

APPENDIX H-4

IAC Comments and Summaries

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-----Original Message-----

From: Condra, Norma C CIV USARMY CELRL (US) [<mailto:Norma.C.Condra@usace.army.mil>]
Sent: Wednesday, May 03, 2017 5:21 PM
To: Prevost, Daniel <Daniel.Prevost@parsons.com>
Cc: Snyder, Deborah D CIV USARMY CELRL (US) <Deborah.D.Snyder@usace.army.mil>
Subject: FW: I-69 Henderson, Kentucky to Evansville, Indiana (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Dan,

This is in regard to the proposed Interstate 69 extension between Henderson, Kentucky, and Evansville, Indiana, including a bridge over the Ohio River. Representatives from Louisville District attended the Interagency Advisory Committee (IAC) meeting held on April 12, 2017. The following comments are in response to that meeting and a review of the project material provided.

1. Under Section 404 of the Clean Water Act (CWA), the U.S. Army Corps of Engineers (USACE) has jurisdiction over the discharge of fill or dredged material into "waters of the U.S." Under Section 10 of the Rivers And Harbors Act of 1899, USACE has jurisdiction over structures and/or work in or affecting the course, location, condition, or capacity of a navigable water. Based on the materials presented at the IAC meeting, USACE expects that the proposed interstate construction would require Department of Army (DA) authorization under both Section 404 and Section 10.
2. Deb Snyder will be the main POC for USACE, and will handle the permitting of the project that will be in Indiana. Norma Condra will handle permitting for the portions of the project that will be in Kentucky. Please submit complete applications to both project managers. All submittals must be in both hard copy and digital format on a CD. The mailing address and phone number for Deb Snyder is provided below. The mailing address for Norma Condra is U.S. Army Corps of Engineers, Louisville District, Attn: CELRL-RDS, P.O. Box 59, Louisville, KY, 40201-0059. The phone number is (502) 315-6680.
3. The applicant must show that appropriate steps were taken to avoid and minimize impacts to "waters of the U.S."
4. USACE can only permit the least environmentally damaging practicable alternative (LEDPA).
5. DA permits are issued under various forms of authorization, including individual permits, general permits, and letters of permission. The proposed project would impact "waters of the U.S." in Indiana and Kentucky. The Louisville District has issued Indiana Regional General Permit (RGP) No. 1 for impacts in the State of Indiana and the Transportation Letter of Permission (LOP) for impacts in the Commonwealth of Kentucky.
6. In Indiana, the Indiana RGP No. 1 authorizes activities associated with the construction, expansion, modification or improvement of linear transportation projects including any temporary structures, fills, and work necessary. The proposed work must meet the terms and conditions of Indiana RGP. No. 1, which include limiting loss of "waters of the U.S." to less than 0.1 acre and/or 1,500 linear feet of stream channel. Impacts greater than 0.1 acre and/or 1,500 linear feet of stream channel may be authorized under the RGP provided that the impacts are brought to minimal levels through the provision of acceptable mitigation. A copy of the Indiana RGP is provided for your use. Crossings that would have impacts greater than 1 acre in Indiana would be processed as an individual Section 404 CWA permit.
7. For linear projects, the Louisville District considers impacts to "waters of the U.S." at each individual "single and complete crossing" separately. A "single and complete project" is defined as that portion of the total linear project that includes all crossings of 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 as a single and complete crossing. As such, the impacts from each "single and complete crossing" would be evaluated to determine whether or not each one meets the terms and conditions of Indiana RGP No. 1. For crossings with impacts exceeding the limits of the RGP, the impacts would be evaluated as an Individual Section 404 Permit.
8. In Kentucky, the Transportation LOP is used for road projects that would impact up to 7 acres of waters of the U.S. A copy of the Transportation LOP is attached for your use. Please note the pre-application agency coordination requirements. If the total proposed project impacts in Kentucky exceed 7 acres of waters, impacts would be evaluated as an Individual Section 404 permit. Compensatory mitigation for project impacts would be performed by the purchase of stream and/or wetland Adjusted Mitigation Units (AMUs) at the Kentucky Department of Fish and Wildlife Resources (KDFWR) In-Lieu Fee Program. For more information on purchasing AMUs through the KDFWR In-Lieu Fee Program, please contact Mr. Clifford Scott at 502-564-5101, clifford.scott@ky.gov. AMUs are calculated by multiplying stream length impact by a ratio based on the stream flow regime and the quality. Stream quality is determined by using the Rapid Bioassessment Protocol (RBP). An additional 20% is added to compensate for temporal loss. Examples of calculating AMUs can be provided upon request.
9. Existing mitigation sites may be within the proposed road alignments in southern Indiana east of Evansville.

Thank you for giving us the opportunity to participate in the IAC. For more information regarding the 404 Program, please visit the District website at the address provided below.

Deborah Duda Snyder
Project Manager
U.S. Army Corps of Engineers, Louisville District Indianapolis Regulatory Office
8902 Otis Avenue, Suite S106B
Indianapolis, IN 46220
Phone: 317-543-9424

Please visit our website at https://urldefense.proofpoint.com/v2/url?u=http-3A__www.lrl.usace.army.mil&d=CwIFAg&c=Nwf-pp4xtYRe0sCRVM8_LWH54joYF7EKmrYIdfxIq10&r=5DH3ljOgF53pDCd3ITAKgsy7Go1A0RzID5tp6vBsCBY&m=ai96zLFylOGM2Wd4zrlfBDwptb-PX9ZdH-iMGCF7LeI&s=bsmTyNU6RS1hvaqiQEBTyk9waPYuEIGHWXIb6ayeGgo&e= Click on "How do I...Obtain a permit"
Please comment on our service. Our National Customer Service Survey is located at https://urldefense.proofpoint.com/v2/url?u=http-3A__corpsmapu.usace.army.mil_cm-5Fapex_f-3Fp-3Dregulatory-5Fsurvey&d=CwIFAg&c=Nwf-pp4xtYRe0sCRVM8_LWH54joYF7EKmrYIdfxIq10&r=5DH3ljOgF53pDCd3ITAKgsy7Go1A0RzID5tp6vBsCBY&m=ai96zLFylOGM2Wd4zrlfBDwptb-PX9ZdH-iMGCF7LeI&s=MvV0HiyVOr_CaoahpNoJt-WO2sA9wEGGNmohjT7aoT4&e=

CLASSIFICATION: UNCLASSIFIED



**US Army Corps
of Engineers**

Louisville, Huntington,
Memphis, Nashville
Districts ®

Public Notice

Public Notice No.

LRL-2006-259-pgj

Date:

28 Oct 10

Closing Date:

N/A

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Patricia Grace-Jarrett, Ph.D., CELRL-OP-FS, Rm 752

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: 502-315-6687

NOTICE ANNOUNCING MINOR MODIFICATIONS TO THE LETTER OF PERMISSION
AUTHORIZING TRANSPORTATION PROJECTS

The Louisville, Huntington, Memphis and Nashville Districts of the U.S. Army Corps of Engineers (the Districts) announce a minor modification to the previously issued Letter of Permission for Transportation Projects ("Transportation LOP"). The original Transportation LOP was issued on October 3, 2007, in accordance with Title 33 CFR 325.5 (b)(2), published in the Federal Register, Volume 51, No. 219, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA). It supported the initiative directed by Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) to streamline the review process for transportation projects. This modification is based on comments received from state and federal agencies during the first periodic review ("Implementation Procedures", No. 5), and to update the Transportation LOP to be consistent with the 2008 "Compensatory Mitigation for Losses of Aquatic Resources" ("Mitigation Rule") in the Federal Register (FR) (FR Vol. 73 No. 70, p 19670-19705 (33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; and Pub. L. 108-136), interim regional supplements to the Corps' wetland delineation manual and recent Regulatory Guidance Letters (RGLs).

In general, changes include clarification or the addition of language or citations for the following items:

- Project description to include the appropriate units;
- Application to include a draft jurisdictional determination (RGL 08-02);
- Wetlands delineation reports to follow the procedures specified in the Corps of Engineers 1987 wetland delineation manual and the interim regional supplements;
- Application to include a mitigation proposal for projects requiring mitigation (Mitigation Rule);

- Permittee-responsible mitigation must be consistent with the Mitigation Rule and RGL 08-03;
- Application to include a summary of avoidance and minimization measures;
- Clarification that coordination letter(s) from KDOW include Individual Water Quality Certification, Water Quality Certification-LOP, general certification or waiver;
- Noting that other information, as determined by the Corps, may be required; and
- Other minor re-wording to eliminate redundant or unclear text.

Please be advised that the Corps is not seeking public comment on this notice. Any questions should be directed to Patricia A. Grace-Jarrett, Ph.D., CELRL-OP-FS, at the address noted above and should refer to the Public Notice Number LRL-2006-259.

COVERAGE AREA: All "waters of the United States" (U.S.) in the Commonwealth of Kentucky.

CATEGORIES OF ACTIVITY COVERED BY THE LOP:

The LOP authorizes all activities performed on any public road by state and local governments and/or their agents. These activities include temporary and permanent work, structures, and discharges of dredged or fill material commonly associated with linear transportation projects that impact "waters of the U.S." Some examples include:

1. New roadway alignments;
2. Roadway realignments;
3. Installation of additional traffic lanes to existing roadways;
4. Construction of roadway embankments and bridge abutments;
5. Upgrading and/or maintenance of bridges and other stream-crossing facilities;
6. Construction of staging areas, borrow and disposal sites;
7. Stream bank stabilization;
8. Stream relocation;
9. Dredging, debris removal and excavation associated with the above activities;

10. General maintenance activities associated with linear transportation facilities; and

11. Project-specific mitigation activities.

MAXIMUM LIMITATIONS:

Impacts to waters of the United States are limited to seven acres of "waters of the U.S.", including wetlands, for a project rather than an individual crossing.

MITIGATION:

Impacts resulting from the discharge of fill or dredged material into "waters of the U.S." of greater than 300 linear feet of intermittent or perennial stream; the filling of greater than 0.10 acre of "waters of the U.S."; or work causing more than minimal effects will require mitigation to compensate for impacts to the "waters of the U.S." Other work or structures in navigable waters will be evaluated and must include mitigation to reduce the impacts to minimal levels.

RESTRICTIONS:

The work authorized by this LOP is also subject to the attached General Conditions, which are necessary to reduce impacts to a minimum level.

IMPLEMENTATION PROCEDURES:

1. Applicant Coordination:
 - a. Prior to submitting the application, the applicant will coordinate projects being considered for authorization by the LOP with the applicable District, the United States Environmental Protection Agency (USEPA), the Kentucky Department of Fish and Wildlife Resources (KDFWR), the Kentucky Division of Water (KDOW), the U.S. Fish and Wildlife Service (USFWS) in accordance with the Endangered Species Act, and the Kentucky State Historic Preservation Officer (KYSHPO) in accordance with the National Historic Preservation Act. This will allow the early screening of proposed alignments for State critical resources and water quality standards, Federally-listed threatened or endangered species or their critical habitats and for properties that may be listed or eligible for listing on the National Register of Historic Places (NRHP). This early coordination will ensure compliance with the Section 404(b)(1) Guidelines and General Conditions 5, 8, 12 and 13. This coordination will be accomplished by prearranged meetings hosted by the Districts and applicants, such as the Kentucky Transportation Cabinet.

- b. The applicant will conduct early coordination with USFWS and KYSHPO to determine if the proposed action will affect listed species or critical habitat or affect any historic property that is listed, determined to be eligible, or which the applicant has reason to believe may be eligible for listing on the NRHP. Through this early coordination, if adverse effects may occur to listed species or NRHP-eligible or -listed properties, the applicant will contact the Corps so federal consultation may be initiated. Copies of early coordination letters shall be provided to the Corps.
2. The Districts will review complete applications for project compliance with the terms, maximum limitations, and General Conditions. Any project that does not comply could not be authorized by this LOP.
3. The Districts will respond by email to all complete applications within 45 days as to whether the LOP will be applicable or an Individual Permit will be required.
4. The Districts may, at their discretion, determine that the LOP is not appropriate and require a standard individual permit review of the proposal.
5. The LOP does not have an expiration date; however, the Corps will conduct periodic reviews to ensure the LOP continues to meet the Corps' Regulatory Program regulations and policies. The Corps will conduct the first review, in coordination with USFWS, EPA, KDFWR, and KDOW, within two years of the effective date of the LOP.

APPLICATION PROCEDURES:

Applicants proposing to conduct work under the proposed LOP will submit a complete application to the appropriate District, and receive written notification that the proposed work is authorized by the LOP, prior to the commencement of work in "waters of the U.S." The applicant must submit the standard Department of the Army (DA) permit application form (ENG 4345), including the information listed in 1 through 13 below.

1. Name, address, and phone number of the applicant.
2. Location of the proposed work, including latitude and longitude in decimal degrees.
3. Brief description of the project, including purpose, the total size (linear distance and acreage) of the proposed structures or fill areas, fill quantity and type of fill being used, type and acreage of

wetland(s) to be filled, and flow regimen (perennial, intermittent, ephemeral), linear distance and acreage of proposed stream fill(s). Impacts, in the appropriate units/credits, must also be provided.

4. A draft jurisdictional determination (RGL 08-02).

5. Drawings on 8 ½ x 11-inch paper, including a location map, and plan and cross-section drawings illustrating all work to be done and the location of the "waters of the U.S." These drawings must provide the exact dimensions and scale, must be legible and reproducible in black in white or grey scale.

6. For any project that impacts jurisdictional wetlands, a wetland delineation report is required and must conform to the Corps of Engineers' Wetland Delineation Manual, Technical Report Y-87-1, and the appropriate Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual.

7. For any project that requires mitigation, functional assessment scores and/or narrative documentation must be provided for the existing conditions of the proposed impact(s). A mitigation proposal, including either a: 1) request to purchase credits from a Corps approved Mitigation Bank or In-Lieu Fee Program, 2) request to use released credits from the applicant's Corps approved Mitigation Bank, or 3) request to develop permittee-responsible mitigation, must also accompany the application.

8. For permittee responsible mitigation, a project specific Mitigation Plan consistent with the Corps' current regulations and policies (e.g. 2008 Mitigation Rule, RGL 08-03, District mitigation guidance/standard operation procedures).

9. Summary of avoidance and minimization measures.

10. Summary of alignment alternatives or completed alternatives analysis.

11. Copies of all coordination letters from the KYSHPO and the USFWS (see General Conditions 12 and 13), documenting coordination and compliance with the Endangered Species Act and the National Historic Preservation Act.

12. Individual Water Quality Certification, Water Quality Certification-LOP, general certification or waiver, if required by the KDOW.

13. Other information, as determined by the Corps.

AGENCY COORDINATION:

Complete application packages will be distributed to the above state and federal agencies ("the agencies") by the applicant. Applicants are encouraged to send the packages by registered mail with return receipt requested. The Corps will notify the agencies that the comment period has commenced. The agencies will have 21 days to provide written or email comments, from an appropriate management level, to the appropriate District once they have received the complete application package and been notified by the Corps that the comment period has commenced. The Corps may extend this comment period by 14 days.

The USFWS and the USEPA retain the option to refer individual pending projects through the procedures outlined in the 1992 Memorandums of Agreement Part IV, Elevation of Individual Permits, paragraph 3(a) and 3(b), regarding Section 404(q) of the CWA, when the discharge will result in a substantial and unacceptable adverse effect to aquatic resources of national importance.

EXCLUDED ACTIVITIES:

1. Activities that are denied any required local, State or Federal authorization.
2. Activities that the Districts determine to have the potential to cause unacceptable adverse impacts to aquatic resources or other public interest factors. The Districts may, on a case-by-case basis, require an individual DA permit. The Districts will notify the applicant that the project does not qualify for the LOP and instruct the applicant that authorization must be obtained under the standard Individual DA permit process. The Districts may also require an Individual DA permit for any After-the-Fact applications and/or any unauthorized activity regardless of whether or not the discharge meets the acreage and linear footage threshold limitations of this proposed LOP.

GENERAL CONDITIONS:

1. Discharges of dredged or fill material into "waters of the U.S." must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). In determining the minimal impact threshold, the Districts will consider the direct, secondary, and cumulative impacts of the fill or work and any mitigation measures.
2. Impacts resulting from the discharge of fill into "waters of the U.S." in excess of 300 linear feet of intermittent or perennial stream; the filling of greater than 0.10 acre (4,356 sq. feet) of

"waters of the U.S."; or work causing more than minimal effects, will require mitigation to compensate for these impacts. The impact thresholds are applied for each crossing. When mitigation is required, the permittee shall purchase credits from a Corp's approved Mitigation Bank or In-Lieu Fee Program, use released credits from a Corps approved Permittee Mitigation Bank or develop a permittee-responsible mitigation project. The permittee will develop the mitigation project concurrently with, or in advance of, the site construction unless the Corps determines on a project specific basis that it is not practical to do so. This will ensure that aquatic functions are not lost for long periods of time (e.g. temporal loss) which could adversely affect water quality and wildlife. A Permittee-responsible mitigation project shall include a project-specific Mitigation Plan, consistent with the Corps' current regulations and policies (e.g. 2008 Mitigation Rule, RGL 08-03, District mitigation guidance and/or standard operation procedures for mitigation).

3. The permittee shall ensure that sedimentation and soil erosion control measures are in place prior to commencement of construction activities. These measures will remain in place and be properly maintained throughout construction. Sedimentation and soil control measures shall include the installation of straw bale barriers, silt fencing, sediment basins, water bars and/or other approved methods to control sedimentation and erosion. Sedimentation and erosion controls will not be placed in "waters of the U.S." except if specifically approved by the District.

4. The permittee shall ensure that areas disturbed by any construction activity, including channel and stream banks, are immediately stabilized and revegetated with a combination of non-invasive plants (herbs and shrubs) which are compatible with the affected area and will not compete with native vegetation.

5. The permittee shall ensure that no in-stream construction activity is performed during periods of high stream flow or during the fish spawning season (April 1 through June 30) without first contacting the Kentucky Department of Fish and Wildlife Resources (KDFWR) for their expertise on impacts to the fishery resource. Additionally, the discharge of dredged and/or fill material in known waterfowl breeding and wintering areas must be avoided to the maximum extent practicable.

6. The permittee will ensure that the activity authorized will not disrupt movement of those aquatic species indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's specific purpose is to impound water.

7. The permittee shall ensure that all construction equipment is refueled and maintained on an upland site away from existing streams, drainageways and wetland areas. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.

8. The permittee must comply with any case specific special conditions added by the Corps or by the Kentucky Section 401 Water Quality Certification (WQC). The conditions imposed in the Kentucky Section 401 WQC are also conditions of this LOP.

9. The permittee shall ensure that no activity authorized by the LOP may cause more than a minimal adverse effect on navigation.

10. The permittee shall ensure proper maintenance of any structure or fill authorized by the LOP, in good condition and in conformance with the terms and conditions of the LOP, including maintenance to ensure public safety. The permittee is not relieved of this requirement if the permitted activity is abandoned, although the permittee may make a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, the permittee must obtain a modification to the LOP from the Corps, which may require restoration of the area.

11. The permittee shall not perform any work within any Wild and Scenic Rivers or in any river officially designated as a "study river" for possible inclusion in the system, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity authorized by the LOP will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal Land Management agency in the area (e.g. U.S. Forest Service, Bureau of Land Management, the National Parks Service, or the U.S. Fish and Wildlife Service).

12. The permittee shall not perform any work under the LOP which is likely to 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, or which is likely to destroy or adversely modify the critical habitat of such species. The permittee shall notify the Corps and coordinate the proposed action with the USFWS to determine if any listed species or critical habitat might be affected and/or adversely modified by the proposed work. No activity is authorized under the LOP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been

completed. At the direction of the Corps, the permittee shall complete the necessary consultation with the USFWS, satisfying the requirements of Section 7(a)(2) of the Endangered Species Act. The permittee shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Authorization of an activity under the LOP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act.

Obligations under Section 7 of the Act must be reconsidered by the Corps Districts if (1) new information reveals impacts of the proposed action may affect listed species or critical habitat in a manner not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered during consultation, or (3) new species are listed or critical habitat designated that might be affected by the proposed action.

13. The permittee shall not perform any activity under the LOP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the LOP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Kentucky Heritage Council.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the LOP, work must be immediately stopped and this office immediately notified regarding the discovery. The District will initiate the Federal, Tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

14. The permittee shall not perform any work under the LOP where the discharge of dredged and/or fill material will occur in the proximity of a public water supply intake.

15. No activity, including structures or works in "waters of the U.S." or discharges of dredged or fill material may consist of unsuitable materials (e.g. trash, debris, car bodies, asphalt, etc.) and that materials used for construction or discharge must be free from toxic pollutants in toxic amounts.

16. The permittee shall, to the maximum extent practicable, design the project to maintain pre-construction downstream flow conditions. Furthermore, the work must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of fill must withstand expected high flows. The project must provide, to the maximum extent practicable, for retaining excess flows from the site and for establishing flow rates from the site similar to pre-construction conditions.

17. The permittee shall ensure that all temporary fills, authorized under the LOP, be removed in their entirety and the affected areas returned to pre-construction elevation.

18. Representatives from the Corps of Engineers and/or the Commonwealth of Kentucky may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the LOP, Section 401 WQC, and applicable laws.

19. All work authorized by this LOP must be completed within five years after the date of the Corps authorization letter. If you find you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least three months before the expiration date.

20. The permittee, after completion of work under the LOP, shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter will include a statement that the work was done in accordance with the LOP authorization including compliance with all general and special conditions and completion of mitigation work.

21. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of the LOP.

22. For Section 10 waters, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work 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.



US Army Corps of Engineers®
Louisville, Detroit and Chicago Districts

INDIANA REGIONAL GENERAL PERMIT NO. 001

Effective: December 15, 2014
Expiration: December 15, 2019

A. Introduction

In accordance with Title 33 CFR 325.5(b)(2), and 325.5(c)(1), as published in the Federal Register, Volume 51, No. 219, the U.S. Army Corps of Engineers Districts of Louisville, Detroit and Chicago (the Districts), have reissued a Regional General Permit (RGP) for certain activities in waters of the United States within the State of Indiana under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

The RGP affords the Districts a means to authorize, on a regional basis, categories of activities that are similar in nature and cause minimal individual and cumulative impacts to the aquatic environment while eliminating unnecessary duplication of regulatory control. In this case, the Districts have been effective in reducing duplication with the Indiana Department of Environmental Management (IDEM) Section 401 Water Quality Certification (WQC) process.

This RGP suspends several Nationwide Permits (NWP) (see Suspensions section of this document). The RGP has simplified and enhanced the effective regulation of waters and wetlands in Indiana and would further assure that only those activities that have minimal individual and cumulative impacts would be authorized by this RGP.

Structures and/or work in or affecting the course, location, condition, or capacity of a navigable water that does not involve the discharge of dredged or fill material requires authorization under Section 10 of the Rivers and Harbors Act and no WQC is required. In this case, the Districts would continue to evaluate the Section 10 activity proposed and authorize only those activities under the RGP that have minimal individual and cumulative impacts.

Certain activities that impact 1 acre or less of waters of the United States and have a valid WQC would be eligible for this RGP. Under the RGP, the Districts will continue to coordinate proposed activities with the U.S. Fish and Wildlife Service (USFWS) to satisfy the requirements of the Endangered Species Act and the Indiana State Historic Preservation Officer (SHPO) to satisfy the requirements of the National Historic Preservation Act.

B. Activities Covered by the Regional General Permit

This RGP authorizes activities associated with the construction or installation of facilities or structures, and/or work that are detailed in “Section I. Activity Categories and Conditions” and have been granted a WQC from IDEM, if required (See Appendix 4).

SUSPENSIONS: The following Nationwide Permits are proposed for suspension in Indiana. The proposed RGP would be used to authorize activities in place of suspended Nationwide Permits:

13	Bank Stabilization	40	Agricultural Activities
14	Linear Transportation Projects	41	Reshaping Existing Drainage Ditches
18	Minor Discharges	42	Recreational Facilities
29	Residential Developments	43	Stormwater Management Facilities
36	Boat Ramps	44	Mining Activities
39	Commercial and Institutional Developments		

The NWP's that would not be suspended and would be used in lieu of the RGP are:

1	Aids to Navigation	24	Indian Tribe or State Administered Section 404 Programs
2	Structures in Artificial Canals	25	Structural Discharges
3	Maintenance	27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	28	Modifications of Existing Marinas
5	Scientific Measurement Devices	30	Moist Soil Management for Wildlife
6	Survey Activities	31	Maintenance of Existing Flood Control Facilities
7	Outfall Structures and Associated Intake Structures	32	Completed Enforcement Actions
8	Oil and Gas Structures on the Outer Continental Shelf	33	Temporary Construction, Access and Dewatering
9	Structures in Fleeting and Anchorage Areas	34	Cranberry Production Activities
10	Mooring Buoys	35	Maintenance Dredging of Existing Basins
11	Temporary Recreational Structures	37	Emergency Watershed Protection and Rehabilitation
12	Utility Line Activities	38	Cleanup of Hazardous and Toxic Waste
15	U.S. Coast Guard Approved Bridges	45	Repair of Uplands Damaged by Discrete Events
16	Return Water from Upland Contained Disposal Areas	46	Discharges in Ditches
17	Hydropower Projects	47	Pipeline Safety Program Designated Time Sensitive Inspections and Repairs
19	Minor Dredging	48	Existing Commercial Shellfish Aquaculture Activities
20	Oil Spill Cleanup	49	Coal Re-Mining Activities
21	Surface Coal Mining Operations	50	Underground Coal Mining Activities
22	Removal of Vessels	51	Land-Based Renewable Energy Generation Facilities
23	Approved Categorical Exclusions	52	Water-Based Renewable Energy Generation Pilot Projects

The Corps will determine the appropriate permit type for authorizing proposed activities.

C. Excluded Activities

1. Activities that are denied any required local, State or Federal authorization.
2. Activities that the Districts determine to have the potential to cause unacceptable adverse impacts on aquatic resources or other public interest factors. The Districts may, on a case-by-case basis, require an Individual Department of the Army (DA) permit. The Districts will notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under a standard Individual DA permit. The Districts may also require an Individual DA permit for any After-the-Fact application and/or any unauthorized activity regardless of whether or not the loss of waters meets the upper threshold limitation of 1.0 acre of impacts to wetlands or 1,500 linear feet (not to exceed 1.0 acre) of stream impacts threshold limitation.

D. Maximum Limitations

The following impact limitations apply to all activities authorized by the RGP, with the exception of bank stabilization and agricultural activities. For impact limitations pertaining to these activities, see “Section I. Activity Categories and Conditions” for further discussion regarding maximum limitations.

1. Loss of waters of the United States (U.S.), including wetlands, is limited to 1.0 acre or less;
2. Loss of waters of the U.S. is limited to 1,500 linear feet of stream channel, not to exceed 1.0 acre;
3. Dredging in navigable waters is limited to 10,000 cubic yards;
4. Structures and fills for docking and mooring are limited to similar permitted structures and fills in the vicinity;
5. "Piecemealing" of projects in order to meet these thresholds will not be allowed.

RESTRICTIONS: The work authorized by this RGP would also be subject to the attached General Conditions (See Appendix 1) and any other Special Conditions necessary to reduce impacts to the minimum level.

E. Mitigation Requirements

The District Engineer may determine that the adverse effects of the proposed activity are minimal, and require no mitigation. Otherwise, mitigation will be required as follows, with the exception of bank stabilization, minor discharges, excavation, and agricultural activities (see “Section I. Activity Categories and Conditions” for further discussion regarding mitigation requirements).

1. Impacts resulting from the loss of waters by relocation, encapsulation, or channelization of greater than 300 linear feet of ephemeral, intermittent or perennial stream shall require mitigation;
2. The loss of greater than 0.10 acre of special aquatic sites (including wetlands) and/or loss of waters of the U.S. causing more than minimal effects shall require mitigation;

3. Other work or structures in waters of the United States will be evaluated on a case-by-case basis and may include mitigation to reduce the impacts to minimal levels;

4. Any required compensatory mitigation must meet the standards set forth in Title 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources, as published April 10, 2008 in the Federal Register, Vol. 73, No. 70, and any district guidance.

F. Agency Notification

Applicants are required to submit the IDEM RGP Notification Form when notification is required to the Corps or applying for authorization under the RGP. See “Appendix 3” for the district boundaries map.

Louisville District - If the proposed loss of jurisdictional waters is more than 0.1 acre or work involves more than 300 linear feet of stream channel or shoreline impact, then an application must be submitted. No application/notification is required if the work is under these thresholds, and no jurisdictional determination of any kind is required. Notification is required for work in navigable waters. Contact the Louisville District Regulatory Branch here:

U.S. Army Corps of Engineers
Louisville District
ATTN: CELRL-OPF-N
P.O. Box 59
Louisville, Kentucky 40201-0059
Phone: (502) 315-6733
Website: <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>

Detroit District - If there are proposed impacts to jurisdictional waters, then an application must be submitted. Contact the Detroit District Regulatory Branch here:

U.S. Army Corps of Engineers
Regulatory Michiana Branch
2422 Viridian Drive, Suite #200
South Bend, IN 46628-3561
Phone: (574) 232-1952
Website: <http://www.lre.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

Chicago District - If there are proposed impacts to jurisdictional waters, then an application must be submitted. Submit electronic applications to: chicagorequests@usace.army.mil. You may also contact the Chicago District Regulatory Branch here:

U.S. Army Corps of Engineers
Chicago District Regulatory Branch
231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604
Phone: (312) 846-5529
Website: <http://www.lrc.usace.army.mil/Missions/Regulatory.aspx>

Indiana Department of Environmental Management - If there are proposed impacts to any waters, then an application must be submitted.

The applicant must submit a Section 401 WQC Regional General Permit Notification Form (State Form 51937) for proposed waters impacts 0.10 acre or less, bank stabilization activities 300 linear feet or less on stream banks or lake shorelines, encapsulation activities 150 linear feet or less, or any activity that does not comply with the Section 401 Water Quality Certification which authorizes the use of the RGP in the State of Indiana.

The applicant must submit an Application for Authorization to Discharge Dredged or Fill material to Isolated Wetlands and/or Waters of the State (Form 51821) for proposed waters impacts greater than 0.10 acre, for bank stabilization impacts greater than 300 linear feet on stream banks and lake shorelines, and for encapsulation activities greater than 150 feet.

Note: Certain construction activities in waters of the U.S. within the State of Indiana under Section 404 of the Clean Water Act that are also regulated by the IDNR as public freshwater lakes will be covered under the Programmatic General Permit (PGP) dated December 15, 2012, and will not be covered under this RGP.

Contact the Indiana Department of Environmental Management here:

Indiana Department of Environmental Management
Section 401 WQC Program
100 North Senate Avenue
MC 65-42 WQS IGCN 1255
Indianapolis, Indiana 46204

G. Information Requirements

Any request for authorization under the RGP must provide the following information:

1. Name, address, and phone number of the applicant;
2. Location of the proposed work to include Section, Township, Range, latitude and longitude or UTM;
3. A detailed description of the project, its purpose, the dimensions including the size of the structure or the fill area, fill quantity and type of fill being used. Please include a discussion of any temporary construction activities such as access roads or cofferdams if included as part of the scope of work;
4. Drawings on 8 1/2 x 11-inch paper must include a location map, plan and cross-section drawings illustrating all the work to be done. The application drawings must provide a scale and/or the exact dimensions given;
5. Legible and reproducible construction drawings on 8 1/2 x 11-inch paper showing all aspects of the proposed activity, including existing and proposed contours, utilities, the location of wetlands/waters of the U.S. to be impacted and not impacted (marked appropriately for identification purposes), the Ordinary High Water Mark (OHWM) of all waters and the observed

outermost boundary of all wetlands. In addition, the drawings shall include a detailed plan and profile view of all structures AND/OR FILL to be installed in jurisdictional areas. The application drawings must provide a scale and/or exact dimensions given;

6. Submittal of photographs representing the existing site conditions;
7. Submittal of a mitigation and monitoring plan, if applicable.
8. For any project that impacts jurisdictional wetlands, a wetland delineation report is required and must conform to the Corps of Engineers' 1987 Wetland Delineation Manual, Technical Report Y-87-1, and the appropriate regional supplement for the proposed review area. The regional supplements in Indiana are the Midwest Regional Supplement to the Corps 1987 Wetland Delineation Manual, the Northcentral and Northeastern Regional Supplement to the Corps 1987 Wetland Delineation Manual, or the Eastern Mountains and Piedmont Regional Supplement to the Corps 1987 Wetland Delineation Manual.

H. Implementation Procedures

1. Applicants proposing to conduct work or discharge dredged and/or fill material into all waters of the U.S., including wetlands, must submit the application or notification form to the IDEM and the Corps as described in the "Agency Notification" section above.
2. The Districts will review all applications for project compliance with the terms, maximum limitations, and general conditions identified in the attachment. The conditions have been adapted from the Corps' present standard permit conditions and the nationwide permit program. Any individual project that fails to comply with all conditions cannot be authorized under the RGP procedures. The Districts will also review the proposal to determine the coordination requirements with the USFWS in accordance with the Endangered Species Act and with the SHPO in accordance with the National Historic Preservation Act (see general condition numbers 11 and 12). Applicants will be notified if additional information or project modification were necessary to comply with these requirements.
3. The applicant must immediately provide a copy of the Section 401 WQC to the appropriate Corps District. Typically, the District will respond in writing to all requests within 60 days of the District's receipt of a complete application. However, any work conducted under the RGP must comply with all the terms of the Section 401 WQC as well as the RGP general conditions and any other special conditions that may be necessary to reduce the impacts to the minimal level, and to satisfy other environmental concerns and regulatory requirements.
4. The Districts may, at their discretion, determine that the RGP is not appropriate and require an individual permit review of the proposal.
5. The Districts may, at their discretion, insert additional special conditions to the RGP to ensure that only activities that have minimal individual and cumulative impacts on the aquatic environment are authorized.

I. Activity Categories and Conditions

BANK STABILIZATION ACTIVITIES

This activity includes bank stabilization necessary for erosion prevention. The District Engineer may require mitigation for this activity on a case-by-case basis.

1. The proposed bank stabilization activity shall be justified based on a demonstrated need for erosion prevention. This category does not include maintenance activities.
2. The district engineer may waive the RGP linear foot limitation by making a written determination concluding that the discharge will result in minimal adverse effects on the aquatic environment. IDEM will be notified by the Corps that the RGP linear foot limitation has been waived.
3. The District Engineer will decide, on a case-by-case basis, if projects involving the use of vegetative and biotechnical practices will be subject to length restrictions. Biotechnical practices are defined as bank stabilization practices that benefit the aquatic environment by incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation. Examples of biotechnical practices include, but are not limited to: a) adequately sized riprap or A-Jack structures keyed into the toe of the slope with native plantings on the banks above; b) vegetated geogrids; c) coconut fiber (coir) logs; d) live, woody vegetative cuttings, fascines or stumps; e) brush layering; and f) soil lifts.
4. Riprap shall not be placed at a steeper slope than 2:1 (2 horizontal to 1 vertical) for dumped riprap, and 1.5:1 for hand placed riprap.
5. No more than two (2) cubic yards per running foot of material shall be used as backfill behind structures.
6. Bank stabilization shall be constructed using clean fill materials. The following materials may be used: rock, quarry stone, fieldstone, clay, granular fill, broken concrete, steel or vinyl sheet piling, cellular blocks, fabric formed concrete, concrete filled fabric mats, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, non-invasive vegetation, and treated timber. If broken concrete is used, it must be free from asphalt and oils, in addition all protruding material such as reinforced rods shall be cut flush with the surface of the concrete and removed from the construction area.
7. All material utilized shall be properly sized or anchored to resist anticipated forces of wave action.

TRANSPORTATION PROJECTS

This activity includes the construction, expansion, modification or improvement of linear transportation projects. Temporary structures, fills, and work necessary to construct linear transportation projects are also included.

1. 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. 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.

RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, INDUSTRIAL AND RECREATIONAL DEVELOPMENTS

Activities include the construction or expansion of a single residence, a multiple unit residential development, a residential subdivision, commercial and institutional buildings, and recreational facilities. Attendant features may include but are not limited to roads, parking lots, garages, yards, infrastructure and utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, golf courses, hiking trails, bike paths, horse paths, nature centers and campgrounds. The maximum impact limitations will be applied on a cumulative basis for activities that are part of a larger common plan of development or sale.

BOAT RAMPS

Activities required for the construction of boat ramps.

1. The boat ramp does not exceed 60 feet in width, unless the district engineer waives this criterion by making a written determination concluding the discharge will result in minimal adverse effects.

MINOR DISCHARGES AND EXCAVATION ACTIVITIES

Activities include minor discharges of dredged or fill material into all waters of the U.S. and reshaping of existing drainage ditches. The District Engineer may require mitigation for this activity on a case-by-case basis.

1. Projects involving the grading or reshaping of existing drainage ditches may not increase the slope of the ditch banks, the drainage capacity, nor can they expand the area drained by the ditch (as originally constructed).
2. All dredged/excavated materials will be disposed of in upland location(s) landward of the OHWM with no placement in, or return to, any waterway or wetland. Any excess material that cannot be accommodated on the permittee's upland property shall be placed in an upland location without any return to a waterway or wetland.

AGRICULTURAL ACTIVITIES

Agricultural activities including the construction of building pads for farm buildings; installation, placement or construction of drainage tiles, ditches or levees; the relocation of existing serviceable drainage ditches constructed in waters of the U.S.; and similar activities. The District Engineer may require mitigation on a case-by-case basis, and may waive the RGP linear foot limitation by making a written determination concluding that the discharge will result in minimal adverse effects on the aquatic environment. IDEM will be notified by the Corps that the RGP linear foot limitation has been waived. This RGP does not affect those agricultural activities that are exempt in accordance with 33 CFR Part 323.4, or are exempt under CWA Section 404(f)(1)(A).

MINING ACTIVITIES

Mining activities are authorized under this category, except for coal mining activities. This RGP does not affect those mining activities that are exempt in accordance with 33 CFR Part 323.4.

1. If reclamation is required by other statutes, a copy of the reclamation plan must be submitted with the permit application.

APPENDIX 1: GENERAL CONDITIONS

1. *Navigation:* (a) No activity authorized by the RGP 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:* 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.

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 an authorized shellfish harvesting activity, or is a shellfish seeding or habitat restoration activity.

6. *Suitable Materials:* No activity, including structures and work in waters of the U.S. or discharges of dredged or fill material, may use unsuitable material, including auto bodies, tires, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous material, broken concrete containing asphalt, or any material which would cause water pollution as defined by the Indiana Department of Environmental Management.

7. *Water Supply Intakes:* The permittee shall not perform any work under the RGP where the discharge of dredged and/or fill material will occur in the proximity of a public water supply intake except where the activity is for the repair or improvement of the public water supply intake structures or adjacent bank stabilization.

8. *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, i.e., a licensed engineer. 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.

9. 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.

10. 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 and storm water management activities, 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).

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

12. Equipment: All construction equipment shall be refueled and maintained on an upland site away from existing streams, drainage ways and wetland areas. Heavy equipment working in wetlands must be placed on mats, or other measures taken to minimize soil disturbance.

13. Soil Erosion and Sedimentation 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, 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.

14. Removal of Temporary Fills: Temporary fills must be removed in their entirety and the affected areas returned to pre-construction conditions (i.e., elevation, contours, re-establishment of vegetation, etc.).

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

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

17. Endangered Species: (a) No activity is authorized under the RGP 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, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under the RGP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address ESA

compliance for the RGP activity, or whether additional ESA consultation is necessary.

(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 project, 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 work. 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 project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until 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 USFWS the District Engineer may add species-specific regional endangered species conditions to the RGP.

(e) Authorization of an activity under the RGP 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 USFWS Service, the ESA prohibits any person subject to the jurisdiction of the United States to take 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) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS or their webpages on the Internet.

18. *Migratory Birds and Bald and Golden Eagles*: The permittee is responsible for obtaining any “take” permits required under the USFWS’ regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such “take” permits are required for a particular activity.

19. *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.

20. *Historic Properties*: The permittee shall not perform any activity under the RGP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the RGP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the IDNR, Division of Historic Preservation and Archaeology.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the RGP, work must be immediately stopped and the Corps immediately notified. The District will initiate the Federal, tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

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. Mitigation: The permittee shall provide a mitigation/monitoring plan for any activity where the adverse impact (i.e., loss of waters) on special aquatic sites (including wetlands) exceeds 0.10 acre (4,356 sq. ft.) or is determined to be more than minimal impact. The permittee shall also provide a mitigation/monitoring plan for any channelization, encapsulation, or relocation of greater than 300 linear feet of stream, unless there is no net loss of function, in which case the District Engineer will determine, on a case-by-case basis, if mitigation is required. All mitigation plans will include a minimum 50-foot wide buffer between the edge of the mitigation project site and the waters and/or wetlands to be affected unless a shorter distance has been specifically approved under the RGP. If a shorter distance is approved, it is incumbent on the applicant to demonstrate that no practicable alternatives are available in meeting the required buffer widths. If mitigation is required, the permittee shall develop the mitigation site concurrently with permitted impacts. The mitigation proposal must be in compliance with Title 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources, as published April 10, 2008 in the Federal Register, Vol. 73, No. 70.

23. Water Quality: If an individual 401 WQC is required, the permittee must provide a copy of it to the Corps. The permittee must comply with any case specific special conditions added by the Corps or by the Section 401 WQC. The conditions imposed in the Section 401 WQC are also conditions of this RGP.

24. Minimization/Avoidance: Discharges of dredged or fill material into waters of the U.S. must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). In determining the minimal impact threshold, the Districts will consider the direct and secondary impacts of the fill or work and any mitigation measures.

25. Access: Representatives from the Corps of Engineers and/or IDEM may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the RGP, Section 401 WQC, and applicable laws.

26. Construction Period: If construction of the project has commenced, or is under contract to commence prior to the expiration date, the applicant must complete the project within one (1) year of the RGP expiration date. If you find you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 3 months prior to the expiration date.

27. *Reporting:* The permittee, after completion of work under the RGP, shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter will include a statement that the work was done in accordance with the RGP authorization including compliance with all general and special conditions and completion of mitigation work.

APPENDIX 2: DEFINITIONS

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.

Discharge: The term “discharge” means any discharge of dredged or fill material.

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.

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).

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 the RGP; 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 linear feet of stream bed that is filled or excavated. 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 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.

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 (see 33 CFR 328.3(e)).

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.

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.

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. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation (pertaining to compensatory mitigation): 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: reestablishment and rehabilitation.

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.

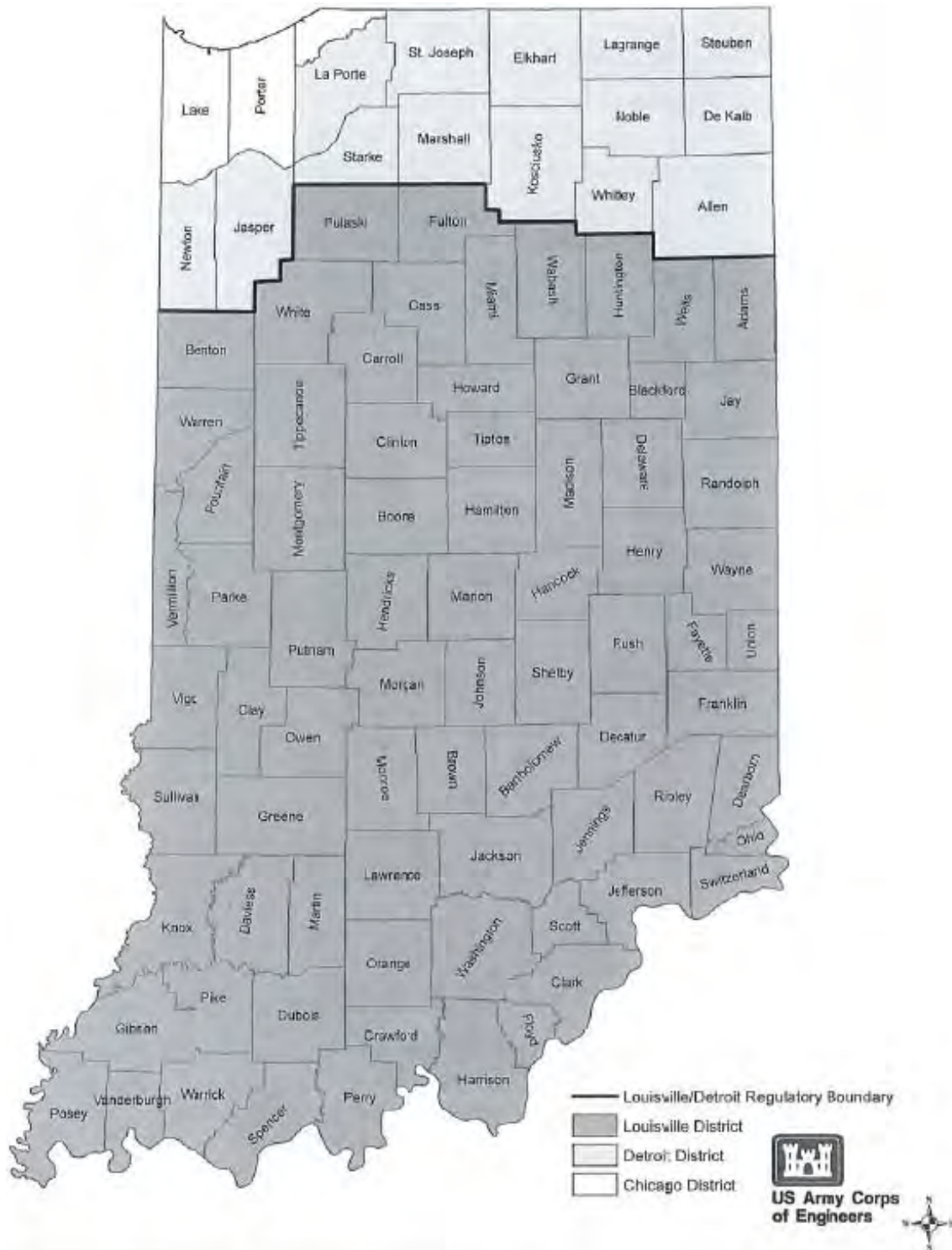
Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream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

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.

Waterbody: For purposes of the RGP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent - meaning bordering, contiguous, or neighboring - to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)–(6), that waterbody and its 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.

APPENDIX 3: U.S. ARMY CORPS OF ENGINEERS DISTRICT BOUNDARIES IN INDIANA

This map represents the Louisville, Detroit and Chicago District boundaries. Please contact the appropriate District using the “Agency Notification Procedures” outlined above for your area.



GENERAL CONDITIONS:

1. Discharges of dredged or fill material into "waters of the U.S." must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). In determining the minimal impact threshold, the Districts will consider the direct, secondary, and cumulative impacts of the fill or work and any mitigation measures.
2. The permittee shall provide a mitigation/monitoring plan for impacts resulting from the placement of fill into "waters of the U.S." in excess of 300 linear feet of intermittent or perennial stream; the filling of greater than 0.10 acre (4,356 sq. feet) of waters of the U.S.; or work causing more than minimal effects, to compensate for impacts to the "waters of the U.S." These impact thresholds are applied for each crossing. When mitigation is required, the permittee will develop the mitigation site concurrently with, or in advance of, the site construction unless the Corps determines on a project specific basis that it is not practical to do so. This will ensure that aquatic functions are not lost for long periods of time (e.g. temporal loss) which could adversely affect water quality and wildlife. The requirement for conservation easements or deed restrictions will be determined on a project specific basis.
3. The permittee shall ensure that sedimentation and soil erosion control measures are in place prior to commencement of construction activities. These measures will remain in place and be properly maintained throughout construction. Sedimentation and soil control measures shall include the installation of straw bale barriers, silt fencing and/or other approved methods to control sedimentation and erosion. Sedimentation and erosion controls will not be placed in "waters of the U.S." except if specifically approved by the District.
4. The permittee shall ensure that areas disturbed by any construction activity, including channel and stream banks, are immediately stabilized and revegetated with a combination of non-invasive plants (grasses, legumes and shrubs) which are compatible with the affected area and will not compete with native vegetation.
5. The permittee shall ensure that no in-stream construction activity is performed during periods of high stream flow or during the fish spawning season (April 1 through June 30) without first contacting the Kentucky Department of Fish and Wildlife Resources (KDFWR) for their expertise on impacts to the fishery resource. Additionally, the discharge of dredged and/or fill material in known waterfowl breeding and wintering areas must be avoided to the maximum extent practicable.
6. The permittee will ensure that the activity authorized will not disrupt movement of those aquatic species indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's specific purpose is to impound water.
7. The permittee shall ensure that all construction equipment is refueled and maintained on an upland site away from existing streams, drainageways and wetland areas. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.

8. The permittee must comply with any case specific special conditions added by the Corps or by the State Section 401 Water Quality Certification (WQC). The conditions imposed in the State Section 401 WQC are also conditions of this LOP.

9. The permittee shall ensure that no activity authorized by the LOP may cause more than a minimal adverse effect on navigation.

10. The permittee shall ensure proper maintenance of any structure or fill authorized by the LOP, in good condition and in conformance with the terms and conditions of the LOP, including maintenance to ensure public safety. The permittee is not relieved of this requirement if the permitted activity is abandoned, although the permittee may make a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, the permittee must obtain a modification to the LOP from the Corps, which may require restoration of the area.

11. The permittee shall not perform any work within any Wild and Scenic Rivers or in any river officially designated as a "study river" for possible inclusion in the system, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity authorized by the LOP will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal Land Management agency in the area (e.g. U.S. Forest Service, Bureau of Land Management, the National Parks Service, or the U.S. Fish and Wildlife Service).

12. The permittee shall not perform any work under the LOP which is likely to 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, or which is likely to destroy or adversely modify the critical habitat of such species. The permittee shall notify the Corps and coordinate the proposed action with the USFWS to determine if any listed species or critical habitat might be affected and/or adversely modified by the proposed work. No activity is authorized under the LOP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. At the direction of the Corps, the permittee shall complete the necessary consultation with the USFWS, satisfying the requirements of Section 7(a)(2) of the Endangered Species Act. The permittee shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Authorization of an activity under the LOP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act.

Obligations under Section 7 of the Act must be reconsidered by the Corps Districts if (1) new information reveals impacts of the proposed action may affect listed species or critical habitat in a manner not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered during consultation, or (3) new species are listed or critical habitat designated that might be affected

by the proposed action.

13. The permittee shall not perform any activity under the LOP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the LOP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Kentucky Heritage Council.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the LOP, work must be immediately stopped and this office immediately notified regarding the discovery. The District will initiate the Federal, Tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

14. The permittee shall not perform any work under the LOP where the discharge of dredged and/or fill material will occur in the proximity of a public water supply intake.

15. No activity, including structures or work in "waters of the U.S." or discharges of dredged or fill material may consist of unsuitable materials (e.g. trash, debris, car bodies, asphalt, etc.) and that materials used for construction or discharge must be free from toxic pollutants in toxic amounts.

16. The permittee shall, to the maximum extent practicable, design the project to maintain pre-construction downstream flow conditions. Furthermore, the work must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of fill must withstand expected high flows. The project must provide, to the maximum extent practicable, for retaining excess flows from the site and for establishing flow rates from the site similar to pre-construction conditions.

17. The permittee shall ensure that all temporary fills, authorized under the LOP, be removed in their entirety and the affected areas returned to pre-construction elevation.

18. Representatives from the Corps of Engineers and/or the State of Kentucky may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the LOP, Section 401 WQC, and applicable laws.

19. All work authorized by this LOP must be completed within five years after the date of the Corps authorization letter. If you find you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least three months before the expiration date.

20. The permittee, after completion of work under the LOP, shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter will include a statement that the work was done in accordance with the LOP authorization including compliance with all general and special conditions and completion of mitigation work.

21. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of the LOP.

22. For Section 10 waters, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work 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.



Division of Historic Preservation & Archaeology · 402 W. Washington Street, W274 · Indianapolis, IN 46204-2739
Phone 317-232-1646 · Fax 317-232-0693 · dhpa@dnr.IN.gov · www.IN.gov/dnr/historic



May 10, 2017

Janell Lemon
Project Manager
Vincennes District
Indiana Department of Transportation
3650 S US Highway 41
Vincennes, Indiana 47591

Federal Agency: Federal Highway Administration ("FHWA")

Re: Interagency Advisory Committee Meeting #1 presentation and discussion on April 12, 2017, and request for comments on Draft Purpose and Need, Range of Alternatives, and Environmental Methodologies for the proposed I-69 Ohio River Crossing Project in Vanderburgh and Warrick counties in Indiana and Henderson County, Kentucky (INDOT Des. No. 1601700; DHPA No. 20756)

Dear Ms. Lemon:

Pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321, *et seq.*) and Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306108), and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has reviewed the documents submitted by Dan Prevost on April 7 and 12, 2017.

DRAFT PURPOSE AND NEED

For the most part, we are satisfied with the statement of need and purpose.

As was pointed out during Interagency Advisory Committee Meeting #1, both US 41 bridges (northbound bridge built in 1932 and southbound bridge built in 1965) are old enough and probably significant enough to be eligible for inclusion in the National Register of Historic Places. The presentation during the meeting indicated that the construction of a new I-69 bridge would likely lead to the demolition of one or both of the US 41 bridges. One historic, Kentucky-Indiana bridge already has been demolished in recent years, the 1929 Milton-Madison Bridge. Aside from the obvious Section 106 issues with demolishing one or both US 41 bridges, we suggest that consideration be given to motorists who are unwilling or unable to drive at interstate highway speeds and to motor vehicles and trailers that should not be driven on an interstate highway because of their size or instability or the nature of their load. Elimination of both of the US 41 bridges in favor of only a new I-69 bridge would seem to limit drastically the mobility of certain segments of the population and business community.

PROPOSED RANGE OF ALTERNATIVES

The range of alternatives appears to be in keeping with the project's need and purpose.

We were somewhat surprised, however, that what is now called the East Corridor is still being considered. As one participant in Interagency Advisory Committee Meeting #1 noted, the East Corridor is a considerable distance from downtown Evansville, calling into question its utility for local traffic. Furthermore, in this office's October 23, 2003, letter to FHWA commenting on the September 3, 2003, "Preliminary Finding of Effects" for what was then

called the "I-69 Evansville, Indiana to Henderson, Kentucky Project," we offered the following comment that is pertinent to the East Corridor today:

In terms of archaeology, one concern includes the effect of visual and noise impact to **Angel Mounds State Historic Site in southeastern Vanderburgh County and southwestern Warrick County**. At a National Historic Landmark such as this, these effects could detract from a visual and aesthetic experience of the site. Another concern is the potential effect of a bridge (Alternative 3), not only visually and by noise, but any potential river or water erosion it may cause to Three Mile Island (that affords some protection to the Angel Mounds property) or the Angel Mounds State Historic Site itself. There have been problems with damage caused by erosion at the site.

Angel Mounds, unlike many archaeological sites, has above-ground features that are readily visible and available for public education and enjoyment. Preservation *in situ* is essential, as is, we believe, preservation of the qualities of the setting that contribute to the understanding and appreciation of this highly significant archaeological resource. Building an elevated interstate highway immediately to the east of Angel Mounds would have long-term and dramatic adverse impacts that should be avoided.

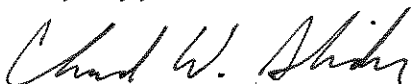
**I-69—ORX PROPOSED ENVIRONMENTAL METHODOLOGY APPROACH: SECTION 106
(ARCHAEOLOGICAL AND ARCHITECTURAL HISTORY) SURVEYS**

We are satisfied with the methodology sources cited on page 3 for use in Indiana.

If you have questions about archaeological issues, please contact Wade Tharp at (317) 232-1650 or wtharp1@dnr.IN.gov. Questions about buildings or structures should be directed to John Carr at (317) 233-1949 or jcarr@dnr.IN.gov.

In all future correspondence regarding I-69 Ohio River Crossing Project between Evansville, Indiana, and Henderson, Kentucky, please refer to DHPA No. 20756.

Very truly yours,



Mitchell K. Zoll
Deputy State Historic Preservation Officer

MKZ:JLC:WTT:wt

emc: Michelle Allen, Federal Highway Administration, Indiana Division
Janelle Lemon, INDOT Project Manager, Indiana Department of Transportation
Laura Hilden, Indiana Department of Transportation, Environmental Services
David Waldner, Kentucky Transportation Cabinet, Environmental Services Division
Anuradha Kumar, Indiana Department of Transportation, Cultural Resources Office
Shaun Miller, Indiana Department of Transportation, Cultural Resources Office
Mary Kennedy, Indiana Department of Transportation, Cultural Resources Office
Shirley Clark, Indiana Department of Transportation, Environmental Services
Daniel Prevost, Parsons
Christie Stanifer, Indiana Department of Natural Resources, Division of Fish and Wildlife
Craig Potts, State Historic Preservation Officer, Kentucky Heritage Council
Mitchell Zoll, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology
Chad Slider, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology
Wade Tharp, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology
John Carr, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology

From: Kajumba, Ntale [<mailto:Kajumba.Ntale@epa.gov>]
Sent: Thursday, May 11, 2017 2:28 PM
To: Allen, Michelle (FHWA) <michelle.allen@dot.gov>
Cc: Westlake, Kenneth <westlake.kenneth@epa.gov>; Laszewski, Virginia <Laszewski.Virginia@epa.gov>; Militscher, Chris <Militscher.Chris@epa.gov>
Subject: RE: EPA Scoping Comments on I-69 ORX IAC #1

Hi Michelle,

Thank you for sending us the meeting minutes. Attached are EPA's comments on the I-69 Ohio River Crossing Project related to Interagency Advisory Meeting #1. We appreciate the opportunity to participate in the initial product review process for this project. We look forward to reviewing subsequent project-related documents. If you have any questions or need additional technical assistance, please contact Ntale Kajumba at 404 562-9620 or kajumba.ntale@epa.gov.

Thanks,

Ntale

Ntale Kajumba

NEPA Program Office
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.

Atlanta, GA 30303
(404) 562-9620
kajumba.ntale@epa.gov

Michelle Allen
Federal Highway Administration
Indiana Division

Re: Preliminary EPA Comments on the proposed I-69 Ohio River Crossing (ORX) Project from
Henderson, Kentucky to Evansville, Indiana

Dear Ms. Allen:

The U.S. Environmental Protection Agency Regions 4 and 5 reviewed the subject project documents pursuant to Section 309 of the Clean Air Act and Section 102 (2)(C) of the National Environmental Policy Act. The EPA previously provided comments on a draft environmental impact statement (DEIS) in 2004, but a final environmental impact statement and record of decision were never issued. The comments detailed below are in response to the project team's request at the April 12, 2017 Interagency Advisory Committee Meeting regarding the need for early and ongoing information on the proposed development, construction and operation of the extension of I-69 between Henderson, Kentucky and Evansville, Indiana. These comments reflect issues raised during the interagency meeting as well as information contained in the draft I-69 ORX Agency Coordination Plan (April 2017), Public Involvement Plan, Proposed Environmental Methodology Approach (Project Memo, March 17, 2017), and the draft Purpose and Need.

Purpose and Need

The draft purpose and need identifies four primary goals and needs for the project:

1. Provide cross-river system linkage and connectivity between I-69 in Indiana and I-69 in Kentucky that is compatible with the National I-69 Corridor. Currently, there is a lack of National I-69 Corridor system linkage in the project area.
2. Develop a solution to address long-term cross-river mobility. The purpose and need document highlights the high costs associated with maintaining cross river mobility on the existing facilities.
3. Provide a cross-river connection that reduces traffic congestion and delay. The purpose and need document indicates that there are segments within the project area with unacceptable levels of service for cross-river traffic.
4. Improve safety for cross-river traffic. Supporting information is included in the purpose and need document that highlights the high-crash locations in the I-69/US 41 corridor.

The purpose and need document also highlights performance measures that will be used to evaluate the ability of the project alternatives to satisfy the project's purpose and need. Based on our preliminary review of the purpose and need document, the EPA has no concerns regarding the information described above. We would recommend broadening the performance measures to include and evaluation of additional mobility options, such as bicycle and pedestrian lanes, within the proposed transportation corridors and bridge crossings to help improve the overall transportation linkages between Henderson and Evansville.

Range of Alternatives

The EPA reviewed the proposed range of alternatives. There are five proposed alternative corridors with potential interchanges identified within the Alternatives handout and presentation that will be evaluated during the NEPA process. Given the existing constraints within the proposed project area, the EPA agrees that this represents a reasonable range of alternatives.

Agency Coordination Plan

The EPA reviewed the public involvement plan, which includes discussion related to agency coordination, public involvement, and project schedule and milestones. For ongoing agency coordination, please note that the EPA Region 4 is the lead Region for the EPA's review of the project, in close consultation and coordination with the EPA Region 5. As the project proceeds, project information should be sent to both regional offices in hard copy and two labeled computer disk or usb device with prior email notification regarding upcoming project review. Prior to I-69 meetings or conference calls, we request project-related information or presentations be provided at least a week in advance. When available, please record meetings for Agency review. Please reflect in the next update of the draft I-69 ORX Agency Coordination Plan (April 2017) that Ms. Ntale Kajumba is the principal contact for EPA Region 4.

In terms of the public involvement, the EPA notes that two public information offices will be opened and staffed, one in Evansville and another in Henderson. The project information centers will be open to the public approximately 35 hours per week between both locations. A schedule of hours will be posted at the offices and on the project's website and other communications. It is anticipated that the project information centers will be staffed by a full-time public information coordinator and another member of the project team. The website indicates that the hours of operation are proposed to be limited to weekdays during typical business hours. These hours of operation would not be convenient for members of the public who work during those hours. The EPA encourages staffing the office, at least once a week, with either late afternoon to evening hours and/or weekend hours.

Environmental Methods Memo

The EPA reviewed the draft environmental methods memo, which provides a general approach for discussion and agreement among the respective agencies. Under the wetlands and streams section, the EPA should be identified as a reviewing federal agency, given our role under Section 404 of the Clean Water Act.

Eggering, Luke

From: Eggering, Luke
Sent: Monday, June 05, 2017 1:48 PM
To: 'Deborah Snyder (deborah.d.snyder@usace.army.mil)'
Cc: Norma C. Condra (Norma.C.Condra@usace.army.mil); Miller, Daniel J; Prevost, Daniel (Daniel.Prevost@parsons.com); Jason Randolph (JRANDOLP@idem.IN.gov); Lindsey Postaski (Lindsey.Postaski@parsons.com)
Subject: I-69 Ohio River Crossing - Mitigation Sites in Indiana
Attachments: scannedDoc (003).pdf; Liberty Coal Mine Offsite.pdf; I69.pdf; RE: I-69 Ohio River Crossing
Importance: High

Deb (info others),

Good afternoon. I am currently collecting information on wetlands and streams for the I-69 ORX EIS, and, as you know, one of the big issues in Indiana is the presence of the mitigation sites near our central alternatives. Based upon my review of the attachments and previous emails to date, we have several mitigation sites in the vicinity of our central alternative. Jason Randolph (IDEM) had a series of emails – see below and attached – in response to the IAC. He also had email correspondence with Sam Werner (USACE, Newburgh, Indiana) (see attached) that described the Vigo Coal Company mitigation, and the likely supplemental mitigation construction in 2017.

The sites identified to date by Jason Randolph and Sam Werner include:

- Liberty Mine Site (LRL-2010-218) – not likely to impact;
- Cypress Creek Mine – likely to impact;
- Vigo Coal (LRL-2005-166) – likely to impact; and
- Vigo Coal (LRL-2005-166 Supplemental Mitigation for On-site Deficiencies – construction in 2017) – likely to impact.

We need to fully identify and map all the mitigation sites that could be impacted by the I-69 project. Are there other mitigation sites present? We also need to understand what the mitigation implications are for impacts to the mitigation sites. For example, Jason says below: “Since these are forested wetland mitigation sites you will be required to mitigate ... forested wetlands ... a minimum of 4:1. Jason also suggested that the I-69 team continue to coordinate with the Corps, which is what we are doing now.

We will need to ensure that we have the legal boundaries of all the known/permitted mitigation sites in the area, which will be included in our project GIS. The GIS boundaries that we have now are being used for the Level 1 screening of alternatives, however they are not precise enough to measure exact impacts, which will eventually be needed for the EIS and the permitting phase.

Please let me know if you are available to discuss the mitigation site issue(s) this week. If we would need to meet onsite at some point to verify that we have the sites mapped correctly, we can arrange that as well.

Take care,

Luke F. Eggering, PMC, PWS, CISEC
Senior Project Manager

PARSONS

400 Woods Mill Road South, Suite 330
Chesterfield, Missouri 63017
Office (314) 819-5040
Direct Line (314) 819-5020
Cell (314) 412-0398
Fax (314) 576-2702

Safety, Make it Personal

Respect Life - Make a Difference...

From: RANDOLPH, JASON [<mailto:JRANDOLP@idem.IN.gov>]

Sent: Friday, May 12, 2017 1:08 PM

To: Prevost, Daniel <Daniel.Prevost@parsons.com>; 'Allen, Michelle (FHWA)' <michelle.allen@dot.gov>; Lemon, Janelle <JLemon@indot.IN.gov>

Cc: Condra, Norma C CIV USARMY CELRL (US) <Norma.C.Condra@usace.army.mil>; Snyder, Deborah D CIV USARMY CELRL (US) <Deborah.D.Snyder@usace.army.mil>; 'Ricketts, Michael S CIV USARMY CELRL (US)' <Michael.S.Ricketts@usace.army.mil>; Braun, Randy <RBRAUN@idem.IN.gov>; 'DeLancey, George J CIV CELRL CELRD (US)' <George.J.Delancey@usace.army.mil>; Werner, Sam E CIV USARMY CELRL (US) <Sam.E.Werner@usace.army.mil>

Subject: I-69 Ohio River Crossing

Importance: High

Dan:

I have reviewed the meeting minutes and have no comments. Since we are starting the DEIS studies all over again I wanted to bring to your attention the presence of Section 401/404 compensatory mitigation sites in the footprint of your previous Preferred Alternative. As I glanced through the previous DEIS I did not see much mention of it. It appeared the previous DEIS only used the NWI to determine the presence of wetlands and gave a vague range of acreage.

We are all busy right now and don't have the time to adequately provide all the information you need at this time. Attached is a generic map with the areas circled that are mitigation. Also attached is a more detailed map for the Liberty Mine mitigation. The mitigation areas have been expanded since 2004. These areas should be avoided as you work on finalizing your new Preferred Alternative. These are fairly large mitigation sites so the mitigation requirements for impacting them would far exceed any wetland mitigation requirements required by I-69 Sections 1-6 combined. Since these are forested wetland mitigation sites you will be required to mitigate for what they are supposed to be not what they delineate out as. Since they are supposed to be forested wetlands your mitigation would be a minimum of 4:1. You should continue to coordinate with the Corps of Engineers to find out the specific mitigation acreage on the sites and work to avoid those areas.









Let me know if you have any questions.

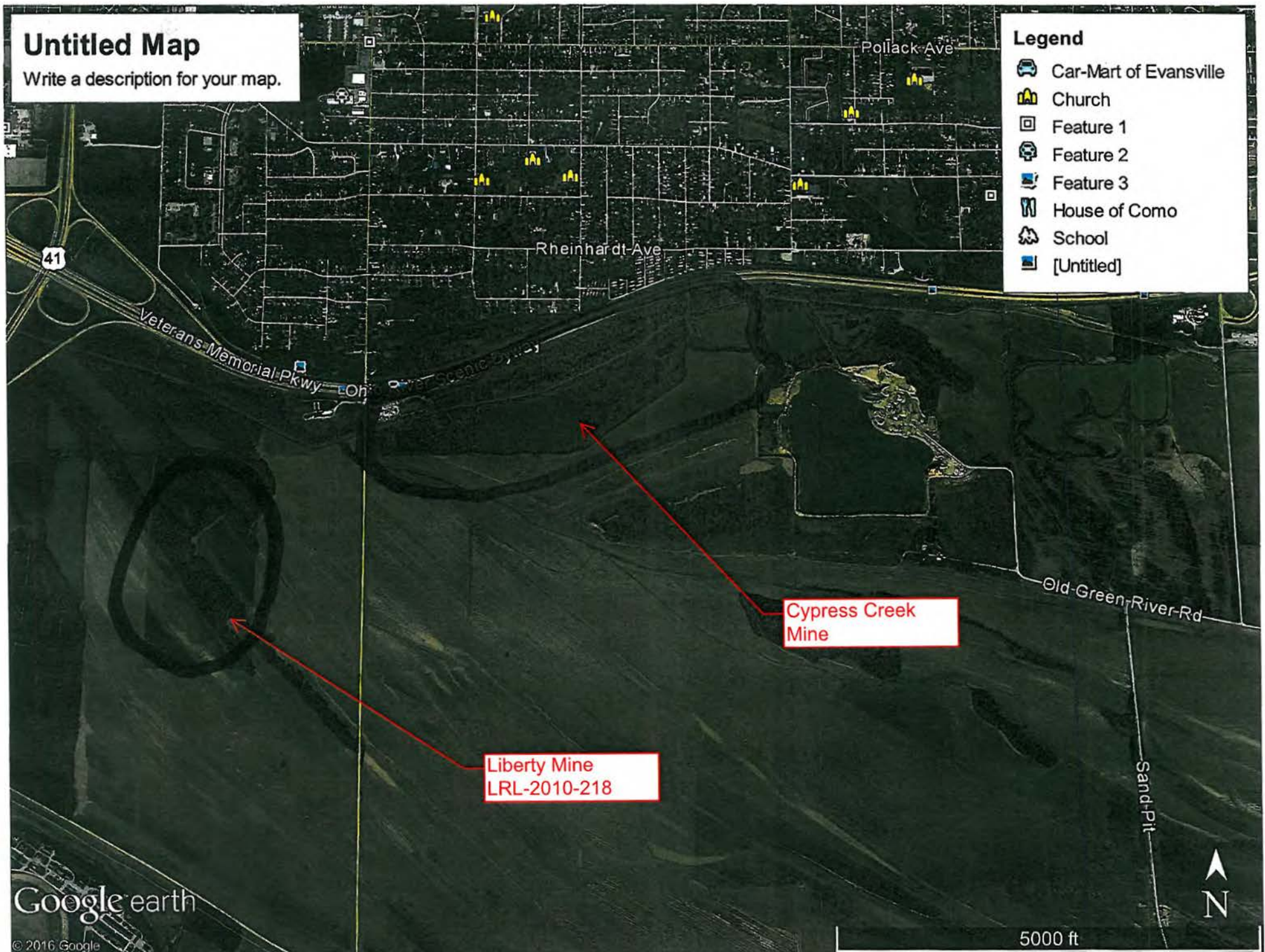
Jason Randolph
Wetlands Project Manager
IDEM Office of Water Quality
100 N. Senate Avenue
IGCN Room 1255
Indianapolis, IN 46204
Office: 317-233-0467
Fax: 317-232-8406

Untitled Map

Write a description for your map.

Legend

-  Car-Mart of Evansville
-  Church
-  Feature 1
-  Feature 2
-  Feature 3
-  House of Como
-  School
-  [Untitled]



Google earth

© 2016 Google







Eggering, Luke

From: Prevost, Daniel
Sent: Monday, May 15, 2017 10:12 AM
To: Nicaise, Steven; Ken Sperry (ksperry@hmbpe.com); Aldridge, Brian; Eggering, Luke; Miller, Daniel J; Grayburn, Cory
Subject: RE: I-69 Ohio River Crossing
Attachments: FW: Wetland Mitigation

See attached additional info provided by the Corps (via IDEM) regarding the wetland mitigation sites near the Central Alts interchange with I-69. It would appear that there's no avoiding impacts to these mitigation sites with either Central Alt.

We will show these in our L1 Screening as "Managed Lands" (similar to IBCF properties), since they have implications beyond "normal" wetland impacts.

Needless to say, there will need to be additional coordination/discussion regarding these sites.

From: Prevost, Daniel
Sent: Friday, May 12, 2017 3:16 PM
To: Nicaise, Steven <Steven.Nicaise@parsons.com>; Ken Sperry (ksperry@hmbpe.com) <ksperry@hmbpe.com>; Aldridge, Brian <Brian.Aldridge@stantec.com>; Eggering, Luke <Luke.Eggering@parsons.com>; Miller, Daniel J <Daniel.J.Miller@parsons.com>; Grayburn, Cory <Cory.Grayburn@parsons.com>
Subject: FW: I-69 Ohio River Crossing
Importance: High

See below – response from Jason Randolph (IDEM) to the IAC materials.

I will want to talk to Luke and Dan Miller about this a bit more, but I wanted to put this on everyone's radar asap:

Liberty Mine site – I don't believe this one will be an issue. We learned of this site the other day on our call with Sycamore Land Trust (own Eagle Slough). It's due to be handed over to SLT in the next year or so. Our current alignments show us staying out of the site, so shouldn't be an issue.

Cypress Creek Mine – We had data via NWI mapping that showed wetlands in the area and the windshield survey confirmed those (and added a couple additional areas). However, we were not aware that this was a mitigation site. That would likely substantially increase the mitigation requirements associated with any impacts. The image below shows the two central alts with the wetland data we have (all polygons are some kind of wetland).

Luke/Dan M. – Please look into this mitigation site. If necessary, reach out to Jason to get the documentation. It appears that we avoid the vast majority of the wetlands, but we need to understand:

- What are the mitigation implications?
- What level of pushback will we get from USACE? Is it just a matter of mitigating it or is there a risk to getting a permit?
- Does it matter if we bisect the site (as we propose now) or is it just a matter of the wetlands directly impacted.

See what you can find out Monday. It would be good to know going into Tuesday (L1 Screening).



From: RANDOLPH, JASON [<mailto:JRANDOLP@idem.IN.gov>]

Sent: Friday, May 12, 2017 1:08 PM

To: Prevost, Daniel <Daniel.Prevost@parsons.com>; 'Allen, Michelle (FHWA)' <michelle.allen@dot.gov>; Lemon, Janelle <JLemon@indot.IN.gov>

Cc: Condra, Norma C CIV USARMY CELRL (US) <Norma.C.Condra@usace.army.mil>; Snyder, Deborah D CIV USARMY CELRL (US) <Deborah.D.Snyder@usace.army.mil>; 'Ricketts, Michael S CIV USARMY CELRL (US)' <Michael.S.Ricketts@usace.army.mil>; Braun, Randy <RBRAUN@idem.IN.gov>; 'DeLancey, George J CIV CELRL CELRD (US)' <George.J.Delancey@usace.army.mil>; Werner, Sam E CIV USARMY CELRL (US) <Sam.E.Werner@usace.army.mil>

Subject: I-69 Ohio River Crossing

Importance: High

Dan:

I have reviewed the meeting minutes and have no comments. Since we are starting the DEIS studies all over again I wanted to bring to your attention the presence of Section 401/404 compensatory mitigation sites in the footprint of your previous Preferred Alternative. As I glanced through the previous DEIS I did not see much mention of it. It appeared the previous DEIS only used the NWI to determine the presence of wetlands and gave a vague range of acreage.

We are all busy right now and don't have the time to adequately provide all the information you need at this time. Attached is a generic map with the areas circled that are mitigation. Also attached is a more detailed map for the Liberty Mine mitigation. The mitigation areas have been expanded since 2004. These areas should be avoided as you work on finalizing your new Preferred Alternative. These are fairly large mitigation sites so the mitigation requirements for impacting them would far exceed any wetland mitigation requirements required by I-69 Sections 1-6 combined. Since these are forested wetland mitigation sites you will be required to mitigate for what they are supposed to be not what they delineate out as. Since they are supposed to be forested wetlands your mitigation would be a minimum of 4:1. You should continue to coordinate with the Corps of Engineers to find out the specific mitigation acreage on the sites and work to avoid those areas.

Let me know if you have any questions.

Jason Randolph
Wetlands Project Manager
IDEM Office of Water Quality
100 N. Senate Avenue
IGCN Room 1255
Indianapolis, IN 46204
Office: 317-233-0467
Fax: 317-232-8406

Eggering, Luke

From: RANDOLPH, JASON <JRANDOLP@idem.IN.gov>
Sent: Monday, May 15, 2017 9:41 AM
To: Prevost, Daniel; 'Allen, Michelle (FHWA)'; Lemon, Janelle
Cc: Werner, Sam E CIV USARMY CELRL (US); Snyder, Deborah D CIV USARMY CELRL (US); Condra, Norma C CIV USARMY CELRL (US); Braun, Randy
Subject: FW: Wetland Mitigation
Attachments: I69.pdf
Importance: High

Dan:

Here is some additional information regarding the mitigation sites located near the I-69 Ohio River Crossing Alternative 2 (previous preferred alternative). Please incorporate the attached document with the IDEM comments submitted vial electronic mail dated 5-12-17.

Sam-Thank you for your assistance.

Jason Randolph
IDEM-OWQ
317-233-0467

—Original Message—

From: Werner, Sam E CIV USARMY CELRL (US) [mailto:Sam.E.Werner@usace.army.mil]
Sent: Monday, May 15, 2017 10:13 AM
To: RANDOLPH, JASON <JRANDOLP@idem.IN.gov>
Subject: RE: Wetland Mitigation

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Jason,
Attached is the off site mitigation that I had for Vigo Coal Company. The polygon to the North is forested wetland mitigation that has been in place since around 2004. The polygon to the south is future supplemental mitigation to off-set deficiencies in the on-site mitigation. This supplemental mitigation is supposed to be constructed this year or the next. Let me know if you have any questions.

Sam Werner
U.S. Army Corps of Engineers
6855 State Road 66 East
Newburgh, Indiana 47630
Phone (812) 842-2768
Fax (812) 848-2678

—Original Message—

From: RANDOLPH, JASON [mailto:JRANDOLP@idem.IN.gov]
Sent: Thursday, May 11, 2017 3:44 PM
To: Ricketts, Michael S CIV USARMY CELRL (US) <Michael.S.Ricketts@usace.army.mil>; DeLancey, George J CIV CELRL CELRD (US) <George.J.Delancey@usace.army.mil>; Werner, Sam E CIV USARMY CELRL (US) <Sam.E.Werner@usace.army.mil>
Subject: [Non-DoD Source] Wetland Mitigation

Importance: High

Hello all:

I need some help identifying some mitigation sites that are likely in the footprint of the proposed I-69 Ohio River Bridge project. I know back in 2004 there was a coal mine mitigation site in the area and I think Sam said they have added on to it over the years. I don't have a good map but attached you will find a couple maps out of the 2004 Draft Environmental Impact State for reference. I am not sure if these maps predate the mitigation.

Since these were not IDEM permits could you let me know if you have any wetland mitigation sites in the footprint? If you do can you provide me with a map of where this mitigation is and summary of the acreages? If you could send me a monitoring report that would be good as well. If that is too much information to obtain in short order then can you at least give me Corps ID Numbers and I can have them coordinate with you at a later date?

Thanks for any assistance you can provide.

Jason Randolph

Wetlands Project Manager

IDEM Office of Water Quality

100 N. Senate Avenue

IGCN Room 1255

Indianapolis, IN 46204

Office: 317-233-0467

Fax: 317-232-8406



MEMORANDUM

To: Janelle Lemon, INDOT

From: Dan Prevost, Parsons

Date: June 6, 2017

Subject: Interagency Advisory Committee Comments

The purpose of this memo is to summarize the comments received in response to materials presented to the Interagency Advisory Committee (IAC). An IAC meeting was held on April 12, 2017 to provide an overview of the project and present several procedural and technical documents. A summary of the meeting and the materials presented is provided in a separate document.

Agencies were provided 30 days following the meeting to provide comments. Four agencies submitted substantive comments; each is summarized below and provided in entirety in the attachments. Where appropriate, responses from INDOT/KYTC have been provided in brackets following the comments.

United States Army Corps of Engineers (USACE) | May 10, 2017 | Attachment A

- USACE expects that the proposed interstate construction would require Department of Army (DA) authorization under both Section 404 and Section 10.
- The applicant must show that appropriate steps were taken to avoid and minimize impacts to "waters of the U.S."
- USACE can only permit the least environmentally damaging practicable alternative (LEDPA).
- A discussion of various types of DA permits, including existing permits, was provided. Depending on the proposed impacts, existing state permits may be applied or individual permits may be needed.
- Compensatory mitigation for project impacts in Kentucky was discussed. It would be performed by the purchase of Adjusted Mitigation Units (AMUs) at the Kentucky Department of Fish and Wildlife Resources (KDFWR) In-Lieu Fee Program.

- Existing mitigation sites may be within the proposed road alignments in southern Indiana east of Evansville. [Additional information regarding these mitigation sites has been provided by IDEM (see below) and will be incorporated into the analysis.]

Indiana Department of Natural Resources (IDNR), Division of Historic Preservation and Archeology (DHPA) | May 10, 2017 | Attachment B

- Regarding the purpose and need, DHPA suggested “that consideration be given to motorists who are unwilling or unable to drive at interstate highway speeds and to motor vehicles and trailers that should not be driven on an interstate highway because of their size or instability or the nature of their load.” [Because the long-term future of the existing US 41 bridges could vary with each of the corridors under consideration, this issue will be considered as alternatives are developed in the Draft Environmental Impact Statement (DEIS). INDOT and KYTC do not, however, feel that it is necessary to modify the purpose and need at this time.]
- Both existing US 41 bridges over the Ohio River are old enough and probably significant enough for inclusion on the National Register of Historic Places (NRHP). One historic Kentucky-Indiana bridge, the 1929 Milton-Madison Bridge, was recently demolished.
- The range of alternatives appears to be in keeping with the project’s purpose and need.
- DHPA was surprised the East Corridor is still under consideration. Its distance from downtown Evansville was discussed. Comments from the October 23, 2003 letter from DHPA to FHWA are considered to remain applicable: effects would include visual and noise impacts to Angel Mounds State Historic Site and the potential for erosion of Three Mile Island or the Angel Mounds site is a concern. An elevated highway east of Angel Mounds would have long-term and dramatic adverse impacts that should be avoided.
- The proposed Section 106 methodologies are satisfactory.

United States Environmental Protection Agency (USEPA) | May 11, 2017 | Attachment C

- Based on their preliminary review of the purpose and need document, USEPA has no concerns. They would recommend broadening the performance measures to include an evaluation of additional mobility options, such as bicycle and pedestrian lanes, within the proposed transportation corridors and bridge crossings to help improve the overall transportation linkages between Henderson and Evansville. [It is anticipated that the level of mobility for bicycles and pedestrians will be a performance measure utilized in the selection of the preferred alternative and documented in the DEIS.]
- Given the existing constraints within the proposed project area, the USEPA agrees that this represents a reasonable range of alternatives.

MEMORANDUM – IAC Comments – June 6, 2017

- EPA Region 4 is the lead Region for the EPA's review of the project, in close consultation and coordination with the EPA Region 5. Project information should be sent to both regional offices.
- Regarding the two public information offices, the website indicates that the hours of operation are proposed to be limited to weekdays during typical business hours. USEPA encourages staffing the office, at least once a week, with either late afternoon to evening hours and/or weekend hours. [In response to this comment, we have added "or by appointment" to our hours as listed on the project website and other project materials going forward. We will monitor requests for after-hours appointments and will re-evaluate standard hours if appropriate.]
- Regarding the draft environmental methods memo, under the wetlands and streams section, the USEPA should be identified as a reviewing federal agency. [The memo will be revised to reflect that change.]

Indiana Department of Environmental Management (IDEM) | May 12, 2017 and May 15, 2017 | Attachment D

- IDEM identified existing wetland mitigation sites south of I-69 in Indiana. Maps were provided showing the locations of the mitigation sites. One site is located within the footprint of the previous Preferred Alternative (referred to in two separate maps as both Cypress Creek Mine and Vigo Coal mitigation) and the other is located southeast of the I-69/US 41 interchange (i.e., Liberty Mine). A more detailed map was provided for the Liberty Mine mitigation site. IDEM noted that these sites should be avoided.
- South of and adjacent to the Vigo Coal mitigation site is a proposed mitigation site that is supposed to be constructed this year or the next.
- Since the mitigation sites are supposed to be forested wetlands, any impacts to the sites would be mitigated based on a minimum ratio of 4:1; coordination should continue with USACE regarding these sites. [INDOT and KYTC will incorporate the data provided regarding mitigation sites into the analysis.]

There were also minor comments and corrections regarding points of contact.

Attachments intentionally
omitted to avoid duplication



MATTHEW G. BEVIN
GOVERNOR

**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL**

REGINA STIVERS
DEPUTY SECRETARY

DON PARKINSON
SECRETARY

THE STATE HISTORIC PRESERVATION OFFICE

THE BARSTOW HOUSE
410 HIGH STREET
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-7005
FAX (502) 564-5820
www.heritage.ky.gov

CRAIG A. POTTS
EXECUTIVE DIRECTOR
& STATE HISTORIC
PRESERVATION OFFICER

August 7, 2017

Mr. Daniel Prevost
Parsons
Daniel.Prevost@parsons.com

**Re: FHWA Des No. 1601700
I-69 Ohio River Crossing Project
Evansville, Indiana and Henderson, Kentucky
KYTC # 2-69, Henderson**

Dear Mr. Parsons,

Thank you for your recent submission of the Screening Report and for all correspondence and documentation for the above-referenced project to date. Amanda Kincaid of our staff has been consulting directly with KYTC pertaining to above-ground historic resource concerns. We understand that archaeological concerns will not be addressed until the final corridor has been selected.

We agree with the elimination of Central Corridor 2 and East Corridor alternatives for this project. We look forward to receiving future correspondence, reviewing additional documentation as it becomes available, and commenting on above-ground and below ground cultural resources as necessary and appropriate. Thank you for your efforts to keep this project moving forward and for keeping us well informed.

Should you have any questions or concerns regarding above-ground cultural resources in Kentucky, please contact Christina Sabol of our office at Christina.Sabol@ky.gov. For questions regarding archaeological resources, please contact Nicole Konkol at Nicole.Konkol@ky.gov.

Sincerely,

Craig A. Potts,
Executive Director and
State Historic Preservation Officer

CP:, nk, cs
KHC # 49759

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From: Kajumba, Ntale
To: [Prevost, Daniel](#); [Allen, Michelle \(FHWA\)](#)
Cc: [Laszewski, Virginia](#); [Westlake, Kenneth](#); [Militischer, Chris](#)
Subject: Re: EPA Comments on 1-69 Ohio River Crossing (ORX) Screening Report
Date: Thursday, August 24, 2017 1:57:41 PM
Attachments: [I-69 ORX Screening Report 8.24.2018 Final.docx](#)

Hi Daniel and Michelle,

Attached are the EPA's email comments on the Screening Report for the I-69 ORX. Please feel free to contact us if you have any questions regarding our comments.

Thanks,

Ntale

Ntale Kajumba
Senior Life Scientist
NEPA Program Office
U.S. EPA Region 4
61 Forsyth Street
Atlanta, GA 30303
(404) 562-9620
Kajumba.ntale@epa.gov

Michelle Allen
Federal Highway Administration
Indiana Division

Re: EPA Comments on the proposed I-69 Ohio River Crossing (ORX) Screening Project from Henderson, Kentucky to Evansville, Indiana

Dear Ms. Allen:

The U.S. Environmental Protection Agency Regions 4 and 5 reviewed the subject project documents pursuant to Section 309 of the Clean Air Act and Section 102 (2)(C) of the National Environmental Policy Act. The EPA previously provided comments on the draft I-69 ORX Agency Coordination Plan (April 2017), Public Involvement Plan, Proposed Environmental Methodology Approach (Project Memo, March 17, 2017), and the draft Purpose and Need. The comments detailed below are in response to the project team's request at the July 20, 2017 Interagency Advisory Committee Meeting regarding the need for early and ongoing information on the proposed development, construction and operation of the extension of I-69 between Henderson, Kentucky and Evansville, Indiana. These comments reflect issues raised during the interagency meeting as well as information contained in the ORX Screening Report submitted to the EPA on August 2, 2017.

The ORX Screening report examines the no-action alternative and the five corridors proposed for development based on their impacts to the human and natural environment. Two corridors in the report were recommended for dismissal or exclusion from further review, the East Corridor and the Central Corridor 2. The EPA recommends retaining the East Corridor as it may be the least environmentally damaging practicable alternative required under the 404(b)(1) Guidelines. From a wetland impact perspective, the East Corridor has the least amount of acreage impact by more than 50% over the other four corridors evaluated. The Central Corridor 2 impacts approximately 48 acres of wetlands which was one of the highest of all five corridors evaluated. Therefore, the EPA has no objections to eliminating this alternative from further consideration and retaining Central Corridor 1, even though this alternative appears to be one of the five build alternatives that impacts the least number of noise sensitive receptors.

The EPA notes that the ORX Screening report does not describe impacts to the "streams" except by the "length in feet". Examining the corridors through Google Earth Pro, there were few streams that appeared to remain in a natural condition. The vast majority of the "streams" observed along the Central and Eastern corridors were ditches that had been straightened out. Therefore, the functions and values of the streams may have been significantly degraded. Also the types of streams were not described, example: perennial, intermittent, or ephemeral. Most of the ditches appeared to be ephemeral or intermittent which suggests the possible quality of the resource being impacted.

An important aspect of the natural resource impacts that was not fully discussed was the potential impacts associated with opening up a new route or expanding an existing route. The two Western Corridor alignments would be expanding an existing road alignment where the natural resources have already been impacted (impervious surfaces, increase pollutant loadings

from storm water discharges, industrial, municipal, and residential land uses). However, these Corridors also appear to have substantially higher impacts to the human environment. The Central Corridor 2 and the Eastern Corridor would have more miles of new terrain creating potential for more secondary impacts along these roadways. The potential for secondary development should be analyzed in the DEIS.

In terms of interagency coordination, the EPA notes that a hardcopy of project information was sent to Region 5 but not to Region 4. As a reminder, project information should be sent to both regional offices in hard copy and two labeled computer disks or usb devices. We also request project information or presentations be provided at least a week in advance of any planned I-69 ORX meetings or conference calls along with prior email notification regarding any upcoming project reviews.

Thank you for the opportunity to participate in the preliminary review process on this project. The EPA Regions 4 and 5 look forward to reviewing subsequent project-related documents. If you have any questions or need additional technical assistance, please contact Ntale Kajumba at 404 562-9620 or kajumba.ntale@epa.gov.

From: Price, Ronald (EEC) [mailto:Ronald.Price@ky.gov]
Sent: Wednesday, August 30, 2017 3:40 PM
To: Prevost, Daniel <Daniel.Prevost@parsons.com>
Cc: Price, Ronald (EEC) <Ronald.Price@ky.gov>
Subject: Comments on I-69 Ohio River Crossing Screening Report

The Department for Environmental Protection is submitting comments for the I-69 Ohio River Crossing Screening Report.

Division of Water

Water Quality Branch:

The Ohio River from river mile 784.7 to 786.6 is an Outstanding State Resource Water (OSRW) due to the presence of federal threatened and endangered species. This OSRW is located just upstream of the West Corridor 1 and 2 options, while the Central Corridor 1 option would cross through this OSRW. Per 401 KAR 10:031 Section 8: "Existing water quality and habitat shall be maintained and protected in those waters designated as outstanding state resource waters that support federally threatened and endangered species of aquatic organisms, unless it can be demonstrated that lowering of water quality or a habitat modification will not have a harmful effect on the threatened or endangered species that the water supports." Questions should be directed to Andrea Fredenburg, Water Quality Branch, (502) 782-6950, Andrea.Fredenburg@ky.gov.

Watershed Management:

Kentucky Revised Statute KRS 151.250, provides for exemption for the Department of Highways; therefore, a "Stream Construction Permit for Construction In or Along a Stream" will not be required. No formal approval is required for Water Withdrawal Permitting.

For the alternatives brought forward for further study (West Corridors 1 and 2 and Central Corridor 1) the construction activities will take place within the Source Water Protection Zone I also known as the "Critical Zone" of Henderson Municipal Water and Sewer Utility's water treatment plant and their raw water intake located at river mile 177.8 (803.6 BP) of the Ohio River in Henderson County, KY, with geographic coordinates of latitude 37° 50' 48.0" longitude 87° 35' 25.3". It is recommended that a protocol for communication be established between the contractor(s)/responsible party and the Henderson Municipal Water and Sewer Utility prior to the start of the project so that immediate

reporting can be made to the Henderson Municipal Water and Sewer Utility of any spills/contamination that has the potential to impact their raw water withdrawals.

For West Corridors 1 and 2 alternatives the construction activities would take place within the Wellhead Protection Zones of the Ellis Park Race Course. It is recommended that a protocol for communication be established between the contractor(s)/responsible party and the Ellis Race Course groundwater protection manager prior to the start of the project so that immediate reporting can be made to the Ellis Park Race Course groundwater protection manager of any spills/contamination that has the potential to impact the groundwater in the area. Questions should be directed to Julia Harrod, Watershed Management Branch, (502) 782-6967, Julia.Harrod@ky.gov.

The proposed work is endorsed by the Groundwater Section of the Watershed Management Branch. However, it is our recommendation that site be made aware of the requirements of 401 KAR 5:037 and the need to develop a Groundwater Protection Plan (GPP) for the protection of groundwater resources within that area. Questions should be directed to Wei Ji, Watershed Management Branch, (502) 782-6934, Wei.Ji@ky.gov or Section Supervisor, David Jackson, (502) 782-6986, DavidA.Jackson@ky.gov.

Compliance & Technical Assistance Branch:

I have been to the proposed corridor and reviewed records on the river that might impact the site. I do not find any reason that this site would be negative for bridge construction. There are no historical events nor present day issues there. Based on my research I would say this site will stand no greater probability of affecting the provisions of the Clean Water Act than another site. All, in all it looks like a good place to put a bridge. Sarah Gaddis, Compliance and Technical Assistance Branch, (502) 782-6953, Sarah.Gaddis@ky.gov.

Please let me know if you have any additional questions or concerns.

Ronald T. Price
Office of the Commissioner
Kentucky Department for Environmental Protection
300 Sower Blvd.
Frankfort, KY 40601
(502) 782-6739
(502) 564-4245 (fax)

From: Condra, Norma C CIV USARMY CELRL (US)
To: [Provoost, Daniel](#)
Cc: [Baldridge, David E CIV USARMY CELRL \(US\)](#); [Snyder, Deborah D CIV USARMY CELRL \(US\)](#); [Reynolds, Tyler \(KYTC\)](#)
Subject: Comments on I-69 Screening Report Dated July 2017
Date: Wednesday, September 06, 2017 3:17:59 PM

Dan,

Thank you for providing the subject report for Corps review. The Corps provides the following comments:

1. Section 4.2.2, second paragraph: Agricultural drainage ditches may or may not be jurisdictional waters. The Corps will determine if they are jurisdictional.
2. The waters delineation for the preferred alternative must be performed during the growing season in accordance with Corps 1987 Wetland Delineation Manual, the Midwest Supplement for waters north of Waterworks Road, and the Eastern Mountains and Piedmont Supplement for waters south of Waterworks Road.
3. Corps site visits to verify waters delineations will not be conducted outside the growing season.
4. The applicant must show that appropriate steps were taken to avoid and minimize impacts to "waters of the U.S."
5. USACE can only permit the least environmentally damaging practicable alternative (LEDPA).
6. Costs for alternatives should include ballpark estimates of in-lieu fee or permittee responsible mitigation costs, including the potential costs of payments to the Indiana bat Fund (Kentucky). This information would better reflect the costs of each alternative.

Thank you.

Norma C. Condra
Project Manager, South Branch
Regulatory Division
U.S. Army Corps of Engineers
Louisville District
(502) 315-6680

https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_-3Fgws-5Frd-3Dssl&d=CwIFAg&c=Nwfp4xtYRe0sCRVM8_LWH54joYF7EKmrYldfxlQ10&r=SDH3ljOgF53pDCd3ITAKgsy7Go1A0Rzld5tp6vBsCBY&m=52LgGPBs84Opg7iYJYd8htF7IHYBChZdTdpMIPXjX2A&s=5K9CRE5iPCi3C5uJEvl8cAnLrITZYyqoAGiBNJoTcc4&e=

I-69 Ohio River Crossing

The Evansville-Vanderburgh County Area Plan Commission has the following comments on the three proposed alternatives for the I-69 Ohio River crossing. We are structuring our comments as follows: land use; access; utilities; drainage; and other factors for consideration.

Land Use

Direct Impacts

West Alternative 1 & 2 would take/relocate the existing retail commercial use on the northwest corner of U.S.41 and Waterworks Road and impact some of the agricultural use on the adjacent land west of U.S. 41.

Central Alternative 1 would take the existing agricultural use of the land within the footprint of this route.

The Future Land Use Map in the Evansville –Vanderburgh County Comprehensive Plan 2035 recommends the proposed I-69 corridor alternatives for Agricultural uses, with the exception of the commercial use at the northwest corner of U.S.41 and Waterworks Road. The area south of the Evansville city limits is not likely to develop in the future due to the following constraints – floodplain/floodway, lack of water and sewer utilities, and limited access.

Indirect Impacts/Growth Potentials

West Alternative 1 & 2 could present a redevelopment opportunity in the commercial area along South Kentucky Avenue north of Veteran's Memorial Parkway.

Central Alternative 1 could improve possibilities for growth in the partially developed Carneal Commercial and Riverwind Pointe commercial subdivisions along Green River Road just north of I-69. The Green River Road interchange will be the first opportunity for northbound traffic to exit I-69 in Indiana.

Access

West Alternative 1 does not present any access concerns because it would provide both Waterworks Road and U.S. 41 (proposed 2-lane for local traffic) access to Ellis Park and to the northwest toward Evansville and Shawnee Drive, as well as to the north on the local road to Evansville.

West Alternative 2 flyover video shows a Waterworks Road overpass continuing to allow Evansville traffic access to Ellis Park from that road, but without the north/south road for local traffic resulting in somewhat more limited access.

The Evansville-Vanderburgh County Area Plan Commission prefers the alternatives that keep one of the existing bridges open for local traffic providing better access to adjacent properties. When accidents or other emergencies happen and a bridge is temporarily shut down, a second bridge still provides a route open to traffic. If this project results in only one bridge, there is no alternative river crossing in the region when that bridge is closed to traffic.

Utilities

Neither the Comprehensive Plan nor the plans of the Evansville Water and Sewer Department anticipate extension of public utilities south of the existing City limits.

Drainage

With all three alternatives there are 2 concerns that need to be addressed – the Ohio River Floodplain/Floodway; and Eagle Slough, a County Legal Drain, which is parallel to and south of I-69 between U.S. 41 and Green River Road. For more information about Eagle Slough contact Jeff Mueller, Vanderburgh County Surveyor, (812) 435-5210, jmueller@vanderburghsurveyor.com

Other Factors For Consideration

Proposed Greenway Route-- All three alternatives would cross over the historical planned route for the Greenway from downtown to Angel Mounds that is more or less parallel south of I-69. There is an executed Shared Use Agreement with INDOT allowing the trail to use the I-69 right-of-way. The Agreement expires in 2021, but it most assuredly will be requested by the City to be extended again at that time. Although funding has not yet been appropriated to implement this segment of our Greenway, this route has been included in the following local plans:

Pigeon Creek Greenway Passage Master Plan – 1994;
Evansville Parks Master Plan;
Evansville Master Plan for Bicycle and Pedestrian Facilities, 2015; and
Evansville-Vanderburgh County Comprehensive Plan 2015--2035.

However, the Evansville-Vanderburgh County Area Plan Commission requests that the I-69 bridge crossing project be designed to allow for the Greenway Trail to be constructed underneath. This is an important regional trail route in that it is planned to connect with a trail in Warrick County that will eventually tie into the Town of Newburgh's existing trail. On the national level, these connected trails would become part of the American Discovery Trail, and would connect to the completed portion (7-miles) of the existing greenway in Evansville which is designated as a National Recreation Trail.

Bicycle/Pedestrian River Crossing-- The Evansville-Vanderburgh County Area Plan Commission also requests that consideration be given to incorporating Bicycle and Pedestrian accommodations into the bridge crossing project. This would allow an interstate, and regional connection between Evansville and Henderson for alternative modes of travel. With the magnitude of the bridge crossing project, now is the time to thoroughly explore the possibilities of also providing a bike/ped Ohio River crossing. Not to do so would be negligent of our duties to the citizens of the region.

Local contacts that could be helpful-- All three alternatives connect to the existing I-69 that sits atop a U.S. Army Corps of Engineers certified levee. For more local information about the levee contact:

Jay Perry, Levee Authority Superintendent, (812) 435-6137, jperry@evansville.in.gov.

All three alternatives will impact the Public Safety service providers in the City & County. Their contact information is:

Chief Connelly, Evansville Fire Department, (812) 436-4413,
Cconnelly@evansvillefiredepartment.com;

Sheriff Dave Wedding, Vanderburgh County Sheriff's Office, (812) 421-6200,
dwedding@vanderburghsheriff.com

West Alternative 1 & 2 are adjacent to the Eagle Slough Natural Area north of Waterworks Road, which is owned by the Sycamore Land Trust. Their contact information is:
(812) 336-5382, info@sycamorelandtrust.org.

Thank you for considering our comments/observations about the impact of the 3, I-69 Ohio River Crossing alternatives. If you have any further questions or need more information please contact me at (812) 435-5226 or rlondon@evansvilleapc.com

From: Oliver, Blaine <boliver@evansvilleapc.com>
Sent: Tuesday, February 20, 2018 6:13 PM
To: info@I69OhioRiverCrossing.com; JLemon@indot.in.gov; Prevost, Daniel
<Daniel.Prevost@parsons.com>
Cc: swincommunications@indot.in.gov; London, Ronald S. <rlondon@evansvilleapc.com>
Subject: I-69 Ohio River Crossing

The I-69 ORX Design & Environmental Team:

The Evansville-Vanderburgh County Area Plan Commission submits the attached comments for your consideration on the I-69 Ohio River Crossing alternatives. We hope our comments are helpful in evaluating the identified alternatives. Thanks for your consideration. Let us know if you have any questions.

Blaine Oliver
Assistant Director
Evansville-Vanderburgh Area Plan Commission
1 NW Martin Luther King Jr. Blvd.
Evansville, IN 47708
(812) 435-5226

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From: RANDOLPH, JASON
To: [Prevost, Daniel](#); [Braun, Randy](#)
Cc: ["Allen, Michelle \(FHWA\)"; Hilden, Laura; Lemon, Janelle; "Snyder, Deborah D CIV USARMY CELRL \(US\)"](#)
Subject: RE: I-69 Ohio River Crossing Screening Supplement
Date: Friday, February 23, 2018 1:30:40 PM
Attachments: [image002.png](#)
Importance: High

Dan:

IDEM has reviewed the I-69 Ohio River Crossing Screening Report Supplement. IDEM is pleased to note that in Section 2.2, you have designed alternatives that avoid the Eagle Slough Natural Area and the Vigo Coal Wetland Mitigation Site. Please ensure you continue to find ways to avoid and minimize impacts to aquatic resources on the project site. IDEM has no comments in regards to the Screening Report Supplement.

Thank you for allowing IDEM the opportunity to review and comment on this project.

Jason Randolph
IDEM-OWQ
317-233-0467

From: Port, Juliet [mailto:Juliet.Port@parsons.com]
Sent: Thursday, February 22, 2018 1:38 PM
To: RANDOLPH, JASON <JRANDOLP@idem.IN.gov>
Subject: I-69 Ohio River Crossing Screening Supplement

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

To: IAC Members
From: Juliet Port
Subject: I-69 Ohio River Crossing – Screening Report Supplement, February 2018

The I-69 ORX project team is submitting the attached Screening Report Supplement for your review and comment. The report has also been posted on the project website (www.i69ohiorivercrossing.com). If you have any comments on the Screening Report Supplement, please submit them by March 26, 2018 to Dan Prevost (Daniel.Prevost@parsons.com). If you require a hard copy of the document for your records, please let us know and we will mail it to you.

Public open houses were held February 6 and 7 to provide the results of the supplemental screening process to the community. Public meeting materials, including display boards, presentation and handouts are also available on the project website.

The project team anticipates publishing the Draft Environmental Impact Statement (DEIS) this

Fall. In an effort to familiarize agencies with the project area, key issues, and potentially impacted resources in advance of receiving the DEIS, we are offering the opportunity for a tour of the project area and corridors led by project leaders. The tour would likely be held in April or May and would last about half the day. At this time, we would like to gauge the level of interest in such a tour. Please reply to this email with your agency's interest in such a tour and how many staff you would anticipate attending. Note that, if your agency is unable to make the selected tour date, or you would like a more tailored site tour, we will do our best to accommodate such requests.

Thank you for your continued participation in this important project. If there is any information you need or if you have any questions as the project continues, please do not hesitate to contact us.

Juliet Port, LPG
Senior Environmental Planner
101 W Ohio St., Suite 2121 - Indianapolis, IN 46204
juliet.port@parsons.com - P: +1 317.616.4693

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From: DeGarmo, Phil
To: [Prevost, Daniel](#)
Cc: [McWilliams, Robin](#); [Foreman, Tim \(KYTC\)](#); [David Harmon](#); [Rothermel, Eric \(FHWA\)](#); [Jennifer Garland](#); [Lee Andrews](#)
Subject: I-69 Ohio River Crossing Screening Supplement
Date: Tuesday, March 06, 2018 4:02:59 PM

Dan,

The USFWS KY and IN Field Offices have reviewed the Screening Report supplement and do not have any new issues to comment on at this time. We do appreciate the teams effort to avoid the Eagle Slough and Vigo mitigation site. Also, were ya'll ever able to get out there and do any mussel work this past fall as discussed in our last meeting in Frankfort? Both Robin McWilliams and I plan on attending the field review later this spring.

Sincerely,
Phil DeGarmo

--

Phil DeGarmo
U.S. Fish and Wildlife Service
KY Ecological Services Field Office
330 West Broadway, Rm 265
Frankfort, Kentucky 40601

Office: 502-695-0468 x110
Fax: 502-695-1024
Cell: 502-229-8830
Phil_DeGarmo@fws.gov[\[mail.google.com\]](mailto:Phil_DeGarmo@fws.gov)

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Konkol, Nicole N (Heritage Council)
To: [Prevost, Daniel](#)
Cc: [Sabol, Christina \(Heritage Council\)](#)
Subject: I-69 Ohio River Crossing – Screening Report Supplement, February 2018
Date: Monday, March 12, 2018 10:50:30 AM

Good morning, Mr. Prevost.

We have reviewed the above referenced document and have no comment at this time.

We appreciate remaining informed and thank you for your time and efforts.

N. Nicole Konkol
Transportation Archaeology Review Coordinator
Kentucky Heritage Council
Barstow House
410 High Street
Frankfort, Kentucky 40601
502-564-7005 ext. 4561

www.heritage.ky.gov[\[heritage.ky.gov\]](#)



[\[facebook.com\]](#)



[\[twitter.com\]](#)



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Phone 317-232-1646 · Fax 317-232-0693 · dhpa@dnr.IN.gov · www.IN.gov/dnr/historic



March 20, 2018

Beth McCord
Cultural Resources Consultant
Gray & Pape
5807 N. Post Road
Indianapolis, Indiana 46216

Federal Agency: Federal Highway Administration ("FHWA")

Re: "Ohio River Crossing Screening Report Supplement: I-69 Ohio River Crossing Project, Evansville, IN and Henderson, KY" (Parsons, 2//2018) (INDOT Des. No. 1601700; DHPA No. 20756)

Dear Ms. McCord:

Pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321, *et seq.*) and Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306108) and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer has reviewed the aforementioned Screening Report Supplement, which we received on February 26, 2018, under Parson's transmittal letter dated February 22.

Just as we deferred to the Kentucky State Historic Preservation Officer regarding the eligibility for inclusion in the National Register of Historic Places ("NRHP") of properties that are exclusively within Kentucky, we likewise will defer to him regarding effects on NRHP-eligible properties that are exclusively within Kentucky. No above-ground properties that are NRHP-eligible were identified within the area of potential effects ("APE"), as it has been delineated in Indiana. It is our understanding that the fieldwork that would be necessary to identify and evaluate currently unknown archaeological resources that might exist within the path of any of the current alternatives (other than the No Build Alternative) would not be undertaken until the preferred alternative is identified. At that point, it would not seem likely that more than minor adjustments to the alignment of the preferred alternative would be made, even if a significant archaeological site were identified. Consequently, from the perspective of Section 106, it appears that only effects on above-ground properties might have some influence the choice of the preferred alternative.

As the Screening Report Supplement indicates, both US 41 bridges are considered NRHP-eligible. However, because both lie entirely within Kentucky, we will not comment on the effects the project would have on them if one or both were to be removed.

On the other hand, as we have commented previously, it intuitively seems possible that an alternative that would result in the removal of both US 41 bridges could have an adverse socio-economic impact on the viability of historic properties, especially historic districts, to the east and southeast of downtown Evansville, and we await the results of other NEPA studies to see whether indirect, adverse effects (as the term is used in Section 106) on those historic properties may occur (see the non-exclusive examples of adverse effects in 36 C.F.R. § 800.5[a][2], especially at {a}[2][iv]). We hope that those studies can be finished in time to be considered in the selection of a preferred alternative and before the adverse effects assessment step of the Section 106 process is completed.

From the standpoint of impacts on cultural resources, we have no objection to the recommendation to carry forward into the Draft Environmental Impact Statement the No Build Alternative; West Alternative 1: West Corridor 1 (Bridge Scenario 3); West Alternative 2: West Corridor 2 (Bridge Scenario 5); and Central Alternative 1: Central Corridor 1 (Bridge Scenario 9). In light of our comments above, however, we note that West Alternative 2: West Corridor 2, seems more likely than the other two, build alternatives to have an indirect effect on historic resources in Evansville that currently lie outside the APE.

If you have questions about archaeological issues, please contact Wade Tharp at (317) 232-1650 or wtharp1@dnr.IN.gov. Questions about buildings or structures should be directed to John Carr at (317) 233-1949 or jcarr@dnr.IN.gov.

In all future correspondence regarding the I-69 Ohio River Crossing Project between Evansville, Indiana, and Henderson, Kentucky, please refer to DHPA No. 20756.

Very truly yours,



Mitchell K. Zoll
Deputy State Historic Preservation Officer

MKZ:JLC:jlc

emc: Michelle Allen, Federal Highway Administration, Indiana Division
David Whitworth, Federal Highway Administration, Kentucky Division
Ed Rothermel, Federal Highway Administration, Kentucky Division
Janelle Lemon, INDOT Project Manager, Indiana Department of Transportation
Laura Hilden, Indiana Department of Transportation, Environmental Services
David Waldner, Kentucky Transportation Cabinet, Environmental Services Division
Anuradha Kumar, Indiana Department of Transportation, Cultural Resources Office
Mary Kennedy, Indiana Department of Transportation, Cultural Resources Office
Shaun Miller, Indiana Department of Transportation, Cultural Resources Office
Susan Branigin, Indiana Department of Transportation, Cultural Resources Office
Shirley Clark, Indiana Department of Transportation, Environmental Services
Daniel Prevost, Parsons
Juliet Port, LPG, Parsons
Beth McCord, Gray & Pape, Inc.
Vergil Noble, PhD, RPA, National Park Service, Lincoln, Nebraska
Mike Linderman, Angel Mounds State Historic Site
Christie Stanifer, Indiana Department of Natural Resources, Division of Fish and Wildlife
Craig Potts, State Historic Preservation Officer, Kentucky Heritage Council
Mitchell Zoll, Deputy State Historic Preservation Officer, Indiana Department of Natural Resources
Chad Slider, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology
Wade Tharp, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology
John Carr, Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology

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

DNR #: ER-20412

Request Received: February 22, 2018

Requestor: Parsons
Juliet Port, LPG
101 West Ohio Street, Suite 2121
Indianapolis, IN 46204

Project: I-69 Ohio River Crossing Evansville, IN to Henderson, KY; Screening Report Supplement

County/Site info: Vanderburgh

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 will require the formal approval for construction in a floodway under the Flood Control Act, IC 14-28-1. Please submit a copy of this letter with the permit application.

Natural Heritage Database: The Natural Heritage Program's data have been checked. Sycamore Land Trust's Eagle Slough Natural Area is located adjacent to the West Corridors. The species below have also been documented within 1/2 mile of the project area in Section 9, T7S, R10W. The Division of Nature Preserves recommends that the construction limits be confined as much as possible to minimize impacts to the plant and Eagle Slough Natural Area.

1. PLANT: Bald Cypress (*Taxodium distichum*), state threatened
2. BIRD: Bald Eagle (*Haliaeetus leucocephalus*), state special concern

Fish & Wildlife Comments: The documented bald eagle nest is at least 1200' from the proposed corridors, which is more than the recommended buffer of 660' that is used to reduce disturbance to nests. Therefore, we do not foresee any impacts to the bald eagle as a result of this project.

Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. We recommend selecting either of the west side alternatives. The likely impacts to fish, wildlife and botanical resources from either of these alternatives appears to be relatively low as they avoid impacts to the Eagle Slough Natural Area wetland complex located on the east side of US 41, and most forested or wet areas west of US 41 appear to be non-wetland/riparian forest or open water.

The central alternative is not recommended due to the likelihood of more significant impacts to forested wetlands (associated with Eagle Creek) than is likely for the west side alternatives, and the potential for impacts to mitigation sites. The wetland mitigation sites may be related to Clean Water Act and Flood Control Act violations unrelated to the Vigo Coal Wetland Mitigation Site that was avoided by shifting the central alternative's path (additional research would be required to determine their exact locations).

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

Roller erosion control products that include plastic netting can snare and kill small-bodied wildlife such as snakes and should not be used (see https://efotg.sc.egov.usda.gov/references/public/IN/Fact_Sheet_Biology_Snake-Friendly_NetTING.pdf). Seed and protect disturbed stream banks that are 3:1 or steeper with heavy-duty, net-free or biodegradable (Leno-woven netting), erosion control blankets to minimize the entrapment and snaring of small wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas. The type of erosion control blanket to be used should be called out on the plans.

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 in the floodway with a mixture of native grasses, sedges, wildflowers, and also native hardwood trees and shrubs as soon as possible upon completion. Do not use any varieties of Tall Fescue or other non-native plants (e.g. crown-vetch).
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, access bridges, causeways, cofferdams, diversions, or pumparounds.
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. Plant native hardwood trees along the top of the bank and right-of-way to replace the vegetation destroyed during construction.
9. Post "Do Not Mow or Spray" signs along the right-of-way.
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.

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: March 26, 2018

From: Snyder, Deborah D CIV USARMY CELRL (US)
To: [Port, Juliet](#); [Prevost, Daniel](#)
Cc: [Allen, Michelle \(FHWA\)](#); [Condra, Norma C CIV USARMY CELRL \(US\)](#)
Subject: RE: I-69 Ohio River Crossing Screening Supplement
Date: Monday, March 26, 2018 11:53:08 AM

Mr. Prevost,

The U.S. Army Corps of Engineers, Louisville District, has reviewed the I-69 Ohio River Crossing Screening Supplement relative to Section 404 of the Clean Water Act. We appreciate the revision of Central Corridor 1 to avoid the Vigo Coal Wetland Mitigation Site in Indiana. In regards to the two properties eligible for listing on the National Register of Historic Places (McClain House and Lee Baskett House), while Central Corridor 1 has been modified to avoid right-of-way impacts, we would like to note that potential impacts to the two properties' viewsheds will need to be considered.

Thank you for the opportunity to review and provide comments.

Sincerely,

Deborah Duda Snyder
Project Manager
U.S. Army Corps of Engineers, Louisville District
Indianapolis Regulatory Office
8902 Otis Avenue, Suite S106B
Indianapolis, IN 46216
Phone: (317) 543-9424

Michelle Allen
Federal Highway Administration

Re: EPA Comments on the proposed I-69 Ohio River Crossing (ORX) Screening Report
Supplement from Henderson, Kentucky to Evansville, Indiana

Dear Ms. Allen:

The U.S. Environmental Protection Agency Region's 4 and 5 reviewed the subject project documents pursuant to Section 309 of the Clean Air Act and Section 102 (2)(C) of the National Environmental Policy Act. The EPA previously provided comments on the draft I-69 ORX Agency Coordination Plan (April 2017), Public Involvement Plan, Proposed Environmental Methodology Approach (Project Memo, March 17, 2017), the draft Purpose and Need, and the ORX Screening Report (August 2017). The comments detailed below are in response to a request regarding the need for early and ongoing information on the proposed development, construction and operation of the extension of I-69 between Henderson, Kentucky and Evansville, Indiana. These comments reflect issues contained in the I-69 ORX Screening Report Supplement submitted to the EPA in February, 2018, which includes bridge scenarios, interchange locations, criteria used for scenarios and locations, and additional alternatives analyses.

Based on the review of the I-69 ORX Screening Report Supplement, the EPA recognizes efforts made to avoid sensitive environmental and historic resource impacts to the Vigo Coal Wetland Mitigation Site, the Eagle Slough Natural Area, and two properties eligible for listing on the National Register of Historic Places (National Register). The EPA previously recommended retaining the East Corridor 5, which has the least wetland and stream impacts, and therefore, it may be the least environmentally damaging practicable alternative required under the Clean Water Act 404(b)(1) Guidelines. However, we recognize that the ORX Screening Report examines the no-action alternative and three corridor alternatives (West Corridor 1, West Corridor 2 and Central Corridor 1). The EPA continues to recommend further consideration of the East Corridor 5 alternative in the Draft Environmental Impact Statement. The EPA recommends that the transportation agencies provide a specific rationale in the environmental impact statement as to why East Corridor 5 would not meet the purpose and need for the project, or if there is some fatal environmental flaw associated with this potential alternative.

Thank you for the opportunity to participate in the preliminary review process on this project. The EPA Regions 4 and 5 look forward to reviewing subsequent project-related NEPA documents, working with the applicant and the U.S. Army Corps of Engineers to develop the most defensible permit, and participating in the upcoming site visit. If you have any questions or need additional technical assistance, please contact Ntale Kajumba at 404 562-9620 or kajumba.ntale@epa.gov.

Email Address: Deborah.d.snyder@usace.army.mil

From: Kajumba, Ntale
To: Michelle.allen@dot.gov; Westlake.Kenneth; Laszewski.Virginia
Cc: Militischer.Chris; Deborah.d.snyder@usace.army.mil; Duane.thomas@dot.gov; jlemon@indot.in.gov; Marshall.Carrier@ky.gov; Marshall.Carrier@ky.gov; Norma.c.condra@usace.army.mil; Robin_McWilliams@fws.gov; Phil.deGarmo@fws.gov; Prevost.Daniel
Subject: ORX Screening Report Comments.docx
Date: Monday, March 26, 2018 10:58:44 AM
Attachments: [ORX Screening Report Comments.docx](#)

Hi Michelle,

Attached are brief comments on the CRX Screening Report Supplement from EPA. Feel free to let us know if you have any questions.

Ntale

Ntale Kajumba
Senior Life Scientist
U.S. EPA Region 4
NEPA Program Office
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9620



MEMORANDUM

To: Janelle Lemon and Marshall Carrier
From: Dan Prevost
Date: April 2, 2018
Subject: Interagency Advisory Committee (IAC) Comments on Screening Report Supplement

This memo provides a summary of the responses received from the IAC regarding the “Ohio River Crossing Screening Report Supplement” submitted February 22, 2018, hereinafter referred to as the Report Supplement. The requested deadline for agency comments was March 26, 2018.

United States Army Corps of Engineers (USACE), March 26, 2018 (Attachment A-1)

- Appreciates change in alignment of Central Corridor 1, which now avoids impacts to Vigo Coal mitigation site.
- Regarding Central Corridor 1, the DEIS should consider visual impacts to the two historic properties that were avoided.

United States Environmental Protection Agency (USEPA), March 26, 2018 (Attachment A-2 to A-3)

- Recognizes efforts to avoid sensitive and historic resources such as Vigo Coal mitigation, Eagle Slough, and historic properties.
- USEPA had recommended retaining “East Corridor 5”, which had the least wetland and stream impacts and therefore may be the least environmentally damaging practicable alternative. USEPA continues to recommend further consideration of East Corridor 5. Provide specific rationale in the environmental impact statement as to why East Corridor 5 would not meet the purpose and need, or if there is a fatal flaw.



MEMORANDUM – IAC Comments – April 2, 2018

United States Fish and Wildlife Service (USFWS), March 6, 2018 (Attachment A-4)

- Appreciates efforts to avoid Eagle Slough and Vigo Coal sites.
- Requested the status of proposed field work for mussel species.
- No new issues or comments.

Indiana Department of Environmental Management (IDEM), Office of Water Quality (OWQ), February 23, 2018 (Attachment A-5 to A-6)

- Pleased the alternatives avoid Eagle Slough and Vigo Coal sites.
- Continue to avoid and minimize impacts to aquatic resources.
- No comments on the Report Supplement.

IDNR, Division of Fish and Wildlife, March 26, 2018 (Attachment A-7 to A-8)

- Project will require a Construction in a Floodway Permit.
- Avoid impacts to Eagle Slough.
- Bald cypress (state threatened) and bald eagle (state special concern) have been identified within a ½ mile of project. The bald eagle nest is greater than 660' away (specifically, at least 1,200'); therefore, no impact is anticipated.
- Recommend either West Alternative in order to minimize impacts to habitat and wetlands.
- Central Alternative is not recommended due to likelihood of more significant impacts to forested wetlands and potential for impacts to mitigation sites.
- Recommended standard avoidance/minimization commitments.

Attachments intentionally
omitted to avoid duplication



MEMORANDUM – IAC Comments – April 2, 2018

Indiana Department of Natural Resources (IDNR), Division of Historic Preservation and Archaeology (DHPA), March 20, 2018 (Attachment A-9 to A-10)

Defers to KY SHPO for Kentucky properties. Both US 41 bridges are eligible and within Kentucky.

- Possible that an alternative that would eliminate one or both US 41 bridges could have adverse socio-economic impact on the viability of historic properties (e.g., historic districts east / southeast of downtown Evansville). Awaiting results on other NEPA studies to see indirect, adverse effects on those historic properties. Hope that is done before selection of preferred alternative and completion of adverse effects assessment step of Section 106.
- No above-ground resources in Indiana.

Kentucky Heritage Cabinet (KHC), March 12, 2018 (Attachment A-11)

- No comment.

Additionally, some responses to a request regarding a potential spring IAC field trip were included.

1 June 2018

Henderson Project Office
Attn: James A. Evans
1970 Barrett Court, Suite 100
Henderson, KY 42420

RE: Agency Coordination for Proposed I-69

Dear Mr. Evans:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has received your request for information regarding the subject project. The Kentucky Fish and Wildlife Information System indicates that the federally-listed Indiana bat (*Myotis sodalis*), Northern Long-eared bat (*Myotis septentrionalis*), Sheepnose (Plethobasus cyphus), and Rabbitsfoot (*Quadrula cylindrica cylindrica*) are known to occur within 10 miles of the project site. The state-listed Cinereus Shrew (*Sorex cinereus*), Rose-breasted Grosbeak (*Pheucticus ludovicianus*), Bald Eagle (*Haliaeetus leucocephalus*), Barn Owl (*Tyto alba*), Great Egret (*Ardea alba*) Hooded Merganser (*Lophodytes cucullatus*), Pied-billed Grebe (*Podilymbus podiceps*), and Brown Creeper (*Certhia americana*) have been documented within one-mile of the proposed project. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

Bald Eagles are known to nest within close proximity to the project corridor, and may require construction-timing considerations. Additional critical areas are not known to exist near the project site. The KDFWR recommends you continue to coordinate the proposed project with the USFWS-Kentucky Field Office at 502-695-0468 for project specific technical assistance.

It appears that the proposed project has the potential to impact wetland habitats. KDFWR recommends that you look at the appropriate US Department of Interior National Wetland Inventory Map (NWI) and the appropriate county soil surveys to determine where the proposed project may impact wetlands. Additionally, field verification may be needed to determine the extent and quality of wetland habitats within the project area. Any planning should include measures designed to eliminate and/or reduce impacts to wetland habitats. If impacts cannot be avoided, mitigation should be properly designed and proposed to offset the losses. KDFWR will recommend, at a minimum, a 2:1 mitigation ratio for any permanent loss or degradation of wetland habitats.

KDFWR recommends that you contact the appropriate US Army Corps of Engineers office and the Kentucky Division of Water prior to any work within the waterways or wetland habitats of Kentucky. Additionally, KDFWR recommends the following for the portions of the project that impact streams:

- Channel changes located within the project area should incorporate natural stream channel design.
- If culverts are used, the culvert should be designed to allow the passage of aquatic organisms.
- Culverts should be designed so that degradation upstream and downstream of the culvert does not occur.
- Development/excavation during low flow period to minimize disturbances.
- Proper placement of erosion control structures below highly disturbed areas to minimize entry of silt into area streams.
- Replanting of disturbed areas after construction, including stream banks, with native vegetation for soil stabilization and enhancement of fish and wildlife populations. We recommend a 100 foot forested buffer along each stream bank.
- Return all disturbed instream habitat to a stable condition upon completion of construction in the area.
- Preservation of any tree canopy overhanging any streams within the project area.

To minimize indirect impacts to the aquatic environment, the KDFWR recommends that erosion control measures be developed and implemented prior to construction to reduce siltation into waterways located within the project area. Such erosion control measures may include, but are not limited to silt fences, staked straw bales, brush barriers, sediment basins, and diversion ditches. Erosion control measures will need to be installed prior to construction and should be inspected and repaired regularly as needed.

I hope this information is helpful to you, and if you have questions or require additional information, please call me at (502) 564-7109 extension 4453.

Sincerely,



Dan Stoelb
Environmental Scientist

Cc: Environmental Section File



Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.IN.gov • www.IN.gov/dnr/historic



June 20, 2018

Daniel Prevost
Parsons
101 West Ohio Street, Suite 2121
Indianapolis, Indiana 46204

Federal Agency: Federal Highway Administration ("FHWA")

Re: May 24, 2018, [NEPA] Agency Site Tour of I-69 Ohio River Crossing Project ("I-69 ORX"), Evansville,
Indiana, to Henderson, Kentucky (INDOT Des. No. 1601700; DHPA No. 20756)

Dear Mr. Prevost:

Pursuant to the National Environmental Policy Act of 1969, as amended ("NEPA"; 42 U.S.C. § 4321, *et seq.*) and Section 106 of the National Historic Preservation Act of 1966, as amended ("Section 106"; 54 U.S.C. § 306108) and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("INDNR-DHPA") is commenting on the May 24, 2018, Agency Site Tour of Central Alternative 1, West Alternative 1, and West Alternative 2.

We thank you and your colleagues at Parsons for conducting the tour and the meetings before and after. Even though no properties that are listed in or eligible for inclusion in the National Register of Historic Places ("NRHP") have, as yet, been identified within the Indiana part of the area of potential effects ("APE"), it was helpful for John Carr of my staff to view the project areas in both states and to see the identified historic properties in Kentucky.

Central Alternative 1 would cross what appears to be a largely undisturbed, agricultural flood plain within the Indiana part of the APE. The alignments for West Alternative 1 and West Alternative 2 in Indiana apparently would run through some wooded and perhaps some agricultural land, as well as through land occupied by the existing US 41 bridges and interchange. Because the archaeological reconnaissance investigation will be done only on the preferred alternative, the archaeological impacts, if any, of these alternatives seem unlikely to have an influence on the selection of the preferred alternative and limited influence on the final alignment.

During the May 24 slide presentation, the I-69 ORX project team explained that one or the other of the existing US 41 bridges (both of which are entirely within Kentucky) would remain in vehicular use if either West Alternative 1 or Central Alternative 1 is selected as the preferred alternative, but neither US 41 bridge would remain in vehicular use if West Alternative 2 is selected. It was further explained that neither the City of Henderson nor Henderson County is willing to take ownership of an existing US 41 bridge, even for exclusively bicycle and pedestrian use.

As you know, in previous correspondence, we had expressed concern that a build alternative (which we now know would be West Alternative 2) that would result in the removal of both US 41 bridges could have an impact on historic districts to the east or southeast of downtown Evansville, if motorists who do not want to drive on an interstate highway, if or motorists or vehicles that should not be driving on an interstate highway, are left with no realistic alternative for crossing the Ohio River. It seems less likely to us that the project would have much of an effect on historic districts and their residents if one of the US 41 bridges remains in vehicular use. Our concern about the effects of the removal of both US 41 bridges centers on whether the project could make a historic district less desirable as a place to live or work and is most closely related to the non-exclusive examples of adverse effects in 36 C.F.R. § 800.5(a)(2)(iv) and (v). In an August 28, 2017, letter from the I-69 ORX project team, our concern was addressed, in part, as follows:

The socioeconomic studies will evaluate if the mobility of segments of population will be impacted by this project. Depending on the outcome of these studies, and if warranted, we will consider expanding or defining a new APE [i.e. area of potential effects] for Section 106 cultural resources studies.

That August 28 letter went on to say:

Traffic modeling will be conducted during the NEPA process. Should data indicate the traffic in historic districts will be altered by the project, we will further consider expanding or defining a new APE for Section 106 studies.

The May 24 slide presentation also revealed that it has been decided that tolling will occur on I-69 (meaning, presumably, on the new Ohio River bridge) under any of the current build alternatives and that tolling of the remaining US 41 bridge might occur under either West Alternative 1 or Central Alternative 1. We were advised that the tolling policies will be determined before construction. We sense, however, that the tolling policies probably will not be determined before the determinations of the project's impacts in the NEPA and Section 106 review processes have concluded. As you may know, Community Transportation Solutions-General Engineering Consultant has been studying the impacts on traffic patterns from recently-implemented tolling on the new Lewis and Clark Bridge, the new Abraham Lincoln Bridge, and the rehabilitated John F. Kennedy Bridge as mitigation for the Louisville-Southern Indiana Ohio River Bridges Project. The report on that study has not yet been made available to the public, but when it is available, we recommend that the I-69 ORX project team review that report for clues about how tolling on the new I-69 ORX bridge and possibly on a remaining US 41 bridge might impact traffic patterns in Evansville.

Following the conclusion of the May 24 tour and follow-up meeting, Mr. Carr drove through several Evansville historic districts, making informal observations on the quality and condition of the housing and the apparent socioeconomic status of the residents. It appears to us that if West Alternative 2 were to be the preferred alternative (resulting in the removal of both US 41 bridges), then the Culver Historic District (NR-0534; "NR" means it is listed in the NRHP), the Washington Avenue Historic District (NR-0400), the Bayard Park Historic District (NR-0756), and the Akin Park Historic District (identified as NRHP-eligible in the Indiana Historic Sites and Structures Inventory as property numbers 163-196-43001 through 43213) could be vulnerable to socioeconomic impacts as a result of the limitation on cross-river mobility that might result from there being only an interstate highway bridge crossing between Evansville and Henderson.

Not being very familiar with existing traffic patterns in Evansville, we find it harder to offer observations on how either removal of both US 41 bridges under West Alternative 2 or the tolling of both the new I-69 bridge and the remaining US 41 bridge under West Alternative 1 or Central Alternative 1 might cause or exacerbate or traffic congestion in the eastern and southeastern historic districts in Evansville. However, it seems possible that any of the four historic districts mentioned above, as well as the Riverside Historic District (NR-0141) or the Lincolnshire Historic District (NR-0908) might be affected.

We understand that planning is underway for a Section 106 consulting parties meeting this summer. The Draft Environmental Impact Statement is anticipated to be published in the fall of this year. Consequently, we wonder whether the potential impacts, if any, on the Evansville historic districts can be determined before a preferred alternative is chosen and a Section 106 finding of effect is made by FHWA. The tolling policy for a US 41 bridge, if either is to be left in vehicular service, presumably would come even later.

If you have questions about archaeological issues, please contact Wade Tharp at (317) 232-1650 or wtharp1@dnr.IN.gov. Questions about buildings or structures should be directed to John Carr at (317) 233-1949 or jcarr@dnr.IN.gov.

In all future correspondence regarding the I-69 Ohio River Crossing Project between Evansville, Indiana, and Henderson, Kentucky, please refer to DHPA No. 20756.

Very truly yours,



Christopher A. Smith
Deputy Director
Indiana Department of Natural Resources

CAS:JLC:jlc

emc: Michelle Allen, FHWA, Indiana Division
David Whitworth, FHWA, Kentucky Division
Ed Rothermel, FHWA, Kentucky Division

Janelle Lemon, Project Manager, Indiana Department of Transportation
Laura Hilden, Indiana Department of Transportation, Environmental Services
David Waldner, Kentucky Transportation Cabinet, Environmental Services Division
Anuradha Kumar, Indiana Department of Transportation, Cultural Resources Office
Mary Kennedy, Indiana Department of Transportation, Cultural Resources Office
Shaun Miller, Indiana Department of Transportation, Cultural Resources Office
Susan Branigin, Indiana Department of Transportation, Cultural Resources Office
Shirley Clark, Indiana Department of Transportation, Environmental Services
Daniel Prevost, Parsons
Juliet Port, LPG, Parsons
Beth McCord, Gray & Pape, Inc.
Vergil Noble, PhD, RPA, National Park Service, Lincoln, Nebraska
James Toner, Evansville Historic Preservation Officer
Craig Potts, State Historic Preservation Officer, Kentucky Heritage Council
Christina Sabol, Kentucky Heritage Council
Nicole Konkol, Kentucky Heritage Council
Mike Linderman, Angel Mounds State Historic Site
Christie Stanifer, INDNR Division of Fish and Wildlife
Chad Slider, INDNR-DHPA
Wade Tharp, INDNR-DHPA
John Carr, INDNR-DHPA

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
Eighth Coast Guard District

1222 Spruce Street, Room 2.102D
St. Louis, MO 63103-2832
Staff Symbol: dwb
Phone: (314)269-2382
Fax: (314)269-2737
Email: david.a.orzechowski@uscg.mil

16591.1/785.2 OHR
December 20, 2018

Ms. Michelle Allen
Federal Highway Administration
Indiana Division
575 North Pennsylvania St., Room 254
Indianapolis, IN 46204

Subj: PROPOSED I-69 BRIDGE, MILE 785.2, OHIO RIVER

Dear Ms. Allen:

We have reviewed the Draft Environmental Impact Statement (DEIS) dated December 7, 2018 for the above referenced project. The DEIS addresses the impacts the project will have on the natural surroundings and land usage for transportation, but the document does not include a discussion of impacts to navigation and the river itself. The following comment must be addressed in the final EIS in order that this document will be acceptable to the Coast Guard.

- a. A full navigational section of how bridge construction will impact the waterway users and Ohio River commerce. A description of Ohio River commerce in terms of numbers, sizes and types of vessels used to move the various commodities and the marine facilities which depend on the efficient movement of goods on the waterway. Also, an analysis of the current vessel traffic and a forecast of future traffic and how the bridge will impact future growth.

We appreciate the opportunity to comment on this project. Please contact Mr. David Orzechowski at the above telephone number if you have questions regarding our comment or requirement.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Washburn", written over a horizontal line.

Eric A. Washburn
Bridge Administrator, Western Rivers
By direction of the District Commander



MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

January 25, 2019

Evansville Project Office
320 Eagle Crest Drive, Suite C
Evansville, IN 47715

Re: SERO 2018-31 I-69 River Crossing Project

Dear Sir or Madam,

The Energy and Environment Cabinet serves as the state clearinghouse for review of environmental documents generated pursuant to the National Environmental Policy Act (NEPA). Within the Cabinet, the Commissioner's Office in the Department for Environmental Protection coordinates the review for Kentucky state agencies. We received your correspondence dated December 14, 2018. Your letter requested a review of the Draft Environmental Impact Statement. We have reviewed the document and provided comments below.

Division of Water

Water Quality Branch:

Section 7.6.2 Stream Mitigations and Relocations on page 7-4 mentions consulting with the Indiana Department of Environmental Management (IDEM), Kentucky Transportation Cabinet (KYTC), and the U.S. Army Corps of Engineers (USACE) for stream mitigation ratios. Shouldn't consultation with Kentucky DOW also be included? Questions should be directed to Andrea Fredenburg, Water Quality Branch, (502) 782-6950, Andrea.Fredenburg@ky.gov.

Watershed Management:

This proposed project is within the Henderson Municipal Water and Sewer Utility designated Source Water Protection Areas, Zone 1 and 2. The active permitted public water supply intake for Henderson Municipal Water and Sewer Utility under Water Withdrawal Permit # 0113 is located downstream from the proposed project site at 803.6 below pool on the Ohio River. Additionally, Ellis Park Water Works and Trocadero Plaza have active permitted public supply wells and associated designated Wellhead Protection Areas, Zone 1, 2, and 3. The proposed project impacts would need to be identified within the Contamination Source Inventories for these systems and reconsidered for susceptibility rankings. Questions should be directed to Chloe Brantley at 502-782-6898 or Chloe.Brantley@ky.gov.

This proposed project will require a Kentucky DOW Application for Permit to Construct Across or Along a Stream. Questions should be directed to Ron Dutta at 502-782-6941 or Ramendra.Dutta@ky.gov.

The proposed work is endorsed by the Groundwater Section of the Watershed Management Branch. However, it is our recommendation that site be made aware of the requirements of 401 KAR 5:037 and the need to develop a Groundwater Protection Plan (GPP) for the protection of groundwater resources within that area. Additionally, any wells abandoned for the project must be in accordance with 401 KAR 6:310 and/or 6:350. Questions should be directed to Wei Ji, Watershed Management Branch, (502) 782-6934, Wei.Ji@ky.gov or David Jackson, Watershed Management Branch, (502) 782-6986, DavidA.Jackson@ky.gov.

Compliance & Technical Assistance Branch:

Ensure proper applications and/or approvals are received from DOW before implementing construction: a) need Kentucky Pollutant Discharge Elimination System (KPDES) General Stormwater Construction Activities permit from DOW, and proper Best Management Practices (BMP) installed and maintained throughout duration of project, b) need DOW approval/permit with a Stream Construction Permit for addressing any floodplain issues, c) need DOW approval/certification through the 401 Water Quality Certification program for review of project boundary riparian areas and wetland mitigation issues, and d) need Federal United States Army Corp of Engineers (USACE) approval/permit under 404 requirements. The above will lessen and/or eliminate impacts to surface waters and wetlands. Questions should be directed to Connie Coy, Compliance and Technical Assistance Branch, (502) 782-6587, Constance.Coy@ky.gov.

Division of Waste Management

UST Branch records indicate the following underground storage tank site issues identified within or near the project impact area:

AI # 69396 Speedway SuperAmerica LLC 5520

1999 US 60 E & proposed St, Henderson, KY 42420

1. 8000 gallon gas
2. 8000 gallon gas
3. 8000 gallon gas
4. 550 gallon oil

All tanks removed NFA issued

AI # 61164 Henderson Auto Truck Plaza

2214 US 41 N, Henderson, KY 42420

1. 4000 gallon gas
2. 2000 gallon gas
3. 10000 gallon gas
4. 4000 gallon gas
5. 12000 gallon gas
6. 12000 gallon diesel

All tanks removed and NFA issued

AI # 61139 Thornton Oil No 79

2855 Hwy 41, Henderson, KY 42420

1. 10000 gallon gas (removed)
2. 12000 gallon gas (removed)
3. 12000 gallon gas (removed)
4. 6000 gallon gas (removed)
5. 6000 gallon kerosene (removed)
6. 10000 gallon gas (removed)
7. 10000 gallon gas (removed)
8. 10000 gallon gas (removed)
9. 6000 gallon diesel (removed)
10. 20000 gallon gas (Active)
11. 20000 gallon gas (active)

All removed tanks were issued an NFA

AI # 68585 United 6005

2825 Hwy 41 N, Henderson, KY 42420

1. 10000 gallon gas
2. 20000 gallon gas
3. 10000 gallon gas

All tanks removed and NFA issued

AI # 61142 Chuckles # 28

2860 HWY 41 N, Henderson, KY 42420

1. 12000 gallon gas
2. 3000 gallon gas
3. 3000 gallon gas

All tanks are active

AI # 61130 Chuckles # 33

2830 Hwy 41 N, Henderson, KY 42420

1. 4000 gallon kerosene (removed)
2. 3000 gallon gas (removed)
3. 3000 gallon gas (removed)
4. 8000 gallon gas (removed)
5. 8000 gallon gas (removed)
6. 12000 gallon gas (active)
7. 10000 gallon gas (active)
8. 10000 gallon gas (active)
9. 6000 gallon kerosene (active)

Removed tanks have received NFA

AI # 61204 Audubon Park Shell
2808 US 41 N, Henderson KY 42420

1. 500 gallon oil
2. 2000 gallon diesel
3. 8000 gallon gas
4. 8000 gallon gas
5. 8000 gallon gas
6. 8000 gallon gas

All tanks removed and NFA issued

AI # 61143 Jumping Jack No 8
2709 US 41 N, Henderson, KY 42420

1. 10000 gallon gas
2. 10000 gallon gas
3. 10000 gallon diesel

All tanks are active

AI # 61141 Watson Lane Shell
2627 US 41 N, Henderson, KY 42420

1. 5000 gallon gas
2. 4000 gallon gas

3. 3000 gallon gas
4. 550 gallon oil
5. 6000 gallon gas

All tanks removed and NFA issued

If any additional UST's are discovered in the area they should be reported to KDWM. Any additional questions or issues should be directed to the UST Branch.

Superfund Branch records include 19 sites, two of which are active sites, in or near the project impact area:

- AI 52066 City Park – Coast Guard Aid – Closed: Option C Restored 8/11/2006
- AI 50243 Adams St – Henderson Co. Adams Street Development - Active
- AI 43356 Henderson Landfill – Closed: Referred to Solid Waste Branch 8/29/2008
- AI 5490 Allstate Tower Inc – Closed: Option C Restored 9/1/1999
- AI 53108 Saddlebrook Apartments – Closed: Non-Incident 2/23/2000
- AI 38449 Mulzer Crushed Stone Henderson Retail Yard – Closed: Option C Restored 7/29/1987
- AI 1786 Accuride Corp Henderson – Closed: Option C Restored 9/26/1196
- AI 1821 Henderson Co Maintenance Garage – Closed: Option C Restored 12/17/2009
- AI 5486 Serra Designs Inc – Soil/groundwater VOC's from adjacent property – Active
- AI 99449 US 41 S Weigh Station – Henderson Co –KTC Property- Closed: Option A No Action Necessary 7/22/2008
- AI 100006 Henderson Municipal Power & Light – Transformer Leak – Closed: Option A No Action Necessary 10/24/2008
- AI 1837 TransMontaigne Operating Co LP – Henderson Terminal – Diesel Release – Closed: Option C Restored 5/23/2012
- AI 82027 DTX Oil LLC – Diesel Release – Closed: Option C Restored 4/23/2012
- AI 115863 Fulkerson Property – Meth Lab – Closed: Option C Restored 7/26/2012
- AI 111958 Audubon Pkwy – Henderson Co – Transportation Accident – Closed: 10/18/1999
- AI 132989 Thompson Property – Meth Lab – Closed: Option C Restored 2/8/2017
- AI 65286 Raben Tire Company Inc – Phase II Assessment – Closed Non-Incident 1/30/2018
- AI 111977 Henderson Co Schools Transportation Dept – unregulated UST – closed Non-Incident 2/16/2018
- AI 135878 Cobb Property – Meth Lab – Closed: Option C Restored 2/12/2018

Any additional questions or issues should be directed to the Superfund Branch.

Solid Waste Branch Records indicate 8 active landfill sites within 1 mile of the project impact area and include the Hazex Private Construction Co. Landfill (AI 1805), Henderson City Maintenance Garage (AI 4266), CSX (AI 38434), Henderson Municipal Water and Sewer Facility (AI 38452), Henderson E-Fuel Plant (AI 40340), Henderson Landfill (AI 43356), B&B

Hauling and Excavating (AI 70949) and Henderson County Recycling Center (AI 98460). Records indicate 3 historic landfill sites located within 1 mile of the project impact area which include the Henderson City Dump (AI 71420), Green River Disposal Site (AI 0) and Henderson Sanitary Landfill (AI 43356). Any additional questions or issues should be directed to the Solid Waste Branch.

Hazardous Waste Branch records show no hazardous waste issues within the project impact area. Any questions or issues should be directed to the Hazardous Waste Branch.

RLA Branch records indicate there are 8 remediated RLA tracked open dumps within a half mile radius of the project impact area as follows:

AI #	AI NAME	Latitude	Longitude	Cleaned
102178	Berry Property Dump	37.88475	-87.5326	2012
76424	Green River Road #1 Dump #5C	37.8904	-87.5298	2006
80952	Green River Road #1 Dempewolf Dump	37.8853	-87.5309	2005
117140	Green River Road #1 Dump #10	37.8931	-87.5299	2013
80940	748 Constanza (Teer) Dump	37.86941	-87.54048	2005
80962	KY 414 (Fleming) Dump	37.88925	-87.52978	2005
80975	Green River Road #1 Dump #5B	37.88926	-87.52985	2015
98722	Waterworks Road Dump #2	37.91547	-87.52769	2008

Any questions or issues should be directed to the RLA Branch.

Any solid waste encountered by this project must be disposed of at a permitted facility.

If asbestos, lead paint and/or other contaminants are encountered for the project contact the Division of Waste Management for proper disposal and closure.

The information provided is based on those facilities or sites that KDWM currently has in its database. If you would like additional information on any of these facilities or sites, you may contact the file room custodian at (502) 782-6357. Please keep in mind additional locations of releases, potential contamination or waste facilities may be present but unknown to the agency. Therefore, it is recommended that appropriate precautions be taken during construction activities. Please report any evidence of illegal waste disposal facilities and releases of hazardous substances, pollutants, contaminants or petroleum to the 24-hour Environmental Response Team at 1-800-928-2380.

Division for Air Quality

401 KAR 63:010, Fugitive Emissions, states that no person shall cause, suffer, or allow any material to be handled, processed, transported, or stored without taking reasonable precaution to prevent particulate matter from becoming airborne. Additional requirements include the covering of open bodied trucks, operating outside the work area transporting materials likely to become airborne, and that no one shall allow earth or other material being transported by truck or earth-moving equipment to be deposited onto a paved street or roadway. Please note the Fugitive Emissions Fact Sheet located at <http://air.ky.gov/SiteCollectionDocuments/Fugitive%20Dust%20Fact%20Sheet.pdf>.

401 KAR 63:005 states that open burning shall be prohibited except as specifically provided. Open Burning is defined as the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney. However, open burning may be utilized for the expressed purposes listed on the Open Burning Brochure located at <http://air.ky.gov/Pages/OpenBurning.aspx>.

The Division would like to offer the following suggestions on how this project can help us stay in compliance with the NAAQS. These air quality control strategies are beneficial to the health of citizens of Kentucky.

- Utilize alternatively fueled equipment.
- Utilize other emission controls that are applicable to your equipment.
- Reduce idling time on equipment.

The Division also suggests an investigation into compliance with applicable local government regulations.

This review is based upon the information that was provided by the applicant. An endorsement of this project does not satisfy, or imply, the acceptance or issuance of any permits, certifications or approvals that may be required from this agency under Kentucky Revised Statutes or Kentucky Administrative Regulations. Such endorsement means this agency has found no major concerns from the review of the proposed project as presented other than those stated as conditions or comments. If you should have any questions, please contact me at (502) 782-0863.

Sincerely,

Louanna Aldridge

28 January 2019

Parsons Corporation
Attn: Juliet Port
101 W. Ohio St., Suite 2121
Indianapolis, IN 46204

RE: I-69 ORX Interagency Advisory Committee Meeting #4

Dear Ms. Port:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) attended, via conference call, the subject meeting on 23 January 2019. We appreciate the update regarding the advancement of the project, as well as the opportunity to voice concerns and questions regarding this project as it advances. Currently, we do not have any specific comments. Environmental concerns have been and continue to be addressed, and impacts to stream and wetland resources have been considered and minimized to the extent practical.

Please continue to include our department in future correspondence, and if you have questions or require additional information, please call me at 502-892-4453.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan Stoelb".

Dan Stoelb
Environmental Scientist

Cc: Environmental Section File



MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON
COMMISSIONER

300 SOWLER BOULEVARD
FRANKFORT, KENTUCKY 40601

February 5, 2019

Mr. Daniel Miller
Parsons
101 West Ohio St; Suite 2121
Indianapolis, IN 46204

RE: I-69 Ohio River Crossing (ORX)
Draft Environmental Impact Statement –
December 2018
Henderson County, Kentucky

Mr. Miller:

As requested, the Kentucky Division of Water (DOW) has received your request for comment on the I-69 ORX Draft Environmental Impact Statement dated December 2018. Please consider the following:

- Perennial and intermittent streams (drainage area greater than one square mile) were evaluated using the Ohio EPA Qualitative Habitat Evaluation Index (QHEI). Streams located in Kentucky should be evaluated in the field using the U.S. EPA's Rapid Bioassessment Protocol (RBP) for Use in Streams and Wadeable Rivers low gradient field methodology.
- Permanent impacts to streams and/or wetlands should be separated by the state the impact is proposed to occur in. A table of stream and/or wetland impacts that will occur in Kentucky should be provided in the Final Environmental Impact Statement (FEIS) and include the stream identifying number, latitude/longitude, flow type, impact type, linear feet/acres of impacts, drainage area, RBP score, and Adjusted Mitigation Units (AMUs) required for compensatory mitigation.
- A table of temporary stream and/or wetlands impacts that will occur in Kentucky should be provided in the FEIS and include the stream identifying number, latitude/longitude, flow type, impact type, and linear feet/acres of impacts. Temporary impacts shall be restored and may require monitoring.
- Spoil and borrow areas required for the project should be identified before publishing the FEIS. These areas should be delineated and included on impact maps and impact tables, and included in the calculation requirements for proposed compensatory mitigation.
- Please submit mussel survey reports to Samantha.Vogeler@ky.gov.
- Central Alternative 1A and 1B both include the removal of the southbound US 41 bridge. Impacts to water resources associated with the removal of the southbound US 41 bridge should be described and included in the FEIS.





MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

Thank you for providing the opportunity to comment. Please contact me at (502) 782-6995 or Samantha.Vogeler@ky.gov if you have any questions.

Sincerely,

Samantha Vogeler,
Environmental Biologist Consultant
Water Quality Certification Section
Kentucky Division of Water

cc: Juliet Port, Parsons (via email: juliet.port@parsons.com)
Daniel Prevost, Parson (via email: Daniel.prevost@parsons.com)
Norma Condra, USACE: Louisville District (via email: Norma.C.Condra@usace.army.mil)





INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

February 6, 2019

VIA CERTIFIED MAIL HAND DELIVERY

Ms. Laura Hilden
Indiana Department of Transportation
100 N Senate Avenue, Room N642
Indianapolis, IN 46204

Dear Ms. Hilden:

Re: Comments on Draft EIS
Project: I-69 Ohio River Crossing
County: Vanderburgh

The Office of Water Quality has reviewed the Draft Environmental Impact Statement (DEIS) for the I-69 Ohio River Crossing dated December 2018. The DEIS was reviewed for activities that fall within the regulatory authority of the Section 401 Water Quality Certification Program and the State Wetland Regulatory Program. The comments in this letter are specific to those waters which fall within the state of Indiana or have the potential to impact shared waters such as the Ohio River.

The proposed project will start on the existing I-69 (formerly I-164) in Indiana and proceed south across the Ohio River to the Pennyryle Parkway/KY 425 interchange southeast of Henderson Kentucky. Within the DEIS several alternative alignments have been studied. The alignments include a No Build, West Alternative 1, West Alternative 2, and Central Alternatives 1A or 1B. According to the DEIS, you have selected Central Alternatives 1A or 1B as your preferred alternative. The only difference between the 1A and 1B alternatives is whether tolling will occur on US 41 and I-69 (1A) or tolling only on I-69 (1B) otherwise the two alternatives are identical.

Central Alternatives 1A or 1B will be approximately 11.2 miles in length including 2.8 miles of existing US 41. The alternatives propose the removal of the southbound US 41 bridge over the Ohio River and the conversion of the northbound US 41 bridge over the Ohio River to two-way local traffic. The alternatives will include a new bridge over the Ohio River approximately 7,600 feet in length. The new bridge will be located approximately 1.5 miles upstream (east) of US 41. The preferred alternative has the fewest home and business relocations (4), wetland impacts (17.6 acres), stream impacts (18,327 linear feet), forested habitat impacts (45.8 acres), and floodway impacts (88 acres). The preferred alternative does have the most open water impacts (12.7 acres) and floodplain impacts (190 acres). Based on the corridor study and your



work during the NEPA process to avoid the compensatory mitigation sites near the project site, the Indiana Department of Environmental Management (IDEM) agrees with the selection of the preferred alternative for the I-69 Ohio River Crossing as published in your DEIS dated December 2018. IDEM has the following questions and comments that need to be addressed before the publication of the Final Environmental Impact Statement (FEIS) and Record of Decision or completed before permitting.

The DEIS did not provide information on the removal of the southbound US 41 bridge. IDEM recommends you include specific information in the FEIS on the removal of the bridge. Additional information should include construction access, staging, removal process and disposal locations. If you do not have disposal locations identified then an environmental commitment should be in place to ensure disposal areas will not include any aquatic features. It was noted that you are leaving the existing southbound US 41 in place. If, you are making northbound US 41 a two-way and all traffic will be on it, then why are you leaving southbound US 41 in place north of Waterworks Road? IDEM would like to see the bridges and road removed and the areas restored back to wetland conditions.

The DEIS identified the preferred alternative as being within Zone 1 of the Evansville Water and Sewer Utility. Table 4.4-3 states it is highly susceptible to surface water spills however there are no environmental commitments on spill prevention. Chapter 7.11.5 states a spill response plan will be required for the project. The chapter then discusses agreements and notification requirements. In addition to spill response agreements and notification requirements, the FEIS should discuss the use of deck drains on the Ohio River Bridge to convey the water landward to containment and treatment areas. In addition to this being a drinking water issue it may also be a mussel species issue since formal studies, surveys, and coordination have not occurred with the U.S. Fish and Wildlife Service to determine the presence of federally listed species.

It is estimated that 18,372 linear feet of stream channel, 17.6 acres of wetlands, and 12.7 acres of open water exists within the preferred alternative right of way (ROW). The FEIS should update the Waters of the US. Report (Appendix J-1) to include an additional column in each table to reflect which state the waters are located in. The only identifier in the tables is the lat/long for each waterbody. Additionally, any other table referencing waters should be updated throughout the FEIS.

IDEM agrees with the specific mitigation ratios identified in the DEIS for unavoidable wetland impacts. IDEM would also like to thank you for your efforts in designing the project to avoid the large compensatory mitigation sites located within the preferred alternative. The proposed interchange with the existing I-69 has a large amount of aquatic resources within the footprint. The FEIS should discuss temporary and secondary impacts from the proposed construction of the interchange. If this is going to be an engineered span interchange system then construction access roads need to be at grade so there is no interference to the hydrology of the wetland systems. If the construction access roads must be raised then culverts need to be installed to

allow hydrology to flow from one side to the other. Where construction access roads need to be constructed in forested wetland areas, a site specific restoration and monitoring plan should be developed to restore the wetlands to preconstruction grades, contours, and vegetative conditions. All staging, refueling, and concrete washout areas should be located in upland areas. Alterations to the flow and hydrology within the wetlands systems should be avoided to the greatest extent practical. There should be no roadside ditches cut through any wetland or adjacent to any wetland to avoid the removal of hydrology. If this is proposed then additional compensatory mitigation may be required for secondary impacts to the wetlands.

Unavoidable stream impacts should be minimized to the greatest extent practical. All stream relocations should follow the natural stream channel design protocols unless the relocated stream is an existing riprap lined/concrete lined roadside ditch. If you are capturing a stream within the ROW, the outside edge of the stream should be planted with trees and shrubs or located adjacent to existing forested areas to minimize the impacts of thermal inputs associated with increased impervious surface.

In May 2018, the Army Corps of Engineers approved a statewide in-lieu-fee program in the state of Indiana. In accordance with the 2008 Army Corps of Engineers Mitigation Rule, the mitigation preference for unavoidable wetland and stream impacts would be the Indiana Department of Natural Resources Stream and Wetland Mitigation Program (IN SWMP). For additional information please visit the following webpage address: <https://www.in.gov/dnr/heritage/8340.htm>.

Erosion and sediment control will be a crucial part of this project during construction in order to protect the aquatic resources within the Indiana I-69 interchange. As with previous sections of I-69, the DEIS is not specific on the measures that will be used to address storm water management. The DEIS uses general statements such as "best management practices will be used" and "erosion and sediment control measures will be installed" prior to construction. These statements are general in nature and are not sufficient to adequately address the pollutants that will be associated with active construction. Specific selection of measures; including design specifications must be incorporated in the project based on the terrain and the resources that are to be protected. The purpose of 327 IAC 15-5 (Rule 5) "is to establish requirements for storm water discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected." As part of Rule 5, it is a requirement to ensure that "sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation". Specific detail, including sequencing, must be provided as part of the construction plans required by Rule 5. All measures must be selected to protect aquatic resources on the project site. All measures should also be selected and designed for the location since the Indiana portion of this project is located within the floodway/floodplain of the Ohio River.

Thank you for allowing us the opportunity to comment on this project. Should you have any questions about this letter, please contact Jason Randolph, Project Manager, of my staff at 317-233-0467, or by email at jrandolp@idem.in.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Wolff", with a long, sweeping horizontal stroke extending to the right.

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

cc: Michelle Allen, FHWA-Indiana
Deb Snyder, USACE-Louisville, Indianapolis Field Office
Norma Condra-USACE Louisville
Robin McWilliams-Munson, USFWS
Virginia Laszewski, USEPA Region 5
Randy Braun, IDEM Section Chief, Wetlands and Stormwater
Jim Sullivan, IDEM Section Chief, Groundwater
Matt Buffington, IDNR
Dan Prevost, Parsons



Preserving America's Heritage

February 6, 2019

Ms. Michelle Allen
Planning and Environmental Specialist
Federal Highway Administration
Indiana Division
575 N. Pennsylvania Street, Room 254
Indianapolis, IN 46204

Ref: *Proposed I-69 Ohio River Crossing Project*
Evansville, Indiana and Henderson, Kentucky
ACHPConnect Log Number:13565

Dear Ms. Allen:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the Indiana and Kentucky State Historic Preservation Officer's (SHPO's), and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA, and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact Sarah Stokely at (202) 517-0224 or by email at sstokely@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

Date received: 2-7-19



Eric Holcomb, Governor
Cameron F. Clark, Director

Division of Historic Preservation & Archaeology · 402 W. Washington Street, W274 · Indianapolis, IN 46204-2739
Phone 317-232-1646 · Fax 317-232-0693 · dhpa@dnr.IN.gov · www.IN.gov/dnr/historic



February 7, 2019

Juliet Port, LPG
Senior Environmental Planner
Parsons
101 West Ohio Street, Suite 2121
Indianapolis, Indiana 46204

Federal Agency: Federal Highway Administration ("FHWA")

Re: Draft Environmental Impact Statement / I-69 Ohio River Crossing Project / Evansville, Indiana, and Henderson, Kentucky; which includes, in Appendix L-3, FHWA's Section 106 Adverse Effect finding, and draft memorandum of agreement ("Draft MOA") (INDOT Des. No. 1601700; DHPA No. 20756)

Dear Ms. Port:

Pursuant to the National Environmental Policy Act of 1969, as amended ("NEPA"; 42 U.S.C. § 4321, *et seq.*) and Section 106 of the National Historic Preservation Act of 1966, as amended ("Section 106"; 54 U.S.C. § 306108) and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer (also known as "INDNR-DHPA") has reviewed the Draft Environmental Impact Statement ("DEIS"), which we received in paper copy on December 13, 2018. Directions accompanying the DEIS allow comment until February 8, 2019.

We understand that Central Alternative 1 (either option A or B) is the preferred alternative, but West Alternative 1 and West Alternative 2 may still be under consideration. All three alternatives would retain the 1932 northbound US 41 bridge. Under Central Alternative 1A, West Alternative 2, and one of the two options for West Alternative 1, the remaining US 41 bridge, as well as the I-69 bridge, would be tolled. Although the DEIS acknowledges that tolling the remaining US 41 bridge would impact lower income persons in Evansville, the DEIS identifies some measures that could be taken to mitigate the impact on low income persons, but the impact to some extent would remain. Having scanned the Traffic, Socioeconomic, and Environmental Justice technical reports, we were unable to glean enough information that is directly applicable to effects on residents of the several historic districts in Evansville that we had identified previously to draw any conclusions about how removing one US 41 bridge or tolling the remaining US 41 bridge (in addition to the I-69 bridge) would affect the desirability and livability of those historic districts. Even so, the decision to leave one US 41 bridge open to vehicular traffic has avoided the triggering factor that we had established in previous correspondence regarding our concerns about possible indirect effects on historic districts in Evansville, *i.e.*, the removal of both US 41 bridges.

Consequently, we do not intend to comment further about those historic districts in Evansville (all of which lie outside the Section 106 area of potential effects), except to make the following observation. We can understand how the relatively better condition and greater historical significance of the 1932 US 41 Audubon Memorial Bridge make that bridge a more desirable candidate for retention than the 1965 US 41 bridge, especially for Section 4(f) purposes. We would be curious to know, however, what the life expectancy is for the 1932 bridge, because if it is removed at some point in the future, the I-69 bridge would become the only river crossing between Evansville and Henderson, as well as the only bridge that would have to be maintained.

As we have said previously, we defer to the Kentucky State Historic Preservation Officer regarding effects on historic properties that lie entirely within the Commonwealth of Kentucky. Furthermore, we believe that the incomplete

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An Equal Opportunity Employer

identification and evaluation of archaeological resources within the project area on the Indiana side—leaving open the possibility of an adverse effect on archaeological resources—and the consequent need for a memorandum of agreement to stipulate the conclusion of archaeological identification and evaluation after the finding, are sufficient reasons to find that this project will have an adverse effect.

Accordingly, we concur with FHWA's October 24, 2018, Section 106 finding of Adverse Effect for the I-69 Ohio River Crossing Project: Evansville, Indiana, and Henderson, Kentucky.

We have some recommendations regarding the Draft MOA (Version October 11, 2018).

- *STIPULATION I. PROFESSIONAL QUALIFICATIONS/B. section:* Please revise the text to refer to IC 14-21-1, 312 IAC 21, 312 IAC 22, and the *Draft Guidebook for Indiana Historic Sites and Structures Inventory—Archaeological Sites*.
- *STIPULATION III. TREATMENT OF ARCHAEOLOGICAL RESOURCES/A. Statutory and Regulatory Standards/5. Section:* In the first sentence, the text should be revised to state, "[...] all project-related ground-disturbing activities shall immediately cease within one hundred (100) feet of the discovery area [...]"
- *STIPULATION III. TREATMENT OF ARCHAEOLOGICAL RESOURCES/B Identification & Evaluation/1. and 2. Sections:* Ground-disturbing project-related activities should be described as including, but not being limited to, demolition, construction, grading, dredging, and/or filling, tree clearance, vehicle or equipment staging, materials stockpiling, temporary land use, etc.


In the Draft MOA, please change the signature block *below* the signature line for the Indiana State Historic Preservation Officer's representative on page 11 to read as follows:

Christopher A. Smith
Deputy Director
Indiana Department of Natural Resources

If you have questions about archaeological issues, please contact Wade T. Tharp at (317) 232-1650 or wtharp1@dnr.IN.gov. Questions about buildings or structures should be directed to John Carr at (317) 233-1949 or jcarr@dnr.IN.gov.

In all future correspondence regarding the I-69 Ohio River Crossing Project between Evansville, Indiana, and Henderson, Kentucky (INDOT Des. No. 1601700), please refer to DHPA No. 20756.

Very truly yours,



Christopher A. Smith
Deputy Director
Indiana Department of Natural Resources

CAS:JLC:WTT:wti

emc: Michelle Allen, FHWA, Indiana Division
David Whitworth, FHWA, Kentucky Division
Eric Rothermel, FHWA, Kentucky Division
Janelle Lemon, Project Manager, Indiana Department of Transportation
Laura Hilden, Indiana Department of Transportation, Environmental Services
Daniel Peake, Kentucky Transportation Cabinet
Daniel Davis, Kentucky Transportation Cabinet
Tim Foreman, Kentucky Transportation Cabinet
Jonna Wallace, Kentucky Transportation Cabinet
Anuradha Kumar, Indiana Department of Transportation, Cultural Resources Office
Mary Kennedy, Indiana Department of Transportation, Cultural Resources Office
Shaun Miller, Indiana Department of Transportation, Cultural Resources Office
Susan Branigin, Indiana Department of Transportation, Cultural Resources Office
Shirley Clark, Indiana Department of Transportation, Environmental Services
Daniel Prevost, Parsons
Juliet Port, LPG, Parsons
Cinder Miller, Ph.D., Gray & Pape, Inc.

Juliet Port, LPG
February 7, 2019
Page 3

Vergil Noble, Ph.D., RPA, National Park Service, Lincoln, Nebraska
James Toner, Evansville Historic Preservation Officer
Craig Potts, State Historic Preservation Officer, Kentucky Heritage Council
Christina Sabol, Kentucky Heritage Council
Nicole Konkol, Kentucky Heritage Council
Mike Linderman, Angel Mounds State Historic Site
Christie Stanifer, INDNR Division of Fish and Wildlife
Christopher Smith, Deputy Director, INDNR
John Carr, INDNR-DHPA
Wade T. Tharp, INDNR-DHPA



MATTHEW G. BEVIN
GOVERNOR

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL
THE STATE HISTORIC PRESERVATION OFFICE

REGINA STIVERS
DEPUTY SECRETARY

DON PARKINSON
SECRETARY

THE BARSTOW HOUSE
410 HIGH STREET
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-7005
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CRAIG A. POTTS
EXECUTIVE DIRECTOR
& STATE HISTORIC
PRESERVATION OFFICER

February 4, 2019

Mr. Danny Peake, Director
Division of Environmental Analysis
Kentucky Transportation Cabinet
200 Mero Street, 5th Floor
Frankfort, KY 40622

**Re: Response to the Draft Environmental Impact Statement (DEIS) and Interagency Advisory Committee Meeting #4 for I-69 Ohio River Crossing Project in Henderson County, Kentucky
KYTC Item No. 2-1088**

Dear Mr. Peake:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470f) and implementing regulations at 36 C.F.R. Part 800, the Kentucky Heritage Council (SHPO) received for review and comment information regarding the above-referenced project.

We received notification that the DEIS was published in the Federal Register on December 14, 2018 with a comment period ending on February 8, 2019. While we have not received any recommendations or consultation from KYTC on behalf of FHWA (Kentucky Division) our comments were requested at the last Interagency Advisory Committee Meeting (IACM) on January 23, 2019. It is our understanding that the interchange to tie in the existing KY41 corridor was redesigned and additional above-ground survey is required. Identification of historic resources is ongoing. 36 CFR 800.4 has not been completed so it is premature to comment on the MOA.

We understand that archaeology survey is on-going and our office looks forward to review and future consultation regarding the archaeological resources.

Should the project plans change, or should additional information become available regarding cultural resources please submit that information to our office as additional consultation may be warranted. If you have any questions please contact Christina Sabol of my staff at 502.892.3618.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig A. Potts".

Craig A. Potts,
Executive Director and
State Historic Preservation Officer

CP: cs #53335
cc: Jonna Wallace (KYTC-DEA); Eric Rothermel (FHWA-KY)

THIS IS NOT A PERMIT

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

DNR #: ER-20412-1

Request Received: December 14, 2018

Requestor: Parsons
 Dan Prevost
 101 West Ohio Street, Suite 2121
 Indianapolis, IN 46204

Project: I-69 Ohio River Crossing (ORX) Evansville, IN to Henderson, KY; DEIS

County/Site info: Vanderburgh

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 will require the formal approval for construction in a floodway under the Flood Control Act, IC 14-28-1. Please submit a copy of this letter with the permit application.

Natural Heritage Database: The Natural Heritage Program's data have been checked. The managed lands, high quality natural community, and species below have been documented within 1/2 mile of the project area. The Division of Nature Preserves recommends that the construction limits be confined as much as possible, and no staging should be placed near the Ashumbala Nature Preserve or Eagle Slough Natural Area. We recommend coordinating with Sycamore Land Trust at (812) 336-5382 or info@sycamorelandtrust.org regarding any project activities near Eagle Slough Natural Area.

A) MANAGED LANDS:

1. Evansville Department of Parks & Recreation:
 - a) Vann Pollack Park
 - b) Caldwell Park
 - c) James Price Park
 - d) Anthony C. Oates Memorial Park
2. Eagle Slough Natural Area, Sycamore Land Trust
3. Ashumbala Nature Preserve, DNR
4. Angel Mounds State Historic Site, Indiana State Museum & Historic Sites

B) COMMUNITY: Wet Floodplain Forest

C) PLANTS:

1. Water-purslane (*Didiplis diandra*), state endangered
2. Green Hawthorn (*Crataegus viridis*), state threatened
3. Bald Cypress (*Taxodium distichum*), state threatened
4. Mercury (*Acalypha deamii*), state rare

D) BIRDS:

1. Sedge Wren (*Cistothorus platensis*), state endangered
2. Bald Eagle (*Haliaeetus leucocephalus*), state special concern

Fish & Wildlife Comments: The documented bald eagle nest is 1,000' from the Central Alternatives 1A and 1B and greater than 3000' from the West Alternatives of the proposed project site. This is greater than the recommended buffer of 660' that is used to reduce disturbance to

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nests. Also, no suitable habitat currently exists for sedge wrens within the project boundaries. Therefore, we do not foresee any impacts to these bird species as a result of this project.

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) Exceptional, Unique or Critical habitats:

The mitigation and commitments section proposes a 4:1 (or higher) mitigation ratio for exceptional, unique or critical wetlands such as cypress swamps; however, impacts to unique wetland such as cypress swamps should be avoided through redesign or relocation of project infrastructure. Mitigation of such habitat would be extremely difficult or impossible; therefore, the need for avoidance of such impacts is very important.

2) Crossing Structures:

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 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 bankfull 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, and any bank stabilization under the structure, should not create conditions that are less favorable for wildlife passage under the structure compared to the current conditions. Any riprap placed at the culvert's outlet should match the outlet/invert elevation at the upstream edge of the riprap apron. Smaller stone and fines should be mixed in to match the existing stream substrate particle distribution and provide impermeability of the riprap apron/substrate so the flow does not percolate through the voids below the riprap apron's surface. The slope of the riprap should be no steeper than 20:1 from the lip of the culvert pipe to the streambed. Riprap on the inlet side should have a slope no steeper than 5:1. Natural streambed material should be backfilled within the structure where possible as it can provide refuge for species using the culvert. Natural bed materials such as large cobble and boulders should be placed within the structure (anchored if necessary) to provide flow diversity and roughness/energy dissipation.

Sump depth for a pipe or box culvert should be increased/adjusted to match the structure's design life according to the background rate of bed degradation/downcutting so that the culvert does not become perched long before the culvert requires replacement. Culvert width and gradient should be appropriate for the site conditions so that flows do not scour out material from the culvert. Stream simulation design should be applied with any crossing structure. Additional information is available in Publication No. FHWA-HIF-11-008, Federal Highway Administration, Culvert Design for Aquatic Organism Passage, October 2010 (<http://www.fhwa.dot.gov/engineering/hydraulics/pubs/11008/hif11008.pdf>).

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3) Wildlife Passage/Crossings:

As was done with the I-69 crossing of the Patoka River, most or all of the floodway should be bridged. Facilitating wildlife movement under roads, especially large and heavily-traveled high-speed roads, is a priority concern for the Division of Fish and Wildlife both for the ecological health of wildlife populations in terms of movement and dispersal, and habitat connectivity, and in terms of avoiding unnecessary wildlife mortality on roads. Maintaining or improving wildlife passage ability under roads means less wildlife crossing traffic lanes and consequently reduced driving hazards. Due to the high speeds on the proposed road, all creek crossings should be designed to accommodate wildlife passage which means designing all crossings wide enough to have footings/abutments located landward of the tops of the banks with a minimum of 24' of open, un-riprapped ground below the crossing on the banks (all on one side or split between both banks). A sample of wildlife passage benefits, cost-savings (in terms of structure cost versus deer-vehicle collision costs) and safety of life and property issues can be reviewed at

http://www.virginiadot.org/vtrc/main/online_reports/pdf/06-r2.pdf.

Where no bridges are planned, wildlife passages for most wildlife including white-tailed deer should be installed throughout the length of the project. Wildlife passage structures should be open enough to not deter wildlife use. To accommodate wildlife such as white-tailed deer, the minimum height of such structures should be 12', but could vary somewhat depending on the other variables resulting in an openness ratio of 0.25 or more. Fencing should be installed to guide wildlife towards the crossing structures and to maximize the openness of the structures grating or light-wells should be installed to provide natural light within the structure. Where applicable, metal grating installed within the portion of the passage that is within the road's median is recommended to improve the openness of a structure needing to cross a divided highway.

4) Scour protection and wildlife passage:

The placement of riprap/scour protection under a crossing structure could impair wildlife passage which can be prevented through the use of an alternative method of scour protection or modifying the proposed material.

Scour protection should be done using a smooth-surfaced material such as articulated concrete mats under the structure instead of part or all of the proposed riprap (or riprap at the toe and a smooth-surfaced material above the riprap toe protection). Poured concrete is not an acceptable type of smooth-surfaced material. Materials such as articulated concrete block mats, fabric-formed concrete mats or other similar smooth-surfaced materials will not impair wildlife movement along the banks under the bridge (see

<http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17553.wba>).

Riprap scour protection on narrow structures less than 20' wide should not extend a significant distance from each side of the structure to avoid accelerating flow in the low-flow channel and causing bed scouring or fish passage impairment due to the accelerated flow. Do not place riprap across the streambed as it may result in a fish passage obstruction. Riprap may be placed at the edges of the structure to protect the footings and at the toe of the stream banks.

5) River/Stream impacts:

Impacts to the channel should first be addressed in planning through avoidance, minimization, and lastly compensatory mitigation. Instead of channel relocation, we highly recommend stabilization of the outside bend upstream of the bridge with bioengineered methods and materials including rock toe protection and incorporating live vegetation into the stabilization above the toe.

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If relocation remains the best option after a complete examination of the possible alternatives and avoidance of impacts, mitigation plans should be developed. Mitigation for a stream channelization/relocation should include replacement of the impacted channel length with an equal length of restored channel that possesses equal or higher quality riparian and stream habitat as the impacted area. Habitat enhancement should also occur along another length of stream equal to the length impacted. Experienced professionals with backgrounds in soils, botany, ecology, fish and wildlife management, fluvial geomorphology, and engineering should design all channel relocation projects. A restrictive covenant should be used to protect the channel from future disturbance, and it should cover both the restored and enhanced creek lengths (essentially at a ratio of 2:1 or greater in linear feet of stream relocated/impacted).

Natural channel design should be used in the design of any relocated channel and should include aquatic and riparian habitat elements needed to complement upstream and downstream conditions. Further information can be found at:
https://www.bae.ncsu.edu/wp-content/uploads/2017/07/sr_guidebook.pdf.

A Qualitative Habitat Evaluation Index (QHEI) should be developed for the stream to be relocated which will be the minimum QHEI score for the relocated stream and to the extent practicable, the relocated segment should have similar cross-section, substrate, in-stream habitat, and riparian corridor and channel morphology when compared to the original segment.

6) Riparian Habitat:

We recommend a mitigation plan be developed (and submitted with the permit application) for any unavoidable habitat impacts that will occur. The DNR's Floodway Habitat Mitigation guidelines (and plant lists) can be found online at:
<http://www.in.gov/legislative/iac/20190130-IR-312190041NRA.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). Impacts to wetland habitat should also be mitigated at the appropriate ratio.

The mitigation site should be located in the floodway, downstream of the one (1) square mile drainage area of that stream (or another stream within the 8-digit HUC, preferably as close to the impact site as possible) and adjacent to existing forested riparian habitat.

7) Migratory Birds:

All migratory bird species are protected under the Migratory Bird Treaty Act (MBTA) of 1918. Swallows (*Hirundo* spp.) often build nests on the undersides of bridges, and the proposed US 41 work could impact these species. To ensure compliance with the MBTA, we recommend that either work not take place between May 7 and September 7 (which is the nesting season), or that the bridge be surveyed for nests during those dates prior to construction. If nests are found with eggs, chicks, or parents actively tending to the nest (building the nest and visiting often), then repairs should be put on hold until the nesting cycle is completed (to fledging) or fails (by natural causes). Removal of inactive nests of migratory birds should not be accomplished prior to consultation with the USFWS office with local jurisdiction. A permit may be required for removal of inactive nests.

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Division of Fish and Wildlife
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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 native grasses, sedges, wildflowers, and also native hardwood trees and shrubs as soon as possible upon completion. Do not use any varieties of Tall Fescue or other non-native plants, including prohibited invasive species (see 312 IAC 18-3-25).
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, access bridges, causeways, cofferdams, diversions, or pumparounds.
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. Plant native hardwood trees along the top of the bank and right-of-way to replace the vegetation destroyed during construction.
9. Post "Do Not Mow or Spray" signs along the right-of-way.
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 and slopes not protected by other methods that are 3:1 or steeper with erosion control blankets that are heavy-duty, biodegradable, and net free or that use loose-woven / Leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas.

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: February 11, 2019



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT
 600 DR. MARTIN LUTHER KING JR PL
 LOUISVILLE, KY 40202

February 26, 2019

Regulatory Division
 North Branch (RDN)
 ID No. LRL-2017-346-dds

Mr. Daniel Miller
 Parsons
 101 West Ohio Street, Suite 2121
 Indianapolis, Indiana 46204

Dear Mr. Miller:

This is in regard to the request for comments regarding the I-69 Ohio River Bridge Crossing (ORX) Draft Environmental Impact Statement (DEIS), dated December 2018. The proposed project would involve the construction of a segment of I-69 between Henderson, Kentucky, and Evansville, Indiana, and would include a crossing of the Ohio River. We have reviewed the DEIS relative to Section 404 of the Clean Water Act (CWA).

Since the proposed project would impact "waters of the United States (U.S.)" in Kentucky and Indiana, Louisville District has assigned two project ID numbers to the project, one for Kentucky (LRL-2018-1091) and one for Indiana (LRL-2017-346). The following comments pertain to the portion of the proposed project that would occur in Indiana.

The preferred alternatives (Central Alternatives 1A or 1B), would involve constructing a new terrain interstate in Indiana. The impacts to "waters of the U.S.," have been considered during the project design, and the central alignment was relocated to avoid an existing Section 404 of the CWA mitigation site. As a result of the relocation, an open water feature and wetland complex would be impacted by the proposed central alignment.

Section 404 of the CWA requires the applicant to avoid, minimize, and mitigate for impacts to "waters of the U.S." Louisville District currently processes new terrain transportation projects in Indiana that impact less than an acre of "waters of the U.S." under Indiana Regional General Permit (RGP) No. 1. The terms and conditions of RGP No. 1 generally require mitigation for impacts at a single and complete crossing that exceed 300 linear feet of stream impact and/or 0.1 acre of jurisdictional wetland loss. Single and complete crossings with impacts greater than an acre are processed as Standard Permits. The RGP No. 1 is currently scheduled to be modified and/or reissued on December 15, 2019. We will issue a public notice when the RGP is modified and/or reissued.

Thank you for the opportunity to comment on the DEIS. If you have any questions concerning this matter, please contact Ms. Deborah Duda Snyder by writing to the Corps of Engineers at 8902 Otis Avenue, Suite S106B; Indianapolis, Indiana 46216; or by calling (317) 543-9424. Any correspondence on this matter should refer to our ID Number LRL-2017-346-dds.

Sincerely,



Greg McKay
Chief, North Branch
Regulatory Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 01 2019

Michelle Allen
Planning and Environmental Specialist
Federal Highway Administration
575 N. Penna Street, Room 254
Indianapolis, Indiana 46204

Re: EPA Comments on the Draft Environmental Impact Statement (DEIS) for I-69 Ohio River Crossing (ORX) from Henderson, Kentucky to Evansville, Indiana. CEQ: 20180309

Dear Ms. Allen:

The U.S. Environmental Protection Agency, Region 4 and Region 5 offices reviewed the subject project document pursuant to Section 309 of the Clean Air Act and Section 102 (2)(C) of the National Environmental Policy Act. The EPA is a participating agency on the proposed project and we appreciate the opportunity for early engagement with the Federal Highway Administration (FHWA), Indiana Department of Transportation, and the Kentucky Transportation Cabinet in the environmental review process for proposed development, construction and operation of the extension of I-69 between Henderson and Evansville. This project connects existing segments of I-69 as a part of the National I-69 Corridor connecting Canada to Mexico. The proposed project is listed on the Office Management and Budget's 'FAST-41' dashboard as a high priority transportation project.

The EPA recognizes the importance of infrastructure development while assuring environmental and public health protection. As a participating agency, the EPA provided comments on the draft I-69 ORX Agency Coordination Plan (April 2017), Public Involvement Plan and Environmental Methodology Approach (Project Memo, March 17, 2017), Purpose and Need and ORX Screening Report (August 2017), and the I-69 ORX Screening Report Supplement (February 2018). We also participated in four interagency meetings including a project site visit between April 12, 2017, and February 12, 2019. Due to the 35-day government shutdown, the FHWA extended the I-69 ORX DEIS public comment period for affected agencies to March 18, 2019. Based on our review of the DEIS, we have enclosed technical comments and recommendations for your consideration that should strengthen or clarify information within the combined Final Environmental Impact Statement/Record of Decision (enclosure). These recommendations include information for alternatives selection, improving the disclosure of impacts and mitigation and ensuring public ongoing awareness of information developed after the DEIS.

Thank you for the opportunity to provide comments on the proposed project. We request that the recommendations provided in this letter be addressed in the Final Environmental Impact Statement.

If you have any questions regarding these comments, please contact Ms. Ntale Kajumba of the NEPA Program Office at (404) 562-9620, or via email at kajumba.ntale@epa.gov. Also, please continue to submit the FEIS and meeting notifications to EPA Region 4 and Region 5 (Ms. Virginia Laszewski, Laszewski.Virginia@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Militscher", written in a cursive style.

for Christopher A. Militscher
Chief, NEPA Program Office
Resource Conservation and Restoration Division

Enclosure (1)

ENCLOSURE

EPA Technical Comments on the Draft Environmental Impact Statement (DEIS) for I-69 Ohio River Crossing (ORX), Kentucky and Indiana CEQ #20180309

Alternatives: The DEIS examines a no-action alternative and three build alternatives for the I-69 ORX connecting Evansville and Henderson that includes two western corridors (West Corridor 1, West Corridor 2) and one central corridor (Central Corridor 1). Central Alternative 1 is identified as the preferred alternative for the proposed I-69 ORX. This alternative includes a new 4-lane I-69 ORX bridge, the retention of one of the existing US 41 bridges for local traffic, and two different tolling options. Central Alternative 1A tolls the I-69 ORX bridge and the remaining US 41 bridge while Central Alternative 1B only tolls the I-69 ORX bridge. The preferred alternative includes 11.2 miles of new interstate, including the construction of 8.4 miles of I-69 on new location and upgrades to 2.8 miles of existing US 41 to meet interstate standards. New interchanges would be added at existing I-69 in Indiana, US 60 in Kentucky, and at existing US 41 south of Henderson. Modifications to three existing interchanges would also be made.

Recommendation: The EPA supports the Federal Highway Administration's selection of Central Corridor 1B as the preferred alternative.

Wetlands and Streams: The EPA appreciates efforts made to avoid and minimize impacts to wetlands, compensatory wetland mitigation sites, and floodways. According to the DEIS, the preferred alternative impacts 17.6 acres of primarily forested wetlands, three perennial streams (1,608 feet), one intermittent stream (683 feet), 49 ephemeral streams (16,036 ft) with channelization occurring to 7,182 feet, and 12.7 acres of open water. Of the remaining build alternatives, this alternative has the fewest wetland impacts. Some of these wetlands will be impacted during construction and following construction activities these areas will be allowed to re-vegetate naturally.

Recommendations: The EPA recommends the use of bridges on the southside to further avoid perennial and intermittent streams. If this recommendation for additional avoidance and minimization is not feasible, we recommend the use of embedded box culverts. Embedded culverts ensure that the stream systems continue to support the hydrologic flux and storage, biological productivity, biogeochemical cycling and storage, and decomposition. It is also suggested that an embedded culvert be included under the causeway in the upper floodplain (southside) to allow for wildlife movement during catastrophic flood events that inundate the floodway and floodplain. Furthermore, embedded culverts should also be used with ephemeral stream crossings to support the functions listed above with an understanding that salamanders and other reptiles and mammals utilize these streams.

The EPA also recommends additional minimization of the construction corridor and highway width when crossing wetland areas, hydric soils and stream crossings to further minimize impacts to wetlands and streams. Steeper or vertical sides with guardrails are measures that have been adopted in interstate highway design to lessen impacts to adjacent wetlands and streams. We further recommend the development and implementation of a wetland restoration plan to ensure that wetlands are restored to their pre-impact condition. Mitigation should be provided for the wetland acreage that cannot be fully restored (e.g., any forested wetland impacts that will not be replanted with trees). Standard mitigation for forested wetland conversion to emergent in Indiana is 1:1 to compensate for functional and temporal loss of the forested wetlands that will be restored to

emergent or scrub shrub. In Kentucky, adjusted mitigation units (AMUs) should be calculated consistent with U.S. Corps of Engineers (USACE) protocol and the appropriate purchase of AMUs from an approved USACE's Engineer's mitigation bank or the Kentucky Department of Fish and Wildlife In-lieu Fee Program. The wetland restoration plan should describe measures to minimize and/or control for non-native invasive species. We further recommend that all temporary wetland impacts be planted with native seed mix, including pollinator species.

Water Quality: Highway stormwater runoff often includes toxicants such as heavy metals, coolants and fecal coliform bacteria. As a result, the runoff should be treated prior to entering receiving water bodies in the project area.

Recommendations: The EPA recommends incorporating stormwater best management practices into the design and construction of the I-69 ORX project to improve the project's ability to maintain water quality and stabilize soils. The Ohio River is classified as an Outstanding State Resource water, and there are other waterbodies within the proposed project area. Therefore, efforts should be made to direct stormwater into treatment cells or areas prior to discharging the stormwater into the river, streams, and floodplains. It is especially important to treat the first inch of runoff because this water conveys much of the pollutants during a storm event. The Final Environmental Impact Statement (FEIS) should also discuss potential locations for detention/retention sites required to treat stormwater.

Environmental Justice: *Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations*, directs federal agencies to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law. According to the DEIS, the proposed project's preferred alternative will not result in the relocation of minority and low-income populations, but the project has the potential to disproportionately impact minority and low-income populations if both the proposed I-69 ORX and the US 41 bridges are tolled. However, the DEIS indicates that Central Corridor 1B (no toll on US 41 bridge) would not have disproportionate nor adverse effects to environmental justice (EJ) populations. The DEIS generally identifies potential mitigation measures to address some of the potential adverse economic impacts.

Recommendation: The EPA recommends including a non-tolled crossing of the Ohio River between Henderson, Kentucky and Evansville, Indiana. This could potentially minimize impacts to EJ populations and other stakeholders. The EPA appreciates the public involvement efforts including the development of an EJ subcommittee and agency coordination approach used during this project and recommend that such coordination continue through the finalization of the selected alternative alignment and finalization of proposed mitigation measures to address EJ issues.

Noise: The preferred alternatives appear to result in the greatest noise impacts. Most of the potential impacts are due to changes in traffic redistribution and tolling. The DEIS identifies two potential noise barrier locations in Appendix G, but these barriers will be reevaluated prior to the FEIS/ROD for the selected alternative. Construction vehicles and equipment will follow the Kentucky Transportation Cabinet's standard specification regarding noise control. These measures may include acoustic barriers, restricting work times, and source control on equipment, etc.

Recommendation: As the proposed project and associated noise mitigation is selected and refined, the EPA encourages the maximization of noise barriers as a means of reducing project impacts along with other mitigation measures. According to Appendix G of the DEIS, up to 83 noise sensitive receptors along the preferred alternative could benefit from the proposed barriers.

Air Quality: Based on our review, the project area is in attainment for all applicable National Ambient Air Quality Standards for transportation conformity. The proposed project is currently identified in the Metropolitan Planning Organizations long-range plan for conformity.

Recommendation: The EPA recommends that the transportation improvement program include the proposed project right-of-way prior to the approval of the FEIS/Record of Decision (ROD). The EPA continues to participate in the intergovernmental consultation group for transportation conformity in the Evansville, Indiana/Henderson, Kentucky area and any air quality status or transportation conformity questions should be directed to Mr. Anthony Maietta, EPA Region 5 Air and Radiation Division at (312) 353-8777 or via email at Maietta.anthony@epa.gov.

Non-motorized Modes of Transportation: The EPA previously recommended enhancing the proposed bridge use to include alternate modes of transportation (i.e., pedestrian and bicycle), where feasible. According to the DEIS and the February 12, 2019, I-69 ORX Interagency Advisory Committee #4 meeting, the closest river crossing is about 30 miles away and does not include pedestrian/bicycle lanes. However, pedestrian/bicycle lanes are available approximately 100 miles away as part of the Louisville-I-69 crossing.

Recommendations: The EPA recommends the FEIS identify and discuss the potential impacts of the proposed action to pedestrians and bicyclists that use the existing US 41 bridges. The FEIS should indicate what measures could be implemented to allow for the safe transit of pedestrians and bicyclists across the Ohio River between Evansville, Indiana and Henderson, Kentucky. The EPA recommends that suggested mitigation measures for non-motorized transportation that could also be addressed in the FEIS are as follows: 1) a pedestrian/bike way in the design of the new I-69 ORX bridge/s, 2) decrease speed limit on the remaining existing US 41 bridge, 3) provide frequent mass transit across US 41 bridge that allows for bicycle transport, and 4) consider whether a dedicated bike/pedestrian lane could be cantilevered off one side of the remaining US 41 bridge.

Hazardous Materials: Events such as inadvertent release of project related spills of hazardous or toxic materials could result in adverse impacts to water quality, and aquatic species. Demolition of the existing US 41 Southbound bridge has the potential to dislodge paint material and cause sedimentation. Sedimentation may also result from piling and construction activities near the river and streams.

Recommendations: The EPA recommends the FEIS discuss the frequency or likelihood of such events and describe spill prevention and spill and release response capabilities. We also recommend the environmental review identify the type of materials that would be used and the spill prevention measures that will be in place to capture and prevent the introduction of these material into the environment. We further recommend the FEIS discuss when and how the US 41 bridge will be removed and identify potential adverse impacts and mitigation measures. If the bridge contains lead paint, the EPA recommends that the transportation agencies identify implementation measures that prevent the release of lead into the air and water during removal activities. If possible, the FEIS should also identify the bridge removal timeline and staging areas.

Climate Resilience: The FEIS should consider more frequent and extreme weather events in the project's design, construction and operation. For example, culverts should be designed and sized to accommodate increased flows from extreme precipitation events. The transportation agencies should also continue to look for design opportunities to minimize fill in the floodway.



United States Department of the Interior



OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
 Richard B. Russell Federal Building
 75 Ted Turner Drive, S.W.
 Atlanta, Georgia 30303

ER-18/0583
 9043.1

March 12, 2019

Ms. Mayela Sosa
 Division Administrator
 Federal Highway Administration
 Indiana Division
 575 North Pennsylvania Street, Room 254
 Indianapolis, Indiana 46204

Re: Comments and Recommendations on the Draft Environmental Impact Statement (DEIS)
 and Section 4(f) Evaluation for the I-69 Ohio River Crossing Project

Dear Ms. Sosa:

The Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) and Section 4(f) Evaluation for the I-69 Ohio River Crossing Project located in Evansville, Indiana and Henderson, Kentucky. The Department offers the following comments for your consideration.

General Comments

We welcome this opportunity to cooperate with the Federal Highway Administration (FHWA), the Indiana Department of Transportation (INDOT), and the Kentucky Transportation Cabinet (KYTC) in evaluating the proposed I-69 Ohio River crossing project. The proposed action includes the development of an interstate highway across the Ohio River that would connect the southern terminus of I-69 in Indiana with the northern terminus of I-69 in Kentucky. Currently, cross-river traffic is limited to two US 41 bridges, which do not meet current interstate design standards.

Section 4(f) Comments

The Draft DEIS and Section 4(f) evaluation adequately describes a range of avoidance alternatives, the affected Section 4(f) resources, and discloses potential project impacts to those resources.

Pursuant to 36 CFR 800.4(c)(2), nine properties listed in or eligible for listing in the National Register of Historic Places (NRHP) have been identified within the project's proposed Area of

Potential Effects (APE). They are the Audubon Memorial Bridge/ Henderson-Evansville Northbound US, Henderson-Evansville Southbound US 41 Bridge, John James Audubon State Park, Robertson-Warren Property, Jackson McClain House/Farm, Ellis-Neville/Lee Baskett House, Henry Barret Farm, William Soaper Farm, and the Ben Kimsey Farm.

FHWA has determined project implementation would result in an Adverse Effect finding for the Audubon Memorial Bridge/ Henderson-Evansville Northbound US, Henderson-Evansville Southbound US 41 Bridge, the Jackson McClain House/Farm, and the Ellis-Neville/Lee Baskett House.

The DEIS and the Section 4(f) evaluation discusses an ongoing coordination effort with the Indiana Department of Natural Resources - Division of Historic Preservation and Archeology (Indiana SHPO) and the Kentucky Heritage Council (Kentucky SHPO) in compliance with Section 106 of the National Historic Preservation Act.

As detailed, archeological investigations are ongoing and eligibility for archaeological resources within the APE will be determined at a later date. A draft Memorandum of Agreement (MOA) to address measures to mitigate impacts has been prepared but has not been consummated.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service (FWS) Kentucky and Indiana Field Offices (FO) and National Wildlife Refuge staff associated with the proposed Green River National Wildlife Refuge (Refuge) have reviewed the above-referenced document. The Kentucky FO, as the lead FWS office for this Endangered Species Act (ESA) consultation and other applicable authorities, provides the following comments.

Recommendations Related to the Proposed Green River National Wildlife Refuge

Although impacts to streams, wetlands, and forests are the lowest for the preferred alternative, the Kentucky portion of the I-69 corridor would bisect a wide area of floodplain along the Ohio River where establishment of the Refuge is proposed. The floodplain in this location is largely rural and forested, subject to regular flooding from the Ohio River, and provides a major fish and wildlife movement corridor for the area. It is our understanding that a large portion of I-69 will be built on fill material placed in portions of the Ohio River floodplain. The placement of this fill will alter wildlife movement patterns, affect hydrology and hydrological processes in the floodplain, and likely force wildlife to move laterally along the highway or over the highway during flood events.

Minimizing habitat gaps, hydrologic alterations, and barriers to fish and wildlife movement will be important for maintaining fish and wildlife habitat and population connectivity and for supporting the Refuge's fish and wildlife habitat and public use objectives once I-69 is constructed. Therefore, the Service provides the following conservation recommendations, in accordance with the Fish and Wildlife Coordination Act, that we believe would be necessary to minimize the effects of the project on fish and wildlife resources. For each of these recommendations, we offer our assistance to the I-69 project team to identify priority sites and

design criteria for these measures so that benefits to fish, wildlife, and habitat can be maximized, and impacts avoided or reduced.

1. In general, the Service encourages the implementation of suitable fish passage structures and wildlife crossings throughout the project area. The location, size, and scale of these features will likely vary depending on habitat conditions, likelihood of use, and other factors, but most features would likely be oversized culverts, bottomless culverts, arched culverts, or small bridges that would span small streams or small floodplain areas. For the Ohio River floodplain, a more comprehensive approach would likely be necessary that would involve (a) increased culverting under fill areas to promote wildlife movement and minimize hydrologic impacts and (b) a small number of short bridge spans in key locations to pass floodwater and promote fish and wildlife movement.
2. During flood conditions, wildlife will seek safety in areas close to their location but out of the Ohio River floodplain. Floodwaters will encourage animals to move onto the fill area and/or the I-69 roadway, thus increasing the probability of mortality for the animals and increasing the risk to public safety (i.e., motorists attempting to avoid animals on the highway or motorists striking a large animal like a deer). To minimize these effects, we recommend designing the highway corridor to include (a) areas for high water refuge that are vegetated to provide cover while animals are temporarily displaced during flood events and (b) fencing that excludes wildlife from the highway and/or promotes movement of wildlife into areas outside of the floodplain.
3. The proposed road corridor will result in habitat loss and fragmentation and wildlife population effects over a large area. To offset these effects, the Service requests funding assistance for planned land acquisition and habitat restoration efforts in the Refuge. If such funds were provided, they would be prioritized for use on lands and habitat restoration efforts that would best offset the effects of I-69 on native fish and wildlife.

We also have the following requests and recommendations to improve public access and use of the Refuge upon its establishment:

1. We recommend I-69 project team consider locations where placement of potential pedestrian paths would be possible to provide access to the portions of the proposed Refuge that will lie on the eastern and western sides of the preferred I-69 alternative. These could be co-located with wildlife crossings where appropriate to promote public use.
2. We request clarification on the future use of existing roads within the proposed Refuge, and, if possible, request that existing roads traveling perpendicular to I-69 be retained for public and Refuge staff to safely and efficiently access the entire refuge.
3. We request assistance with the establishment of trails, trail heads, and vehicle access to trail heads at the appropriate time and using applicable transportation funding programs.

4. We request placement of signage identifying the Refuge and Refuge access points (e.g., interstate exits) along I-69 to encourage public use of the Refuge.

Threatened and Endangered Species

Informal ESA consultation for the project has been ongoing for several years, and we appreciate the work and commitment of the I-69 project team during this period. A Biological Assessment (BA) should be developed to help determine if formal ESA section 7(a)(2) consultation will be necessary. The FWS staff in the Kentucky and Indiana FOs are available to assist federal action agencies as the BA is developed and with agency effects determinations for listed species and critical habitat that may be affected by the proposed action.

Appendix K-1, *Endangered and Threatened Species Habitat Assessment and Wildlife Technical Report*, discusses local species records for the northern long-eared bat and the gray bat, but does not mention the known Indiana bat records for Vanderburgh County, Indiana, or Henderson County, Kentucky. The Indiana FO has records of the Indiana bat in Vanderburgh County and all surrounding counties, including several records along the Ohio River in Warrick and Posey Counties. This information should be added to the DEIS.

In addition, page 2-3 of the report indicates a record for northern long-eared bats in Vanderburgh County, Indiana, but it is not clear where that record is located relative to the project and Table 5.1-1 does not show the northern long-eared bat as occurring within 10 miles of the project area in Indiana. The Indiana FO has a record from adjacent Warrick County, Indiana, approximately 10 miles upstream of the project area, which should be included in this table. In addition, the State of Indiana lists the northern long-eared bat as a Species of Special Concern.

In Indiana, the project is within the range of the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), fat pocketbook mussel (*Potamilus capax*), and sheepsnose mussel (*Plethobasus cyphus*). The Indiana FO request that tree clearing activities in Indiana occur outside of the Indiana bat maternity season (i.e., remove trees between October 1 and March 30) to reduce the chance of incidental take of an occupied roost tree. Mussel impacts for the project appear to be limited to the Kentucky portion of the Ohio River. Additional measures to avoid and minimize impacts to listed species and critical habitat may also be necessary pending our review of the BA prepared once the preferred alternative is chosen.

Other Comments and Recommendations

Table ES.6-1 should include seasonal tree clearing restrictions for the Indiana portion of the project area.

Page 4-141 mentions direct impacts to rivers and streams will be minimized because the footprint is limited to the piers. However, there is no discussion on the use of causeways or barges for bridge construction and demolition. Causeways can cause substantial changes in flow patterns and restrict fish passage at lower flows; they can also adversely affect mussels within and near the causeway construction area. During low-flow conditions excessive channel blockage can create stagnant water upstream of the causeway and dissolved oxygen deficits downstream in lateral portions of the channel. A bridge replacement study on the Allegheny

River noted that some causeway designs have had slack water effects up to 600 meters upstream (Reutter, D.S. F. Patrick and D.A. Charters. 2001). We recommend incorporation of the following causeway and barge recommendations for the project:

Causeways

1. Causeways should be located outside of cobble/gravel substrate areas, when possible. These habitats are often the most-suitable habitat for many mussel species, including federally listed mussels.
2. Culverts or pipes should be installed in causeways to allow continued flow of water through the area to prevent pooling and stagnation.
3. The height of the causeway should be kept to a minimum to allow over-topping during heavy rain events and prevent upstream flooding.
4. Clean fill material should be used in causeways and removed immediately once the project is completed.
5. Causeways should not be located in the stream longer than a year in order to minimize disruption of mussel and host fish reproductive cycles.
6. All equipment used in waterways should be inspected using accepted protocols and determined free of zebra mussel adults and veligers (i.e., larvae).

Barges

1. All barge equipment maintenance should be conducted on uplands away from the river, whenever possible.
2. Fuel storage should be contained and maintained in an area where leakage and spilling into waterways can be avoided.
3. Excavation for deadman anchors and steel cables should be performed in a manner to minimize the amount of ground surface disturbance. During excavation, temporary silt fence should be installed around each deadman anchor site during excavation and installation. Caution should be exercised during excavation/installation activities to prevent sediment from being washed into the Ohio River or other waterways.
4. Towboats should be operated at low RPMs, especially when approaching and leaving the work site to minimize river bottom scouring and downstream siltation.
5. Impacts to shoreline and substrate from barge grounding should be avoided and minimized where possible.
6. All equipment used in waterways should be inspected using accepted protocols and determined free of zebra mussel adults and veligers (i.e., larvae).

Section 7.6.1: In addition to the avoidance and minimization measures for streams and surface water, we recommend that bridge deck run-off from the new structure, as well as any retained structures, is addressed to control input of pollutants. Run-off from these structures should be diverted and treated prior to returning to surface waters, particularly the Ohio River.

Section 7.9.2: The Service's Kentucky FO and Indiana FO have agreed to use the KYTC and FHWA programmatic process for Indiana bats and northern long-eared bats for ESA compliance for these species. However, the Indiana FO requests that seasonal tree clearing restrictions be followed in Indiana and that any mitigation for forest impacts in Indiana occurs in Indiana.

Section 7.9.2: The DEIS indicates that all existing bridges that would be removed between 15 May and 15 August will be surveyed for the presence of endangered bats (also discussed in Table ES.6-1). We recommend conducting surveys at all bridges, regardless of proposed removal date.

The proposed project is a large construction project that will involve a significant amount of land clearing and soil disturbance will result in the loss and fragmentation of habitat and an increased opportunity for sedimentation of streams to occur. To minimize these effects, we recommend strict adherence to the construction limits for the project in order to maintain trees and other vegetation outside of the construction limits. We also recommend the development and implementation of a strict and comprehensive erosion and sedimentation control plan to address all sources of project-related erosion and sedimentation, including, but not limited to, construction access roads, roadway approaches, staging areas, and stream crossings. Best Management Practices for erosion and sedimentation control should be constructed and in-place before construction occurs. In addition, all erosion and sedimentation control measures should be maintained during construction and maintained after construction ceases if vegetative cover has not been established. All disturbed soil areas should be re-vegetated as soon as possible using INDOT and/or KYTC standard specifications.

Pollution prevention and control measures should be implemented during all construction activities to reduce the potential for hazardous spills or other materials entering the Ohio River. This should include the placement of refueling staging areas, fuel storage, and hazardous materials away from the river and specific requirements for containment measures for fuels, oil, paints, solvents, and demolition debris.

Throughout the DEIS, natural resource impacts are described for the project as a whole. The Service requests an assessment of impacts by state, which would allow each state the opportunity to evaluate within-state impacts. The Kentucky and Indiana FOs and state permitting authorities would then have clear data for evaluating impacts and determining conservation recommendations or mitigation measures that may be appropriate.

The preferred alternative is estimated to impact over 18,000 linear feet of perennial, intermittent, and ephemeral streams. We recommend the project avoid stream realignment and/or channelization wherever possible. Adverse impacts resulting from channel alterations include loss of aquatic habitat, destabilization of the channel hydraulics and accelerated bank erosion,

and sedimentation. We recommend incorporation of the following stream relocation recommendations for the project:

1. The length of channel realignment should be reduced to the minimum necessary for the bridge or culvert. Work in streams below the low water elevation should be limited to the extent necessary for placement of culverts, piers, pilings and/or footings, shaping of the spill slopes around the bridge abutments, and placement of riprap.
2. If the channel subject to realignment contains good substrates (i.e. gravel, cobbles and boulders), this material should be stockpiled and used for substrate in the new channel.
3. The use of riprap and other artificial bank protection should be minimized, and bioengineering techniques used instead, wherever possible.
4. If riprap is used, it should be placed to extend below the low-water elevation to enhance bank stability and aquatic habitat. The extent of armoring streambanks should be minimized, and bioengineering techniques used instead, whenever possible.
5. New channel should be constructed with bank slopes and bottom elevations equivalent to those in the natural channel. New culverts should span the active stream channel, should be either embedded or utilize a 3-sided or open-arch culvert, and should be installed with a flat or nearly flat slope.
6. Best management practices should be used to contain soil and sediment runoff during construction. Silt curtains or other devices should also be installed and maintained at the downstream end of the project to limit sediment transport in newly excavated channels.
7. Channel work and vegetation clearing should be limited to the minimum necessary.
8. Native hardwood trees and shrubs should be planted in a zone at least 50 feet wide on both sides of the new channel.
9. The suitability of installing wildlife crossings at bridges or culverts should be evaluated, especially at those bridges or culverts where high quality habitat (e.g., forests, grasslands) will occur on both sides of the bridge or culvert. Suitable crossings would include flat areas below bridge abutments with suitable ground cover, high water shelves in culverts, amphibian tunnels, and associated diversion fencing.

Summary Comments

The Department does not concur with Section 4(f) approval of this project at this time. We would be pleased to reconsider this position upon completion of the Section 106 process and the resubmission of the final Section 4(f) evaluation and consummated MOA.

The Department has a continuing interest in working with the FHWA, INDOT, and the KYTC to ensure that impacts to resources of concern to the Department are adequately addressed. For matters related to USFWS comments, please contact Phil DeGarmo, U.S. Fish and Wildlife Service, Frankfort, Kentucky at (502) 695-0468 x110, or at Phil_Degarmo@fws.gov . For matters related to Section 106 and Section 4(f) comments, please coordinate with Steven M. Wright, NPS Southeast Regional Office, Planning and Compliance Division, at (404) 507-5710, or at Steven_M_Wright@nps.gov . I can be reached at (404) 331-4524 or via email at joyce_stanley@ios.doi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "J Stanley", with a stylized, flowing script.

Joyce Stanley, MPA
Regional Environmental Officer

cc: Steven M. Wright - NPS
Christine Willis - USFWS
Michael Norris – USGS
Michelle Fishburne - OSMRE
OEPC - WASH

Steve Austin, Mayor

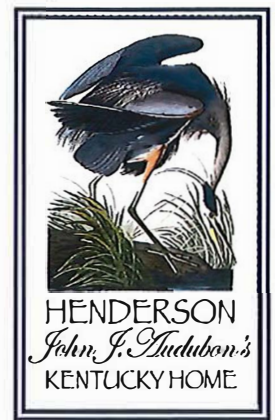
Commissioners:
Robert N. Pruitt
Bradley S. Staton
Rodney Thomas
Austin P. Vowels



The City of Henderson

P.O. Box 716
Henderson, Kentucky 42419-0716

William L. "Buzzy" Newman, Jr., City Manager
Dawn S. Kelsey, City Attorney
Maree Collins, City Clerk
Donna Stinnett, Public Information Officer/Community Relations Manager



March 19, 2021

Mr. Daniel Corbin
Indiana Department of Transportation
100 N. Senate Avenue
Indianapolis, IN 46204

RE: I-69 Ohio River Crossing Project
Merrill Way Trail

Dear Mr. Corbin:

On behalf of the City of Henderson, I would like to thank you for your ongoing coordination with regards to the I-69 Ohio River Crossing (ORX) Project. This is an important project to the City and its future, and we appreciate your commitment to making it a success for the community.

As you requested, I am submitting this letter regarding the Merrill Way Trail and whether it represents a significant recreation resource for the City. The trail is a shared-use path approximately 0.75-mile-long that connects Barrett Boulevard, near Walmart, to Kimsey Lane. It was constructed on private land within the Merrill Place subdivision by Henderson County with funding from coal severance taxes. The City of Henderson annexed this area from the County several years ago and has assumed the County's easement to maintain the trail.

Based on discussion with the I-69 ORX project team, the southern end of the trail would be impacted by construction of the project, but would be connected to the relocated Kimsey Lane, restoring its original function.

Current use of the trail is low due to its short length and lack of connectivity to other bicycle and pedestrian facilities. At this time there are no plans for the extension of this trail, nor dedicated funds to do so. As a result, the City of Henderson does not consider the trail to be a significant recreation resource.



Mr. Daniel Corbin
March 19, 2021
Page Two

The City looks forward to continued cooperation with the I-69 ORX project team on the project.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Newman, Jr.", with a stylized flourish at the end.

William L. "Buzzy" Newman, Jr.
City Manager

/dmc



DEPARTMENT OF THE ARMY

U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE KY 40201-0059

REPLY TO
ATTENTION OF:

May 27, 2021

Regulatory Division
South Branch (RDS)
ID No. LRL-2018-1091-ncc

Mr. Daniel Miller
Parsons
101 West Ohio Street, Suite 2121
Indianapolis, Indiana 46204

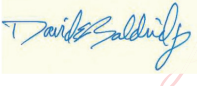
Dear Mr. Miller:

This is regarding the request for comments on the proposed revisions to the I-69 Ohio River Bridge Crossing (ORX) Draft Environmental Impact Statement (DEIS) that were discussed during an agency phone meeting on May 11, 2021. On May 19, 2021, members of the Regulatory staff conducted a site inspection on the Kentucky portion of the proposed project. The following are comments pertaining to the call and the site inspection:

- The definition of “waters of the United States (U.S.),” as found in the Navigable Waters Protection Rule (85 FR 22250), which became effective June 22, 2020, must be applied to the proposed project’s revised waters report.
- The newly proposed detention basins appear to be located in uplands.
- Forested Wetlands 5B and 6 are of high quality and would require to be mitigated at a minimum 3:1 ratio.
- If the proposed project would impact federal properties, the applicant would be required to obtain a Section 408 permit (33 USC 408) from the U.S. Army Corps of Engineers (Corps) prior to issuance of a Section 404/10 permit.
- If a U.S. Coast Guard permit is required for the project, it must be obtained prior to the issuance of a Section 404/10 permit.

Thank you for the opportunity to comment on the revised DEIS. If you have any questions concerning this matter, please contact this office at the above address, ATTN: CELRL-RDS or call Norma Condra at (502) 315-6680. Any correspondence on this matter should refer to our ID Number LRL-2018-1091-ncc.

Sincerely,



2021.06.01
11:10:16 -04'00'

David Baldrige
Chief, South Branch
Regulatory Division

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

VIA ELECTRONIC MAIL

May 28, 2021

Ms. Laura Hilden
Indiana Department of Transportation
100 N Senate Avenue, Room N642
Indianapolis, IN 46204

Dear Ms. Hilden:

Re: Comments on Preferred Alternative
Project: I-69 Ohio River Crossing
County: Vanderburgh

On May 11, 2021, representatives from the Indiana Department of Environmental Management (IDEM) participated in the I-69 Ohio River Crossing Interagency Advisory Committee Meeting. During the meeting you provided the agency with numerous updates to the project including modifications to the preferred alternative that was selected in your Draft Environmental Impact Statement (DEIS). During the meeting, you requested the agencies provide comments by June 1, 2021, for the modified preferred alternative. The representatives from IDEM requested you submit the proposed plan changes for a more detailed review. In electronic mail correspondence from Daniel Prevost-Parsons dated May 12 & 13, 2021, the requested information was submitted to IDEM. Based upon the review of all the information, IDEM offers the following comments for consideration and inclusion as environmental commitments into the Final Environmental Impact Statement and Federal Record of Decision.

Office of Water Quality

In previous correspondence dated February 6, 2019, The Office of Water Quality provided comments on the I-69 Ohio River Crossing DEIS. In addition to the following comments, all comments in the February 6, 2019, comment letter are still applicable.

The project has now been broken up into two (2) sections and construction for the Indiana portion of the I-69 Ohio River Crossing (Section 2) will not occur until 2027. All field work to identify aquatic resources on the project site will need to be repeated since more than five (5) years will have passed since your original field work. The results of the new wetland delineations and waters determinations will need to be submitted to IDEM and the Army Corps of Engineers for verification and jurisdictional determination.

Significant changes to the rules and regulations have occurred since your original field work was conducted. These rule changes effect what is regulated under the Federal

Clean Water Act as well as state waters regulated under IC 13-18-22. These rules and regulations will likely change again so agency consultation should continue as the project moves forward towards final design.

The proposed interchange connection to Indiana's portion of I-69 appears to require more new terrain impacts than what was previously presented in the DEIS. The interchange tie in points to the existing interstate are further east and west than what was proposed. As proposed, the new alignment appears to impact more wetlands along the Eagle Creek corridor. All impacts should be avoided to the greatest extent practical and appropriate compensatory mitigation needs to be provided for unavoidable impacts. Structural spans should be used to avoid hydrology impacts to wetlands remaining within the ramp systems. If secondary impacts occur due to loss of hydrology, connectivity, shading, or other detrimental impacts to the wetlands then additional compensatory mitigation needs to be provided. If earthen fill material is used for the interchange connections MSE walls or other engineering solutions should be used to minimize wetland impacts.

Office of Land Quality

Representatives from the Office of Land Quality have reviewed the submitted information and have the following comments.

Site 31 – Huff Landfill

The Phase I in the DEIS (Appendix I-1) states that "Further investigation, such as a Phase II Limited Subsurface Investigation, is warranted for all alternatives." IDEM OLQ recommends submitting proposed boring locations, sampling details, and a final proposed interchange location for comments prior to conducting Phase II investigations on landfills or dump properties. Additionally, we recommend submitting the completed Phase II investigative reports with finalized design details to IDEM for review. We also recommend determining the extent of waste boundaries in areas affected by the future interchange construction.

Potential Waste between Huff Landfill and Don Wathen Dump

The files for Vogt Landfill, Huff Landfill, Don Wathen Dump, and Ivan Wathen Dump suggest that the construction of the flood levee and the original Robert D. Orr Highway created large borrow areas south of and adjacent to the levee and the highway. Some of those areas were subsequently filled with clean fill, construction/demolition (C/D) waste, and household waste in the form of unpermitted open dump material. Although lidar topography does not suggest fill material in the area east of the Huff Landfill and west of the Don Wathen Dump, we recommend exploratory borings and/or test pits to evaluate the subsurface in this area. We also recommend submitting the findings from exploratory borings and/or test pits with finalized design details to IDEM for review.

Don Wathen Dump

The Don Wathen Dump was not listed in the Phase I, presumably because it was too far east of the originally proposed Central Alternative 1. The currently proposed Single Preferred Alternative 1 shifts the Indiana interchange to an area east of the Huff Landfill and may encounter waste associated with the Huff Landfill and the Don Wathen Dump. Proposed updates to the Phase I document should include the Don Wathen Dump (VFC [80421320](#), pdf pages 8, 52-53). We recommend conducting a Phase II Limited Subsurface Investigation and/or test pits to evaluate the subsurface on the Don Wathen Dump property and to submit the completed Phase II investigative report and findings from test pits with finalized design details to IDEM for review. We also recommend determining the extent of waste boundaries in areas affected by the future interchange construction.

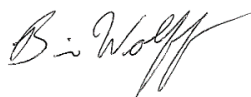
The Ivan Wathen Dump is east of the Don Wathen Dump and presumably unaffected by the proposed interchange. Information for the Ivan Wathen Dump is included on the same VFC pages as the Don Wathen dump.

ERCs

After review of the Phase II reports and potential test pit information, IDEM will require property owners with remaining waste in place to record an Environmental Restrictive Covenant for their property.

IDEM would like to thank you for allowing us the opportunity to review and comment on the proposed changes. If you have any questions about the Office of Land Quality comments, please contact Kim Vedder, Geologist, by phone at 317-232-8714, or by e-mail at kvedder@idem.in.gov. If you have any questions about the Office of Water Quality comments please contact Jason Randolph, Project Manager, by phone at 317-233-0467, or by e-mail at jrandolp@idem.in.gov.

Sincerely,



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

cc: Michelle Allen, FHWA-Indiana
Deb Snyder, USACE-Louisville, Indianapolis Field Office
Robin McWilliams-Munson, USFWS
Virginia Laszewski, USEPA Region 5
Randy Braun, IDEM Section Chief, Wetlands and Stormwater
Kim Vedder, IDEM, Office of Land Quality
Danny Gautier & Matt Buffington, IDNR
Dan Prevost, Parsons



June 1, 2021

Dan Prevost, AICP CTP
Senior Project Manager
151 West 4th Street
Box 16
Cincinnati, OH 45202

RE: I-69 Ohio River Crossing Single Preferred Alternative

Dear Mr. Prevost,

The Natural Resources Conservation Service (NRCS) has reviewed the information submitted for the subject project in Henderson, Kentucky and Evansville, IN. The USDA-Natural Resources Conservation Service (NRCS) is concerned with potential impacts that projects might have upon prime farmland soils, farmlands of statewide importance, PL-566 watershed structures, wetlands identified under the Food Security Act, Wetland Reserve Program (WRP/WRE) and Grassland Reserve Program (GRP) easements. Our comments in this letter pertain to the portion of the project located within and around Henderson, Kentucky.

KY NRCS is not aware of any existing easements, plans or activities related to ongoing efforts in the defined project areas. A cursory review indicates that prime farmlands and farmlands of statewide importance are located within the preferred alternative. This project may have the potential convert prime farmland and farmlands of statewide importance from agricultural to non-agricultural uses. A Form AD-1006 (or Form NRCS-CPA-106 if the project is a corridor type project) must be submitted to the local NRCS office. These forms may be obtained from any local NRCS office and are also available as electronic forms on the web at:

<http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>.

NRCS has no further environmental comments regarding the proposed project. We appreciate the opportunity to provide input on this project. If you have questions regarding this matter, please contact Steve Blanford, State Soil Scientist at (859) 224-7607 or Casey Shrader, NRCS KY State Biologist at (859) 224-7372 or Casey.Shrader@ky.usda.gov.

Sincerely,

C. GREGORY STONE
State Conservationist

cc: Casey Shrader, State Biologist, Lexington, KY
Steve Blanford, State Soil Scientist, Lexington, KY

From: [Kajumba, Ntale](#)
To: [Prevost, Daniel](#)
Cc: [Laszewski, Virginia](#); [Westlake, Kenneth](#)
Subject: [EXTERNAL] EPA I-69 ORX Pre-FEIS Comments (Single Alternative)
Date: Tuesday, June 1, 2021 10:32:33 AM

EPA I-69 ORX Interagency Advisory Committee Pre-FEIS Comments (Single Alternative)

Thank you for sharing updates on the changes made to the I-69 Ohio River Bridges Crossing Draft Environmental Impact Statement (DEIS) Project. U.S. Environmental Protection Agency Region 4 and Region 5 participated in the Interagency Advisory Committee Meeting held on May 11, 2021 to discuss the updates. We have also reviewed meeting documents and response to our agency's comments.

We recognize that there were changes following the DEIS, which identified two Preferred Alternatives: Central Alternative 1A and Central Alternative 1B, to now include a single preferred alternative: Central Alternative 1B Modified. The 11.2-mile alternative includes upgrades to approximately 2.8 miles of existing US 41 and construction of 8.4 miles of new highway, including a new bridge over the Ohio River that connects I-69 in Evansville, Indiana to I-69 in Henderson, Kentucky. This alternative would toll the new I-69 bridge and retain the US 41 (no tolls).

EPA understands that the modifications to the project derived from changes to the intersection and additional design work to help reduce cost and improve traffic and access. These adjustments will result in some changes to project impacts both positive and negative (i.e., wetlands and streams, noise, farmland, environmental justice and stormwater management).

EPA recommends KYTC/INDOT continue to work on reducing impacts to wetlands and other waters of the U.S. during Section 1 and Section 2 design and construction. EPA understands that treating stormwater prior to discharge directly into the Ohio River was deemed to be a challenge, but we continue to encourage KYTC/INDOT to identify innovative ways to channel and treat, as much as possible, Section 2 bridge/roadway runoff prior to direct discharge off the bridge. We also support continued efforts to further minimize/mitigate noise impacts to residents. We understand that additional information on noise will be forthcoming.

If you have any further questions, feel free to contact me at Kajumba.ntale@epa.gov or 404 562-9620 or Virginia Laszewski at Laszewski.virginia@epa.gov or 312-866-7501 .

Ntale Kajumba

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