

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Indiana Department of Transportation

**Permit Number:** LRL-2010-39

**Issuing Office:** U.S. Army Engineer District, Louisville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** To discharge 30,652 cubic yards (cys) of fill material below the Ordinary Highway Water mark (OHW) of 8,925 linear feet of Doans Creek, and ephemeral and intermittent unnamed tributaries to Eagan Ditch and Doans Creek. In addition, 184,924 cys of fill material would be discharged into 4.64 acres of adjacent open water, emergent, scrub-shrub, and forested wetlands to construct six crossings of Section 3 of the Interstate 69 extension. The road would start at U.S. Route 50 east of County Road 200 East in Daviess County and continue for approximately 25 miles to U.S. Route 231 north of County Road 800 South in Greene County. The fill material would consist of clean earthen fill, limestone riprap, and concrete.

**Project Location:** The project is located on Doans Creek, unnamed tributaries to Eagan Ditch and Doans Creek and jurisdictional wetlands in Daviess and Greene Counties, Indiana at Latitude 38.6623 N/Longitude -87.1207 W.

### Permit Conditions:

#### General Conditions:

1. The time limit for completing the authorized activity ends on **August 1, 2013**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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

**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.

**Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
  - ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

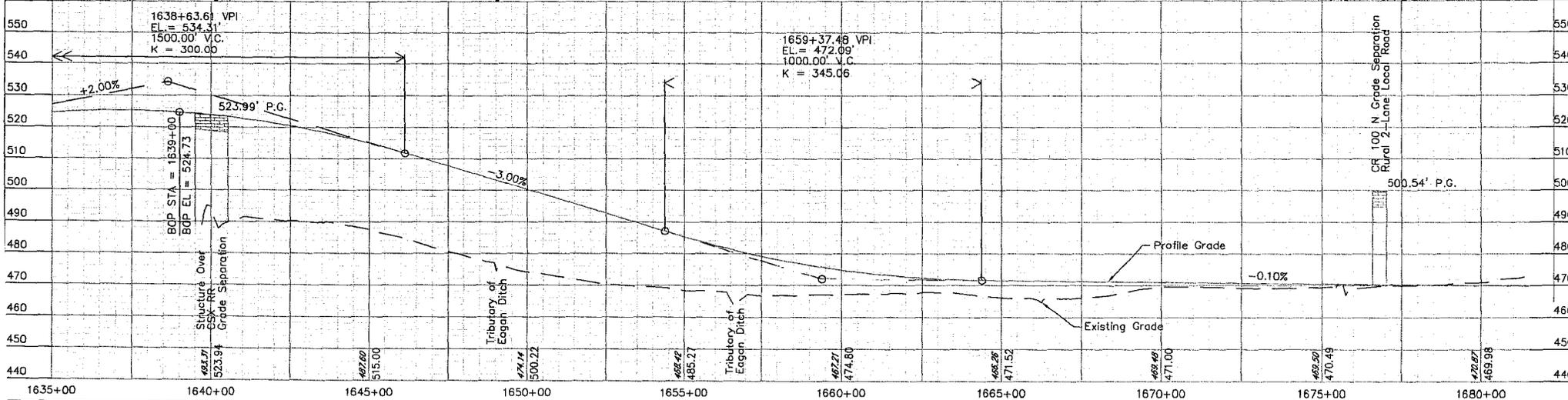
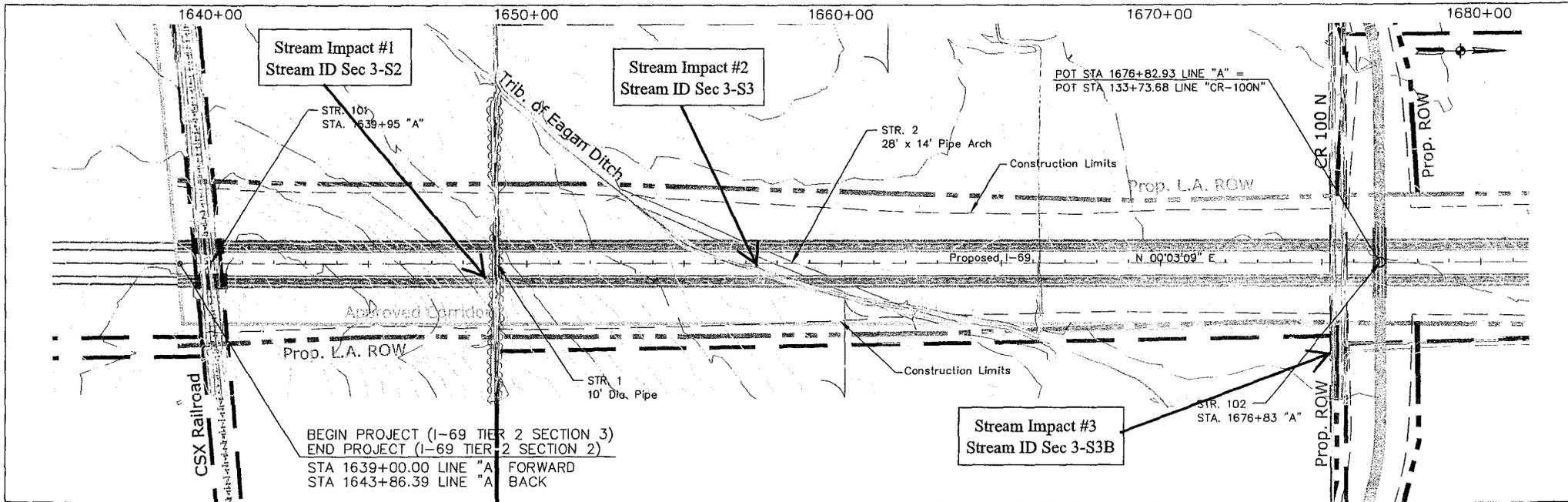
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

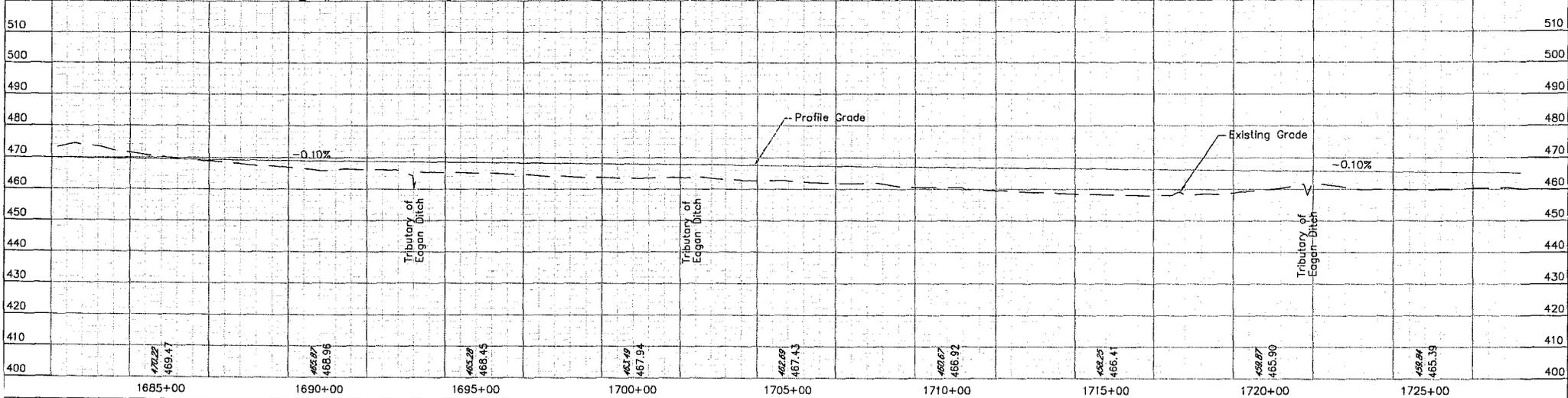
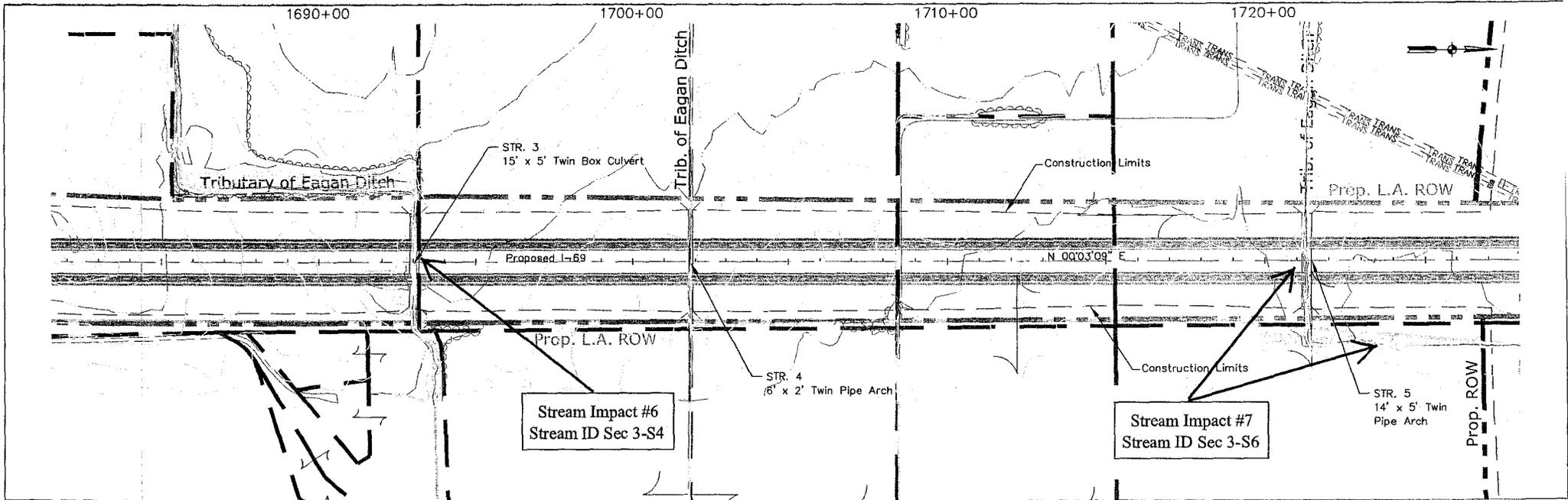




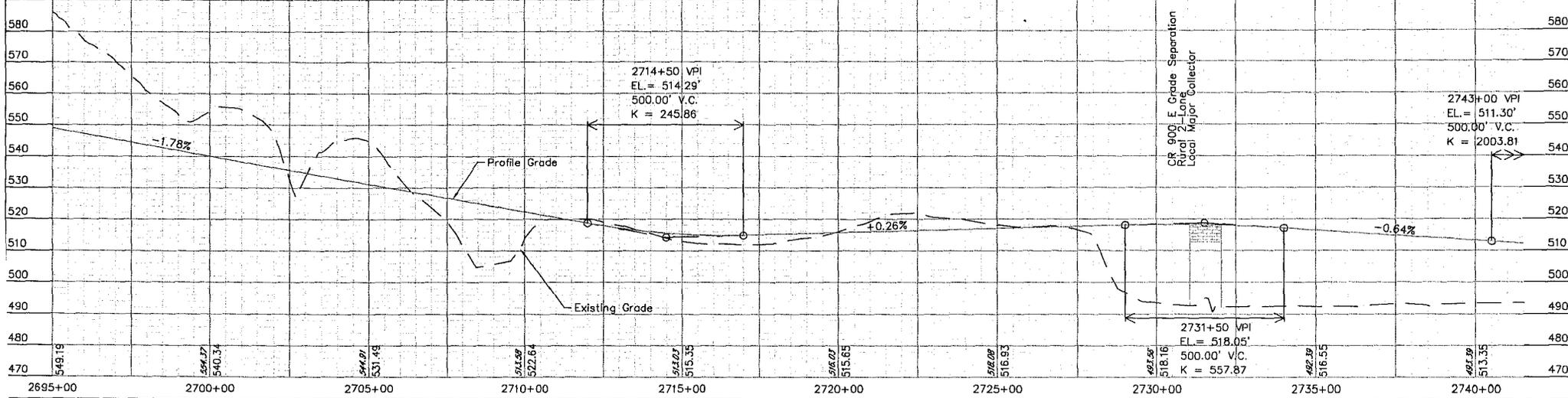
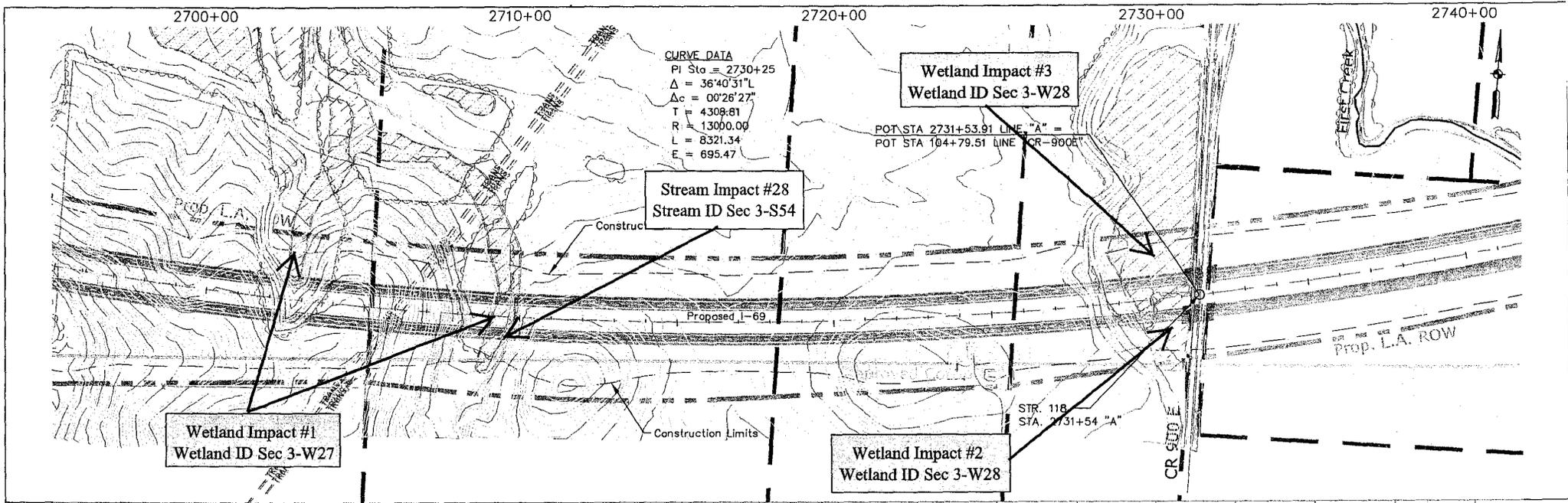
LEGEND		PAVEMENT REMOVAL		WETLAND-SCRUB-SHRUB		RECOMMENDED FOR APPROVAL		INDIANA DEPARTMENT OF TRANSPORTATION		HORIZONTAL SCALE	
-----	PROPOSED RIGHT-OF-WAY	[Symbol]	REMOVAL	[Symbol]	WETLAND-OPEN POND	DESIGNED: JAH	DATE: 10/1/2009	PLAN AND PROFILE - BUILD ALTERNATIVE 1		1:300	DESIGNATION
-----	PROPOSED L.A. RIGHT-OF-WAY	[Symbol]	RELOCATION	[Symbol]	WETLAND-EMERGENT	DRAWN: JWB				1:30	0500379
-----	PERENNIAL STREAM	---	AIRPORT EXPAN.	[Symbol]	WETLAND-ANTIOCH COAL MINE	CHECKED: DAP	CHECKED: JAH			SURVEY BOOK	SHEETS
-----	INTERMITTENT STREAM	---		[Symbol]						1	1 of 1
-----	EPHEMERAL STREAM	---		[Symbol]							68
---	PIPELINE	---		[Symbol]							PROJECT
- - - - -	RAILROAD	---		[Symbol]							
---	TRANSMISSION LINE	---		[Symbol]							

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

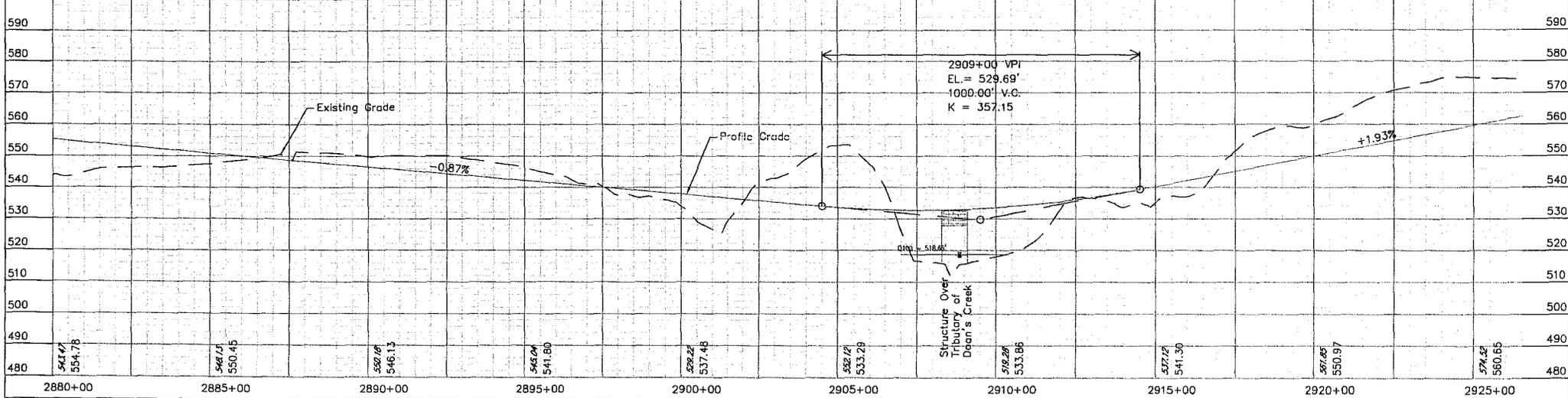
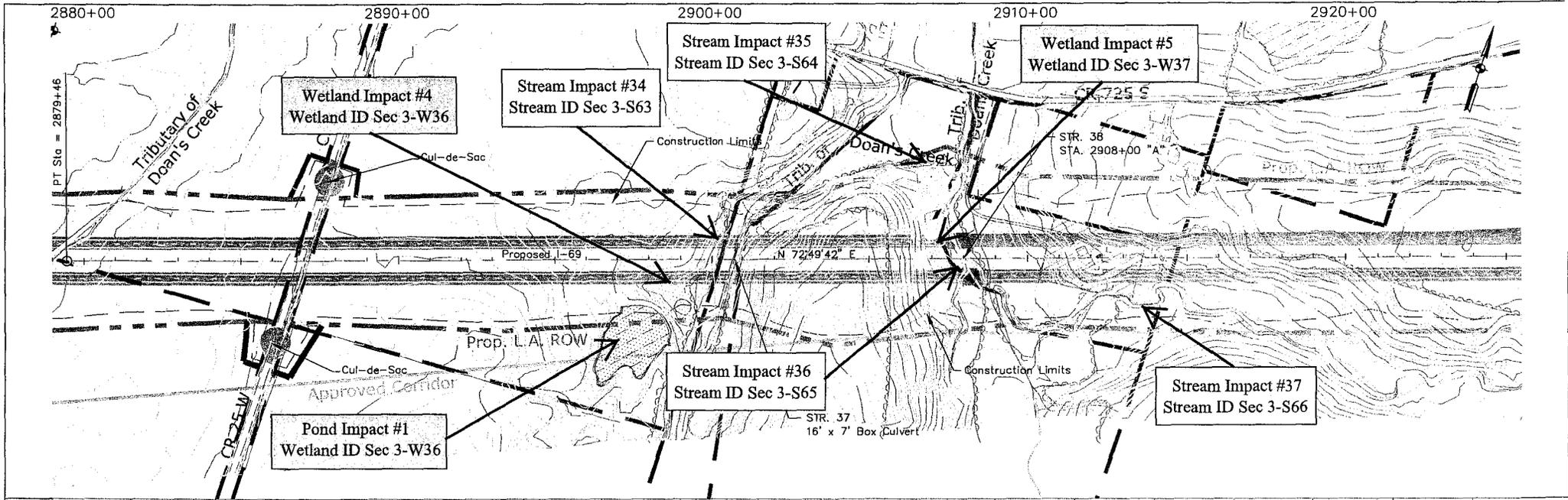
CR 100 N Grade Separation Rural 2-Lane Local Road  
 500.54' P.G.



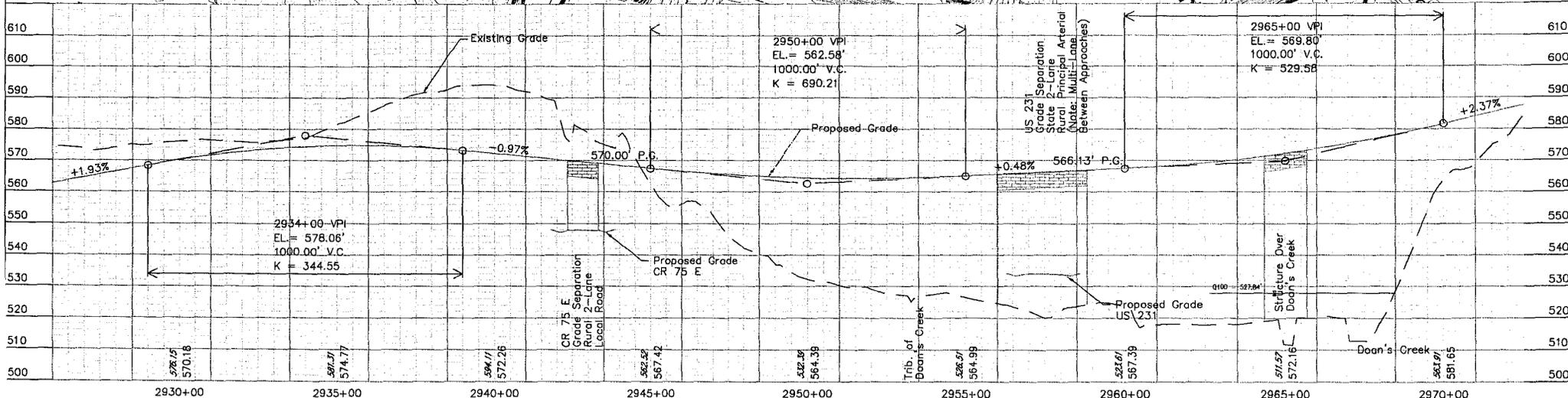
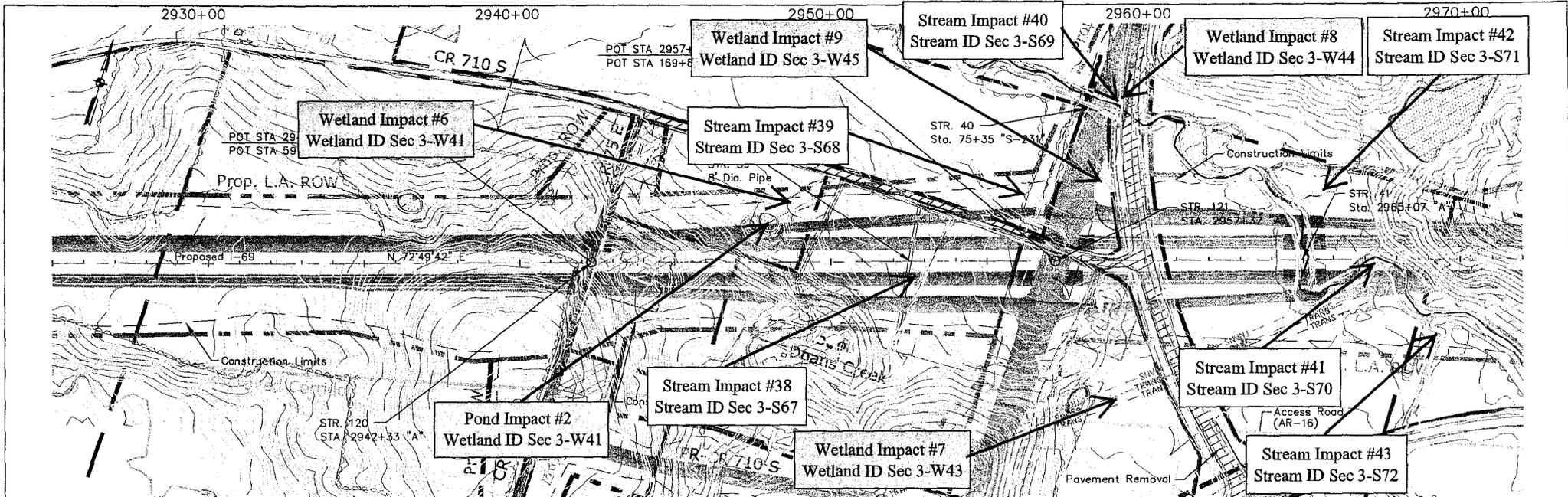
<b>LEGEND</b> - - - - - PROPOSED RIGHT-OF-WAY - - - - - PROPOSED L.A. RIGHT-OF-WAY - - - - - PERENNIAL STREAM - - - - - INTERMITTENT STREAM - - - - - EPHEMERAL STREAM - - - - - PIPELINE - - - - - RAILROAD - - - - - TRANSMISSION LINE	[Symbol] PAVEMENT REMOVAL [Symbol] RELOCATION [Symbol] AIRPORT EXPAN. [Symbol] WETLAND-FORESTED	[Symbol] WETLAND-SCRUB-SHRUB [Symbol] WETLAND-OPEN POND [Symbol] WETLAND-EMERGENT [Symbol] WETLAND-ANTIOCH COAL MINE	RECOMMENDED FOR APPROVAL DESIGN ENGINEER: JAH CHECKED: DAP	10/1/2009 DATE CHECKED: JAH	<b>INDIANA DEPARTMENT OF TRANSPORTATION</b>  <b>PLAN AND PROFILE - BUILD ALTERNATIVE 1</b>	HORIZONTAL SCALE 1:300	VERTICAL SCALE 1:30	DESIGNATION 0300379
			DESIGNED: JAH CHECKED: DAP	DRAWN: JWB CHECKED: JAH		SURVEY BOOK -	SHEETS 2 of 88	CONTRACT -



<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] ANTIOCH COAL MINE	RECOMMENDED FOR APPROVAL DESIGN ENGINEER: JAH DATE: 10/1/2009	<b>INDIANA DEPARTMENT OF TRANSPORTATION</b> PLAN AND PROFILE - BUILD ALTERNATIVE 1	HORIZONTAL SCALE: 1:300 VERTICAL SCALE: 1:30 SURVEY BOOK: 0300379 CONTRACT:
		DESIGNED: JAH CHECKED: DAP		DRAWN: JWB CHECKED: JAH



<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] ANTIOCH COAL MINE	RECOMMENDED FOR APPROVAL DESIGN ENGINEER: JAH DATE: 10/1/2009 CHECKED: DAP CHECKED: JAH	<b>INDIANA DEPARTMENT OF TRANSPORTATION</b> PLAN AND PROFILE - BUILD ALTERNATIVE 1	HORIZONTAL SCALE 1"=300'
			VERTICAL SCALE 1"=30'
			DESIGNATION 0300379
			SURVEY BOOK -
			SHEETS 28 of 68
			CONTRACT -
			PROJECT -



<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] ANTHOCH COAL MINE	RECOMMENDED FOR APPROVAL DESIGN ENGINEER: JAH DATE: 10/1/2009	INDIANA DEPARTMENT OF TRANSPORTATION <b>PLAN AND PROFILE - BUILD ALTERNATIVE 1</b>	HORIZONTAL SCALE: 1:300 VERTICAL SCALE: 1:30 DESIGNATION: 0390379
		DESIGNED: JAH CHECKED: DAP		DRAWN: JWB CHECKED: JAH