

DEPARTMENT OF THE ARMY PERMIT EVALUATION  
AND DECISION DOCUMENT

On January 8, 2010, Bernardin Lochmueller and Associates, Inc. filed an application for a Department of the Army (DA) permit on behalf of the Indiana Department of Transportation (INDOT), 100 North Senate Avenue, Room N642, Indianapolis, Indiana 46204. The application requested authorization under Section 404 of the Clean Water Act (CWA) to facilitate the construction of Section 3 of the new 4-lane Interstate 69 (I-69) between U.S. Route 50 in Daviess County and U.S. Route 231 in Greene County, Indiana.

The application was received on January 8, 2010. Public Notice No. LRL-2010-39 was issued on February 12, 2010, with a comment period extending through March 13, 2010.

A permit was issued authorizing the proposed work, subject to certain conditions, on July 14, 2010.

The permit was suspended on September 7, 2010. The permit was suspended after a review of the permit file revealed that the procedural requirements of 33 C.F.R. §327.4, the Corps' regulation regarding public hearing determinations, had not been followed prior to issuance of the permit.

PROJECT PURPOSE AND NEED: The purpose of the proposed fill is to construct six separate and complete crossings for the construction of Section 3 of the Interstate 69 highway extension project between Evansville and Indianapolis, Indiana. The National Interstate 69 Project is needed to facilitate interstate and international movement of freight through the Interstate 69 corridor. The proposed Evansville to Indianapolis interstate highway extension is needed to provide an improved transportation link that strengthens the transportation network in Southwest Indiana, support economic development in Southwest Indiana, and complete the portion on the National Interstate 69 Project between Evansville and Indianapolis. The construction of Section 3 would advance the overall goals of the Interstate 69 project, increase personal accessibility for area residents, improve traffic safety, and support local economic development initiatives.

PROJECT BACKGROUND: The proposed Section 3 of Interstate 69 would include twenty-four crossings of "waters of the U.S." In a letter dated January 20, 2010, the Corps of Engineers verified that three of these crossings, which impacted a total of 460 linear feet of stream, were eligible for Indiana Regional General Permit (RGP) No. 1 without further notification. Fifteen more crossings, which impacted a total of 4,785 linear feet of stream and 0.67 acre of wetland, were verified with special conditions in a letter dated May 4, 2010. The remaining six

crossings had impacts that exceeded those allowed by the RGP and are being processed as a standard permit.

SCOPE OF ANALYSIS: The Scope of Analysis refers to the extent of the Corps' review under the National Environmental Policy Act (NEPA). The specific activity proposed for DA authorization under Section 404 of the CWA for this application is the discharge of fill material into "waters of the U.S." associated with the construction of six bridge or culvert crossings.

The NEPA Scope of Analysis in this case will include jurisdictional "waters of the U.S." that would be filled, directly or indirectly, by the construction of these structures and the immediate adjacent riparian corridor. A broader scope is not appropriate because the CWA does not provide the Corps legal authority to regulate interstate highway projects, such as Interstate Route I-69, beyond the limits of the "waters of the U.S." Rather, overall responsibility for construction and approval of interstate highway projects is the responsibility of the Federal Highways Administration (FHWA). The Federal Highways Administration has conducted a tiered NEPA review process for the Evansville-to-Indianapolis Section of I-69. As part of this tiered NEPA review process FHWA: prepared a Tier I Environmental Impact Statement (EIS) that evaluated whether or not to build the Evansville-to-Indianapolis Section of I-69 and alternative corridors for the Evansville-to-Indianapolis Section of I-69; issued a Record of Decision (ROD) for the Tier I EIS that approved a build alternative, the Alternative 3C corridor; prepared a Tier II EIS for Section 3 of the Evansville-to-Indianapolis Section of I-69 that evaluated different alignments for Section 3 within the Alternative 3C corridor; and issued a ROD for the Tier II EIS approving the Refined Preferred Alternative 1, the alternative associated with the six proposed crossings, for Section 3 of the Evansville-to-Indianapolis Section of I-69.

DESCRIPTION: The applicant proposes to place approximately 30,652 cubic yards (cys) of fill material into 1,695 linear feet of Doans Creek, 150 linear feet of a perennial unnamed tributary of Eagan Ditch, and 7,800 linear feet of ephemeral and intermittent unnamed tributaries to Eagan Ditch and Doans Creek; and 184,924 cys of fill material into 5.6 acres of adjacent open water, emergent, scrub-shrub, and forested wetlands for the construction of six crossings of Section 3 of the Interstate 69 extension. The fill material would consist of clean earthen fill, limestone riprap, and concrete.

The proposed fill is required to construct bridge or culvert crossings of Section 3 of Interstate 69 over "waters of the U.S." at six locations. The figures in Appendix B show the crossing locations.

MITIGATION: To compensate for the proposed impacts, the applicant originally proposed to create 36,132 linear feet of ephemeral stream channels and 17.4 acres of emergent, 7.2 acres of scrub/shrub, and 24.4

acres of forested wetlands off-site at the Cornelius Mitigation Site as mitigation for the proposed project. The site was part of an Umbrella Mitigation Bank for Sections 2 and 3 of the Interstate 69 Evansville to Indianapolis extension project and is located within the same 8-digit HUC watershed (05120202) as the impact sites.

The applicant would have provided 4.82 credits (1 credit is equivalent to 1 acre of land at the mitigation bank) of emergent wetland, 1.89 credits of scrub shrub wetland, and 6.81 credits of forested wetland from the Cornelius Mitigation Bank. These credits were certified by the Interagency Review Team.

Since the Public Notice was published, the applicant has compressed the construction schedule for the proposed project. The new schedule would not allow sufficient time for release of the credits necessary to satisfy mitigation requirements for the proposed impacts on Sections 2 and 3. Therefore, in a letter dated July 2, 2010, the Corps terminated the Umbrella Mitigation Bank instrument. Since the sites and the plans for the Cornelius Mitigation Site that were included as an appendix in the Umbrella Mitigation Bank instrument were acceptable as mitigation for the proposed impacts, the applicant has proposed that the Cornelius Mitigation Site be used as permittee-responsible mitigation for impacts in Section 3. As mitigation for the proposed impacts from the six crossings, the applicant would create or restore 6,805 linear feet of stream, 4.8 acres of emergent wetland, 1.9 acres of scrub-shrub wetland, and 4.8 acres of forested wetland at the Cornelius Mitigation Site. A total of an additional 2,120 linear feet of stream would be mitigated on-site and there would be no mitigation for the 0.96 acre of open water impact.

#### ALTERNATIVES

The following paragraphs provide a summary of the alternatives identified and evaluated by FHWA during the NEPA review it conducted in connection with Section 3 of the Interstate 69 extension between Evansville and Indianapolis, Indiana. A detailed discussion of the alternatives considered by FHWA is contained in the Final Environmental Impact Statements (FEIS) and Records of Decisions (ROD) prepared by FHWA.

To accommodate the large, complex scope of the Interstate 69 Evansville to Indianapolis extension project, the FHWA used a "tiered" environmental process pursuant to NEPA; the NEPA regulations issued by the Council on Environmental Quality, 40 C.F.R. Part 1500; and the FHWA's NEPA regulations, 23 C.F.R. Part 771. The tiered process involved two levels of NEPA review—Tier I and Tier II. The Tier I review looks at alternative corridors and the "no build" alternative for the proposed Interstate 69 extension between Evansville and Indianapolis, Indiana and identifies a preferred alternative corridor. The Tier II review looks at alternative alignments, including the "no build" alignment, within 6 sections of the approved corridor.

For the Tier I review, FHWA prepared an FEIS, which included a 404(b)(1) consistency analysis, for the proposed Interstate 69 extension between Evansville and Indianapolis, Indiana that evaluated 12 alternative corridors and the "no build" alternative. FHWA identified 19 route concepts during the scoping process for initial analysis. From these 19 route concepts 5 routes were identified. The 12 alternative corridors evaluated represented different options located within the 5 routes. Of the 12 alternative corridors 8 were ultimately determined not to be practicable alternatives. Four of those alternative corridors were determined not to be practicable because they involved unavoidable impacts to sensitive environmental resources. The other 4, including the corridor that utilized the existing US Route 41 and Interstate 70, were determined not to be practicable because they failed to satisfy project goals (particularly core goals) and, thereby, the purpose and need for the Interstate 69 Evansville to Indianapolis extension project. Of the 4 remaining alternative corridors, FHWA identified Alternative 3C as the environmentally preferred alternative—the least environmentally damaging practicable alternative. Based on the FEIS for Tier I, FHWA issued a ROD that approved one of the alternative corridors—Alternative 3C—and the termini for 6 section to be evaluated in Tier II.

For the Tier II review for Section 3, FHWA prepared an FEIS, which evaluated 5 different alignments within Section 3 of the Alternative 3C corridor. For purposes of the alternatives analysis, FHWA divided Section 3 into 5 subsections (A, B, C, D, and E). Within each subsection FHWA looked at a range of alternatives—4 in A, 9 in B, 3 in C, 3 in D and 3 in E—and compared their potential social, economic and environmental impacts. Based on the comparison of alternatives within each subsection and after modification of some alignments to avoid or minimize impacts, FHWA identified 9 subsection alignments to be considered in selecting the Section 3 alignment. The alternatives eliminated from consideration were eliminated based on their environmental and socioeconomic impacts. The 9 subsections provided for 12 possible Section 3 alignments. From these 12 possible Section 3 alignments FHWA identified 4 practicable alignments which it carried forward for detailed analysis in the draft EIS and then identified a fifth alignment—a refined alignment of one of the 4 previously identified alignments—that it added to its analysis in the FEIS. From these 5 alignments, FHWA in the Tier II ROD approved selection of Refined Preferred Alternative 1, the alignment with the fewest overall environmental impacts, including the fewest potential impacts to wetlands and streams.

In light of FHWA's detailed alternatives analysis of alternative corridors for the Interstate 69 project between Evansville and Indianapolis, Indiana in the Tier I FEIS, its selection of the least environmentally damaging alternative corridor in the Tier I ROD, and its detailed alternatives analysis of alternative alignments within Section 3 of the corridor selected in the Tier I ROD, the alternatives considered by the Corps in this document are limited to the crossings associated

with the 5 practicable alignments identified by FHWA in the Tier II FEIS and the no action alternative.

1. No Action Alternative - Under the no action alternative the six crossings would not be built, and thereby, Section 3 of Interstate 69 highway extension project between Evansville and Indianapolis, Indiana would not be built. The no action alternative would not cause any adverse impacts to the general ecology of any "waters of the U.S." in the Section 3 corridor, including the unnamed tributaries to Doans Creek and Eagan Ditch, and the jurisdictional wetlands located within the six crossings. However, this alternative would not accomplish the applicant's stated purpose.

2. Refined Preferred Alternative 1 Crossings - Refined Preferred Alternative 1 is the Tier II Section 3 alternative associated with the proposed six crossings that are the subject of this permit action. In the Section 3 Tier II FEIS, Refined Preferred Alternative 1 was found to have the potential to impact 34,620 linear feet of streams and 7.25 acres of wetlands and open-water. During subsequent project design, further measures were taken to avoid and minimize impacts to streams. The final design for Refined Preferred Alternative 1 would impact a total of 12,265 linear feet of streams and 6.27 acres of wetland and open-water.

The following impacts are associated with the construction of the six crossings covered in this decision document: Crossing 1 would impact a total of 1,680 linear feet of stream; Crossing 2 would impact a total of 1,530 linear feet of stream; Crossing 3 would impact a total of 1.61 acres of wetland; Crossing 4 would impact a total of 380 linear feet of stream, 0.63 acre of wetland, and 0.91 acre of open-water; Crossing 5 would impact a total of 1,810 linear feet of streams and 0.54 acre of wetland; and Crossing 6 would impact a total of 3,525 linear feet of streams, 1.86 acres of wetland, and 0.05 acre of open water.

This alternative has the least adverse impact on "waters of the U.S."

3. Alternative 1 Crossings - Alternative 1 in the Section 3 Tier II FEIS is the alternative from which Refined Preferred Alternative 1 was derived. It has the same general alignment as Refined Preferred Alternative 1, but does not have the refinements in alignment that were used in developing Refined Preferred Alternative 1. In the Section 3 Tier II FEIS, Alternative 1 was found to have the potential to impact a total of 40,812 linear feet of stream and 15.56 acres of wetlands and open water.

Alternative 1 has the same six crossing locations as Refined Preferred Alternative 1. However, the impacts associated with the crossings are different. Alternative 1 would have greater impacts for Crossings 1, 3, 4, 5 and 6. Alternative 1 would have fewer impacts for Crossing 2.

Overall this Alternative has greater impacts to "waters of the U.S." than the Refined Preferred Alternative. The alignment of this Alternative at Crossing 2 does avoid impacts to 150 linear feet of stream impacted by Refined Preferred Alternative 1 at this crossing. However, the refinement made to Refined Preferred Alternative 1 at Crossing 2 avoids and minimizes impacts to streams north of the crossing which would result in an overall lesser impact to streams.

4. Alternative 2 Crossings - Alternative 2 in the Section 3 Tier II FEIS has the same general alignment as Refined Preferred Alternative 1 in subsections A, C and E, but a different alignment in subsections B and D. In the Section 3 Tier II FEIS, Alternative 2 was found to have the potential to impact 47,902 linear feet of streams and 15.03 acres of wetlands and open-water.

Alternative 2 has the same six crossing locations as Refined Preferred Alternative 1, as these crossings are all located in subsections A and E where the alternatives have the same general alignment. However, the impacts associated with the crossings are different. Alternative 2 would have greater impacts at Crossings 1, 3, 4, 5, and 6. Alternative 2 would have fewer impacts at Crossing 2.

Overall Alternative 2 has greater impacts to "waters of the U.S." than the Refined Preferred Alternative. As with Alternative 1, the alignment of Alternative 2 avoids 150 linear feet of stream impacted by Refined Preferred Alternative 1, but the refinements at Refined Preferred Alternative 1 avoid impacts to streams to the north of the crossing which Alternative 2 impacts resulting in an overall lesser impact to streams.

It is recognized that Alternative 2 could be refined similar to Refined Preferred Alternative 1 in the subsections where their alignments overlap (subsections A, C and E) to reduce the impacts of Alternative 2. However, even if Alternative 2 were so refined, it would have greater overall impacts to "waters of the U.S.," as Alternative 2 would have a much greater impact on streams in subsections B and D, where the alignments diverge, than the Refined Preferred Alternative 1.

5. Alternative 3 Crossings - Alternative 3 in the Section 3 Tier II FEIS has the same general alignment as Refined Preferred Alternative 1 in subsections C, D, and E, but a different alignment in subsections A and B. In the Section Tier II FEIS, Alternative 3 was found to have the potential to impact 45,572 linear feet of streams and 15.09 acres of wetlands and open waters.

Alternative 3 has the same general crossing locations as Refined Preferred Alternative 1 for Crossings 2, 3, 4, 5 and 6. However, the impacts associated with the crossings are different. Alternative 3 would have greater impacts at Crossings 3, 4, 5 and 6. Alternative 3 would have fewer impacts at Crossing 2.

Alternative 3 does not include a crossing at the location of Crossing 1. Alternative 3 has a different alignment in the southern portion of subsection A, where Crossing 1 of Refined Preferred Alternative 1 is located, with different stream crossings.

Overall Alternative 3 would have greater impacts to "waters of the U.S." than the Refined Preferred Alternative. Alternative 3 would not impact the 1,680 linear feet of stream at Crossing 1 of Refined Preferred Alternative 1 and would avoid 150 linear feet of stream impact by Refined Preferred Alternative 1 at Crossing 2. However, the alignment of Alternative 3 in the southern portion of subsection A would result in other stream crossings that would cumulatively impact more linear feet of stream than the corresponding alignment of Refined Preferred Alternative 1. In addition, the alignment of Alternative 3 in subsection B of Section 3 would have a much greater impact on streams and wetlands than Refined Preferred Alternative 1.

It is recognized that Alternative 3 could be refined similar to Refined Preferred Alternative 1 in the subsections where their alignments overlap (subsection C, D, and E) to reduce the impacts of Alternative 3—the area of overlap includes Crossings 3, 4, 5 and 6. However, even if Alternative 3 were so refined, it would have greater overall impacts to "waters of the US," because it has a greater impact to streams and wetlands in subsections A and B, where the alignments diverge, than Refined Preferred Alternative 1.

6. Alternative 4 Crossings - Alternative 4 in the Section 3 Tier II FEIS has the same general alignment as Alternative 1 in subsections B, C and E, but a different alignment in subsections A and D. In the Section 3 Tier II FEIS, Alternative 4 was found to have the potential to impact 40,795 linear feet of streams and 15.39 acres of wetlands and open water.

Alternative 4 has the same general crossing locations as Refined Preferred Alternative 1 for Crossings 2, 3, 4, 5 and 6. However, the impacts associated with the crossings are different. Alternative 4 would have greater impacts at Crossings 3, 4, 5 and 6. Alternative 4 would have fewer impacts at Crossing 2.

Alternative 4 does not include a crossing at the location of Crossing 1. Alternative 4 has a different alignment in the southern portion of subsection A, where Crossing 1 of Refined Preferred Alternative 1 is located, with different stream crossings.

Overall Alternative 4 would have greater impacts to "waters of the U.S." than the Refined Preferred Alternative. Alternative 4 would not impact the 1,680 linear feet of stream at Crossing 1 of Refined Preferred Alternative 1 and would avoid 150 linear feet of stream impact by Refined Preferred Alternative 1 at Crossing 2. However, the alignment of Alternative 3 in the southern portion of subsection A would result in

other stream crossings that would cumulatively impact more linear feet of stream than the corresponding alignment of Refined Preferred Alternative 1. In addition, the refinement made to Refined Preferred Alternative 1 at Crossing 2 avoids and minimizes impacts to streams north of the crossing which results in an overall lesser impact to streams.

It is recognized that Alternative 4 could be refined similar to Refined Preferred Alternative 1 in the subsections where their alignments overlap (subsections B, C, and E) to reduce the impacts of Alternative 4—which includes Crossings 3, 4, 5, and 6. However, even if Alternative 4 were so refined, it would have greater overall impacts to “waters of the U.S.,” because it has a greater impact to streams and wetlands in subsections A and D, where the alignments diverge than the Refined Preferred Alternative 1.

COORDINATION WITH FEDERAL AGENCIES:

U.S. Environmental Protection Agency (USEPA): In a letter dated March 16, 2010, the USEPA stated that they did not object to issuing a Section 404 CWA permit for the project as proposed.

No comments were received from any other federal agencies regarding this project.

The applicant coordinated with the U.S. Fish and Wildlife Service (USFWS) as part of the NEPA process. USFWS prepared Biological Opinions for Tier 1 and Section 3 Tier 2 that included “incidental take” statements with additional reasonable and prudent measures necessary and appropriate to minimize take of the Federally-listed endangered Indiana bat (*Myotis sodalis*).

COORDINATION WITH STATE AND LOCAL AGENCIES:

In a letter dated May 3, 2010, the Indiana Department of Environmental Management (IDEM) issued a conditioned Water Quality Certification (WQC) pursuant to Section 401 CWA for the proposed project. The 401 WQC addressed impacts from the entire length of Section 3, which included a total of 12,265 linear feet of stream impacts. This total included impacts to streams that were verified as qualifying for Indiana RGP No. 1 under Section 404 CWA.

In a letter dated March 12, 2010, the Indiana State Historic Preservation Office (SHPO) stated that no historic properties are known to be within, or in close proximity to, the locations where fill material will be discharged.

The applicant coordinated with the Indiana SHPO as part of the NEPA process for Section 3. Commitments for completion of evaluations of some sites were developed for a Memorandum of Agreement (MOA). The MOA also addresses potential impacts to the one National Register-Eligible

property that Section 3 would have an adverse visual effect on.

In an electronic mail comment received March 15, 2010, INDOT, Office of Aviation, indicated that the proposed project should pose no hazard to airspace or air navigation.

COORDINATION WITH FEDERALLY RECOGNIZED TRIBES:

Two federally recognized tribes responded to the public notice. The Peoria Tribe of Indians of Oklahoma stated in a letter dated March 11, 2010, that it is unaware of any documentation directly linking specific Indian religious sites to the proposed construction and has no objection to the proposed construction. The Kickapoo Tribe in Kansas responded with a letter dated April 7, 2010, stating that the proposed project may proceed and requested notification of any burial sites or other cultural properties discovered in the area.

COORDINATION WITH OTHER INTERESTED PARTIES:

In response to the Public Notice, the Corps received 11 comment letters from the general public, 10 of which objected to the proposal. Ten of the letters included a request that a public hearing be held. Two of the requests were based on claims that new information on the project design required public hearings. The remaining requests were based on general concerns about the project and did not state with particularity the reasons for holding a public hearing. The issues raised in the comment letters can be generally categorized as follows: a) appropriateness of proposed mitigation; b) existence of less environmentally damaging practicable alternative to proposed project; c) water quality impacts from contaminants in road runoff; d) inadequate Section 106 process; e) suitability of fill material; f) air pollution; g) destruction of wetlands and streams; h) impacts on aesthetics; i) noise pollution; j) increased traffic on local roads near interchanges; and k) use of outdated information in assessing impacts.

The following summarizes the comments submitted by each respondent(s) to the public notice:

Mr. William Boyd (6 letters); Mr. Boyd requested a public hearing and is concerned about contaminants in runoff, appropriateness of mitigation wetlands, air pollution, noise pollution, traffic congestion, impacts on the Amish community, aesthetic impacts, existence of a less environmentally damaging practicable alternative, inadequacy of the Section 106 process, impacts at borrow sites, impacts on emergency response times, and impacts on private wells.

Ms. Georgia Flinn; Ms. Flinn requested a public hearing. She is concerned about inadequacies in the Section 106 process and the appropriateness of proposed wetland mitigation.

Ms. Tess Cook; Ms. Cook is involved with Indiana Turtle Care, Inc. and is concerned about the proposed project's impact on Eastern box turtles.

Mr. Steven Meyer, Hoosier Environmental Council (HEC); HEC requested a public hearing to address changes in proposed project's costs, impacts, and features as well as inadequacies in the Section 106 process. HEC was also concerned about the use of a tiered NEPA process, the existence of a less environmentally damaging practicable alternative to the proposed corridor, availability of funding for the proposal, the level of quality of biological surveys used in assessing impacts, insufficient mitigation of forest impacts, impacts to streams and wetlands, source of fill material, impacts to aesthetics, and impacts to recreation.

Mr. Thomas Tokarski, Citizens for Appropriate Rural Roads, Inc. (CARR); CARR requested a public hearing to address changes in the project design that have been incorporated since the Tier 1 FEIS and ROD were issued. CARR was also concerned with the availability of funding for the proposal, the use of "outdated and incomplete" traffic data to assess economic impacts, impact of the proposal on greenhouse gas emissions and climate change, appropriateness of using a mitigation bank for wetland mitigation, impacts on forested habitat, impacts on drainage during flood events, suitability of soil substrate for the construction of an Interstate, the absence of earthquake standards in INDOT's planning, the appropriateness of permitting the proposed Interstate extension in sections, inadequacies in the Section 106 process, and noise and light pollution.

Mr. John Moore, Environmental Law and Policy Center (ELPC), on behalf of HEC and CARR; ELPC requested a public hearing and also requested that the Corps deny the permit because the proposed discharges would violate the Section 404(b)(1) guidelines. ELPC believes a less damaging practicable alternative exists and is concerned that the use of a tiered NEPA process circumvented the requirement to consider cumulative impacts. ELPC also believes that the Corps did not fulfill its requirement to consider cumulative impacts on wetlands, the sufficiency of the mitigation, impacts to the substrate, water patterns and fluctuations, and related impacts.

APPLICANT'S REBUTTAL:

The applicant, in an electronic mail received May 28, 2010, provided responses to the objections submitted by HEC, CARR, ELPC, and the individual commenters.

The major objection raised was that it was inappropriate to segment the Interstate 69 extension into sections for the purpose of environmental review and permitting. The applicant replied that the Tier 2 sections were approved in the Tier 1 ROD and that each section serves an independent, significant, stand-alone transportation purpose in addition

to serving as a portion of the Interstate 69 extension. Each section is designed to connect major state or federal highways in or near population or employment centers in the state. FHWA consulted with the Corps and other federal and state agencies during the NEPA process, as described in the Tier 1 FEIS.

*"Following the initial decision to adopt a tiered approach and to use "working alignments" as the basis for evaluating impacts, FHWA and INDOT continued to consult with resource agencies individually and as a group to discuss the extent of analysis needed to arrive at a Tier 1 decision. Discussions with resource agencies addressed not only the analysis required under NEPA, but also that required under other relevant statutes, including Section 404 (Water Quality); Section 7 (Threatened and Endangered Species); Section 106 (Historic Preservation), as well as farmland preservation and Section 4(f) resource avoidance. In each case, agencies with the relevant regulatory jurisdiction were consulted to develop an approach that would provide the appropriate level of information to make an informed Tier 1 decision. Determining the relative data needed in both Tier 1 and Tier 2 was discussed at length at a coordination meeting with all review agencies on June 5, 2001. These discussions continued throughout the course of the study in literally dozens of meetings and other consultations. As indicated above, both USEPA and the Corps have expressed satisfaction with the tiered approach used for this project".*

Tier 1 FEIS at 11-8 - 11-9.

The applicant also described the lawsuit brought by HEC and other plaintiffs, *Hoosier Environmental Council v. U.S. Department of Transportation*, Civ. No. 1:06-cv-1442, 2007 U.S. Dist. LEXIS 90840 (S.D. In. Dec. 10, 2007), challenging the Tier 1 decisions. A primary issue raised in the lawsuit was the use of a tiered NEPA process. In ruling that the FHWA properly used the tiered NEPA approach for the project, the court acknowledged that "[t]he principal issue in this case is the use of "tiering" and its effect on environmental impact analyses conducted under the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347." *Hoosier Environmental Council*, 2007 U.S. LEXIS 90840, at \*17. The Court then upheld FHWA's decision to use a tiered NEPA approach, finding that the use of tiering was appropriate for a project this magnitude. Specifically the court stated: "The choice to analyze the impacts of such a large project in tiers was not arbitrary or capricious. If every major federal action required the level of analysis proposed for the second tier for every alternative considered, public works could too easily

grind to a halt and become hopelessly mired in their own bureaucracy." *Id.* at \*20. Finally, the Court rejected claims against tiering, stating, "The use of tiering here does not violate NEPA or other environmental laws." *Id.* at \*25.

Another major objection was that the Corps did not complete an analysis of the least environmentally damaging practicable alternative. The commenters argue that this analysis should have been completed during Tier 1 NEPA studies and the Corps delayed completing it until Tier 2. The applicant responded that the Tier 1 FEIS contains an analysis of the least environmentally damaging practical alternative at the request of the Corps. The Corps, in a letter to FHWA dated September 25, 2003, "concurred with the findings in the FEIS that: (1) the selection of Alternative 3C as the preferred alternative is consistent with Section 404(b)(1) guidelines, and (2) the wetland analysis was satisfactory for purposes of Tier 1." Tier 1 FEIS at 5-198. The Corps also concurred with the two-tier EIS process and recommended further site assessment and construction measures be studied in Tier 2 to further avoid and minimize impacts to "waters of the U.S." The Corps stated that this analysis would satisfy Section 404(b)(1) guidelines to ensure that the construction method for each crossing of a "water of the U.S." is the least environmentally damaging practicable alternative when considering cost, existing technology and logistics in light of the overall project purpose.

PUBLIC HEARING DETERMINATION: Under 33 C.F.R. § 327.4(b) a request for public hearing is required to be granted, "unless the district engineer determines [in writing] that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing"; and the reasons for determining not to hold a public hearing are to be communicated to the requesting parties. Prior to issuance of the permit for the proposed activity on July 14, 2010, the requests for a public hearing were considered and a decision was made not to hold a public hearing. However, the determination was not put in writing and the requesting parties were not notified of the determination and reasons for the determination. The permit was suspended on September 7, 2010 to address these procedural errors. A determination not to hold a public hearing was made in writing on September 8, 2010 and the requesting parties were notified of the determination by letters dated September 10, 2010.

ENVIRONMENTAL CONSIDERATIONS: In my evaluation of the environmental effects of the work proposed in this permit application, the following items have been considered.

- a. The comments received from state and Federal agencies to the public notice.

- b. The comments received from Federally recognized tribes to the public notice.
- c. The comments received from individuals to this Public Notice.
- d. The project design including mitigation features and best management practices.
- e. The inspections of the proposed worksite and mitigation area made by members of the District on April 14, 2010. The field inspection report has been placed in the application file.
- f. Review of DA Permit No. LRL-2010-39-djd and supporting documentation.

In accordance with 33 CFR 320.4(a), the decision whether to issue a permit is based on an evaluation of the probable impacts including cumulative impacts, of the proposed activity and its intended use on the public interest. All factors that may be relevant to the proposal must be considered. The following sections provide a concise description of these factors and the effect this project would have on them.

#### Physical/Chemical Characteristics and Anticipated Changes

a. Substrate. Direct impacts to the substrate in Doans Creek, ephemeral and intermittent unnamed tributaries to Eagan Ditch and Doans Creek, and jurisdictional wetlands would consist of fill material being placed in these waters in order to construct six separate and complete crossings of Section 3 of the Interstate 69 Evansville to Indianapolis extension. The substrate at each crossing would be completely changed due to the fill.

The substrate composition at each of the crossings was identified using the U.S. Department of Agriculture's Web Soil Survey for Daviess or Greene County. The earthen fill material would comply with INDOT's 2010 Standard Specifications, which require borrow material to be "free of substances that will form deleterious deposits, or produce toxic concentrations or combinations that may be harmful to human, animal, plant or aquatic life, or otherwise impair the designation uses of the stream or area."

Substrate composition at Crossing 1 is dominated by Wakeland silt loam and Ivy silt loam. Approximately 1,680 linear feet of two unnamed tributaries to Eagan Ditch would be filled with 776 cys of clean earthen fill material and riprap.

Substrate composition at Crossing 2 is dominated by Ragsdale silt loam and Wakeland silt loam. Approximately 1,530 linear feet of two unnamed tributaries to Eagan Ditch would be filled with 2,215 cys of clean earthen fill material, riprap, and concrete.

Substrate composition at Crossing 3 is dominated by Negley Loam and Stendal silt loam. Approximately 1.61 acres of wetland would be filled with 64,037 cys of clean earthen fill.

Substrate composition at Crossing 4 is dominated by Hickory silt loam. Approximately 380 linear feet of an unnamed tributary to Doans Creek, 0.63 acres of wetland, and 0.91 acres of open water would be filled with 13,516 cys of clean earthen fill, riprap, and concrete.

Substrate composition at Crossing 5 is dominated by Hickory silt loam. Approximately 1,810 linear feet of unnamed tributaries to Doans Creek and 0.54 acre of wetland would be filled with 21,041 cys of clean earthen fill and riprap.

Substrate composition at Crossing 6 consists of several components including Ava silt loam, Cincinnati silt loam, Cuba silt loam, Gilpin-Wellston silt loam, Haymond silt loam, Hickory silt loam, Parke silt loam, Pike silt loam, and Steff Silt Loam. Approximately 1,695 linear feet of Doans Creek, 1,830 linear feet of its unnamed tributaries, 1.86 acres of wetland, and 0.05 acres of open water would be filled with 114,815 cys of clean earthen fill, concrete, and riprap.

The six crossings are part of a larger project, Section 3 of the Interstate 69 Evansville to Indianapolis extension. Section 3 traverses nine major soil associations: Ragsdale-Iva-Reeseville, Lyles-Ayrshire-Princeton, Haymond-Nolin-Petroila, Hosmer-Cincinnati-Iva, Bloomfield-Princeton-Ayrshire, Ava-Cincinnati-Vigo, Alvin-Bloomfield-Princeton, Bonnie-Stnedel, and Chetwynd-Hickory-Pike. Soils in Section 3 primarily consist of Wisconsin-age lake deposits of clay, silt and sand. Northeast of Elnora, the corridor passes through small areas of sand, silt and gravel from glacial outwash. Pre-Wisconsin-age till consisting of loam to sandy loam deposits exist at the very southern and northern ends of Section 3. Indirect and cumulative impacts from the proposed project to the substrate of jurisdictional waters and their immediately adjacent riparian corridor would consist of fill material being placed in a total of 5,245 linear feet of stream and 0.67 acre of wetland from the construction of the eighteen crossings that were verified as qualifying for Indiana RGP No. 1. The substrate at these crossings would be completely and permanently changed due to the fill material.

b. Currents, Circulation or Drainage Patterns. The construction of the proposed crossings would have no adverse effect on existing current or circulation patterns. The waters that would be impacted are not large enough to have currents or circulation patterns. Only minimal adverse effect to drainage patterns is expected.

The unnamed tributaries to Eagan Ditch located at Crossings 1 and 2 receive runoff from the surrounding agricultural fields. Crossing 1 would consist of pipe culverts and Crossing 2 would bridge the

tributaries with culverts. A portion of one of the tributaries at Crossing 2 would be relocated.

The depressional wetland at Crossing 3 receives runoff from adjacent agricultural fields and flows through a small stream to First Creek. The wetland would be filled for the construction of the highway.

The unnamed tributary to Doans Creek, wetland, and pond at Crossing 4 receive runoff from surrounding agricultural fields. The wetland and pond would be filled and the stream would be relocated.

The unnamed tributaries to Doans Creek and wetland at Crossing 5 receive runoff from surrounding agricultural fields. The tributaries would be relocated and the wetland would be filled.

Doans Creek, unnamed tributaries to Doans Creek, wetlands, and pond at Crossing 6 receive runoff from surrounding wooded and agricultural areas. The wetlands would be filled and the streams would be culverted, bridged, or relocated.

The indirect and cumulative impacts of runoff from the entire length of Section 3 would be similar to that from the six crossings considered in this decision document. All runoff from the proposed highway would be directed through grassy swales to relocated tributaries or roadside ditches, ensuring minimal change in flow. The tributaries or ditches along the corridor would continue to flow to their respective streams.

c. Suspended Particulates; Turbidity. There would be an increase in turbidity during the construction phase at the six crossings since fill material would be placed into existing streams and wetlands containing standing water. However, this impact would be short term, not lasting beyond the construction phase of this project. Erosion control measures would be implemented on site to protect the waterways from receiving increased sedimentation from the surrounding work area. Grassy swales would be constructed between Interstate 69 and ditches or streams to collect particulates from runoff and reduce turbidity in downstream waters.

The indirect and cumulative impacts to turbidity from the 18 crossings approved under Indian RGP No. 1 would be similar to those at the six crossings considered in this decision document. Fill material placed into streams and wetlands at the other crossings would cause a temporary increase in turbidity. Erosion control measures and the construction of grassy swales would minimize the impacts.

d. Water Quality. (Temperature and other parameters) During construction, fill material would be placed in wetlands at Crossings 3, 4, 5, and 6. Since these waters would be eliminated as a result of the proposed project, water quality impacts would be considered long-term adverse impacts. The applicant has proposed mitigation for wetland

impacts from these crossings through wetland creation at the Cornelius Mitigation Site. Water quality impacts to streams would be limited to the construction period and would be considered temporary. Best management practices would be utilized to stabilize the fill and minimize water quality impacts to adjacent streams.

Along the entire length of Section 3, the Corps verified that eighteen crossings of "waters of the U.S." qualified for Indiana RGP No. 1. One of these crossings involves the placement of fill into a wetland. Water quality impacts at this site would be long-term adverse impacts and will to be mitigated for with additional wetland creation/restoration at the Cornelius Mitigation Site. The other crossings are all stream crossings. As with the proposed crossings, water quality impacts associated with these crossing would be short-term impacts limited to the construction period; and best management practices would be utilized to minimize impacts.

Some commenters were concerned with the composition of the proposed fill material and the possibility of contaminated earthen fill being used for the proposed projects. While the source of fill material has not been identified, the earthen fill material would comply with INDOT's 2010 Standard Specifications, which require borrow material to be "free of substances that will form deleterious deposits, or produce toxic concentrations or combinations that may be harmful to human, animal, plant or aquatic life, or otherwise impair the designation uses of the stream or area". Therefore, in accordance with 40 CFR 230.60(c), no chemical or biological testing is required to make the factual determination of this fill material.

e. Flood Control Functions. The proposed crossings would be sized appropriately to allow the unimpeded flow of Doans Creek and the unnamed tributaries to Eagan Ditch and Doans Creek. The flood control functions provided by the existing wetlands at Crossings 3, 4, 5, and 6 would be mitigated through the creation of wetlands at the Cornelius Mitigation Site, which is located in the same 8-digit HUC watershed. The proposed crossings should not adversely affect existing flood control functions.

The 18 crossings of "waters of the U.S." authorized under Indiana RGP 1 along Section 3 will be sized so that the 100-year floodway elevations would not be substantially affected. There would be no indirect or cumulative adverse effect on flood control functions from these crossings.

f. Storm, Wave and Erosion Buffers. Storm, wave, and erosion buffers would not be applicable to the proposal since none of the proposed crossings on Section 3 would be located on a lake, river system, or other large waterbody that would be subject to wave action or scour.

g. Erosion and Accretion Patterns. No adverse effect to erosion and accretion rates or patterns is expected from any of the crossings in

Section 3. Erosion control measures would be implemented on the worksites to protect the waterways from receiving increased sedimentation from the work area.

h. Aquifer Recharge. There are both bedrock (consolidated) and unconsolidated aquifers in the Section 3 area. The bedrock systems are, from west to east and youngest to oldest: Carbondale Group of Pennsylvanian age; Raccoon Creek Group of Pennsylvanian age; and Buffalo Wallow, Stephensport, and west Baden Groups of Missisipian age. Some deeper wells along the eastern edge of the county penetrate through the Raccoon Creek Group and into this aquifer system.

The unconsolidated aquifers underlying the Section 3 corridor are the Dissected Till and Residuum; The Alluvial, Lacustrine, and Backwater Deposits; the Pre-Wisconsin Drift; the White River and Tributaries Outwash; the White River and Tributaries Outwash Subsystem; and the Coal Mine Spoil. These aquifers vary in thickness, susceptibility to surface contamination, and potential for domestic and/or commercial well use. The proposed six crossings would have no impact on aquifer recharge. Neither the proposed six crossings nor the entire length of Section 3 would create areas of impermeable surfaces large enough to have an adverse effect on aquifer recharge.

i. Baseflow. The proposed six crossings would have a minimal effect on the baseflow of Doans Creek and the unnamed tributaries to Doans Creek and Eagan Ditch. Any amount of additional flow resulting from runoff would be minimal since grassy swales would be constructed to receive stormwater runoff. Since grassy swales would be constructed at all crossings along the entire length of Section 3, the entire length of this section would have minimal effect on baseflow of adjacent streams.

j. Mixing Zone. This factor deals with the discharge of dredged material only. It relates to the depth of water at the disposal site; current velocity, direction and variability at the disposal site; degree of turbulence; water column stratification; discharge vessel speed and direction; rate of discharge; dredged material characteristics; number of discharges per unit of time; and any other relevant factors affecting rates and patterns of mixing. There would be no direct, indirect, or cumulative impacts on this factor since the construction of the proposed six crossings and the 18 crossings authorized under Indiana RGP No. 1 do not involve the discharge of dredge material.

### Biological Characteristics and Anticipated Changes

a. Special Aquatic Sites. The proposed construction of the six crossings would result in fill material being discharged into a total of 0.96 acres of open water, 2.41 acres of emergent wetland, 0.63 acres of scrub-shrub wetland, and 1.6 acres of forested wetlands. The existing wetlands provide a limited surface water storage function, but very limited or no flood protection is provided because the wetlands are

restricted to a relatively small, localized portion of the watershed. Some subsurface water storage and groundwater recharge occurs, but this function is also limited. The wetland hydrology is primarily driven by precipitation and overland flow. The wetlands would also be expected to provide functions relating to nutrient transformations and processing, biomass accumulation, and decomposition. The wetlands also provide habitat for wildlife.

In addition to the six crossings, the construction of Section 3 would result in the placement of fill in 0.67 acres of forested wetland at a crossing over an unnamed tributary to First Creek that was verified as qualifying for the Indiana RGP No. 1 with special conditions. This wetland is similar to those that would be impacted at the six crossings, providing wildlife habitat and very limited flood protection and subsurface water storage.

Compensation for all of wetland impacts would be provided through wetland creation at the off-site Cornelius Mitigation Site, which is located within the same USGS 8-digit HUC watershed (Lower White) as the proposed impacts and is adjacent to the White River in southern Greene County. A total of 4.8 acres of emergent wetland, 1.9 acres of scrub-shrub wetland, and 4.8 acres of forested wetland would be restored or created as mitigation for the impacts from the six crossings. An additional 2 acres of forested wetland restoration or creation was required in a special condition of Indiana RGP No. 1 as mitigation for the impacts from the crossing over an unnamed tributary to First Creek.

In response to the Public Notice, the Corps received comments that questioned the appropriateness of using credits from a mitigation bank to compensate for the proposed impacts to wetlands. Since mitigation banks involve large parcels and require rigorous scientific and technical analysis, current regulations (33 CFR 332.3(b)) direct the Corps to give preference to the use of bank credits when they are available. However, due to time constraints resulting from the applicant's compressed construction schedule, the Corps determined that the banking instrument would not allow the release of enough credits in advance of impacts in Sections 2 and 3. Therefore, the Corps terminated the Umbrella Mitigation Bank instrument. The sites and plans for the Cornelius Mitigation Site that were included as an appendix to the Umbrella Mitigation Bank are appropriate mitigation and would be acceptable as permittee-responsible mitigation for impacts in Section 3.

b. Habitat for Fish and Other Aquatic Organisms. Doans Creek and two of its unnamed intermittent tributaries have substrates that contain gravel. These areas would provide the necessary habitat for some fish species including darters, chubs, stonerollers, and shiners. The proposed project would relocate these streams into channels with natural stream characteristics which would provide the same substrate and habitat quality for fish species. Approximately 2,120 linear feet of ephemeral stream that would be relocated for construction of the six crossings are

currently agricultural ditches with the sole function of transporting stormwater. These ditches would be relocated and would have the same function and quality, therefore, these impacts were considered to be self-mitigating. For the remaining 6,805 linear feet of stream that would be impacted from the six crossings, the applicant proposes to create or restore 6,805 linear feet of stream at the Cornelius Mitigation Site as mitigation.

Habitat for aquatic organisms adapted to living in the seasonally flooded pools in the wetlands proposed to be filled would be eliminated by the project. This minor adverse impact would be minimized by the proposed wetland mitigation. The proposal would result in only minimal loss of benthic life from the fill activity within Doans Creek, the unnamed tributaries to Eagans Ditch and Doans Creek, and jurisdictional wetlands.

In addition to the impacts from the proposed six crossings, the construction of Section 3 would impact aquatic habitat at crossings over Vertrees Ditch and First Creek and at a forested wetland. Compensation for impacts to aquatic habitat in the streams throughout the Section 3 corridor would be provided by the creation/restoration of streams at the Cornelius Mitigation Site. A total of 12,265 linear feet of stream would be created or restored as mitigation for direct impacts to 6,805 linear feet of stream resulting from the six crossings covered in this decision document and for indirect and cumulative impacts to 4,785 linear feet of stream resulting from the fifteen crossings that were verified as qualifying for Indiana RGP No. 1 with special conditions.

c. Wildlife Habitat. Crossings 1, 2, 3, and 4 are located in agricultural areas with low wildlife habitat value. Crossings 5 and 6 are located in wooded areas that are surrounded by agriculture. The wooded areas provide habitat for fish, avifauna, reptiles, rodents and other small mammals, and large mammals such as deer. The remainder of the crossings in the Section 3 corridor are mainly located in agricultural areas. There would be a loss of some upland forest habitat in connection with the construction of crossings 5 and 6. The loss associated with these two crossings would be mitigated. The mitigation would be part of the overall mitigation for loss of upland forest habitat for the entire Section 3 alignment, which consists of the creation of 194.4 acres and the preservation of 77.8 acres of forested habitat. This habitat combined with the habitat provided by the wetland and stream mitigation would provide adequate compensation for lost wildlife habitat resources although local wildlife communities would suffer long-term negative impacts. Wildlife communities in the area of the mitigation sites would benefit.

d. Endangered or Threatened Species. During the applicant's coordination for the Tier 1 NEPA studies, the USFWS indicated that the proposed Interstate 69 corridor is within the range of the Federally-listed endangered Indiana bat (*Myotis sodalis*) and Eastern fanshell mussel (*Cyprogenia stegaria*) and the Federally protected bald eagle

(*Haliaeetus leucocephalus*). USFWS issued a Revised Programmatic Biological Opinion (BO) for Tier 1 on August 24, 2006, which indicated that the Interstate 69 project is "not likely to adversely affect the eastern fanshell mussel" and "is still likely to adversely affect but not jeopardize the bald eagle". Regarding the Indiana bat, USFWS concluded the proposed project "is not likely to jeopardize the continued existence of the Indiana bat and is not likely to adversely modify the bat's designated Critical Habitat."

The Tier 1 USFWS BO contained an "incidental take" statement that included reasonable and prudent measures necessary and appropriate to minimize take of Indiana bats.

During coordination of NEPA studies for Section 3 Tier 2, USFWS prepared an individual BO as a stand-alone document that "tiers" back to the Tier 1 BO. The Section 3 Tier 2 BO contains an "incidental take" statement with additional reasonable and prudent measures that would be implemented along with the Tier 1 measures to minimize incidental take of Indiana bats. The issuance of the Tier 2 BO concluded formal Section 7 consultation in Section 3.

The applicant coordinated with the Indiana Department of Natural Resources to determine potential impacts on state-listed species. State listed-species that were determined to potentially be impacted by the proposed crossings are the state-listed endangered Lakecress (*Neobeckia aquatica*), Maryland meadowbeauty (*Rhexia mariana* var. *mariana*), Indiana bat (*Myotis sodalis*), Evening bat (*Nycticeius humeralis*), Copperbelly water snake (*Nerodia erythrogaster neglecta*), and Eastern mud turtle (*Kinosternon subrubrum*); and the state-listed species of special concern Red-shouldered hawk (*Buteo lineatus*), Little brown bat (*Myotis lucifugus*), Eastern pipistrelle (*Perimyotis subflavus*), Eastern red bat (*Lasiurus borealis*), Northern myotis (*Myotis septentrionalis*), and Rough green snake (*Opheodrys aestivus*).

The applicant assessed the potential for effect on state-listed species by assessing the suitability of habitat in the project area and conducting field surveys. The potential for impacting most of the state-listed species was determined to be low since these species were not observed during field surveys and appropriate habitat did not exist within the project corridor. There is potential for impacts to the state-listed endangered Lakecress, Maryland meadowbeauty, Evening bat, Indiana bat, Copperbelly water snake, and Eastern mud turtle, because appropriate habitat for each of these turtles would be impacted by the proposed crossings.

In response to the Public Notice, the Corps received a comment regarding the Eastern box turtle (*Terrapene Carolina*), which is a state-listed species of special concern that the Indiana Department of Natural Resources does not consider to be present in Daviess or Greene Counties. The commenter was specifically concerned about the impact of Crossing 6,

in the area where County Road 710 South currently crosses US Route 231. INDOT has not made commitments to find and relocate box turtles in Section 3.

e. Biological availability of possible contaminants in dredged or fill material. Considering hydrography in relation to known or anticipated sources of contaminants; results of previous testing of material from vicinity of the project; known significant sources of persistent pesticides from land runoff or percolation; spill records for petroleum products or designated (Section 311 of the CWA) hazardous substances; other public records of significant introduction of contaminants from industries, municipalities or other sources: While the source of fill material has not been identified, the earthen fill material would comply with INDOT's 2010 Standard Specifications, which require borrow material to be "free of substances that will form deleterious deposits, or produce toxic concentrations or combinations that may be harmful to human, animal, plant or aquatic life, or otherwise impair the designation uses of the stream or area". Therefore, in accordance with 40 CFR 230.60, no chemical or biological testing is required to make the factual determination of this fill material. There is no known or reasonable probability of chemical contamination that would require chemical, biological, or physical testing as outlined in 40 CFR 230.61.

#### Human Use Characteristics and Impacts

a. Existing and Potential Water Supplies; Water Conservation. Municipally-owned water utilities serve the cities of Washington, Elnora, Montgomery, and Odon, primarily with wells averaging 100 feet in depth. The City of Washington's water lines do not reach the proposed Interstate 69 corridor. Daviess County Rural Water purchases its water from Washington and provides water to most rural areas of Daviess County including the project area north to approximately Daviess County Road 1650 North. Odon's water lines extend from the west through the Section 3 corridor towards Odon. Eastern Heights Utilities, Inc. in Bloomfield provides water to the proposed US 231 interchange area. Any utility relocation plans required in connection with the crossings would be coordinated with the utility companies during the final design phase of the project.

No public water wells would be impacted by the construction of Section 3. There are twelve private ground-water wells within the Section 3 right-of-way. Crossings 2 and 6 are located close to private wells. The proposed construction of these crossings would have the effect of increasing road runoff and surface spills which could seep into the ground water and affect drinking water from the wells. INDOT would cap all private wells in the right-of-way including the wells near Crossings 2 and 6. The wells would no longer act as a water supply.

b. Water Related Recreation. There are no known recreational areas existing at the proposed crossings or along the remainder of the Section 3 corridor. This project would have no effect on water related recreation.

c. Aesthetics. Some commenters expressed concerns about the proposed project's impacts on the area's aesthetics. The proposed crossings would result in both temporary and permanent visual impacts. Temporary impacts include the sighting of construction equipment and the clearing of areas to construct the crossings. These would be mitigated by limiting vegetation clearing to the area in the construction limits and quick re-vegetation upon completion of construction. Permanent impacts would include the conversion of forests, wetlands, farmland, and rural landscapes to an Interstate highway.

Crossings 1, 2, 3, and 4 are in a rural environment with viewshed typical of agricultural land use in the region. This land use typically contains level to rolling field of crops, pastures, water features including creeks and ditches, and occasional forested areas interspersed with rural residences. Crossings 5 and 6 are located in an area with both wooded and agricultural land.

Section 3 would be constructed as an elevated roadway, obstructing the view in the relatively flat and open areas. There are residences located within 2,000 feet of Crossings 2, 3, 4, and 5. There would be adverse visual impact due to the proximity of the new road, the effects of traffic, and the loss of trees and shrubs. Lighting may be provided for the proposed interchange at US Route 231, which is located at Crossing 6. Lighting would not be used at any of the other crossings.

Indirect visual impacts would be expected as the result of induced development projected to occur at the interchanges of US 50 Route (near Crossing 1) and US Route 231 (Crossing 6). The development at US Route 50 would be near the east side of the City of Washington in an area that is currently used for agriculture but is zoned as residential, roadside business, industrial, and planned unit development. The development near US Route 231 would be south of the proposed interchange in Crane Technology Park. The commercial/industrial lighting and signage mounted on tall structures would alter the wooded and agricultural viewshed.

The other crossings in the Section 3 corridor are dominated by cultivated land. There are also some wooded areas, fencerows and ditches or streams interspersed throughout the area. Most of the residents live on lots surrounded by cultivated fields. The indirect and cumulative visual impacts would be similar to those at the six crossings covered in this decision document. If constructed, the aesthetic impacts of the proposed project would be permanent. However, the aesthetic qualities of the project are a matter of personal preference and may vary among individuals.

The applicant would mitigate for the aesthetic impacts by incorporating context sensitive solutions, an approach involving all stakeholders to "develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic, and environmental resources, while maintaining safety and mobility." Examples would include planting wildflowers as roadside enhancements and planting shrubs or trees to help screen the roadway. In addition, non-diffuse lighting would be considered, where appropriate.

d. Parks, National and Historic Monuments, Wild and Scenic Rivers, Wilderness Areas, Research Sites, Etc. There are no known parks, National or historic monuments, designated or study wild and scenic rivers, wilderness areas, or research areas existing in the proximity of the Section 3 corridor. Therefore, there would be no impact to such sites from the proposed project.

e. Traffic/Transportation Patterns. The proposed crossings for Section 3 would be part of the Interstate 69 Evansville to Indianapolis extension. For the design year 2030, Interstate 69 is forecasted to have average daily traffic (ADT) of 21,761 vehicles per day (VPD) between US Route 50 and SR 58 and 19,614 VPD between SR 58 and US Route 231. The construction of Section 3 would cause a decrease in traffic along SR 57 between the City of Washington and the Town of Elnora, along SR 58 east of Daviess CR 900 East, along Daviess CRs 900 East, 900 North, 400 North, and 350 East, and SR 45/SR 58. There would be an increase in traffic on SR 57 north of Elnora, SR 58 between SR58/SR 358 junction and SR 57 in Elnora, Daviess CR 500 East south of SR 58, and the US 231 corridor south of SR 45/SR 58. These changes are necessary to achieve the proposed project's purposes of strengthening the transportation network in southwest Indiana and completing the National Interstate 69 Project between Evansville and Indianapolis.

In response to the Public Notice, the Corps received a comment expressing concern about the potential of local traffic congestion as a result of the proposed project. Some local roads would experience higher traffic volumes while others would have less. The largest projected increase in traffic volume would occur on SR 58, north of the SR 58/SR 358 junction. In 2030, the ADT along this section of SR 58 is projected to be 1,098 VPD with no project and 3,522 with the proposed project. SR 58 is a major State Route which is designed to handle the projected traffic volume, the increase in traffic would not cause congestion under normal circumstances. All other projected increases are lower and no local congestion is anticipated from the construction of Section 3. All impacts to traffic and transportation patterns would be permanent.

f. Energy Consumption or Generation. The proposed crossings and the construction of Section 3 would lead to an increase in the energy consumed by vehicle travel in the project area. The increase in roadway miles and diversion of through traffic from outside the Interstate 69 corridor would result in an increase of total vehicle-miles of travel in

the project area. The increase in energy consumption is necessary to achieve the project's purposes. These impacts would be permanent.

g. Navigation. The streams in Section 3, including Doans Creek and the unnamed tributaries to Eagan Ditch and Doans Creek, are not "navigable waters of the United States" as outlined in 33 CFR 329.14. There would be no adverse effect to commercial or recreational navigation.

h. Safety. The proposed crossings are part of a larger project that would improve traffic safety by reducing the number of automobile crashes. The proposed Interstate 69 extension is projected to reduce the annual number of crashes in the Section 3 area by 1% despite a large increase in vehicle miles travelled. The impact of the project on safety, if constructed, would be positive and long-term.

i. Air Quality. Several commenters were concerned with the potential increase in air pollution. Daviess County is in attainment for all National Ambient Air Quality Standards (NAAQS) under the Clean Air Act (CAA). Greene County has been designated an 8-hour ozone maintenance area under CAA. For the Tier 2 Section 3 FEIS, FHWA and INDOT completed a conformity determination pursuant to Section 176(c) CAA. USEPA and IDEM found that the analysis appears to conform to the emission budgets established by the Indiana State Implementation Plan (SIP) as required by the conformity rule. The proposed crossings are in compliance with the CAA, therefore, no significant adverse impacts to air quality are anticipated.

j. Noise. The proposed crossings would be located in rural areas and nearby communities would experience an increase in levels of construction-related noise temporarily and highway-related noise in the long-term. FHWA and INDOT conducted an analysis of noise impacts for the Tier 2 Section 3 EIS. Noise level modeling demonstrated that three locations along the entire Section 3 alignment had modeled noise levels exceeding the Substantial Increase Criterion of 62 dBA  $L_{eq}$ , but none of these locations had modeled noise levels of 15 dBA greater than Noise Abatement Criterion of 67 dBA  $L_{eq}$ ; therefore, they are not characterized as severely impacted. None of the proposed 6 crossings are located in an area exceeding the Substantial Noise Criterion.

k. Historic Properties. Several commenters were concerned with the adequacy of the Section 106 process. FHWA and INDOT evaluated historic properties in accordance with Section 106, National Historic Preservation Act (NHPA) of 1966, as amended and 36 CFR Part 800.

Nineteen previously recorded archaeological sites were identified within the Area of Potential Effects (APE) for the entire Section 3 corridor. Eleven of these sites were re-identified at their previously recorded locations through the Phase Ia archaeological investigations. Based on consultation with IDNR-Division of Historic Preservation and Archaeology

(DHPA), no attempt was made to re-survey four previously recorded isolated finds and three previously recorded sites initially identified as a result of a coal permit survey. Finally, extensive surface survey and shovel testing failed to locate one site, which was previously recorded as being located on the edge of the APE.

The Phase Ia survey identified an additional fifty-eight sites within the APE including twenty-eight prehistoric sites, eighteen historic sites, and twenty-three sites with both prehistoric and historic components. Six of these sites were recommended for additional investigations or avoidance. One of the recommended sites would be impacted by Crossing 2. Three of the recommended sites would be impacted by crossings that qualified for Indiana RGP No. 1. In addition to these sites, alluvial soils at First Creek were determined to have the potential to contain buried archaeological deposits.

Phase II investigations have been completed at two of the six sites recommended for additional investigations and DHPA concurred that the portions of those sites within the APE are not eligible for NRHP listing. Commitments for completion of the Phase II evaluation of the remaining four sites as well as a Phase Ic evaluation at First Creek have been developed in a Memorandum of Agreement (MOA). If results of additional testing show that Phase III Archaeological Mitigation would be warranted, that work would be completed, in consultation with the Indiana State Historic Preservation Officer (SHPO), before construction on the project could begin at that site.

The proposed crossings would not adversely affect any aboveground historic property. Along the entire corridor of Section 3, it was determined that the proposed highway construction would have an adverse visual effect on one National Register-Eligible property, the McCall Family Farmstead. None of the six proposed crossings are located near this property. One of the crossings that qualified for Indiana RGP No. 1 is in this area. Potential impacts to this property are addressed in the MOA.

1. Land Use Classification. The proposed crossings would have a direct impact of using property that is currently agricultural or wooded for Interstate 69 right-of-way. Daviess County does not have a comprehensive plan or land use controls. Greene County's comprehensive plan includes planning for development near the Interstate 69 and US 231 interchange (Crossing 6). The City of Washington's (near Crossing 1) Comprehensive Plan recognizes the changes and land use associated with Interstate 69. The entire corridor of Section 3, including the six crossings, has been incorporated into local land use classifications.

m. Economics. Direct socio-economic impacts of the proposed crossings, would include the loss of farm income due to the removal of farmland from production, project cost, increased employment during construction, annual maintenance and operation costs, changes in the

local property tax base as a result of taking taxable property for public right-of-way, and changes in property values due to improved or diminished access or exposure. The proposed crossings would have the indirect socio-economic impact of increased business and employment associated with changes in land use due to development induced by improved access. Socio-economic benefits associated with the improved highway access would go to the travelling public, commercial trucking companies, and the residents of Southwest Indiana and would be long-term.

n. Prime and Unique Farmland. (7 CFR Part 658) There are no known prime and/or unique farmlands in the area of the proposed crossings. Therefore, the crossings would have no direct effect on prime or unique farm land. The entire Section 3 corridor would convert approximately 1,220 acres of prime and unique farmland to an Interstate Highway. Some of the crossings authorized under Indiana RGP No. 1 may impact some of this prime and unique farmland. These impacts are necessary to attain the project goals. The Natural Resources Conservation Service (NRCS) assessed impacts to farmlands for the Tier 2 Section 3 FEIS and determined that the proposed alignment would have no significant impact to farmland.

o. Food and Fiber Production. The proposed crossings would have an adverse impact on food and/or fiber production. The riparian corridors immediately adjacent to some of the streams at the proposed crossings and the 18 crossings authorized under Indiana RGP No. 1 have been cultivated. Construction within the riparian corridor of these streams would result in some loss of acres harvested. Impacts to farmland were unavoidable and were minimized by following property lines to avoid/minimize severances, crossing fields at perpendicular angles to avoid/minimize point rows, providing access to parcels that would otherwise be landlocked, and maintaining the connectivity of county crossroads. These impacts would be permanent.

p. General Water Quality. The Corps received several comments concerning the potential impact of road runoff to water quality in area streams. There would be minimal adverse effect on the general water quality of Doans Creek and the unnamed tributaries to Eagan Ditch and Doans Creek resulting from the proposed crossings. Along the entire Section 3 corridor, stormwater flow from the road would be directed through grassy swales to the relocated tributaries and roadside ditches. The swales would act to filter contaminants from the runoff, reducing the level of contaminants reaching the tributary systems. The applicant has received a Section 401 Water Quality Certification for Section 3, indicating that the project is in compliance with State water quality standards.

q. Mineral Needs. Crossings 1, 3, 4, 5, and 6 would have no impact on mineral needs as no known mineral resources exist within the area of those proposed crossings. The construction of Section 3 would result in the loss of a total of 22 acres of permitted coal mining area. This area

would be impacted by Crossing 2 and three crossings that qualified for Indiana RGP No. 1. Impacts to permitted coal mining areas were unavoidable. The applicant would mitigate for these impacts by compensating property owners/interest owners at fair market value.

r. Consideration of Private Property. Along the entire Section 3 right of way, owners of 14 parcels declined INDOT's offer to purchase their acreage. These 14 parcels represent 187 acres of the 1,680 total acres in the Section 3 right of way. These parcels would be condemned. Two of these parcels, which are owned by the same company, are located in Crossing 6 and one parcel is located in Crossing 2. The parcels impacted by Crossings 2 and 6 would have been impacted by all of the project alternatives with the exception of the no-action alternative. Since the 14 parcels represent a small percentage of total area needed for Section 3, the project would have a minimal impact on private property.

The adjoining property owners were mailed a copy of the public notice to provide an opportunity for comment. No comments were received. Adjoining property owners should not be adversely affected by the proposed crossings.

s. Cumulative and Secondary Impacts. The proposed crossings are part of the construction of a new interstate highway, which would encourage commercial and/or residential development, particularly those associated with interchanges. Greene County has a Comprehensive Plan and a Daviess County Land Use Plan is under development. These tools would provide guidance for land use changes in and around the proposed highway corridor and provide support for the continuance of agricultural land uses throughout most of the project area. Any future development involving the placement of dredged or fill material into jurisdictional waters of the U.S. would require authorization under Section 404 of the CWA.

A search of projects in the Corps's ORM database was conducted for the area surrounding the Section 3 corridor. There have been 6 projects that qualified for Indiana RGP No. 1 in the area; five were projects on existing roads or bridges and one was a project at the Daviess County Airport. These projects had minimal impacts to "waters of the U.S." and mainly consisted of repairing or replacing existing infrastructure. There was one Standard Permit issued by the Corps in the area for a surface coal mine. This project would impact streams and wetlands to the east of the Interstate 69 alignment.

The indirect and cumulative impacts to streams and wetlands and other environmental and socioeconomic resources associated with the placement of fill in "waters of the U.S." and their immediate adjacent corridor from construction of Section 3 that are not a direct result of the proposed crossings have been discussed throughout the document. Adverse effects to streams, wetlands and upland forests have been minimized by the project design and would be mitigated though proposed stream and

wetland mitigation and forest mitigation.

t. Environmental Justice. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," provides that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." In its comment letter on the Tier 1 Draft EIS, USEPA concurred that "the initial environmental review shows that none of the alternatives would have a disproportionately high and adverse effect on minority and low-income populations in the Study Area." The applicant completed further environmental justice review for the Section 3 Tier 2 FEIS and determined that none of the alternatives for Section 3 would have disproportionately high or adverse effects on minority or low-income populations in the Section 3 area. No impacts to minority or low-income populations are anticipated to result from this decision.

u. Other. No other factors were considered for the proposed project.

#### Public Interest Considerations

a. The relative extent of the public and private need for the proposed work:

The public and private need for the proposed project is to provide improved regional accessibility and Interstate and international movement of freight. The proposal would provide employment during construction and after for maintenance of the proposed crossings. Indirectly, the changes in land use due to development induced by improved access are expected to yield an increase in business and employment.

b. The practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work:

As discussed in the alternatives section, the proposed project has fewer impacts to aquatic resources than any of the other practicable alternatives.

c. The extent and permanence of the beneficial and/or detrimental effects the proposed structures or work may have on the public and private uses to which the area is suited:

The proposed crossings would be located in agricultural fields and wooded areas. These areas are currently privately owned and they would be converted to a public Interstate. The proposed crossings include 5.6 acres of wetland and open water that would be cleared and filled and 6,805 linear feet of stream that would be relocated, culverted, and/or

lined with riprap to facilitate the construction of the Interstate. In addition to the impacts from the six crossings, the construction of Section 3 would impact 0.67 acre of wetland and 5,240 linear feet of stream. To offset the wetland and stream losses the applicant would create/restore wetland and stream at the Cornelius Mitigation Site.

DETERMINATIONS AND CONCLUSION: I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application as well as the stated views of other interested agencies and the concerned public. In doing so, I have considered the possible consequences of this proposed work in accordance with regulations published in 33 CFR Parts 320 to 330 and 40 CFR Part 230. The following paragraphs conclude my evaluation of how the project complies with the above cited regulations.

The proposed disposal is in compliance with the 404 (b) (1) guidelines as outlined in 40 CFR 230 with inclusion of the mitigation features in the project or as specified within. See Appendix A. Since nothing within the scope of this review would dictate denial of the subject application in accordance with Section 404 CWA, evaluation pursuant to Section 404 (b) (2) CWA of the economic impact of denial on navigation and anchorage is not required.

The mitigation plan addresses concerns regarding construction, performance standards, and success criteria of the proposed mitigation site which is embodied in the "Cornelius Mitigation and Monitoring Plan" dated January 5, 2010. The applicant will be required to create or restore 11.5 acres of wetland mitigation and 6,850 linear feet of stream as a condition of this permit, if issued.

From the foregoing considerations, it is my finding that issuance or denial of the requested permit would not constitute a major Federal action that would significantly affect the quality of the human environment. This constitutes a Finding of No Significant Impact (FONSI). As a consequence, I find that an Environmental Impact Statement is not required by the provisions of Section 102 of the National Environmental Policy Act, Public Law 91-190, or 42 U.S.C. 4332, or by the applicable implementing Corps of Engineers regulations and guidance. This FONSI was prepared in accordance with paragraph 7a of Appendix B 33 CFR 325 dated 3 February 1988 (effective 4 March 1988).

In summary, I find that all administrative requirements have been met, the proposed project is environmentally sustainable, and that issuance of the permit, properly conditioned, would not be contrary to the public interest. Therefore, I have decided to re-instate Department of the Army permit No. LRL-2010-39-djd, which is subject to all Standard Conditions and the following Special Conditions:

1. The permittee shall create or restore 6,805 linear feet of stream and 11.5 acres of wetland to include 4.8 acres of emergent, 1.9 acres of

scrub-shrub, and 4.8 acres of forested wetland in accordance with the "Cornelius Mitigation and Monitoring Plan" dated January 5, 2010.

2. This Corps permit does not authorize you to take an endangered species, in particular the Indiana bat (*Myotis sodalis*). In order to legally take a listed species, you must have separate authorization under the ESA (e.g., an ESA Section 10 permit, or a BO under ESA Section 4, with "incidental take" provisions with which you must comply). The enclosed USFWS BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

3. The enclosed Memorandum of Agreement (MOA) between the FHWA and the Indiana SHPO includes measures to be implemented in order to take into account the effect of the project on historic properties. Your authorization under this Corps permit is conditional upon your compliance with all of the terms and conditions associated with the MOA, which are incorporated by reference in this permit. Failure to comply with the MOA would constitute non-compliance with your Corps permit.

4. The Completion Certification form accompanying the issued DA permit shall be completed and returned to this office upon completion of the work.



KEITH A. LANOBY  
Colonel, Corps of Engineers  
Commander and District Engineer

DATE SIGNED:

SEP 15 2010

APPENDIX A

Evaluation of Compliance with Section 404 (b) (1) guidelines (restrictions on discharge, 40 CFR 230.10). (A check in a block denoted by an asterisk indicates that the project does not comply with the guidelines.):

1) Alternatives test:

Yes\*  No

i) Based on the alternatives discussion, are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the United States" or at other locations within these waters?

Yes  No\*  NA

ii) Based on the alternatives discussion, if the project is in a special aquatic site and is not water dependent, has the applicant clearly demonstrated that there are no practicable alternative sites available?

2) Special restrictions. Will the discharge:

Yes\*  No

i) Violate state water quality standards?

Yes\*  No

ii) Violate toxic effluent standards (under Section 307 of the Act)?

Yes\*  No

iii) Jeopardize endangered or threatened species or their critical habitat?

Yes\*  No

iv) Violate standards set by the Department of Commerce to protect marine sanctuaries?

Yes  No\*

v) Evaluation of the above information indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s).

( ) based on the above information, the material is not a carrier of contaminants.

(X) the levels of contaminants are substantially similar at the extraction

and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas.

( ) acceptable constraints are available and will be implemented to reduce contamination to acceptable levels within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site.

3) Other restrictions. Will the discharge contribute to significant degradation of "waters of the United States" through adverse impacts to:

Yes\*  No

i) Human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife, and special aquatic sites?

Yes\*  No

ii) Life states of aquatic life and other wildlife?

Yes\*  No

iii) Diversity, productivity and stability of the aquatic ecosystem, such as loss of fish or wildlife habitat, or loss of the capacity of wetlands to assimilate nutrients, purify water or reduce wave energy?

Yes\*  No

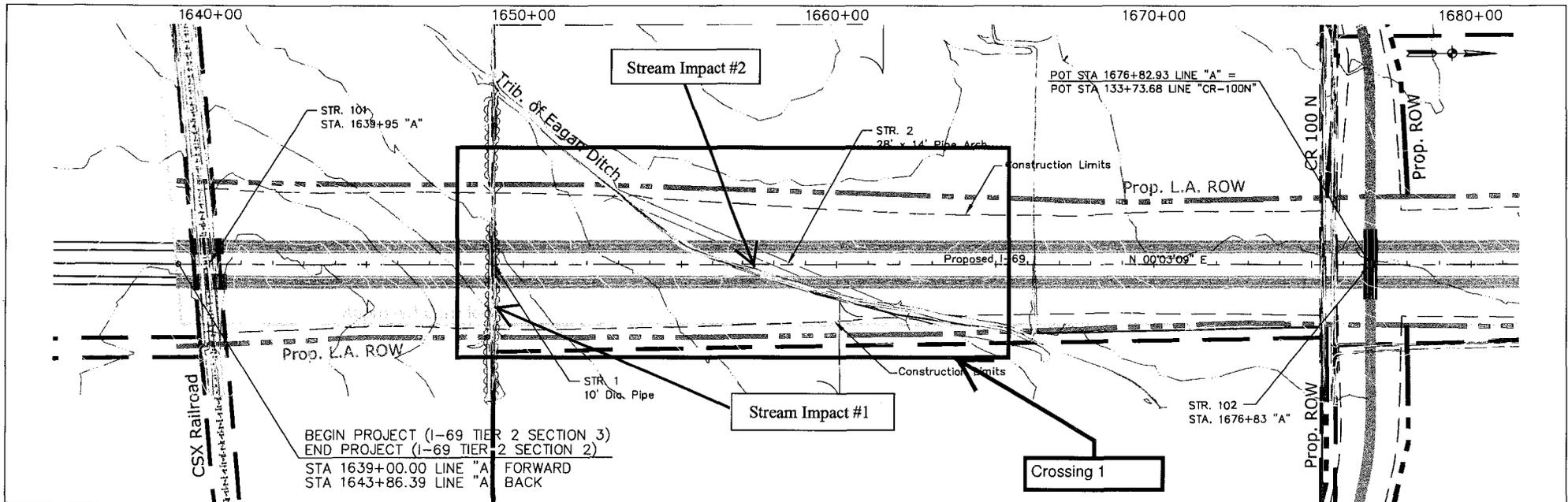
iv) Recreational, aesthetic and economic values?

Yes  No\*

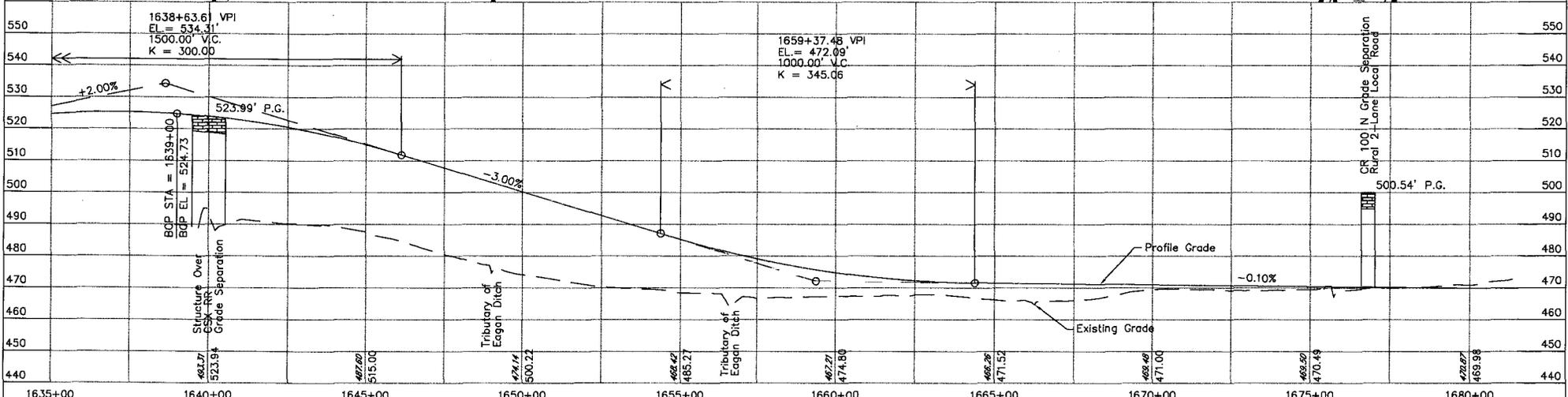
4) Actions to minimize potential adverse impacts (mitigation). Will all appropriate and practicable steps (40 CFR 230.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?

Operations Division  
Regulatory Branch OP-FN  
ID No. LRL-2010-39

APPENDIX B



BEGIN PROJECT (I-69 TIER 2 SECTION 3)  
 END PROJECT (I-69 TIER 2 SECTION 2)  
 STA 1639+00.00 LINE "A" FORWARD  
 STA 1643+86.39 LINE "A" BACK

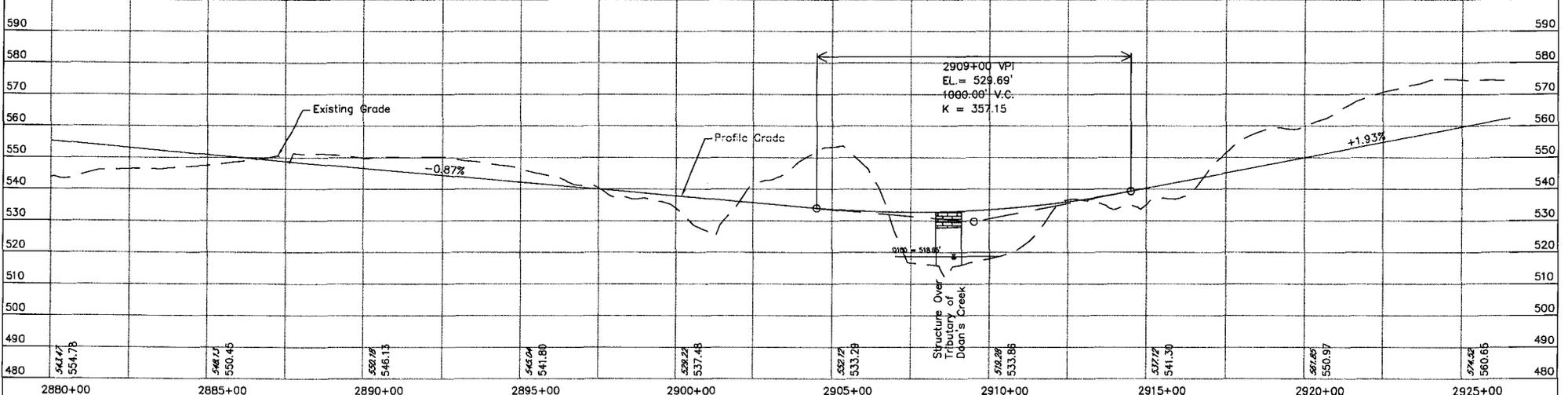
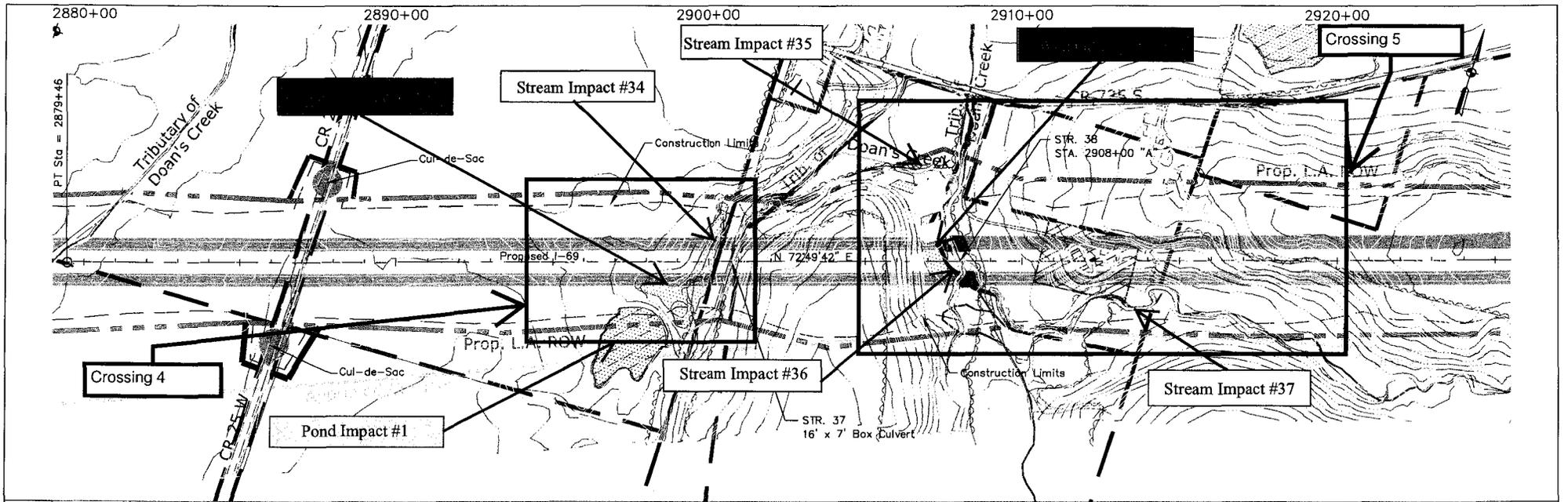


<b>LEGEND</b> - - - - - PROPOSED RIGHT-OF-WAY - - - - - PROPOSED L.A. RIGHT-OF-WAY - - - - - PERENNIAL STREAM - - - - - INTERMITTENT STREAM - - - - - EPHEMERAL STREAM - - - - - PIPELINE - - - - - RAILROAD - - - - - TRANSMISSION LINE [Symbol] PAVEMENT REMOVAL [Symbol] RELOCATION [Symbol] AIRPORT EXPAN. [Symbol] WETLAND-FORESTED	[Symbol] WETLAND-SCRUB-SHRUB [Symbol] WETLAND-OPEN POND [Symbol] WETLAND-EMERGENT [Symbol] ANTIPOCH COAL MINE	RECOMMENDED FOR APPROVAL DESIGN ENGINEER: JAH CHECKED: DAP	10/1/2008 DATE DRAWN: JWB CHECKED: JAH	<b>INDIANA DEPARTMENT OF TRANSPORTATION</b> Appendix B Interstate 69 Section 3 Crossing 1	HORIZONTAL SCALE: 1:300 VERTICAL SCALE: 1:30 SURVEY BOOK: [ ] CONTRACT: [ ]	DESIGNATION: 0300379 Page: 1 of 6 PROJECT: [ ]
		DESIGNED: JAH CHECKED: DAP		DRAWN: JWB CHECKED: JAH		Appendix B Interstate 69 Section 3 Crossing 1

I:\Projects\2008\I-69\Appendix B\Appendix B\_Sheet 1-Crossing 1.dwg  
 10/1/2008 10:00:00 AM  
 JAH



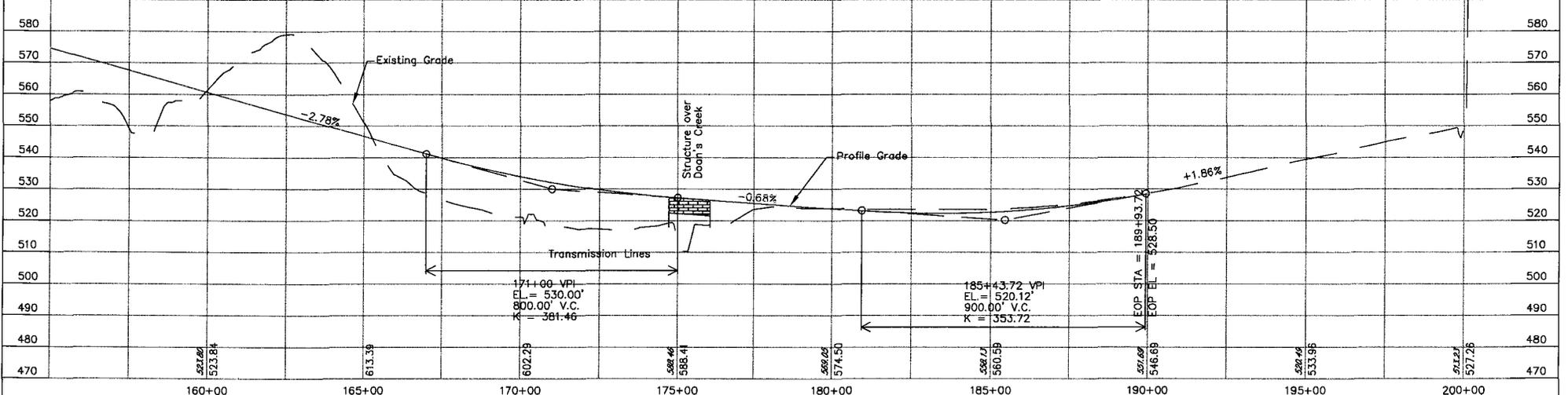
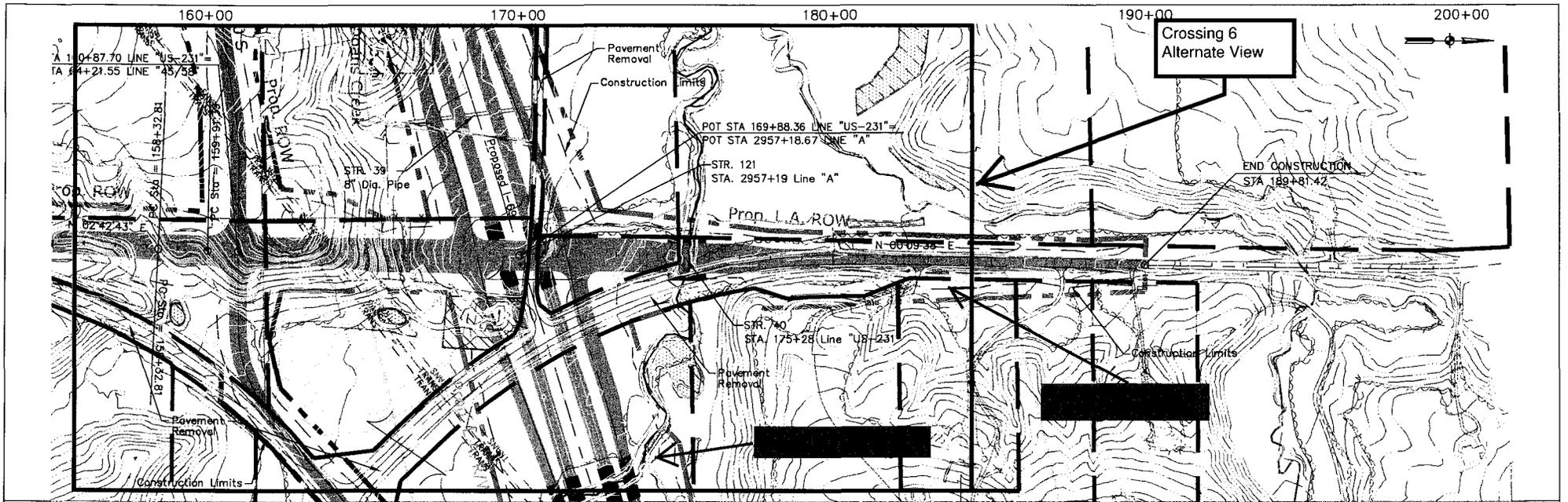




<b>LEGEND</b> - - - - - PROPOSED RIGHT-OF-WAY - - - - - PROPOSED L.A. RIGHT-OF-WAY - - - - - PERENNIAL STREAM - - - - - INTERMITTENT STREAM - - - - - EPHEMERAL STREAM - - - - - PIPELINE - - - - - RAILROAD - - - - - TRANSMISSION LINE		<b>PAVEMENT REMOVAL</b> [Symbol] RELOCATION [Symbol] AIRPORT EXPAN. [Symbol] WETLAND-FORESTED		<b>WETLAND-SCRUB-SHRUB</b> [Symbol] WETLAND-OPEN POND [Symbol] WETLAND-EMERGENT [Symbol] ANTIOCH COAL MINE		<b>RECOMMENDED FOR APPROVAL</b> DESIGN ENGINEER: JAH DATE: 10/1/2009 DESIGNED: JAH DRAWN: JWB CHECKED: DAP CHECKED: JAH		<b>INDIANA DEPARTMENT OF TRANSPORTATION</b> Appendix B Interstate 69 Section 3 Crossings 4 and 5		<b>HORIZONTAL SCALE</b> 1:300 <b>VERTICAL SCALE</b> 1:30 <b>DESIGNATION</b> 0300379 <b>SURVEY BOOK</b> Page 4 of 6 <b>CONTRACT</b> PROJECT	
--	--	--	--	---	--	--	--	---	--	---	--

I:\Projects\0300379\Appendix B\Appendix B\_Survey\25-30.3-17-09\_30 Foot Crossing.dwg, 10/1/2009 10:11:28 AM, User: jwh





<b>LEGEND</b> - - - - - PROPOSED RIGHT-OF-WAY - - - - - PROPOSED L.A. RIGHT-OF-WAY ——— PERENNIAL STREAM - - - - - INTERMITTENT STREAM - - - - - EPHEMERAL STREAM ——— PIPELINE -+ -+ -+ RAILROAD - - - - - TRANSMISSION LINE [Hatched] PAVEMENT REMOVAL [Hatched] RELOCATION [Cross-hatched] AIRPORT EXPAN. [Hatched] WETLAND-FORESTED [Dotted] WETLAND-SCRUB-SHRUB [Dotted] WETLAND-OPEN POND [Dotted] WETLAND-EMERGENT [Dotted] ANTI-COAL MINE	[Hatched] WETLAND-FORESTED [Dotted] WETLAND-SCRUB-SHRUB [Dotted] WETLAND-OPEN POND [Dotted] WETLAND-EMERGENT [Dotted] ANTI-COAL MINE	RECOMMENDED FOR APPROVAL: [Signature] 10/1/2009 DESIGN ENGINEER: [Signature] DATE:	<b>INDIANA</b> <b>DEPARTMENT OF TRANSPORTATION</b> Appendix B Interstate 69 Section 3 Crossing 6 page 2 of 2	HORIZONTAL SCALE: 1:300 VERTICAL SCALE: 1:30 SURVEY BOOK: [Blank] CONTRACT: [Blank]	DESIGNATION: 0300379 Page: 6 of 6 PROJECT: [Blank]
	DESIGNED: JAH CHECKED: DAP	DRAWN: JWB CHECKED: JAH		SURVEY BOOK: [Blank] CONTRACT: [Blank]	DESIGNATION: 0300379 Page: 6 of 6 PROJECT: [Blank]

10/1/2009 10:00 AM  
 I:\Projects\0300379\0300379\_01\0300379\_01.dwg  
 10/1/2009 10:00 AM  
 I:\Projects\0300379\0300379\_01\0300379\_01.dwg  
 10/1/2009 10:00 AM  
 I:\Projects\0300379\0300379\_01\0300379\_01.dwg