall Creek substation, which is already in operation, and the six high-voltage lines that currently exist in the immediate area. The transmission lines associated with the Liberty projects are no different in sound from those existing lines. The studies do not model the Liberty lines because the line design, including conductor type, configuration and routing, is not yet final, and modeling the lines accurately requires those details.

5. Water, Wetlands, Flooding & Environmental Documentation

5.1 How do waters of the United States, threatened and endangered species, and wetlands relate to the county ordinance?

Waters of the United States, wetland delineations and coordination on threatened and endangered species are governed by federal and state law and administered by the Indiana Department of Natural Resources (IDNR), the Indiana Department of Environmental Management (IDEM), and the United States Fish & Wildlife Services (USFWS). They are not criteria under the Madison County Zoning Ordinance. Jupiter Power must comply with those requirements regardless of the Commission's decision, and it will.

5.2 What are the waterways that the two projects drain to and are they waters of the United States? If so, why don't the projects' interaction with them create a federal nexus?

Liberty I — Maxey-Davis Drain

Liberty I drains to the Maxey-Davis Drain, a Madison County Regulated Drain not located within a mapped floodplain. Based on desktop review and field delineation, Maxey-Davis is likely a jurisdictional Water of the United States. Coordination with USACE would be required to confirm the precise location and extent of any federally jurisdictional stream segment.

The proposed work at this location is limited to installation of a stormwater outfall, along with an overhead transmission line crossing the drain, which may require limited tree clearing within the drain corridor. No ground disturbance or construction activity is anticipated within the drain itself, and impact to it is expected to be minimal. Provided the outfall is constructed above the ordinary high-water mark, with no materials or obstructions (e.g., riprap) placed within the stream, the project should not require Clean Water Act Section 404/401 authorization and does not create a federal nexus.

Liberty II — Fort Ditch

Liberty II drains to Fort Ditch, which is located within a mapped floodplain. Stantec's desktop and field delineation classified Fort Ditch as a "Potentially Jurisdictional WOTUS"; a formal delineation has not been conducted, and a USACE determination would be required to confirm jurisdictional extent.

The development does not physically disturb Fort Ditch. Apart from a stormwater outfall connection and a transmission structure, all project components sit outside the floodplain. Provided that the outfall is constructed above the ordinary high-water mark and outside the natural waterway, the work should not require Section 404/401 authorization. A construction-in-floodplain permit from IDNR may be required for the outfall and transmission structure, and any work within the FEMA-mapped floodplain will meet applicable IDNR regulations.

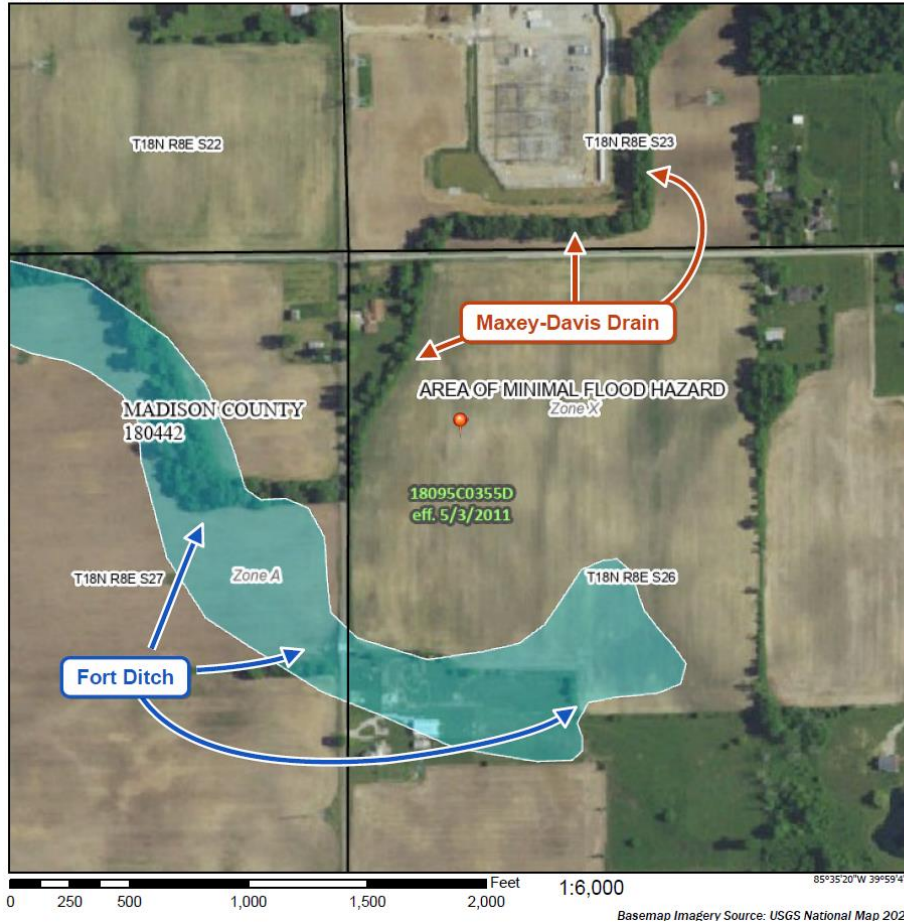
The local USACE office typically does not treat the full development area as the "action area" where the only potential impact is a stormwater outfall of this scale, and this limited interaction does not create a federal nexus for the project.

The images that follow identify the relevant drains, ditches, and mapped floodplains referenced in this response.

National Flood Hazard Layer FIRMette

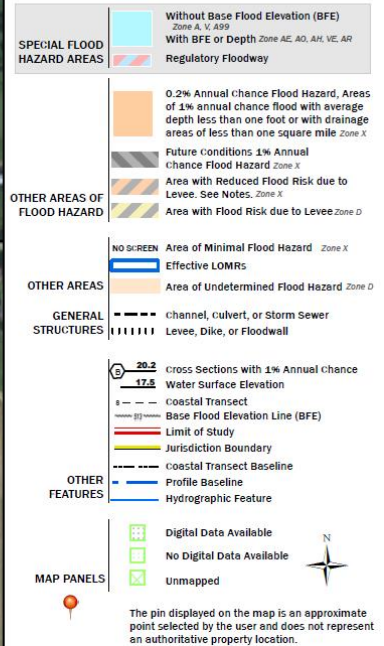


85°35'58"W 39°59'32"N



Legend

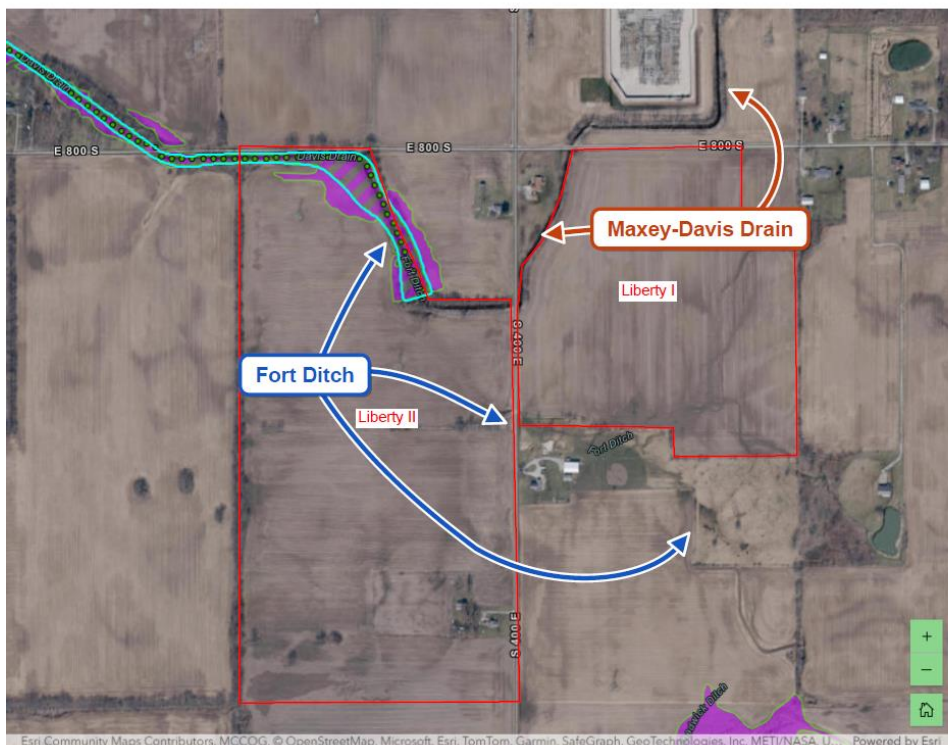
SEE FIG REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 10/6/2026 at 3:50 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



Flood Elevation Points

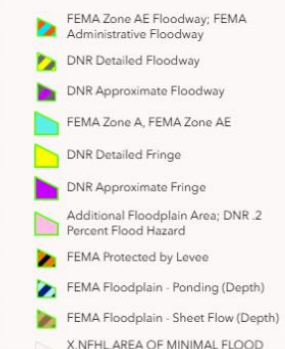
VERSION



County Boundaries of Indiana Current

Best Available Flood Hazard Layer

New expression



5.3 Is the developed footprint of the project located outside floodplains and are the sites currently designed to comply with IDHS's 2-foot freeboard requirement above base flood elevation and the Madison County Drainage Technical Standards?

Plan status. Madison County has a specific drainage permitting process that the projects will be required to undergo after the land use process but prior to construction. Specific site compliance with Madison County Drainage Technical Standards will be confirmed through that process. However, the current site design has taken those requirements into account.

Site Elevation. Indiana law requires that, when a utility-scale BESS is located less than one-half mile from the nearest 100-year floodplain, all of the system equipment be located at least two feet above the 100-year flood elevation (IC 22-14-8-8). Separately, the Madison County Drainage Technical Standards require the lowest adjacent grade of buildings outside a mapped floodplain that could be flooded from a detention or retention pond to sit at least two feet above the higher of the 100-year flood elevation or the emergency overflow weir elevation. Both sites are currently designed to meet this standard, pending review during drainage permitting.

Floodplains. The developed footprint of both projects is outside of the mapped FEMA 100-year and FEMA 500-year floodplains. The developed footprint of both projects is also outside FEMA Flood Zone A, which is mapped along Fort Ditch on the Liberty II site, apart from a transmission structure for Liberty II and the drain outfall from Liberty II into Fort Ditch. Zone A has no established Base Flood Elevation. The Maxey-Davis legal drain on Liberty I has no established floodplain.

Plan consistency. The FEMA and IDNR floodplains are shown on the overall site plan but consistent with typical plan standards, not on the enlarged site plan sheets. That is the inconsistency the remonstrance identified on sheet C-201. It reflects how the drawings were formatted, not any overlap between the floodplain and the developed footprint.

5.4 Is the January wetland delineation referenced by the remonstrance defensible, or should it be confirmed with a growing-season delineation?

Because the project has no anticipated federal nexus, the wetland study provided was not required to follow NEPA or USACE standards. Its scope is typical for private development without a federal nexus, and field data collection followed the professional judgment of the delineators on site. Delineations performed outside the growing season are typically revisited and confirmed during the next growing season, which runs from roughly late March or early April to mid-October. Rather than debate the January methodology point by point, Jupiter Power will confirm the delineation on the planned development areas of Liberty I and II in the field during the next growing season.

Commitment: Before construction begins, Jupiter Power will complete a formal wetland delineation during the 2027 growing season following the applicable USACE Midwest Regional Supplement methodology, and will submit it to the County.

5.5 Is a Phase 1 archaeological survey required, and what protections will be in place if cultural resources are found during construction?

The industry-standard approach to cultural resources is a desktop study first, followed by a Phase 1A field study if any structures are flagged as potentially historically significant. The desktop review of public databases did not return any cultural resources that have been recorded within or immediately adjacent to Liberty I or II. The

project areas have not been previously surveyed for cultural resources, and based on the cultural history of the region, additional cultural resources could be present within the Liberty I or II project areas.

However, the requirement to conduct a Phase 1A field archaeological survey is triggered by a federal nexus. Because the projects' limited interaction with Fort Ditch and Maxey Davis Drain is not anticipated to create a nexus, a Phase 1A field survey was not conducted, and Jupiter planned to implement an Inadvertent Discovery Plan. Jupiter Power is happy to make this standard approach of adopting an Inadvertent Discovery Plan with a stop-work procedure a formal commitment for this project, to address any concerns that construction may impact cultural resources.

Commitment: Prior to commencing construction, Jupiter Power will adopt an Inadvertent Discovery Plan for archaeological resources. If potential archaeological resources or human remains are encountered during construction, Jupiter Power will stop work in the immediate area, protect the site, and notify the Indiana DNR Division of Historic Preservation and Archaeology, per IC 14-21-1-27. Work in that area will not resume until the Division of Historic Preservation and Archaeology authorizes it.

5.6 What plans does Jupiter Power have to ensure it does not impact bats?

Jupiter Power will comply with all state and federal requirements for threatened and endangered species, including those protecting the Indiana bat, and will make its planned Indiana bat-related tree-clearing practices an enforceable commitment to the County.

Commitment: Tree clearing will be conducted only during the bat inactive period, October 1 through March 31, consistent with the United States Fish and Wildlife guidelines. If tree clearing must occur during the active period (April 1 through September 30), Jupiter Power will first complete a full habitat survey and develop an appropriate mitigation plan in coordination with IDNR and USFWS.

5.7 What is the plan for repairing or rerouting drain tile during construction so the fields continue to drain properly after construction?

Maintaining good drainage is important to the productivity of the surrounding farmland, and Jupiter Power will not leave neighboring fields worse drained than they are at the time of construction. During final design, Jupiter Power will consult with landowners and farmers to identify existing tile on and around the site and will address any tile encountered during construction.

To formalize this intent, Jupiter Power proposes the following commitment:

Commitment: Existing drain tile will not be cut or capped without being rerouted. Any tile identified during design or encountered during construction will be rerouted around the site as needed and reconnected to its existing discharge point, and any damaged tile that is not relocated will be promptly repaired, so that established drainage pathways through the site are maintained.

6. Lighting

6.1 What commitments is Jupiter Power able to make with regards to limiting nighttime lighting impacts from the facilities?

County staff recommended that lighting be minimal and add nothing to the light already produced by the existing substation. Jupiter Power proposes the following written commitment.

Commitment: Owner shall comply with the following lighting standards on the Real Estate:

a. Fixtures. All permanent exterior lighting shall use fully shielded fixtures that emit no direct light at or above a horizontal plane through the lowest light-emitting part of the fixture, installed as designed and aimed downward. Fixtures shall have a correlated color temperature of 3,000 Kelvin or less, unless a higher color temperature is required by applicable code or the interconnecting utility for a specific safety or operational purpose. Fixtures shall be located, aimed, and shielded to minimize light trespass and glare onto adjoining properties and public roadways.

b. BESS yard. Lighting within the BESS yard shall be used only for security, operations, maintenance, and emergency purposes and shall not remain continuously lit at night. BESS-yard lighting shall remain off except when (i) activated by motion sensors, (ii) activated remotely by Owner's operations personnel to assess site safety, security, or equipment conditions, or (iii) personnel are on site, or an emergency response is underway. Motion- and remotely-activated lighting shall turn off automatically within 15 minutes after activity ceases, or the remote assessment is complete.

c. Project substation. Permanent lighting within the project substation shall be limited to lighting required by the interconnecting utility, the National Electrical Safety Code, and other applicable codes, or otherwise consistent with Good Utility Practice, for the safe and secure operation of the substation. Such lighting shall comply with subsection (a) to the extent consistent with those requirements. Where those requirements allow, substation lighting other than code-required emergency or egress lighting shall be controlled by motion sensor, remote, or manual activation, or operated at reduced levels, at night when personnel are not present.

d. Exceptions. This Commitment does not apply to temporary lighting used during construction, emergencies, emergency response, or unplanned maintenance and repair; vehicle lighting; or lighting required by federal, state, or local law. Temporary construction lighting shall be directed downward and away from adjoining residences to the extent practicable.

e. Lighting plan. Owner shall obtain approval of a lighting plan from the Madison County BZA as part of its special exception identifying the location, fixture type, mounting height, shielding, color temperature, and control method (motion, remote, or manual) of all permanent exterior lighting and demonstrating compliance with this Commitment.