



**MID-STATES
CORRIDOR**

APPENDIX P: SECTION 106 DOCUMENTATION

Mid-States Corridor Tier 1 Environmental Impact Statement

Prepared for

Indiana Department of Transportation

Mid-States Corridor Regional Development Authority

NOVEMBER 12, 2021

UPDATED JUNE 27, 2023

Prepared by

Hannah Blad and Gary Francis Quigg, Lochmueller Group





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1. METHODOLOGY

Introduction: Section 106 Documentation

For Tier 1, above-ground resource identification of historic properties consisted of an online review of the State Historic Architectural and Archaeological Resource Database (SHAARD) structures map to determine the locations of previously recorded structures. This online review was followed by on site “Windshield Survey” field verification within each of the preliminary Areas of Potential Effects (APEs) for the route alternatives. This Windshield Survey was conducted to 1) verify that the previously recorded structures within the preliminary APEs remain extant and worthy of their current ratings from the Indiana Historic Sites and Structures Inventory (IHSSI) which included NRHP-listed, Outstanding, Notable and Contributing properties and 2) to record any previously undocumented structural resources using the same rating system. Field recordation efforts were limited to one photograph and brief textual notation per resource. No additional research on above-ground cultural resources was conducted as a part of the Tier 1 review. The results from the online research and Windshield Survey field review were placed within a matrix representing all newly recorded and previously documented structures in all of the preliminary APEs for the route alternatives. See **Appendix O – Historic Properties Analysis**.

This appendix includes copies of all correspondence sent to Section 106 Consulting Parties and Consulting Party Meeting Summaries.

2. DOCUMENTATION

Documents Provided to Consulting Parties in Tier 1

Lochmueller Group provided a general National Environmental Policy Act (NEPA) Early Coordination Letter to governmental agencies on August 6, 2019 requesting comments related to the potential environmental effects which could result from the Mid-States Corridor. INDOT provided an identical letter to tribal organizations on August 7, 2019. A copy of this letter is provided in **Appendix Z – Agency Meetings and Correspondence**. Those who responded were added to the list of participating Consulting Parties. The Section 106 Early Coordination Letter (ECL) was sent in two mailings on December 12, 2019, and January 31, 2020 to those who replied to the initial August 2019 invitation. The January 31, 2020 mailing was suggested by the Indiana State Historic Preservation Officer (SHPO) to include organizations that were not included in the initial distribution. Subsequent mailings to individuals requesting to become a Consulting Party were also mailed out after the January 31, 2020 mailing. Only the December 12, 2019 letter is included below. The text of both the December and January letters was identical.

Tier 1 Section 106 documentation presented on the following pages includes:

- December 12, 2019 Early Coordination Letter – **Figure 1**



- April 13, 2020 letter inviting Consulting Parties to a Consulting Party meeting providing an overview of the project and the Section 106 process – **Figure 2**
- July 1, 2020 Meeting Summary from the April 27, 2020 Consulting Party Meeting – **Figure 3**
- April 5, 2021 letter inviting Consulting Parties to the second Consulting Party meeting to discuss the results of the Tier 1 cultural resources study – **Figure 4**
- May 11, 2021 Meeting Summary from the April 20, 2021 Consulting Party meeting (#2). **Figure 5**
- April 21, 2022 letter inviting Consulting Parties to the third Consulting Party Meeting providing a review of the Draft Environmental Impact Statement (DEIS) and Draft Programmatic Agreement to guide the Section 106 process through Tier 2 – **Figure 6**
- June 20, 2022 Meeting Summary from the May 17, 2022 Consulting Party meeting (#3) -- **Figure 7**
- April 3, 2023 letter inviting Consulting Parties to the fourth Consulting Party meeting to discuss the refinement of the preferred alternative (RPA P) in the Loogootee area – **Figure 8**
- May 9, 2023 Meeting Summary from the April 20, 2023 Consulting Party meeting (#4) -- **Figure 9**

Tier 2 Section 106 activities will commence upon approval of the Tier 1 FEIS/ROD.

The final PA was approved on **June 25, 2023**. It is included as an **appendix** to this document.

Tier 2 documentation will be prepared in accordance with the Mid-States Corridor Programmatic Agreement (PA) and will include distribution letters to CPs for each Historic Property Report (HPR), HPRs, Archaeological Reports, all Effect Finding/800.11e documents and all Memorandum of Agreement (MOA) documents, as well as all correspondence from Consulting Parties related to HPRs, Findings and MOAs, as well as any other needed materials.



FIGURE 1: EARLY COORDINATION LETTER, DECEMBER 12, 2019



December 12, 2019

This letter was sent to the listed parties.

RE: Des. No. 1801941
Mid-States Corridor Project
Ohio River to I-69
12 County Study Area:
Crawford, Daviess, Dubois, Greene, Lawrence, Martin, Monroe, Orange, Perry, Pike, Spencer,
Warrick

Dear Consulting Party (see attached list),

The Indiana Department of Transportation (INDOT) proposes to proceed with a new terrain roadway project (Des. No. 1801941). Lochmueller Group is under contract with INDOT to advance the environmental documentation for the referenced project. This present phase (a Tier 1 Environmental Impact Statement (EIS)) is funded by the Mid-States Corridor Regional Development Authority (RDA), in cooperation with INDOT and the Federal Highway Administration (FHWA).

This letter is an invitation to you to serve as a consulting party for this project and begins the Section 106 coordination process for the undertaking. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic and archaeological properties. FHWA funding is anticipated for subsequent project activities, including Tier 2 environmental studies.

The precise location of the proposed undertaking has not yet been determined, although a range of potential corridors within the 12 county study area are being considered. The study area is bounded by I-69 on the west and north, SR 37 on the east, and the Ohio River on the south. Please see the enclosed maps.

The need for the project stems from lack of efficient access to regional and national destinations, resulting stagnant economic development in the 12 county study area, and safety concerns. The purpose of the project is to provide a better transportation link between the Ohio River and I-69 to improve connectivity and safety in support of enhanced quality of life and economic growth within the study area.

The proposed project involves the construction of a new roadway. Possible design options for the roadway include a freeway (multi-lane, controlled access), expressway (multi-lane, partial controlled access) or Super 2 (two-lane, partial controlled access with passing lanes) from SR 66 near Rockport to I-69 either directly or via SR 37. Further design efforts have not been undertaken. New right-of-way (ROW) will be required, but the amount is not known. It is anticipated that there will be some relocations.



In accordance with 36 CFR 800.2 (c), you are hereby requested to be a consulting party to participate in the Section 106 process. Entities that have been invited to participate in the Section 106 consultation process for this project are identified in the attached list. Per 36 CFR 800.3(f), we hereby request that the Indiana State Historic Preservation Officer (SHPO) notify this office if the SHPO staff is aware of any other parties that may be entitled to be consulting parties or should be contacted as potential consulting parties for the project.

The Section 106 process involves efforts to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. For more information regarding the protection of historic resources, please see the Advisory Council on Historic Preservation's guide: *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* available online at <https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>.

The Section 106 process will be extended for this project due to the scope and size of the undertaking. Specifically, the Section 106 process will be divided into two phases under a tiered approach as part of the National Environmental Policy Act (NEPA) assessment for the study area. Tier 1 of the Section 106 process will narrow down the project area from a range of alternatives consisting of two-mile study bands to select a preferred corridor. This corridor generally will be 2,000 feet wide. The Tier 1 draft Environmental Impact Statement (EIS) will include a section titled, "Historical and Archaeological Impacts" to include a discussion of above-ground and archaeological concerns which will summarize the evaluation of cultural resources within the 12 county study area. A Programmatic Agreement is anticipated to be developed which will define how the Section 106 process will be completed during Tier 2 environmental studies. The Section 106 process for Tier 2 will focus specifically on the 2,000 foot preferred corridor (determined during the Tier 1 phase) and will conduct a more in-depth analysis in assessing impacts to historic and archaeological resources within and near the preferred corridor.

Please review the information and comment within thirty (30) calendar days of receipt regarding any cultural resources concerns or Section 106 process items related to the project. If you indicate that you do not desire to be a consulting party, or if you do not respond, you will not be included on the list of consulting parties for this project. If we do not receive your response in the time allotted, the project will proceed consistent with the proposed design and you will not receive further information about the project.

For questions concerning specific project details, you may contact Jason DuPont of Lochmueller Group at 812.759.4129 or JDupont@lochgroup.com. All future responses regarding the proposed project should be forwarded to Lochmueller Group at the following address:

Jason DuPont
Director of Environmental Services
Lochmueller Group
6200 Vogel Road
Evansville, IN 47715
JDupont@lochgroup.com

Tribal contacts may contact Shaun Miller at smiller@indot.in.gov or 317-233-6795 or Michelle Allen at FHWA at michelle.allen@dot.gov or 317-226-7344.

Sincerely,



Anuradha V. Kumar, Manager
Cultural Resources Office
Environmental Services

Enclosures:

- Maps of Study Area

Distribution List:

- State Historic Preservation Officer
- INDOT Cultural Resource Office
- Indiana Landmarks, Central Regional Office
- Indiana Landmarks, Southern Regional Office
- Indiana Landmarks, Southwest Field Office
- Indiana Landmarks, Western Regional Office
- Indiana 15 Regional Planning Commission
- Southern Indiana Development Commission
- Absentee Shawnee Tribe of Oklahoma
- Delaware Nation of Oklahoma
- Eastern Shawnee Tribe of Oklahoma
- Miami Tribe of Oklahoma
- Peoria Tribe of Indians of Oklahoma
- Pokagon Band of Potawatomi Indians
- United Keetoowah Band of Cherokee Indians
- Crawford County Board of Commissioners
- Crawford County Council
- Crawford County Highway Supervisor
- Crawford County Historian
- Crawford County Historical and Genealogical Society
- English Town Manager
- English Town Council
- Leavenworth Town Council
- Marengo Town Council
- Milltown Town Council
- Daviess County Board of Commissioners
- Daviess County Council
- Daviess County Highway Supervisor
- Daviess County Historian
- Daviess County Historical Society
- Alfordsville Town Council
- Cannelburg Town Council



- Elnora Town Council
- Montgomery Town Council
- Odon Town Council
- Plainville Town Council
- Washington City Council
- Mayor of Washington
- Dubois County Board of Commissioners
- Dubois County Council
- Dubois County Surveyor
- Dubois County Highway Supervisor
- Dubois County Historian
- Dubois Historical Society
- Dubois County Landmarks Preservation
- Birdseye Town Council
- Ferdinand Town Council
- Ferdinand Historical Society
- Holland Town Council
- Ireland Historical Society
- Huntingburg City Council
- Huntingburg City Planner
- Mayor of Huntingburg
- Jasper City Council
- Mayor of Jasper
- Jasper City Engineer
- Greene County Board of Commissioners
- Greene County Council
- Greene County Surveyor
- Greene County Highway Supervisor
- Greene County Historian
- Bloomfield Town Council
- Mayor of Jasonville
- Linton City Council
- Mayor of Linton
- Lyons Town Council
- Newberry Town Council
- Scotland Historical Society
- Switz City Town Council
- Worthington Town Council
- Lawrence County Board of Commissioners
- Lawrence County Council
- Lawrence County Surveyor
- Lawrence County Highway Superintendent
- Lawrence County Historian
- Lawrence County Museum of History
- Lawrence County Railroad Historical Society
- Bedford City Council



- Mayor of Bedford
- Mitchell City Council
- Mayor of Mitchell
- Oolitic Town Council
- Martin County Board of Commissioners
- Martin County Council
- Martin County Highway Superintendent
- Martin County Historian
- Martin County Historical Society
- Crane Town Manager
- Crane Town Board
- Loogootee City Council
- Mayor of Loogootee
- Shoals Town Council
- Monroe Board of Commissioners
- Monroe County Council
- Monroe County Surveyor
- Monroe County Highway Supervisor
- Monroe County Highway Engineer
- Monroe County Historian
- Monroe County History Center
- Bloomington City Council
- Mayor of Bloomington
- Ellettsville Town Manager
- Ellettsville Town Council
- Stinesville Town Council
- Orange County Board of Commissioners
- Orange County Council
- Orange County Surveyor
- Orange County Highway Director
- Orange County Historian
- Orange County Historical Society
- Saving Historic Orange County
- West Baden Historical Society
- West Baden Springs Historic Preservation
- French Lick Town Council
- Orleans Town Council
- Paoli Town Council
- West Baden Town Council
- Perry County Board of Commissioners
- Perry County Council
- Perry County Surveyor
- Perry County Highway Superintendent
- Perry County Historian
- Cannelton City Council
- Mayor of Cannelton



- Tell City Council
- Mayor of Tell City
- Tell City Historical Society
- Troy Town Council
- Pike County Board of Commissioners
- Pike County Council
- Pike County Highway Superintendent
- Pike County Historian
- Pike County Historical Society and Museum
- Petersburg City Council
- Mayor of Petersburg
- Spurgeon Town Council
- Winslow Town Council
- Spencer County Board of Commissioners
- Spencer County Town Council
- Spencer County Surveyor
- Spencer County Highway Superintendent
- Spencer County Historical Society
- Chrisney Town Board
- Dale Town Council
- Gentryville Town Council
- Grandview Town Council
- Richland City Clerk-Treasurer
- Rockport City Council
- Mayor of Rockport
- Santa Claus Town Council
- Warrick County Board of Commissioners
- Warrick County Council
- Warrick County Surveyor
- Warrick County Highway Engineer
- Warrick County Historian
- Warrick County Museum
- Boonville City Council
- Mayor of Boonville
- Chandler Town Council
- Elberfield Town Council
- Lynnville Town Board
- Newburgh Town Council
- Newburgh Town Manager
- Tennyson Town Council



FIGURE 2: INVITATION TO FIRST CONSULTING PARTY MEETING, APRIL 13, 2020



April 13, 2020

This letter was sent to the listed parties.

RE: Des. No. 1801941
Mid-States Corridor Project
SR66 to I-69
12-County Study Area:
Crawford, Daviess, Dubois, Greene, Lawrence, Martin, Monroe, Orange, Perry, Pike, Spencer,
Warrick

Dear Consulting Party (see attached list),

The Indiana Department of Transportation (INDOT) proposes to proceed with a new terrain roadway project (Des. No. 1801941). Lochmueller Group is under contract with INDOT to advance the environmental documentation for the referenced project. This present phase (a Tier 1 Environmental Impact Statement (EIS)) is funded by the Mid-States Corridor Regional Development Authority (RDA), in cooperation with INDOT and the Federal Highway Administration (FHWA). FHWA funding is anticipated for subsequent project activities, including Tier 2 environmental studies.

As you have accepted consulting party status for this project, you are invited to attend our first consulting party meeting as a part of the Section 106 coordination process for this undertaking. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic and archaeological properties.

Due to the ongoing health concern, this consulting party meeting will be held using online technology (LoopUp website) and telephone call-in service for those unable to participate online. This remote meeting will be held **Monday, April 27, 2020 at 2:00pm EDT.**

A weblink to access the meeting via LoopUp will be sent to you by an Outlook email meeting invite. The toll free call-in phone number for those not accessing LoopUp to participate is **(855) 633-2040**. When your call is connected you will be asked for your guest dial-in code, which is **2007692#**.

The precise location of the proposed Mid-States Corridor Project has not yet been determined, although a range of potential corridors within the 12-county study area is being considered. The study area is bounded by I-69 on the west and north, SR 37 on the east, and the Ohio River on the south. Please see the enclosed maps.

The need for the project stems from lack of efficient access to regional and national destinations, resulting stagnant economic development in the 12-county study area, and safety concerns. The purpose of the project is to provide a better transportation link between the Ohio River and I-69 to improve connectivity and safety in support of enhanced quality of life and economic growth within the study area.

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The proposed project involves the construction of a new roadway. Possible design options for the roadway include a freeway (multi-lane, controlled access), expressway (multi-lane, partial controlled access) or Super 2 (two-lane, partial controlled access with passing lanes) from SR 66 near Rockport to I-69 either directly or via SR 37. Further design efforts have not been undertaken. New right-of-way (ROW) will be required, but the amount is not known. It is anticipated that there will be some relocations.

Individuals/Entities that have accepted consulting party status for the Section 106 consultation process for this project are identified in the attached list. Per 36 CFR 800.3(f), we hereby request that the Indiana State Historic Preservation Officer (SHPO) notify this office if the SHPO staff is aware of any other parties that may be entitled to be consulting parties or should be contacted as potential consulting parties for the project.

The Section 106 process involves efforts to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. For more information regarding the protection of historic resources, please see the Advisory Council on Historic Preservation's guide: *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* available online at <https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>.

The Section 106 process will be extended for this project due to the scope and size of the undertaking. Specifically, the Section 106 process will be divided into two phases under a tiered approach as part of the National Environmental Policy Act (NEPA) assessment for the study area. Tier 1 of the Section 106 process will narrow the project area from a range of alternatives consisting of two-mile study bands in order to select a preferred corridor. This corridor generally will be 2,000 feet wide. The Tier 1 draft Environmental Impact Statement (EIS) will include a section titled, "Above-Ground and Archaeological Impacts" to include a discussion of above-ground and archaeological concerns which will summarize the survey of cultural resources within the 12 county study area. A Programmatic Agreement is anticipated to be developed which will define how the Section 106 process will be completed during Tier 2 environmental studies. The Section 106 process for Tier 2 will focus specifically on the 2,000 foot preferred corridor (determined during the Tier 1 phase) and associated Area of Potential Effects, and will conduct a more in-depth analysis in assessing impacts to above-ground and archaeological resources within and near the preferred corridor.

An invitation to the April 27, 2020 consulting party meeting has been sent to you via email. However, if you did not receive this invitation, or have not responded to date, please respond either by email or phone to the contact information provided below to indicate whether or not you will be joining us. A hard copy of the presentation materials to be shared during the LoopUp meeting presentation will be made available upon request. Please respond to this letter with your request for a hard copy of the presentation materials within seven (7) days.

For questions concerning specific project details, you may contact Jason DuPont of Lochmueller Group at 812.759.4129 or JDupont@lochgroup.com. All future responses regarding the proposed project should be forwarded to Lochmueller Group at the following address:

Jason DuPont
Director of Environmental Services
Lochmueller Group
6200 Vogel Road
Evansville, IN 47715
JDupont@lochgroup.com



Tribal contacts may contact Shaun Miller at smiller@indot.in.gov or 317-233-6795 or Michelle Allen at FHWA at michelle.allen@dot.gov or 317-226-7344.

Sincerely,

Anuradha V. Kumar, Manager
Cultural Resources Office
Environmental Services

Enclosures:

- Maps of Study Area

Distribution List:

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- Indiana Landmarks, Southern Regional Office
- Delaware Nation of Oklahoma
- Miami Tribe of Oklahoma
- Pokagon Band of Potawatomi Indians
- Shawnee Tribe of Oklahoma
- Dale Town Council
- Dubois County Commissioners
- Ellettsville Town Council
- Lawrence County Historian
- Lawrence County Museum of History
- Luke Baker
- Mayor of Rockport
- Newburgh Town Council
- Rockport City Council
- Shoals Town Council



Several individuals contacted Lochmueller Group just prior to the meeting requesting Consulting Party status. All were added to the Consulting Party list and most participated in the April 27, 2020 meeting.



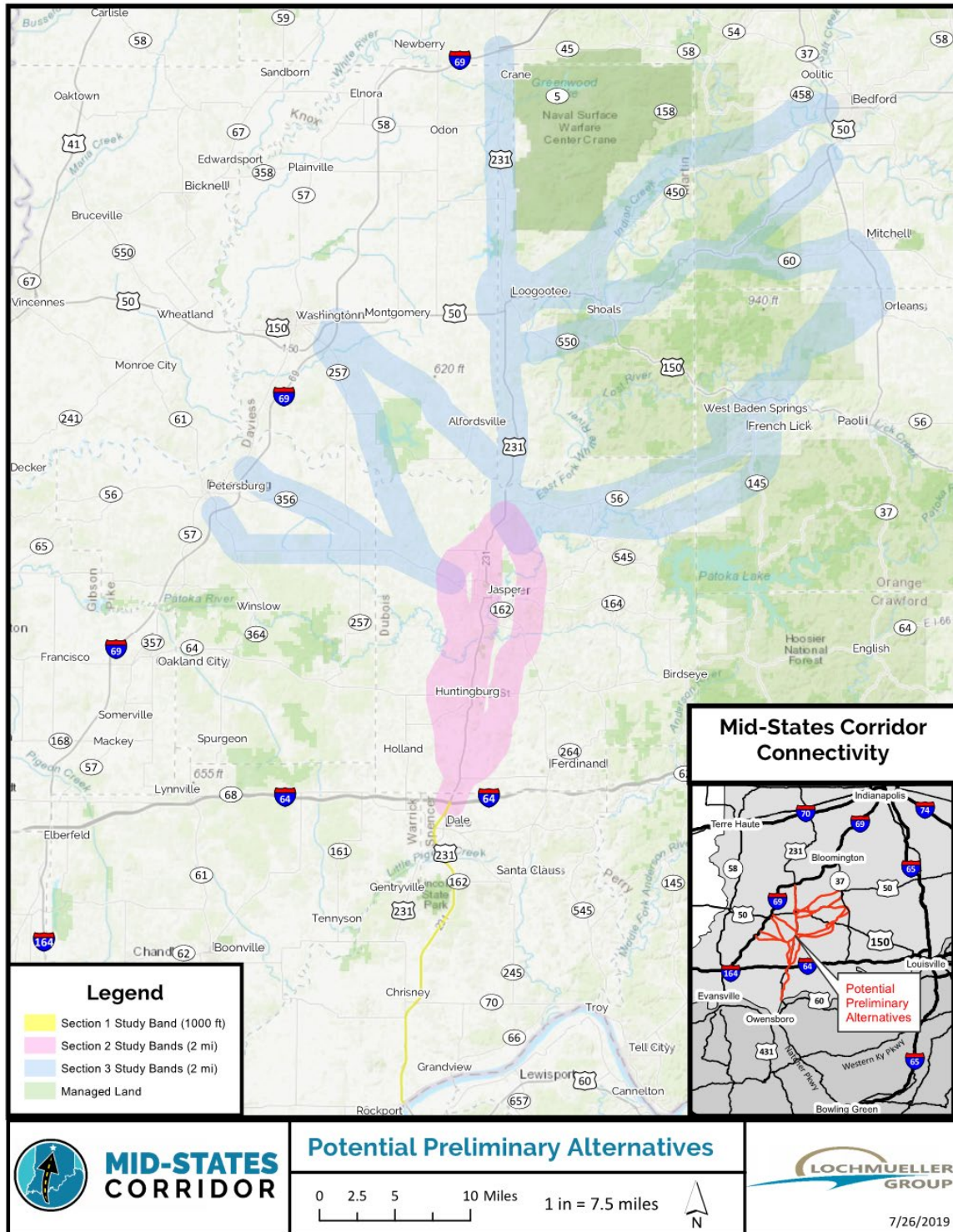




FIGURE 3: CONSULTING PARTY MEETING SUMMARY, JULY 1, 2020



MEETING SUMMARY

Date of Meeting: April 27, 2020
2:00pm EDT

Location: Conference Call

Submitted By: Gary Quigg

Re: Mid States Corridor Tier 1
Section 106 Consulting Party Meeting

Issue Date: July 1, 2020

In Attendance:

Anuradha Kumar	INDOT Cultural Resources Office
Shaun Miller	INDOT Cultural Resources Office
Patrick Carpenter	INDOT Cultural Resources Office
Kelyn Alexander	INDOT Cultural Resources Office
Kyanna Moon	INDOT Environmental Services Division
Brandon Miller	INDOT Environmental Services Division
Dan Corbin	INDOT Environmental Services Division
Jason DuPont	Lochmueller Group
David Goffinet	Lochmueller Group
Gary Quigg	Lochmueller Group
Michael Grovak	Lochmueller Group
Chad Costa	Lochmueller Group
Beth McCord	Indiana State Historic Preservation Office
Danielle Kauffmann	Indiana State Historic Preservation Office
John Carr	Indiana State Historic Preservation Office
Michelle Allen	Federal Highway Administration
Kari Carmany-George	Federal Highway Administration
Diane Hunter	Miami Tribe of Oklahoma
Joshua Biggs	Indiana Landmarks, Central Regional Office
Greg Sekula	Indiana Landmarks, Southern Regional Office
Laura Renwick	Indiana Landmarks Southern Regional Office
Candice Croix	Indiana Landmarks Southwest Field Office
Chad Blessinger	Dubois County Commissioner
Jeff Stant	Indiana Forest Alliance
B.J. Elmore	Private Citizen
Luke Baker	Private Citizen
Gretchen Anderson	Private Citizen





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ITEMS DISCUSSED:

Purpose

The purpose of the meeting was to provide an overview of the Mid-States Corridor project and a status update, review the preliminary corridors, discuss the preliminary alternative screening report, explain the Tier 1 and Tier 2 National Environmental Policy Act (NEPA) review process, explain Section 106 of the National Historic Preservation Act (NHPA) and its cultural resources review process, introduce the plan for a draft Programmatic Agreement, answer any questions and/or listen to concerns from Consulting Parties regarding the project's effects on cultural resources, and present the next steps for Section 106 and the overall project schedule.

The following subject headings provide an overview of the meeting discussion and are not presented as detailed minutes (wherein each individual speaker's questions or comments would be quoted as a matter of record). Although, in several areas within the Question & Answer section, for clarity, more precise wording from the recording of the meeting has been used for optimal representation. Copies of the audio recording of this meeting are available to Consulting Parties upon request by contacting Lochmueller Group.

Introductions & Project Overview

- Following welcome and introductions, Jason DuPont (Lochmueller Group) provided an overview of the Mid-States Corridor undertaking which included: project background, purpose and need, project goals, preliminary alternatives, project status, explanation of the Screening of Alternatives Report, a brief introduction to the two tier NEPA resources review approach, and information on the facility (highway) types under consideration.

Section 106 & Tiered NEPA Approach Overview

- Gary Quigg (Lochmueller Group) provided an overview of Section 106 of the NHPA, explaining the purpose of this federal law is to assure federal agencies take into account the effects of their undertakings (projects) on historic and archaeological properties. Further, Mr. Quigg explained the Section 106 process is concerned with identifying historic and archaeological properties that are listed, or eligible for listing, in the National Register of Historic Places (NRHP) that may be affected by the Mid-States Corridor project, assessing the affects that may occur to these properties, and seeking ways to avoid, minimize or mitigate any adverse effects on these properties.
- Mr. Quigg continued with an overview of the importance of participation by Consulting Parties in the Section 106 process, explaining what organizations/individuals are usually invited to become Consulting Parties, and the efforts the Mid-States Corridor team has undertaken (December 2019 – March 2020) to invite Consulting Parties to participate in the Section 106 process. Mr. Quigg also noted that three individuals notified



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Lochmueller Group of their wish to be participating Consulting Parties just a few hours prior to the beginning of this Consulting Party meeting, which brought the total number of Consulting Parties to 22 as of April 27, 2020.

- Mr. Quigg then explained the two-staged, “tiered” approach for large complex projects such as the Mid-States Corridor. Tier 1 is a “big picture” review of cultural resources wherein a preferred corridor would be selected along with Sections of Independent Utility (SIU) within the preferred corridor. Tier 2 is a more detailed evaluation of cultural resources within the preferred corridor and each SIU. Tier 1 would include a remote, virtual review of the existing State Historical Architectural & Archaeological Resource Database (SHAARD) which includes all previously recorded structures that are 50 years old and older. Mr. Quigg explained the SHAARD map of aboveground structures is available to members of the public to review, but that archaeological resources are available to review by qualified archaeologists and Native American tribal representatives only. In addition to the remote, virtual review using SHAARD the qualified professional historians on the Mid-States Corridor team will be conducting a windshield survey of each corridor alternative as a part of Tier 1 studies. The windshield survey is particularly important not only for verifying the continuing existence and condition of those resources previously identified, but also to identify aboveground structures that have not been previously recorded. Mr. Quigg explained many Indiana counties have aboveground structural survey data that has not been updated for several years, and that structures 50 years old or older may be considered eligible for the NRHP if they meet one or more of the NRHP criteria. Recently, there has been an emphasis on identifying what are known as “Mid-Century” resources such as housing additions from the 1950s/1960s which most people are not aware are considered potential historic resources.
- Mr. Quigg then explained the importance of determining potential “Adverse Effects” from the undertaking on cultural resources and the establishment of a preliminary “Areas of Potential Effects” (APE) for each of the corridor alternatives. An APE extends beyond the project area to include the viewshed to and from the undertaking where visual and audible effects to historic and archaeological resources may occur. An APE will vary in width based on limiting features such as topography, vegetation, or structural density.
- Mr. Quigg stated that a ratings matrix will be prepared for aboveground cultural resources identified during Tier 1 review. This matrix will utilize the existing rating system established by the Indiana Historic Sites & Structure Surveys (IHSSI) which have been completed for all counties in the state. This rating system uses the terms “Contributing,” “Notable,” and “Outstanding” to categorize properties based on their level of significance, wherein Notable and Outstanding resources may be considered potentially eligible for the NRHP. The ratings matrix will include both previously identified resources and those newly identified during the windshield survey.
- Mr. Quigg continued, expressing that the ultimate goals of the Tier 1 cultural resources survey and review is to establish a single preferred alternative corridor and to use the



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data obtained and input from Consulting Parties to develop a Programmatic Agreement (PA) which will guide the more detailed Section 106 cultural resources survey during Tier 2 studies.

- Mr. DuPont clarified that determinations of effects to cultural resources will not occur during Tier 1 studies, but rather be limited to Tier 2 studies within the preferred corridor. However, potential impacts to cultural resources will be evaluated during the alternatives analysis process.
- Mr. Quigg then explained the Tier 2 cultural resources survey and review plan, which is more typical of the Section 106 process usually followed. Tier 2 studies focus solely on the preferred corridor established at the end of Tier 1. The Tier 2 study will involve the establishment of SIUs, which may be understood as segments of the preferred corridor. Following the established PA from Tier 1, APEs will be developed for each SIU along the preferred corridor in which NRHP listed and eligible properties will be identified, Historic Property Reports (HPR) for each SIU will be prepared, Effects determinations will be developed for cultural resources in each SIU, and, where necessary, plans for the resolution of adverse effects to historic properties will be completed which will involve mitigation stipulations within Memorandum of Agreement (MOA) documents signed by appropriate parties (INDOT, FHWA, SHPO, etc.).
- Mr. DuPont and Mr. Quigg provided a recap of the Tier 1 process which is presently ongoing, noting the review of the SHAARD database, the identification of preliminary APEs for each of the corridor alternatives, the windshield survey, the development of the ratings matrix for aboveground resources, and the development of a PA to guide Tier 2 cultural resources studies. Further, potential impacts to cultural resources for each of the corridor alternatives will be included within the Draft Environmental Impact Statement (DEIS) which will be completed in the fall of 2020. Mr. Quigg then asked all meeting participants if they had any questions about the Section 106 or two tier NEPA approach processes.

Questions and Answer Period

- Ms. Gretchen Anderson (private citizen) asked whether the identification of properties potentially eligible for the NRHP, and development of MOAs, would occur during Tier 1 studies. Mr. Quigg explained that one of the purposes of Tier 1 studies was to identify properties that are either listed or potentially eligible for listing in the NRHP, but the development of MOAs do not occur during Tier 1, but rather are developed during Tier 2 studies after a preferred corridor has been selected. Mr. Quigg also noted that MOAs are developed only when it has been determined that an adverse effect will occur to a historic property. Mr. DuPont explained that the PA, which will be developed as a part of Tier 1 studies, provides guidelines for the Tier 2 study including addressing adverse effects to properties. Mr. Quigg noted it's a little confusing to hear similar terms such as PA and MOA, but clarified the PA guides the Section 106 process for Tier 2 studies, and that MOAs would be developed after it is determined an adverse effect will occur to a



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historic property/ies as a result of the Mid-States Corridor project. Further, that MOAs are established to mitigate the adverse effects to the property/ies.

- Ms. Anderson then asked which National Register was being referred to in the meeting discussion. Mr. Quigg answered we are referring to the National Register of Historic Places (NRHP) in discussions focused on Section 106 review. Mr. Quigg went on to explain that a property must meet at least one of the four NRHP criteria in order to be eligible for listing in the NRHP.
- Mr. Luke Baker (private citizen) asked if elaboration could be made on the ratings matrix to be prepared for aboveground resources. Mr. Baker assumed the matrix would be one way of comparing “the routes to each other.” Mr. DuPont answered that the matrix is used only to rate the aboveground structural resources identified, and that the matrix is a part of the process of identifying potential impacts to historic resources from the project. Mr. Quigg reiterated when a ratings matrix is being discussed within Section 106 it is referring to specific aboveground properties, and repeated the ratings provided (Contributing, Notable, Outstanding) in the county surveys conducted as a part of the IHSSI, and that those properties and their ratings are now part of the SHAARD database previously discussed. Mr. Quigg further explained that SHAARD was accessible to the public online, and that a state map may be viewed on which each previously recorded aboveground resource may be seen with a colored dot which has a different color for each rating. Also, that properties already listed on the NRHP are identified with a star on the map. Mr. Quigg repeated the SHAARD database includes the aboveground resources of which we are aware, but that there are other resources of which we are not aware that will be identified during the windshield surveys of Tier 1. Mr. DuPont stated that for those resources we determine to be potentially eligible for the NRHP, we would be determining potential impacts to those properties which would then be a part of the evaluation of the corridor alternatives to assist in determining a preferred corridor.
- Jeff Stant (Indiana Forest Alliance) asked about the process of going from SHAARD to the properties that we may not be aware of, and stated he assumed that the windshield survey reconnaissance would be how we would make a more thorough review of cultural resources within the alternative corridors. Mr. Stant asked if we would be going to county courthouses and looking through records and asked what we would be doing within the windshield survey process. Mr. Quigg explained that during the Tier 1 process no research would be undertaken within county courthouses or any other archival repositories, rather the windshield survey fieldwork would consist only of being within a vehicle and viewing aboveground cultural resources within the preliminary APEs of each alternative corridor. As a part of the windshield survey, when properties are identified that have not been previously recorded (on the SHAARD database) we would be taking a photo of each of those properties and noting their features and location. When one of the alternative corridors becomes the preferred corridor alternative, then the Tier 2 process will be followed which includes far more detailed documentation of aboveground resources within that preferred alternative corridor and APE.



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- Mr. Stant then asked if, as a part of the Windshield Survey process, we would be contacting all of the individual property and landowners in each one of the alternative corridors and asking them for information, or asking the residents of the area for information. Mr. Quigg answered that we would not be stopping by each property, but would be working with our Consulting Parties to help identify key cultural resources within various localities within the study area and more obscure resources near the alternative corridors. One of our goals in obtaining Consulting Parties is to get in touch with individuals who have local knowledge of properties which we may not otherwise obtain, including structures that may be missed during a windshield survey. Mr. Quigg stated that Mr. Stant had brought forth an excellent point, and that the reason we reach out to so many organizations and individuals in trying to obtain Consulting Party participation is to have them lead us through this process. Mr. DuPont stated this has been a part of previous public outreach efforts of the project prior to beginning Tier 1 of cultural resources review.
- Mr. Stant then asked, “Who are the Consulting Parties? I believe 22 were mentioned. Are they the people on this call today? How do you become a Consulting Party?” Mr. DuPont stated that the people who are on this conference call are Consulting Parties, and reiterated that Consulting Parties include local governmental officials, historical societies, the Indiana State Historic Preservation Office (SHPO), and other interested groups and individuals.
- Mr. Stant then asked, “So we could put out a call to our (Indiana Forest Alliance) members across the area who are very concerned about this project’s potential impacts and say if they want to help with this process they could become a Consulting Party and they should just get a hold of you?” Mr. DuPont replied yes, that those individuals could reach out directly to him.
- Ms. Anderson stated that she had reached out several days previously asking to be on the Consulting Party list, but had not received a reply. She stated she had to reach out to another Consulting Party to find out about the April 27 meeting. Mr. DuPont stated he had replied to Ms. Anderson’s email with the meeting information, and noted that she had been added to the Consulting Party list, earlier that day. Ms. Anderson stated she had not received that email.
- Mr. Stant asked Mr. DuPont what contact information he should provide to his organization’s members (Indiana Forest Alliance). Mr. DuPont suggested his email address would be fine.
- Ms. Anderson asked how many Consulting Party Meetings would be held. Mr. Quigg stated the current plan is to hold two such meetings, but more could be held if necessary. Mr. Quigg mentioned the Consulting Parties would receive the draft PA in June for review prior to the next meeting, and that the next Consulting Party meeting is planned for the fall of 2020 after the release of the DEIS. At the fall 2020 Consulting Party meeting, the evaluation from the DEIS will be discussed and the PA will be finalized. At that point Tier 2 studies will begin.



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- Mr. Stant asked if the PowerPoint presentation from the April 27 Consulting Party meeting could be shared with all Consulting Parties. Mr. DuPont stated we would do so.
- Mr. DuPont noted that in addition to the Consulting Party meetings for Section 106 review, there are other stakeholder groups who are involved in the review process for other parts of the NEPA process, and that public hearings will be a part of the outreach plan to present the findings of the DEIS.
- Mr. Stant asked if the public hearings would consist of booths where the public could talk to someone directly involved in the project or would they be actual hearings where the public can “testify” in a plenary format to everyone there. Mr. DuPont stated the hearings would involve a presentation, informational exhibits, and an opportunity for the public to make oral comments formally, which would be recorded, as well as provide written comments. Mr. Stant asked if people would be able to speak to everyone gathered at the meeting. Mr. DuPont said yes.
- Ms. Anderson said, “But the thing is, that’s after (the hearing would be after) the decision has been made as to which route you’re taking, correct?” Mr. DuPont stated, “No, but that there would be a recommendation (for a preferred corridor) provided within the DEIS.” The actual decision would be made during the development of a Final Environmental Impact Statement (FEIS). The final Record of Decision (ROD) by FHWA would be anticipated in mid-2021.
- Ms. Anderson stated, as she understood it, “Once INDOT makes the recommendation (for a preferred corridor) and everyone agrees on which route they want to pursue, it’s not going to get changed by the feds or anybody else; they’ll go along with what’s recommended. Mr. DuPont stated, “That’s depending on the input we receive and what is included within the recommendation.”
- Mr. Stant asked when the “second stakeholder meeting” will be held. Mr. DuPont clarified that this is a Consulting Party meeting, rather than a “stakeholder meeting” and that the next Consulting Party meeting will be held later this year, although a date has not been set. Further, that the second Consulting Party meeting would be held after the draft PA has been circulated to Consulting Parties for review, around the time of the release of the DEIS.
- Mr. Stant asked if the second Consulting Party meeting would be before the DEIS or after. Mr. DuPont stated this meeting would be held during the comment period for the DEIS (after the DEIS is issued).
- Mr. Baker asked, “How long until we would want to get input from stakeholders, and/or landowners that we could contact, within the corridor area before you would be able to include that as a part of your DEIS, seeing how the next meeting will not be until after that. Would we have until June?” Mr. DuPont stated we would welcome such input at any time, indicating within the next 30 days would be helpful.
- Mr. Baker asked, “Is that 30 days from today that it will be guaranteed to be a part of the DEIS?” Mr. DuPont replied, “30 days from the date of the invite letter (April 12, 2020), but 30 days from today we certainly would incorporate any input that we receive.”



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- Mr. Stant asked, “Are you saying there is an input period we are now in that extends for 30 days?” Mr. DuPont explained the 30-day period extends from the date of the invitation (April 12, 2020), but that with the input received today during this meeting we would accept comments within 30 days from this meeting date (April 27, 2020). Mr. Stant continued, “So you’re asking us to get you information on historic properties within the next 30 days or are you saying information on processes that we think you should pursue?” Mr. DuPont replied, “Both.”
- Mr. Baker stated, “If you’re going to incorporate information about the windshield survey later, do you have anything more to say about that at this meeting?” Mr. DuPont stated that would be part of the Mid-States Corridor team’s information gathering process during Tier 1 review and that the windshield survey would be discussed at the next Consulting Party meeting. Mr. Baker continued, “But, when you say ‘our’ you mean Lochmueller and its historians?” Mr. DuPont answered, “The project team, yes.” Mr. Baker asked, “Would we be able to be made aware, or advised of, when this would happen?” Mr. DuPont explained we cannot provide that timeframe as it is likely to vary and involve multiple visits.
- Mr. Stant asked, “Is there a ‘part 800’ or are there ‘regs’ that define this public comment period and its scope that we’re talking about now?” Mr. DuPont stated yes, and that 36 CFR 800 codifies Section 106 comment periods.
- Mr. Patrick Carpenter (INDOT Cultural Resources Office) explained anyone who is not familiar with the Section 106 process may access the Advisory Council on Historic Preservation’s (ACHP) website and look for their Citizens Guide which explains the Section 106 process in a more “digestible” format. Mr. Carpenter encouraged the Consulting Parties to visit the ACHP website.
- Mr. Baker asked, “Do any of the other Consulting Parties represent an agency based in Orange or Lawrence County?” Mr. Quigg stated the Lawrence County Historian and Lawrence County Museum of History accepted Consulting Party status, but they did not accept the invitation to participate in this first Consulting Party meeting.
- Mr. Greg Sekula (Indiana Landmarks, Southern Regional Office) said one of the things that would have been helpful in this call would be to have identified all of the agencies and individuals who are participating in this conference call meeting among the 22 Consulting Parties. Mr. DuPont read aloud the names of the organizations and individuals who are among the 22 Consulting Parties.
- Mr. Baker asked if anyone from Orange County accepted the invitation to become a Consulting Party. Mr. Quigg stated that among the approximately 30 invitations that went out to Orange County no responses were received. Mr. Baker asked if all of those invites were just letters or if any were followed up by emails and phone calls. Mr. Quigg stated the initial invitations were by email, which were followed up with hard copy letters and phone calls as necessary.
- Ms. Anderson asked if it would be possible to obtain a list of organizations from Orange County invited to participate as Consulting Parties. Mr. DuPont stated the initial



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invitation letter (which includes a listing of all organizations invited to become Consulting Parties) would be sent to the Consulting Parties.

- Mr. Sekula stated there was a group called Saving Historic Orange County and he was wondering if they were included in the invitations sent out to potential Consulting Parties.
- Ms. Anderson asked if the Orange County Historical Society was included in the invitations sent out to potential Consulting Parties.
- Mr. Baker asked if the Indiana Karst Conservancy was invited to become a Consulting Party, because he felt they would have a good knowledge of the archaeological resources in the area. Mr. DuPont stated the Mid-States Corridor team has reached out and coordinated with the Indiana Karst Conservancy with regard to karst resources, but they are not on the Section 106 Consulting Party invitation list.
- Mr. Baker stated, “Would they not be one of the best resources available for archaeological knowledge?” Mr. DuPont stated, “No, but INDOT maintains a list of those organizations who would be most helpful for those resources.”
- Ms. Anderson stated she believed the Indiana Karst Conservancy should be involved.
- Kyanna Moon (INDOT Project Manager) stated the Indiana Karst Conservancy has been involved and that they have shared their database with the project team.
- Mr. Baker asked if the Indiana Karst Conservancy had been “surveyed” for archaeological resources specific to the Section 106 resource process. Mr. DuPont stated, “No we have not.” Mr. Baker asked if they (Indiana Karst Conservancy) would not be the best resource for those (archaeological sites). Mr. Quigg responded that in his experience as a historian and archaeologist he had never consulted a karst organization for archaeological information, but there’s no reason not to ask them.
- Ms. Anderson stated that the project area was a prominent karst area. Mr. Quigg replied that this is certainly understood by the project team, but that karst information is not a part of Section 106 review. Mr. Baker stated that anything that is tied to a “people of the past” would be tied to Section 106. Mr. Quigg stated that the project team would like to reach out to anyone that has knowledge that may be helpful.
- Mr. Stant asked about the White River crossings that would occur as a part of the project, and whether or not information had been obtained about the shellfish/mussels in the part of this river that may be impacted. Mr. DuPont stated the project team is reaching out to the appropriate state and federal agencies and organizations (including the Indiana DNR and US Fish & Wildlife) who have this information.
- Mr. Stant asked if the Glen Black Laboratory had been consulted regarding archaeological resources within the study area. Mr. DuPont responded that the records from Glen Black Laboratory are a part of the SHAARD database. Mr. Stant formally requested that the Mid-States Project team connect directly with the Glen Black Laboratory regarding archaeological resources in the study area.
- Mr. Quigg stated that there was an earlier question in the meeting about Orange County organizations invited to participate as Consulting Parties and wanted to let the group know that both the Orange County Historical Society and the Saving Historic Orange



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County had both been invited, but had not responded to the invitations. Mr. Baker asked who the contact person was for Saving Historic Orange County, and Mr. Quigg replied it was Terry Cornwell. Mr. Baker and Ms. Anderson both stated that was the correct contact person. Mr. Sekula said he would reach out to Mr. Cornwell and encourage Saving Historic Orange County to participate.

- Ms. Anderson asked when the invitation letters inviting organizations/individuals to become Consulting Parties were sent out. Mr. Quigg responded that invitations were sent out December 12, 2019, January 31, 2020, and March 12, 2020.
- Mr. Quigg noted one of the reasons for having Consulting Party meeting was to find out what other organizations/individuals should be invited to become a Consulting Party, and thanked the group for providing additional information.
- Mr. Stant expressed that having only 30 days with which to reply with information did not seem viable for public input. Mr. DuPont stated the project team is available to receive information throughout the study process, but 30 day review periods are standard within the NEPA process as well as Section 106.
- Mr. Sekula stated it is “somewhat overwhelming” to be asked for information about cultural resources within so many counties within so many different alternative corridors. Mr. Sekula went on to say he understood the project team would do a SHAARD review of the alternative corridors, windshield surveys within the alternative corridors, summarize the results of these studies, and at that point there would be an opportunity for Consulting Parties to offer comments on that work. Mr. DuPont replied, “Yes.”
- Mr. Baker stated, “But for clarification, that input from Consulting Parties would not be requested until after a single route has been proposed as the preferred alternative, correct? Could we schedule a Consulting Party meeting before the release of the DEIS so that we may have the opportunity to provide additional information on historical and archeological resources before the decision is made for a preferred corridor? Mr. DuPont stated the project team would consider and evaluate this based on the project schedule. Mr. DuPont stated we could make the presentation of information a two-step process wherein the results of the Tier 1 cultural resources studies are presented to Consulting Parties in advance of the DEIS.
- Mr. Sekula stated he would concur with the suggested two-step approach indicated by Mr. DuPont so that the Consulting Parties would have an opportunity to comment on the Tier 1 findings on cultural resources for all alternative corridors.
- Mr. Stant added that the dissemination of the Tier 1 study results on cultural resources should be early enough that the feedback from Consulting Parties could be used in the selection of the preferred corridor. Mr. DuPont stated this is something that the project team could do, but would need to coordinate this with INDOT.
- Mr. Sekula stated he would like to see the cultural resource data from the Tier 1 studies presented to Consulting Parties, a 30 day review period provided to Consulting Parties to review the Tier 1 information and comment on it, then proceed to the development of the DEIS.



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- Mr. Stant asked when the Consulting Parties could anticipate receiving the results of the Tier 1 cultural resources study. Mr. DuPont stated that at this time the project team is unable to provide a date for the distribution of that information. Mr. Stant stated this information must be brought to the Consulting Parties well before the preferred alternative corridor decision is made and communicated within the DEIS. Mr. DuPont said, “Yes.”
- Mr. Quigg noted that 357 invitations were sent out to potential Consulting Parties.
- Mr. Sekula stated he felt that a very aggressive time schedule has been laid out for such a large project, particularly in light of the pandemic.
- Mr. Stant asked the project team if there had ever been a situation where comment periods have been extended beyond 30 days, and if the project team will be sticking to that no matter what the appeal is from the public. Mr. DuPont stated that he would not anticipate deviating from the established review periods unless there was direction from INDOT or FHWA that revised such review periods.
- Mr. Sekula stated based on his past experience with large projects involving Section 106 review that the agencies (INDOT/FHWA) usually offer a bit more time, within reason, if there is an overwhelming consensus by Consulting Parties that more time is needed for review.
- Ms. Anderson commented that among all of these different routes, this is “not just flat ground,” that there are a lot of karst areas and that she believed it required more time and did not understand how it could get “pushed through” so quickly.
- Kyanna Moon (INDOT Project Manager) identified herself as the project manager of the Mid-States Corridor project and stated a typical environmental study is 12 to 18 months. This project is two years in length for Tier 1, and Tier 2 is an additional two years, so it is much more extensive than a typical study. Ms. Moon went on to say that the project team is being mindful of the pandemic moving forward. Further, if more time is needed INDOT will consider that on a case by case basis. “We’re here to offer as much flexibility as we can while still staying on schedule.”
- Mr. Stant stressed the importance of the “ability to give feedback back to the people pushing the project...is the essence of good government.”
- Mr. Baker asked Mr. Quigg and Mr. DuPont a hypothetical question. Specifically, Mr. Baker stated that he had elderly neighbors who have a cabin on their property. Mr. Baker wanted to know how he would go about asking his neighbors for information on that cabin when they do not have access to internet, and Mr. Baker does not know their cell phone number, “without breaking the regulations and advisements of the Indiana and United States governments in regards to this pandemic and not communicate with them and putting them at risk?” Mr. DuPont stated that Mr. Baker could make the project team aware of the location, and that his neighbors would not have to be disturbed, or the project team could reach out to them. Mr. Baker asked if the project team would reach out by physically going to their residence and putting them at a health risk. Mr. DuPont stated that we are observing, and will continue to observe, all social distancing guidelines and would not put anyone at risk, but would provide



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whatever evaluation of the property that was possible under the circumstances. Mr. Baker asked if the pandemic situation would not warrant extending the deadline (for information on cultural resources). Ms. Moon stated that this is not a decision we can make here today during the meeting, but that INDOT and FHWA will confer and consider this kind of situation with regard to being flexible due to the pandemic. Ms. Moon asked Mr. Baker for time to confer on extending periods in which information will be accepted regarding cultural resources.

- Mr. Grovak (Lochmueller Group) stated that in this level of cultural resources survey the project team is limited to windshield surveys from public roadways within each of the alternative corridors, and that without letters of survey being sent out to each property owner the project team is not allowed, by law, to access private property. This would preclude the project team from making personal contact with property owners unless it was initiated by someone else.
- Mr. DuPont reiterated that in addition to the 30 day comment period stated on the materials provided to Consulting Parties in the invitation letter to this meeting and within this meeting, that there will be additional comment periods between now and the completion of the DEIS. The project team will look at, and evaluate, what additional efforts will be made to involve Consulting Party review of materials as well as the overall timeline in light of the current health climate and when we will have cultural resources data to present to the Consulting Parties.
- Mr. DuPont asked if there were any additional questions. Ms. Moon asked the Consulting Parties to feel free to reach out to the project team via email or phone if they have other questions or concerns after the meeting.
- Mr. Stant stated, "You gotta give us more time. If you're really interested in the input...You can't just say, Well project timelines mean your time's up after 30 days...and I heard you just say that you are willing to consider that (more time) and will take the pandemic into account and I'm looking forward to seeing you do that."
- Michelle Allen (FHWA) stated she "just wanted to make sure that the Consulting Parties understand that the Section 106 process does not end with the DEIS or the end of Tier 1. As we move into Tier 2 we will continue the Section 106 process. All that we are doing right now is a very high-level survey so we know of any very significant properties." Ms. Allen went on to explain that no decision will have been made within the DEIS; it is simply identifying what may be the preferred alternative, and this alternative is a corridor. "So, it is a wide band and within Tier 2 (studies) the goal is to avoid significant properties within that corridor. The end of this 30-day review period does not mean that Section 106 will be complete. We're really just starting a multi-year process of Section 106."
- Mr. Stant replied, "But it's also true that because you've divided the NEPA process into this tiering, that once we're done with the Tier 1 process it doesn't matter what we find out in one corridor relative to another in terms of its historic properties, we're stuck in that corridor." Ms. Allen replied, "This particular study is concerned with historic properties and making efforts to avoid them, but there are a lot of other studies going



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on as well, we're looking at karst, we're looking at wetlands...the project team is looking at all these different areas and compiling information so that they can make the best decision they can, and then the public is involved in that process as well."

- Mr. Stant replied, "If you select Route O there is nowhere in your 2,000-foot corridor you can put the highway without causing massive impacts on the karst system. You would have to put most of it outside the Lost River basin." Ms. Allen replied, "That's a great comment, but for this particular process right now, here, we have to focus on historical properties. That doesn't mean the karst comment isn't an important comment as well, it's just that the karst resources, the wetland resources, and all of those different areas have a lot of research going on right now to try to identify things so that the public has a chance to look at that as a part of the DEIS. For this particular process right now, the focus is really on historic properties aboveground and below ground."
- Mr. Sekula stated, "What I would say to my colleagues who are local in Dubois County and Orange County and those counties that are affected, "You know best, some of these historic resources and cultural resources that are what I would call off the beaten path...be thinking about those historic resources that you're aware of that might not have been picked up in the (IHSSI) survey. What the consultants won't be able to find on the SHAARD database or are not visible from a public road, that's the kind of information that is very helpful at this stage." Mr. DuPont replied, "Absolutely."
- Ms. Anderson asked, "Since you're referring to buildings as historical properties, and Michelle (Allen) has referenced aboveground and below ground, the karst system, a good portion of it, is below ground, when is that considered?" Mr. DuPont replied, "In regard to cultural resources significance (of karst resources) it would need to be related to sites that have been identified. We are looking at mapped cave information, and cultural associations there, but the extent of the geologic formations is not all of cultural significance. We are evaluating this (karst) as a part of other aspects of the study. Ms. Anderson asked, "When is that exactly, when will you be considering those?" Mr. DuPont stated, "We are considering them now." Ms. Anderson stated, "So if we have information with regards to karst caves or caverns or springs, who do we turn that information into and by what deadline?" Ms. Allen replied, "That is ongoing, and you may turn that into Jason (DuPont). However, the purpose of this call is related to Section 106, so anything that is related to the project that is outside of 106 we would ask that you reach out to us later just so we're not taking up everyone's time on this call to discuss something that's not related to the 106 process. Ms. Anderson stated, "I am trying to figure out if the karst system here is a part of the National Preservation site, and I'm trying to figure out if it is on SHAARD."
- Mr. Sekula stated, "I think there may be some confusion about what is cultural and geological resources. I think we might want to distinguish for folks what is archaeological and geological just for verification." Mr. Quigg stated, "To answer your question directly, the SHAARD system would not have any karst resources unless they are specifically linked or directly related to cultural resources meaning human occupation of some sort or human use. The SHAARD map that you can access publicly



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does not show karst features unless there is an archaeological site associated. Archaeology is simply evidence of human activity that's usually below ground, so that's what differentiates between karst features and archaeological resources. Archaeological features have to be associated with human activity."

- Ms. Anderson also stated, "That karst system does supply ground water to some of our springs for some of our homes. Human consumption." Mr. DuPont replied, "That's a separate evaluation that is ongoing...but not part of the Section 106 process."
- Mr. Stant asked, "Can we assume that this 106 process could actually influence the selection of alternatives to the point that alternatives that have already been dismissed could be reconsidered? I'm thinking of the alternative that would deal only with the congestion in Huntingburg and Jasper, then make some safety upgrades to US 231 going north, but it's not new terrain." Mr. DuPont replied, "There was an alternative like that which was discarded during the preliminary screening. As we went through that preliminary screening process we did look at cultural resources from the databases in that evaluation." Mr. Stant continued, "But if we find so many sites in the (remaining) alternatives that all involve new terrain would it be possible that would result in going back and looking at that (a previously dismissed alternative). Mr. DuPont replied, "We can't really answer that question until we have all the information (from Tier 1 cultural resources studies)."
- Ms. Allen stated we were at the end of our allotted time for the meeting (2 hours) and asked if anyone had any final comments in regard to the Section 106 process. Ms. Allen also stated if Consulting Parties think of other comments after the meeting to please contact the project team.
- As the meeting closed, Mr. DuPont stated that the project team would circulate the PowerPoint presentation used during the meeting, as well as the original Consulting Party invitation letter (December 12, 2019) and the Consulting Party Meeting invitation letter (April 12, 2020). Mr. DuPont thanked all for attending and asked if there are any other organizations or individuals that the group believes should be invited to become Consulting Parties to please let the project team know.
- The meeting ended at 1:57pm (EDT).

Other Items/Action Steps:

- On April 30, 2020 the PowerPoint presentation used during the meeting, as well as the original Consulting Party invitation letter (December 12, 2019) and the Consulting Party Meeting invitation letter (April 12, 2020) were emailed to all Consulting Parties (those who do not have email addresses were sent hard copies of the materials by mail).

The above constitutes our understanding of the meeting. If you believe there are omissions, additions, or corrections, please send your written comments within seven working days to Lochmueller Group.



FIGURE 4: INVITATION TO SECOND CONSULTING PARTY MEETING, APRIL 5, 2021



April 5, 2021

This letter was sent to the listed parties.

RE: Des. No. 1801941/DHPA No. 24215
Mid-States Corridor Project
SR66 to I-69
12-County Study Area:
Crawford, Daviess, Dubois, Greene, Lawrence, Martin, Monroe, Orange, Perry, Pike, Spencer,
Warrick

Dear Consulting Party (see attached list),

The Indiana Department of Transportation (INDOT) proposes to proceed with a new terrain roadway project (Des. No. 1801941). Lochmueller Group is under contract with INDOT to advance the environmental documentation for the referenced project. This present phase (a Tier 1 Environmental Impact Statement (EIS)) is funded by the Mid-States Corridor Regional Development Authority (RDA), in cooperation with INDOT and the Federal Highway Administration (FHWA). FHWA funding is anticipated for subsequent project activities, including Tier 2 environmental studies. At this time, we have completed our Tier 1 reviews for cultural resources (historic and archaeological) and look forward to sharing our results with you.

As you have accepted consulting party status for this project, you are invited to attend our second consulting party meeting as a part of the Section 106 coordination process for this undertaking. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic and archaeological properties.

Due to the ongoing health concern, this consulting party meeting will be held using online technology (ZOOM website) and telephone call-in service for those unable to participate online. This remote virtual meeting will be held **Tuesday, April 20, 2021 at 3:00pm EDT**.

A weblink to access the meeting via Zoom will be sent to you by an Outlook email meeting invite. The toll-free call-in phone number for those not accessing Zoom to participate is **(888) 788-0099**. The meeting ID number is **895 5845 7858**, and the Passcode is **098963**.

Enclosed you will find the slide images to be shown during the April 20, 2021 consulting party meeting, along with the Historic Properties Analysis. This letter and enclosures may be viewed electronically by accessing INDOT's Section 106 document posting website IN SCOPE at <http://erms.indot.in.gov/Section106Documents/> (the Des. No. is the most efficient search term, once in IN SCOPE). Please use the project identification details provided in the subject heading to search for the documents. In addition to an explanation of the review conducted during Tier 1 studies, the Historic Properties Analysis includes appendices with maps of the preliminary Areas of Potential Effects (APEs) for each potential route, photographs and tables of all above-ground properties currently

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listed in the National Register of Historic Places (NRHP) or considered potentially eligible for the NRHP within the preliminary APEs, as well as sample photographs of properties not considered potentially NRHP-eligible. Each property has a Photo ID Number which you may use to locate the NRHP-listed and potentially NRHP-eligible properties on the maps, tables, and photograph appendices.

A range of potential corridors within the 12-county study area are being considered to determine a preferred alternative route. The study area is bounded by I-69 on the west and north, SR 37 on the east, and the Ohio River on the south. Please see the enclosed materials.

The need for the project stems from lack of efficient access to regional and national destinations, resulting stagnant economic development in the 12-county study area, and safety concerns. The purpose of the project is to provide a better transportation link between the Ohio River and I-69 to improve connectivity and safety in support of enhanced quality of life and economic growth within the study area.

The proposed project involves the construction of a new roadway potentially combined with upgrades to existing roads. Possible design options for the new roadway include an expressway (multi-lane, partial controlled access) or Super 2 (two-lane, partial controlled access with passing lanes), and two-lane upgrades from I-64 near Dale to I-69 either directly or via SR 37. Potential upgrades to existing roads will make use of a combination of existing and new right-of-way (ROW). Further design efforts have not been undertaken. New right-of-way (ROW) will be required, but the amount is not known. It is anticipated that there will be some relocations.

Individuals/Entities that have accepted consulting party status for the Section 106 consultation process for this project are identified in the attached list. Per 36 CFR 800.3(f), we hereby request that the Indiana State Historic Preservation Officer (SHPO) notify this office if the SHPO staff is aware of any other parties that may be entitled to be consulting parties or should be contacted as potential consulting parties for the project.

The Section 106 process involves efforts to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. For more information regarding the protection of historic resources, please see the Advisory Council on Historic Preservation's guide: *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* available online at <https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>.

The Section 106 process will be extended for this project due to the scope and size of the undertaking. Specifically, the Section 106 process will be divided into two phases under a tiered approach as part of the National Environmental Policy Act (NEPA) assessment for the study area. The Tier 1 process will narrow the project area from a range of alternatives consisting of two-mile study bands in order to select a preferred corridor. This corridor generally will be 2,000 feet wide. The Tier 1 draft Environmental Impact Statement (EIS) will include a section titled, "Cultural Resources Impacts" to include a discussion of above-ground and archaeological concerns which will summarize the review of cultural resources within the 12-county study area. For Tier 1, the Section 106 process is concerned with identifying properties that are currently listed in, or potentially eligible for listing in, the NRHP. Final determinations of eligibility of properties for the NRHP, and the level of effects (impacts) to such properties, are not a part of Tier 1, but will be completed during Tier 2. A Programmatic Agreement is under development which will further define how the Section 106 process will be completed during Tier 2 environmental studies. The Section 106 process for Tier 2 will focus specifically on the 2,000-foot preferred corridor (determined during the Tier 1 phase) and associated Area of Potential Effects and will conduct a more in-depth analysis to identify above-ground and archaeological resources within and near the preferred corridor. The impacts to resources determined potentially eligible for listing in the NRHP will also be evaluated during Tier 2.



An invitation to the April 20, 2021 consulting party meeting has been sent to you via email if you have provided an email address. However, if you did not receive this invitation, or have not responded to date, please respond either by email or phone to the contact information provided below to indicate whether or not you will be joining us. Digital copies of the presentation materials to be shared during the Zoom meeting are being sent by email to you, and by hard copy for those who have not provided an email address. If you receive the digital copies of the presentation materials, but would also like a hard copy, please respond to this letter with your request for a hard copy of the presentation materials within seven (7) days.

For questions concerning specific project details, you may contact Jason DuPont of Lochmueller Group at 812.759.4129 or JDuPont@lochgroup.com. All future responses regarding the proposed project should be forwarded to Lochmueller Group at the following address:

Jason DuPont
Director of Environmental Services
Lochmueller Group
6200 Vogel Road
Evansville, IN 47715
JDuPont@lochgroup.com

Consulting Parties have thirty (30) calendar days from receipt of this information to review and provide comment. Tribal contacts may contact Shaun Miller at smiller@indot.in.gov or 317-416-0876 or Kari Carmany-George at FHWA at K.CarmanyGeorge@dot.gov or 317-226-5629.

Sincerely,

Anuradha V. Kumar, Manager
Cultural Resources Office
Environmental Services

Enclosures:

- PowerPoint Slides for the April 20, 2021 Meeting
- Historic Properties Analysis

Enclosures are not included here due to the large size of these documents. The Historic Properties Analysis may be viewed in Appendix O.

Distribution List:

- State Historic Preservation Officer
- INDOT Cultural Resource Office
- Absentee Shawnee Tribe of Oklahoma
- Advisory Council on Historic Preservation
- Bloomington Restorations
- Dale Town Council
- Delaware Tribe of Indians of Oklahoma
- Delaware Nation of Oklahoma



- Dubois County Commissioners
- Eastern Shawnee Tribe of Oklahoma
- Ellettsville Town Council
- Forest County Potawatomi Community
- Indiana Barn Foundation
- Indiana Forest Alliance
- Indiana Landmarks, Central Regional Office
- Indiana Landmarks, Southern Regional Office
- Indiana Landmarks, Southwest Field Office
- Lawrence County Historian
- Lawrence County Museum of History
- Martin County Historical Society
- Mayor of Rockport
- Miami Tribe of Oklahoma
- Monroe County Historic Preservation Board of Review
- Newburgh Town Council
- Peoria Tribe of Indians of Oklahoma
- Pike County Historian/Historical Society
- Pokagon Band of Potawatomi Indians
- Rockport City Council
- Saving Historic Orange County
- Shawnee Tribe of Oklahoma
- Shoals Town Council
- United Keetoowah Band of Cherokee Indians
- Wyandotte Nation
- Gretchen Anderson
- Luke Baker
- B. J. Elmore
- Jim Himsel
- David Ring
- LeRoy Seitz



FIGURE 5: CONSULTING PARTY MEETING SUMMARY, MAY 11, 2021



MEETING SUMMARY

Date of Meeting: April 20, 2021
3:00pm EDT

Location: Zoom Virtual Mtg

Submitted By: Gary Quigg

Re: Mid States Corridor Tier 1
Section 106 Consulting Party Meeting #2

Issue Date: May 11, 2021

In Attendance:

- | | |
|-----------------------|---|
| Anuradha Kumar | INDOT Cultural Resources Office |
| Shaun Miller | INDOT Cultural Resources Office |
| Patrick Carpenter | INDOT Cultural Resources Office |
| Kelyn Alexander | INDOT Cultural Resources Office |
| Danny Corbin | INDOT Project Management |
| Jason DuPont | Lochmueller Group |
| Gary Quigg | Lochmueller Group |
| Hannah Blad | Lochmueller Group |
| Randy Weaver | Lochmueller Group |
| Michael Grovak | Lochmueller Group |
| Chad Costa | Lochmueller Group |
| Kevin Cupka Head | Cultural Resource Analysts |
| Danielle Kauffmann | Department of Historic Preservation/Archaeology |
| Wade Tharp | Department of Historic Preservation/Archaeology |
| Kari Carmany-George | Federal Highway Administration |
| Diane Hunter | Miami Tribe of Oklahoma |
| Erin Paden | Delaware Nation |
| Matthew Bussler | Pokagon Band of Potawatomi |
| Michael LaRonge | Forest County Potawatomi |
| Greg Sekula | Indiana Landmarks, Southern Regional Office |
| Laura Renwick | Indiana Landmarks, Southern Regional Office |
| Candice Croix | Indiana Landmarks Southwest Field Office |
| Chad Blessinger | Dubois County Commissioner |
| Ferman Yearby | City Council of Rockport |
| Danielle Bachant-Bell | Indiana Barn Foundation/Monroe Co. Pres. Board |
| Cindy Barber | Indiana Barn Foundation |
| Jim Himself | Private Citizen |





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ITEMS DISCUSSED:

Purpose

The purpose of the meeting was to provide a “refresher” overview of the Mid-States Corridor project and a status update, review the preliminary corridors, review the Tier 1 and Tier 2 National Environmental Policy Act (NEPA) study process, review Section 106 of the National Historic Preservation Act (NHPA) and its cultural resources study process, provide the results of the Tier 1 analysis of historic and archaeological properties within the preliminary Areas of Potential Effects (APEs), answer any questions and/or listen to concerns from Consulting Parties regarding the project’s identification of cultural resources, and present the next steps for Section 106 review under Tier 1.

The following subject headings provide an overview of the meeting discussion and are not presented as detailed minutes (wherein each individual speaker’s questions or comments would be quoted as a matter of record). Although, within the Question & Answer section, for clarity, more precise wording from the recording of the meeting has been used for optimal representation. Copies of the audio recording of this meeting are available to Consulting Parties upon request by contacting Lochmueller Group.

Introductions & Project Overview

- Following welcome and introductions, Jason DuPont (Lochmueller Group) introduced Kari Carmany-George of the Federal Highway Administration (FHWA) who provided background on highway projects administered locally that use federal funds from FHWA. Specifically, Ms. Carmany-George explained that such projects must meet certain criteria, and among those is compliance with the NHPA. As the lead federal agency on the Mid-States Corridor project, it is FHWA’s responsibility to make sure such compliance is fulfilled. Ms. Carmany-George stressed that FHWA wants to hear from the Consulting Parties regarding their concerns on historic properties in the study area and that the project team is “here to listen” today as well as present information.
- Next, Mr. DuPont began a PowerPoint presentation, providing a review of the meeting agenda, a project “refresher” overview of the Mid-States Corridor undertaking which included: project background, purpose and need, project goals, preliminary alternatives, project status, a brief introduction to the two tier NEPA resources review approach, and information on the facility (highway) types under consideration. Mr. DuPont noted the maps being shown in the presentation (and within the materials provided to Consulting Parties prior to the meeting) no longer show the areas of US 231 from the Ohio River to I-64, or along SR 37 from Mitchell to Bloomington, because no changes are anticipated to these existing highways as a result of the Mid-States Corridor project.



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Section 106 & Tiered NEPA Approach Overview

- As Mr. DuPont ended his portion of the presentation, Gary Quigg (Lochmueller Group) began a review of the cultural resources studies that have occurred as a part of Tier 1 of the NEPA study process. Mr. Quigg's portion of the presentation included:
 1. A review of Section 106 of the NHPA: Mr. Quigg explained the purpose of this federal law is to assure federal agencies take into account the effects of their undertakings (projects) on historic and archaeological properties. Further, Mr. Quigg emphasized the Section 106 process is concerned with identifying historic and archaeological properties that are listed, or eligible for listing, in the National Register of Historic Places (NRHP) that may be affected by the Mid-States Corridor project (Tier 1), assessing the affects that may occur to these properties (Tier 2), and seeking ways to avoid, minimize or mitigate any adverse effects on these properties (Tier 2). Mr. Quigg stressed that at this time, **during the Tier 1 review period, the Section 106 process is only concerned with the identification of potential historic and archaeological properties within the five preliminary APEs.** Effects to these cultural resources (and necessary mitigation steps) are not assessed or determined during Tier 1 but will be addressed during Tier 2 studies.
 2. A review of the Section 106 Consulting Parties Process: Mr. Quigg noted 347 invitation letters were sent out resulting in our current number of 34 participating Consulting Parties. Mr. Quigg explained the types of groups and individuals asked to participate as Consulting Parties and thanked all those attending the meeting for their ongoing input, information, and guidance.
 3. A review of the five preliminary APEs: Mr. Quigg explained each APE for Tier 1 Review was not based on the viewshed to/from cultural resources, but rather was developed as pre-defined uniform distances. Specifically, for the 2,000-foot-wide new terrain corridors, the preliminary APEs extend one mile out from each edge of the 2,000-foot corridor. For existing highways, preliminary APEs extend 4,000 feet from the existing centerline of the alignment.
 4. A review of the Tier 1 methodology and status: Mr. Quigg noted Milestone 1 (online review of the State Historic Architectural and Archaeological Resource Database [SHAARD]) for each preliminary APE began in February 2020 and was completed in May 2020. Further, Milestone 2 (Windshield Survey of above-ground resources) began in May 2020 and was completed in February 2021. Mr. Quigg specified that Huntingburg, Jasper, Loogootee, Mitchell, Oolitic and Bedford were not surveyed due to structural density. Continuing the status review, Mr. Quigg stated Milestone 3 (Cultural Resources Summary chapter



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within the Draft Environmental Impact Statement [DEIS]) is in draft form and a large portion of this chapter was distributed to all Consulting Parties for review prior to the meeting. Mr. Quigg continued, noting the final Section 106 Milestone for Tier 1 is the Programmatic Agreement to guide Tier 2 environmental studies which will be completed and shared with Consulting Parties during Fall 2021.

5. A review of the Tier 2 Studies for Cultural Resources: Mr. Quigg explained only one “preferred” route (determined at the conclusion of Tier 1 studies) will be evaluated during Tier 2 studies. Specifically, Tier 2 studies will include: A refined APE based on viewshed, formal eligibility determinations including enhanced identification/evaluation of historic/archaeological resources, and Historic Property Reports (HPRs). Additionally, Effects Determinations documents will be prepared for each Section of Independent Utility (SIU) during Tier 2 studies. Mr. Quigg reminded the group that some properties identified as “potentially eligible for the NRHP” during Tier 1 may not be recommended eligible during Tier 2 upon further, more in-depth, research. Likewise, “newly recorded” resources may be identified during the more intensive Tier 2 fieldwork that were not identified during Tier 1.
6. A review of the results of the Windshield Survey: Mr. Quigg noted the number of photographs taken, and aboveground resources documented, during this automobile-based fieldwork (1,785 total /1,444 structures). He then provided a summary table showing the locations (by preliminary APE) of all the NRHP listed/potentially NRHP-eligible above-ground resources. Mr. Quigg explained 128 total resources were NRHP listed or potentially NRHP eligible, five of which were newly recorded resources with the remainder having been previously recorded during past surveys conducted as a part of the Indiana Historic Sites and Structures Inventory (IHSSI) or other projects requiring Section 106 review.
7. A review of the meaning of “Potentially NRHP Eligible”: Mr. Quigg provided an explanation of how historic and archaeological properties may meet the criteria for listing in the NRHP, and what each criterion specifies. The Tier 1 review process does not include formal eligibility determinations (this will occur during Tier 2), so based on the Tier 1 review resources which appear to meet NRHP eligibility criteria are considered to be “potentially eligible”.
8. A review of the NRHP-listed and potentially NRHP-eligible above-ground resources within each preliminary APE: Mr. Quigg examined these resources with the group, providing the maps, a sample sheet from the matrix (tables of above-ground resources), and example photographs from each of the five preliminary APes. Mr. Quigg reminded the group they had each received a



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complete set of the preliminary APE maps, matrix, and photographs showing all of the NRHP listed and eligible properties prior to the meeting within the Historic Properties Analysis document appendices.

9. A review of some of the above-ground resources considered not potentially NRHP-eligible. Mr. Quigg went through several photographs of properties that are considered “Contributing to the historic fabric of the built environment/cultural landscape,” but do not rise to the level of NRHP eligibility.
- Mr. Quigg ended his portion of the presentation by noting only an online review was conducted for archaeological (below-ground) resources during Tier 1, with no fieldwork involved, and introduced Mr. Head (Cultural Resource Analysts), who further explained the Tier 1 review process conducted for archaeological resources. Sharing several slides of tables summarizing archaeological sites within the study area (without location information), Mr. Head described the virtual review process utilizing the SHAARD archaeological database to identify previously recorded sites within each preliminary corridor. The character of each site was provided (e.g., camp, lithic scatter, isolated find) and whether or not the site is considered potentially eligible for the NRHP or has not been assessed for eligibility. As Mr. Head concluded his portion of the presentation, Mr. DuPont reminded the group that archaeological fieldwork will occur during Tier 2, once a preferred route has been identified. Mr. DuPont then asked if the Consulting Parties attending had any questions or comments about the cultural resource studies completed during Tier 1 review.

Questions and Answer Period

- Via the online chat, Ms. Renwick (Indiana Landmarks, Southern Regional Office) asked if the Windshield Survey field review included identification of previously recorded, and newly recorded, historic districts (particularly rural districts) in addition to individual above-ground resources. Mr. DuPont answered that the historians were indeed looking for historic districts during the Windshield Survey. He also noted that the urban areas with high structural density were not included as they are not expected to be a part of the final APE as they are defined during Tier 2. As the APE is further refined (for the preferred alternative), the areas not surveyed for Tier 1 (due to structural density) would be reviewed. Mr. Quigg added that the historians did not identify any new historic districts during the Windshield Survey but did document two previously recorded historic districts within the preliminary APEs (Ballard Homes Historic District in French Lick and the Crane Historic District). Mr. Quigg also mentioned that the historians were particularly “on the lookout” for rural historic districts in the preliminary APEs but did not identify any areas that had the cohesiveness and ability to convey significance within the NRHP criteria required of a rural historic district.



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- Mr. Sekula (Indiana Landmarks, Southern Regional Office) wanted to inform the group that within the preliminary APE for Route B the Maple Grove Methodist Camp is in the process of becoming NRHP listed. Mr. Sekula also commented that Route B appeared to be the shortest alternative and would likely be impacting the least number of historic resources according to the Tier 1 survey. Mr. Sekula then asked, “What other criteria are you looking at in terms of the viability of the corridors? What other factors, considerations will be taken into account as you move further toward refining which corridor makes the most sense?” Mr. DuPont answered, “We will be evaluating all of these cultural resources along with a number of other environmental resources.” Mr. Quigg asked Mr. Sekula if his question was specific to cultural resources or if he was asking what other items were a part of consideration in determining a preferred alternative. Mr. Sekula answered, “I’m looking at other items for consideration. I remember the general goals of the corridor...but if you could refresh that. So, for example, is the ability to connect various larger areas within the study area...is that a major factor beyond environmental considerations that are being looked at.” Mr. DuPont answered, “There are essentially three key elements [as determining factors]...*performance*, such as how they address those identified needs, *environmental resource impacts*, and *cost*.” Mr. DuPont explained all three of those will be looked at in an attempt to achieve a balance between infrastructure improvement and environmental protection, including cultural resources.
- Mr. DuPont then addressed a question received in the chat forum from Ms. Renwick (Indiana Landmarks, Southern Regional Office) about whether or not the “No build” alternative was still being considered. Mr. DuPont stated that the five “build” alternatives will be evaluated against the “No build” option throughout the Tier 1 Environmental Impact Statement process and that yes, the “No build” option is being considered.
- Ms. Bachant-Bell (Indiana Barn Foundation/Monroe County Preservation Board of Review) stated that earlier in the Mid-States Corridor project there was a corridor shown potentially coming into Monroe County using SR 37, but the current maps show this corridor stopping south of the county. She asked, “Is that because you simply feel that the current corridor is already improved enough, or that there are no resources that would be effected, and so that potentially there’s not really a lot to be concerned about in that area? I’m just curious why the maps now have eliminated or stopped short of that area.” Mr. DuPont explained that since our initial Consulting Party meeting, and with the temporary pause due to Covid-19, the project team took a closer look at this area and upon coordination with FHWA the team does not anticipate a facility type (highway design) that would be a freeway or interstate. Instead, we are looking at two-lane facilities including what is known as a “Super Two,” which would have wider shoulders and passing lanes, as well as a divided four-lane “Expressway” facility which would have some grade separated interchanges but would also have connections with local roads at grade level. Given that SR 37 from Mitchell to Bloomington is currently a divided four-lane expressway the team does not anticipate that there would be any



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modification to it. Since SR 37 would remain as is, we didn't show a preliminary APE along SR 37 in this area or along existing US 231 south of I-64, which is also a divided four-lane expressway.

- Mr. Himsel (Private Citizen) asked, "Is the 'No-build' option still on the table?" Mr. DuPont stated that the "No-build" option remained an option being considered and would be evaluated against the five "build" options within the DEIS.
- Mr. Ferman Yearby (City Council of Rockport) commented on Route B, noting its merits in his opinion, "Efficiency, less impact on areas, provides economic connectivity to the quickest extent possible, and cost of building." Mr. DuPont restated that the three key elements to be considered in reviewing all potential routes are performance, impact on environmental resources, and cost. Mr. Yearby asked, "Which of these routes provide efficiency to the extent of getting into a high-speed corridor, especially I-69, as quickly as possible?" Mr. DuPont said all alternative routes provide improvements as to relative performance, but that is not something that we will address at this time as a part of the Section 106 process. Mr. DuPont said a discussion of each route's performance will be a part of the DEIS. Mr. Yearby stated that he understood one of the selling points to the state was that the project would move traffic away from other areas onto the Mid-States Corridor "because it made sense for the driving public."
- As the meeting began to draw to a close, Mr. DuPont stated that the project team would circulate a meeting summary to all Consulting Parties. Mr. DuPont thanked all for attending and for their comments and reminded the group that we will continue to receive comments throughout the 30-day comment period.
- Mr. Sekula (Indiana Landmarks, Southern Regional Office) asked Mr. Quigg if he would re-send the online link to the documents provided prior to the meeting (invitation letter, PowerPoint presentation, and Historic Properties Analysis) because the link was no longer active. Mr. Quigg stated he would re-send the link to all Consulting Parties but advised the group the system limits access to the link to 14 days.
- Ms. Kauffman (Department of Historic Preservation/Archaeology) asked, "During this open comment period are you looking for Consulting Party input on preferred alternatives so that the Consulting Parties could state which alternatives they think are preferred? Mr. DuPont stated the project team is looking for any input from Consulting Parties on the cultural resources identified as a part of Tier 1 studies and any comparative considerations they would like to offer. The project team will provide a more specific comparison of these resources by alternative routes within the DEIS, which the Consulting Parties will be provided with for review at the third Consulting Party meeting planned for Fall 2021.
- Hearing no further questions, Mr. DuPont reviewed the next steps in the Section 106 process: 1) input from this Consulting Party meeting and during the 30-day review period will be incorporated into the draft DEIS, 2) The DEIS will be finalized for publication this fall, 3) the third Consulting Party meeting will be held Fall 2021 where the final DEIS will be presented and Consulting Parties may review the Programmatic Agreement document that will provide guidance for Tier 2 studies, 4) the Programmatic



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Agreement will be finalized and the project team will advance to the Tier 2 process. Mr. DuPont also noted how comments may be received from Consulting Parties and members of the public, showing a slide with all contact information opportunities.

- The meeting ended at 4:20pm (EDT).

Other Items/Action Steps:

- On May 11, 2021, this meeting summary was emailed to all Consulting Parties (those who do not have email addresses were sent hard copies of the summary by mail).

The above constitutes our understanding of the meeting. If you believe there are omissions, additions, or corrections, please send your written comments within seven working days to Lochmueller Group.



FIGURE 6: INVITATION TO THIRD CONSULTING PARTY MEETING, APRIL 21, 2022

From: Jason DuPont
Sent: Thursday, April 21, 2022 12:40 PM
To: mranslow@achp.gov; BMccord@dnr.IN.gov; CSlider@dnr.IN.gov; lukebaker36@gmail.com; Danielle Kauffmann - Department of Natural Resources (dkauffmann@dnr.in.gov); Wade Tharp (WTharp1@dnr.IN.gov); cablessinger@duboiscountyin.org; williamellis@ellettsville.in.us; jbiggs@indianalandmarks.org; gsekula@indianalandmarks.org; bell.ron@yahoo.com; president@lcmuseum.org; lhughes@newburgh-in.gov; cschaefer@newburgh-in.gov; cecilragsdale0182@gmail.com; daleclerktreas@psci.net; MBurkett@dnr.IN.gov; gretchen.anderson1@yahoo.com; thebjelmore@gmail.com; himseljames@gmail.com; dring@psci.net; bri@bloomingtonrestorations.org; lordandbach@gmail.com; castone@purdue.edu; kentyeager@gmail.com; jeff@indianaforestalliance.org; lrenwick@indianalandmarks.org; ccroix@indianalandmarks.org; historical@frontier.com; mayordwinkler@thecityofrockport.com; tbehrman@co.monroe.in.us; slmcbeth@yahoo.com; tcornwell@msn.com
Cc: Gary Quigg; Carpenter, Patrick A; Kumar, Anuradha; Matthew Coon - Indiana Department of Transportation (mcoon@indot.IN.gov); Moon, Kyanna; Corbin, Daniel; Hilden, Laura; Michelle B. Allen (michelle.allen@dot.gov); Michael Grovak; David Goffinet; Bryan Cross; Hannah Blad; Chad Costa; Alexander, Kelyn; sbranigin
Subject: Mid-States Corridor DEIS and CP Meeting Invite (DES#1801941)

Dear Consulting Parties,

The Mid-States Corridor Tier 1 Draft Environmental Impact Statement (DEIS) has been published by the Indiana Department of Transportation and Federal Highway Administration (FHWA). The DEIS identifies Alternative P as the preferred route for the proposed Mid-States Corridor. Improvements for Alternative P extend 54 miles from I-64/US 231 to I-69 at the existing US 231 interchange. It uses existing US 231 between SR 66 and I-64. Construction will begin at the I-64/US 231 interchange continuing east of Huntingburg and Jasper, avoiding developed areas near these cities. From Haysville to the north, Alternative P generally parallels the existing US 231 alignment with a bypass west of Loogootee. This alternative ends at the existing I-69 interchange at US 231. These highway improvements may include a 2-lane or 4-lane facility to be determined during Tier 2. A total of nine illustrative local improvements on existing US 231 are also part of Alternative P, which may include passing lanes, turn lanes and/or other safety/access improvements to be determined during Tier 2.

All cultural resources information and Section 106 documentation at this DEIS stage of the project, including the Draft Programmatic Agreement has been uploaded to IN SCOPE. Please review this documentation located in IN SCOPE at <http://erms.indot.in.gov/Section106Documents/> (the Des. No. 1801941 is the most efficient search term, once in IN SCOPE), and respond with any comments that you may have. If a hard copy of the materials is needed, please respond to this email with your request as soon as you can. The full Tier 1 DEIS document is available for your review and comment at <https://midstatescorridor.com/deis>. The DEIS comment period closes on May 31, 2022.

Regulations of the Council on Environmental Quality (CEQ) and FHWA allow studies under the National Environmental Policy Act (NEPA) for large, complex projects to be carried out in a two-stage, "tiered" process. In the first tier, the "big picture" issues are addressed, while considering the full range of impacts. These "big picture" decisions include a build/no-build decision and (in the case of a build decision) identifying a corridor for Tier 2 studies. After the "big picture" issues are resolved in Tier 1, the focus shifts in Tier 2 NEPA studies to issues associated with a more exact determination of impacts and the avoidance and mitigation of adverse impacts. Because the Mid-States Corridor is a very large undertaking with a 12-county Study Area, the NEPA process and accompanying environmental reviews, including Section 106 reviews of cultural resources, follow a tiered process. This study is conducted pursuant to the



National Environmental Policy Act (NEPA) and the NEPA regulations issued by the CEQ, 40 CFR Part 1500, and the FHWA 23 CFR 771. Based on the Tiered NEPA approach, a Programmatic Agreement in accordance with 36 C.F.R. 800.14(b)(3) is anticipated to be executed at the conclusion of Tier 1. The Programmatic Agreement will guide the Section 106 process for Tier 2. The Draft Programmatic Agreement is included as the last document in Appendix P – Section 106 Documentation.

We have scheduled a Consulting Party Meeting for May 17, 2022 to review this Section 106 information at the Vincennes University Jasper Campus (850 College Ave, Jasper, IN 47546) Center for Technology, Innovation and Manufacturing (CTIM) Room 210. You will receive a separate calendar item invitation along with MS Teams link for virtual participation. We look forward to your feedback at the meeting as well as your written comments.

Respectfully,
Jason

Jason DuPont, PE

Director of Environmental Services - Principal

Lochmueller Group



Direct: 812.759.4129

Mobile: 812.459.4403



FIGURE 7: CONSULTING PARTY MEETING SUMMARY, JUNE 20, 2022



MEETING SUMMARY

Date of Meeting: May 17, 2022
9:30am EDT

Re: Mid States Corridor Tier 1
Section 106 Consulting Party Meeting #3

Location: Zoom Virtual Mtg

Issue Date: June 20, 2022

In-person at
Vincennes
University Jasper
Campus (850
College Ave, Jasper,
IN 47546) Center
for Technology,
Innovation and
Manufacturing
(CTIM) Room 210

Submitted By: Hannah Blad/Gary Quigg

In Attendance:

Patrick Carpenter
Kelyn Alexander
Patricia J. Korzeniewski
Matt Coon
Kyanna Wheeler
Danny Corbin
Michelle Allen
Jason DuPont
David Goffinet
Gary Quigg
Hannah Blad
Chad Costa
Steve Dasovich
Danielle Kauffmann
Wade Tharp
Chad Slider
Mandy Ranslow
Diane Hunter
Erin Paden

INDOT Cultural Resources Office
INDOT Cultural Resources Office
INDOT Cultural Resources Office
INDOT Cultural Resources Office
INDOT Project Management
INDOT Project Management
Federal Highway Administration
Lochmueller Group
Lochmueller Group
Lochmueller Group
Lochmueller Group
Lochmueller Group
Lochmueller Group
Department of Historic Preservation/Archaeology
Department of Historic Preservation/Archaeology
Department of Historic Preservation/Archaeology
Advisory Council on Historic Preservation
Miami Tribe of Oklahoma
Delaware Nation





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Matthew Bussler
Logan York
Benjamin Rhodd
Greg Sekula
Alex Brooks
Chad Blessinger
Don Winkler
Ferman Yearby
Mark Nowotarski
Tammy Behrman

Pokagon Band of Potawatomi
Miami Tribe of Oklahoma
Forest County Potawatomi
Indiana Landmarks, Southern Regional Office
Indiana Landmarks, Central Regional Office
Dubois County Commissioner
Mayor of Rockport
City Council of Rockport
Stop Mid-States Coalition
Senior Planner for Monroe County

ITEMS DISCUSSED:

Purpose

The purpose of the meeting was to provide the results of the Draft Environmental Impact Statement (DEIS) including the preferred alternative, provide a brief discussion of the potentially eligible and listed National Register of Historic Places (NRHP) properties within the preferred alternative Area of Potential Effect (APE), present the draft Programmatic Agreement (PA) for comment and discuss next steps for Section 106 review under Tier 2 which will be guided by the PA. The meeting also provided an opportunity to answer any questions, obtain comments, and listen to concerns from Consulting Parties regarding the project's identification of cultural resources and planned approach. As background, the presentation provided a "refresher" overview of the Mid-States Corridor project and a status update, a review of the preliminary corridors, a review of the Tier 1 and Tier 2 National Environmental Policy Act (NEPA) study process, and a review of the Section 106 of the National Historic Preservation Act (NHPA) and its cultural resources study process.

The following subject headings provide an overview of the meeting discussion and are not presented as detailed minutes (wherein each individual speaker's questions or comments would be quoted as a matter of record). Although, within the Question & Answer section, for clarity, more precise wording has been used for optimal representation.

Introductions & Project Overview

- Following welcome and introductions, Gary Quigg (Lochmueller Group) began a PowerPoint presentation, providing a review of the meeting agenda which included: a project refresher and a review of the preliminary APEs, a review of the Tier 1 methodology, a review of the Draft Environmental Impact Statement (DEIS), a review of



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the aboveground historic and previously identified archaeological resources within the preferred alternative APE, and a look at the upcoming Tier 2 process.

Project Review

- Mr. Quigg started this section noting that the DEIS has been sent out to consulting parties for review. Further, Mr. Quigg ran through the number of corridors that were evaluated within the 12-county study area. Mr. Quigg noted that the Tier 1 study set out to identify a preferred alternative, identify Sections of Independent Utility (SIU) for the Tier 2 studies, and to develop a Section 106 Programmatic Agreement that will guide Tier 2 studies. During Tier 2 studies, Mr. Quigg noted that separate, detailed evaluations for each SIU will take place, specific alignments and right-of-way requirements will be outlined for each SIU, and formal eligibility and effects determinations will be completed for each SIU.

Section 106 Overview

- Mr. Quigg explained the purpose of this federal law is to assure federal agencies take into account the effects of their undertakings (projects) on historic and archaeological properties. Further, Mr. Quigg emphasized the Section 106 process is concerned with identifying historic and archaeological properties that are listed, or eligible for listing, in the NRHP within each preliminary APE (Tier 1) and within the preferred alternative APE (Tier 2). During Tier 2 studies, there will be multiple SIUs, and each SIU will have its own APE wherein historic properties will be identified and evaluated. Formal effects determinations for cultural resources (and necessary mitigation steps) are not completed during Tier 1 but will be addressed during Tier 2 studies. However, cultural resources impacts are evaluated in the Tier 1 decision making process.
- Mr. Quigg noted 347 invitation letters were sent out resulting in our current number of 34 participating Consulting Parties. Mr. Quigg explained the types of groups and individuals asked to participate as Consulting Parties and thanked all those attending the meeting for their ongoing input, information, and guidance.

Tier 1 Preliminary APEs

- Mr. Quigg explained each APE for Tier 1 Review was not based on the viewshed to/from cultural resources, but rather was developed as pre-defined uniform distances. Specifically, for the 2,000-foot-wide new terrain corridors, the preliminary APEs extend one mile out from each edge of the 2,000-foot corridor. For existing highways, preliminary APEs extend 4,000 feet from the existing centerline of the alignment. Following windshield survey fieldwork, it was determined that 1,433 aboveground resources were identified and assessed for potential NRHP eligibility during the Tier 1 APE studies.



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- Mr. Quigg then reviewed the Tier 1 methodology and status. He noted Milestone 1 (online review of the State Historic Architectural and Archaeological Resource Database [SHAARD]) for each preliminary APE was completed in April 2020. Mr. Quigg noted that the 50-year rule means that properties built in 1972 are now potentially eligible for the NRHP and that these “newer” resources (often referred to as midcentury resources) were usually not included in previous IHSSI surveys completed several years (sometimes decades) before. Further, Milestone 2 (Windshield Survey of above-ground resources) began in May 2020 and was completed in February 2021. Mr. Quigg specified that Huntingburg, Jasper, Loogootee, Mitchell, Oolitic and the west side of Bedford were not surveyed due to structural density. Continuing the Tier 1 status review, Mr. Quigg stated Milestone 3 (Cultural Resources Summary chapter within the DEIS) is in draft form and a large portion of this chapter was distributed to all Consulting Parties for review prior to the meeting. Mr. Quigg noted that photos and maps of eligible resources can be found within the Cultural Resources summary within the DEIS and stated that Milestone 3 was completed in April 2022. Finally, Mr. Quigg mentioned Milestone 4 (Draft Programmatic Agreement to Guide Tier 2 Environmental Study) noting that the DEIS was released for public comment in April 2022, including the Draft Programmatic Agreement (PA). He also noted that the completion of the PA will bring the Tier 1 process to a close.

DEIS Overview

- For this portion of the presentation Mr. DuPont presented the information on the draft DEIS. Mr. DuPont started this part of the presentation noting that most of the information that will be discussed can be found in the draft DEIS. It was noted that the DEIS was published in the Federal Register on April 15, 2022. The DEIS is a detailed study to assess benefits, impacts, and costs for all of the potential alternatives as required by the National Environmental Policy Act (NEPA).
- Mr. DuPont then moved on to discuss the information within the DEIS including the preferred alternative (Alternative P), the basis for determining the preferred alternative, and key commitments associated with this project like the Programmatic Agreement. The online location of the DEIS was provided and Mr. DuPont noted the DEIS is also available at several locations in the area. A number of potential localized improvements were also discussed, which are part of the project but would be separate from the SIUs.
- Next Mr. DuPont further delved into information regarding the preferred alternative. A map was shown of the individual SIUs; five in total for Alternative P. SIU 1 (Natcher Bridge on the Ohio River to I-64) will not involve any improvements so only four SIUs will be evaluated during Tier 2 studies. Further information was provided on why Alternative P was the preferred alternative: it produces the best combination of benefits in relation to defined goals, had the lowest impacts to environmental resources, met the core



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purpose and need goals, and comparably had the lowest level of impacts to several key resources including wetlands and karst features. Mr. DuPont noted that as for cultural resources, Alternative P was generally “middle of the road” out of all the alternatives.

- The goals of the corridor were discussed next by Mr. DuPont. He noted that three of the goals of the corridor included increasing accessibility to major business markets, providing more efficient truck/freight travel to Southern Indiana, and increasing access to major intermodal centers from Southern Indiana. With the goals in mind, Mr. DuPont noted that Alternative P has the best combination of benefits associated with the defined goals for the project. It was noted that Alternative P will provide the most travel time saved to key destinations, the most annual truck hours saved, and the most travel time saved to major multi-modal centers from Crane and Jasper. Alternatives B and C failed to adequately address the Purpose and Need core goals.
- Finally, Mr. DuPont summed up the impacts, costs and benefits of the preferred alternative. He noted that Alternative P has the lowest impacts to environmental resources among the alternatives that adequately addressed the Purpose and Need including Alternatives M, O, and P. In addition, Alternative P produces a comparably low level of impacts for several key resources and has the lowest cost among Alternatives M, O, and P.

Alternative P – Historic Resources

- Mr. Quigg started out this section by displaying two maps of Alternative P, showing the preliminary APE and callouts for the eligible and listed properties within. Following the maps, Mr. Quigg presented a table showing the newly recorded potentially eligible properties and the previously recorded eligible and listed properties. The text for Alternative P in the table was highlighted showing that three newly identified resources and twenty-four previously recommended and/or listed resources are located with the APE for Alternative P.
- Next, Mr. Quigg pulled up a table highlighting the newly recorded eligible resources found within the APE of Alternative P including: two log houses in Dubois County and League Stadium in Huntingburg.
- Following the discussion of the aboveground resources, Mr. Quigg talked about what work has been done in regard to the below ground archaeological resources. Mr. Quigg noted that only a virtual review has been performed at this point in time, so only known previously surveyed archaeological sites have been identified. Mr. Quigg showed a table of all the known previously surveyed archaeological sites along Alternative P, noting that two sites have not been assessed for NRHP eligibility and six have been previously



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determined ineligible for the NRHP. The two sites that have not been assessed need further archaeological testing to determine whether or not they are eligible for the NRHP. No previously recorded sites have been determined eligible or potentially eligible for the NRHP along Alternative P.

Programmatic Agreement

- The next section of the presentation focused on the PA found within the DEIS and the Consulting Party package distributed prior to the meeting. Mr. Quigg noted key take aways from the PA including that it established future consultation steps with federal agencies, tribes, and consulting parties, it established APE guidelines for Tier 2 studies, and it established the level of effort needed to identify and evaluate historic resources during the Tier 2 studies. Mr. Quigg further clarified that during Tier 2 studies the APE will look more like traditional Section 106 APEs in that it will be based on viewshed.

Next Steps

- Mr. Quigg noted that the formal comment period for consulting parties to comment on the DEIS will extend through June 14. All comments received will be considered and potential refinements may be made to the DEIS based on the comments received from consulting parties. Following the end of the comment period the PA will be finalized and a final Tier 1 Final Environmental Impact Statement (FEIS) will be prepared. The finalized PA will be included within the FEIS. Once Tier 1 studies have been completed, Tier 2 studies will follow.
- Finally, Mr. Quigg ended his portion of the presentation noting items that will be determined at a later time. These items include right-of-way, the APEs for each specific alignment within the multiple SIUs of the 2,000 ft corridor (which will be driven by viewshed), and the specific alignments themselves of approximately 200 to 500 feet in width will be determined later during Tier 2 studies. There is no timetable for when the Tier 2 studies will start for each SIU. It is estimated that it will take 2 years for the Tier 2 study for each individual SIU. In addition, the timing for the US 231 local improvements is still to be identified.

Questions and Answer Period

- Via the online chat, Tammy Behrman (Senior Planner, Monroe County) asked if the slides shown in the PowerPoint will be available after the presentation. Mr. DuPont responded that the slides will be sent out along with a copy of the meeting summary to all consulting parties.
- Mr. Sekula (Indiana Landmarks, Southern Regional Office) who attended in person, asked if the list of Hoosier Homestead sites was consulted during the Tier 1 process. He



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noted that some of the properties may not be NRHP eligible, but he would like to know how many Hoosier Homesteads will be affected by the project. Mr. DuPont noted that the properties were looked at and evaluated for potential NRHP eligibility though they were not specifically called out as Hoosier Homesteads within the documentation. Mr. Sekula responded that it would be helpful to quantify that information.

- Mr. Nowotarski noted that he asked his group (Stop MidStates Coalition) on Facebook if they had any comments or questions, and he then read them. His first question was about the known sandstone bluff features and whether that has already been noted and considered within the DEIS documentation. Mr. DuPont responded noting that based on the information, he anticipates Jolliff Rocks is the area Mr. Nowotarski is speaking about and that other comments have been received regarding this area. Mr. DuPont noted that if there are cultural features in that area they will be looked at and depending on their nature they might be an above ground resource or an archaeological resource. Mr. DuPont noted that they would like to collect any information noted about the area and accepted what Mr. Nowotarski brought. Mr. Nowotarski then identified a second comment about an LP gas facility in Dubois County. Mr. DuPont noted that the facility is within proximity to the alternative, but he is unaware of any historic buildings on the property, though he noted records will be checked when the evaluation of the area occurs. Mr. DuPont noted that as the project proceeds the consulting parties will be engaged continually as defined in the PA.
- Ms. Kauffmann (Department of Historic Preservation/Archaeology) asked if during Tier 2 studies if eligibility of resources will be determined for just the preferred alternative or all the alternatives. Mr. DuPont responded that only the resources within the preferred alternative, Alternative P, will be evaluated for NRHP eligibility. The APE will be further refined within the corridor area and only those resources found within the APE will be evaluated. He also noted that the potential local improvements will also go through the same process and resources within the APEs for the local improvements will be evaluated for NRHP eligibility. Ms. Kauffman then asked if the Minor Projects Programmatic Agreement (MPPA) would be used for the local improvement projects undertaken during Tier 2. Mr. DuPont answered that the MPPA would be applied to those local improvements considered applicable.
- Mr. Sekula asked if it is anticipated that the consulting parties would convene again after the Tier 2 evaluations were complete but prior to the completion of an MOA so that consulting parties could again comment before the MOA is crafted. Mr. DuPont noted that consulting party meetings will be held periodically to get feedback from consulting parties during the Tier 2 process. The Tier 2 process will include coordination with consulting parties regarding the APE and the eligibility determinations as well as MOAs as needed.



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- When no other question at the time was asked, Mr. DuPont noted that the PA is a large document to look through and that the document outlines the traditional Section 106 process that is typically followed for the remaining Tier 2 studies. Mr. DuPont then went on to thank all participants for attending the meeting and participating in the Q&A part of the meeting. He noted that comments will be accepted through June 14.
- Mr. Corbin (INDOT Project Management) asked if archaeology work such as Phase 2 investigations has the potential to be moved to a point in time after a Record of Decision (ROD) has been completed, even though it is outlined within the PA that such archaeological investigation is to be completed during the Tier 2 studies. Mr. DuPont restated the question for those attending virtually and then noted that if that were the case a MOA would be prepared for that specific SIU Tier 2 study and all parties would need to agree. Mr. Corbin responded that a commitment could be made to complete these activities prior to right of way acquisition. Mr. DuPont responded that it would be addressed with a MOA at the Tier 2 level and that the PA would be reviewed and adjusted if necessary to include this flexibility.
- Mr. Sekula looking at the PA noted that on page 13, under 6.b. unanticipated effects, one of the things they are concerned about are what kind of impacts this project could have on existing communities and the economic impact those communities might experience after being bypassed. Mr. Sekula asked how that economic effect will be evaluated during the Tier 2 process. Mr. DuPont shared a copy of the PA on his screen for all to see. Mr. Carpenter (INDOT Cultural Resources Office) asked if maybe what was written on top of page 12 was more in line with what Mr. Sekula was enquiring about. Mr. Carpenter noted that when he thinks about unintended consequences, he thinks about accidental discoveries of archaeological artifacts but what Mr. Sekula is getting at is along a similar vein. Mr. DuPont noted that indirect affects will be addressed during the Tier 2 process and the effects will be part of the effects determination. Mr. DuPont then went on to reiterate for those attending virtually what was asked by in-person attendees.
- Hearing no further questions, Mr. DuPont noted that a summary will be circulated prior to the end of the comment period for all consulting parties to review before they submit any comments.
- The meeting ended at 10:26am (EDT).

Other Items/Action Steps:

- On June 20, 2022, this meeting summary was emailed to all Consulting Parties (those who do not have email addresses were sent hard copies of the summary by mail).



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The above constitutes our understanding of the meeting. If you believe there are omissions, additions, or corrections, please send your written comments within seven working days to Lochmueller Group.



FIGURE 8: INVITATION TO FOURTH CONSULTING PARTY MEETING, APRIL 3, 2023



April 3, 2023

RE: Des. No. 1801941/DHPA No. 24215
Mid-States Corridor Project Tier 1 Environmental Impact Statement (EIS)
SR66 to I-69
12-County Study Area:
Crawford, Daviess, Dubois, Greene, Lawrence, Martin, Monroe, Orange, Perry, Pike, Spencer,
Warrick

Dear Consulting Party (see attached list),

The Indiana Department of Transportation (INDOT) proposes to proceed with a new terrain roadway project (Des. No. 1801941). Lochmueller Group is under contract with INDOT to advance the environmental documentation for the referenced project. This present phase (a Tier 1 Environmental Impact Statement (EIS)) is funded by the Mid-States Corridor Regional Development Authority (RDA), in cooperation with INDOT and the Federal Highway Administration (FHWA). FHWA funding is anticipated for subsequent project activities, including Tier 2 environmental studies. At this time, we have received comments on the Tier 1 Draft Environmental Impact Statement, have refined the preferred alternative to address comments, and have additional information to share with you.

As you have accepted consulting party status for this project, you are invited to attend our fourth consulting party meeting as a part of the Section 106 coordination process for this undertaking on April 20, 2023. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic and archaeological properties.

A range of potential corridors within the 12-county study area were considered to determine a preferred alternative route: Alternative P. This consulting party meeting will review previously shared study results and present new information on the Loogootee area where there have been refinements to the Preferred Alternative P (Refined Preferred Alternative P).

The need for the project stems from lack of efficient access to regional and national destinations, resulting stagnant economic development in the 12-county study area, and safety concerns. The purpose of the project is to provide a better transportation link between the Ohio River and I-69 to improve connectivity and safety in support of enhanced quality of life and economic growth within the study area.

The proposed project involves the construction of a new roadway potentially combined with upgrades to existing roads. Possible design options for the new roadway include an expressway (multi-lane, partial controlled access) or Super 2 (two-lane, partial controlled access with passing lanes), and two-lane upgrades from I-64 near Dale to I-69. Potential upgrades to existing roads will make use of a combination of existing and



new right-of-way (ROW). Further design efforts have not been undertaken. New ROW will be required, but the amount is not known. It is anticipated that there will be some relocations.

Individuals/Entities that have accepted consulting party status for the Section 106 consultation process for this project are identified in the attached list. Per 36 CFR 800.3(f), we hereby request that the Indiana State Historic Preservation Officer (SHPO) notify this office if the SHPO staff is aware of any other parties that may be entitled to be consulting parties or should be contacted as potential consulting parties for the project.

The Section 106 process involves efforts to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. For more information regarding the protection of historic resources, please see the Advisory Council on Historic Preservation's guide: *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* available online at <https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>.

The Section 106 process will be extended for this project due to the scope and size of the undertaking. Specifically, the Section 106 process will be divided into two phases under a tiered approach as part of the National Environmental Policy Act (NEPA) assessment for the study area. The Tier 1 process will narrow the project area from a range of alternatives consisting of two-mile study bands in order to select a preferred corridor. This corridor generally will be 2,000 feet wide. The Tier 1 draft EIS includes a section titled, "Cultural Resources Impacts" to include a discussion of above-ground and archaeological concerns which summarizes the review of cultural resources within the 12-county study area. For Tier 1, the Section 106 process is concerned with identifying properties that are currently listed in, or potentially eligible for listing in, the National Register of Historic Places (NRHP). Final determinations of eligibility of properties for the NRHP, and the level of effects (impacts) to such properties, are not a part of Tier 1, but will be completed during Tier 2. A Programmatic Agreement has been previously reviewed and revised based on comments received by consulting parties. The Programmatic Agreement will further define how the Section 106 process will be completed during Tier 2 environmental studies. The Section 106 process for Tier 2 will focus specifically on the 2,000-foot preferred corridor (Refined Preferred Alternative P, determined during the Tier 1 phase) and associated Area of Potential Effects and will conduct a more in-depth analysis to identify above-ground and archaeological resources within and near the preferred corridor. The impacts to resources determined potentially eligible for listing in the NRHP will also be evaluated during Tier 2.

Although the Mid-States Corridor alternative "P" has been selected as the preferred route for further evaluation, recent public and agency input has led to an exploration for the utilization of a route through, or along the near east side, of the City of Loogootee in Martin County as a part of the preferred alternative. Specifically, the refinements of the preferred alternative P include options around Loogootee that include following existing US 231 through downtown Loogootee and two additional routes to bypass Loogootee on the city's east side in addition to the originally identified bypass located to the west of Loogootee. These three additional options are identified as the Refined Preferred Alternative (RPA) P.

These refinements include areas are located outside the original preliminary Areas of Potential Effect (APEs) evaluated for cultural resources concerns during the original Tier 1 windshield survey. Additional preliminary APEs have been developed and subsequent field review and analysis has been completed to identify properties potentially eligible for inclusion within the NRHP in the Loogootee area. The preliminary APE for was reduced to represent the viewshed to/from the proposed improvements due to structural density in urban areas.



A consulting party meeting will be held to discuss the additional APEs using online technology (Microsoft Teams) and telephone call-in service for those unable to participate online. This virtual meeting with an in-person option will be held **April 20, 2023 at 10:00am EDT**.

A weblink to access the meeting via Microsoft Teams will be sent to you by an Outlook email meeting invite. The meeting ID number is **240 880 967 978**, and the Passcode is **maRCo6**. The toll-free call-in phone number for those not accessing Microsoft Teams to participate is **(812) 618-1526** and the **Conference ID** is **175 601 623#**.

In addition to the virtual meeting option, an in-person meeting location is also available to consulting parties. The in-person meeting location is at the Vincennes University Jasper Campus, 850 College Avenue, Jasper, IN 47546. The meeting will take place within the Center for Technology, Innovation and Manufacturing (CTIM) Room 230.

Enclosed you will find the slide images to be shown during the April 20, 2023, consulting party meeting. This letter and enclosures may be viewed electronically by accessing INDOT's Section 106 document posting website IN SCOPE at <https://erms12c.indot.in.gov/Section106Documents> (the Des. No. is the most efficient search term, once in IN SCOPE). Please use the project identification details provided in the subject heading to search for the documents.

An invitation to the April 20, 2023, consulting party meeting has been sent to you via email if you have provided an email address. However, if you did not receive this invitation, or have not responded to date, please respond either by email or phone to the contact information provided below to indicate whether or not you will be joining us. Digital copies of the presentation materials to be shared during the Microsoft Teams meeting are being sent by email to you, and by hard copy for those who have not provided an email address. If you receive the digital copies of the presentation materials, but would also like a hard copy, please respond to this letter with your request for a hard copy of the presentation materials within seven (7) days. Consulting party comments will be received up to 30 days following the consulting party meeting.

For questions concerning specific project details, you may contact Jason DuPont of Lochmueller Group at 812.759.4129 or JDupont@lochgroup.com. All future responses regarding the proposed project should be forwarded to Lochmueller Group at the following address:

Jason DuPont
Director of Environmental Services
Lochmueller Group
6200 Vogel Road
Evansville, IN 47715
JDupont@lochgroup.com

Tribal Contacts please respond to INDOT's Acting Tribal Liaison, Matt Coon at mcoon@indot.in.gov (317-697-9752) with any responses pertaining to this project including to provide INDOT/Indiana FHWA additional information about Tribal resources/concerns and questions/comments regarding cultural resources. The FHWA point of contact is Kari Carmany-George at K.CarmanyGeorge@dot.gov (317-226-5629).

Sincerely,



Matthew S. Coon, Manager
Cultural Resources Office
Environmental Services

Enclosures:

- PowerPoint Slides for the April 20, 2023, Meeting
- Meeting Agenda

Distribution List:

- State Historic Preservation Officer
- INDOT Cultural Resource Office
- Absentee Shawnee Tribe of Oklahoma
- Advisory Council on Historic Preservation
- Bloomington Restorations
- Dale Town Council
- Delaware Tribe of Indians of Oklahoma
- Delaware Nation of Oklahoma
- Dubois County Commissioners
- Eastern Shawnee Tribe of Oklahoma
- Ellettsville Town Council
- Forest County Potawatomi Community
- Indiana Barn Foundation
- Indiana Forest Alliance
- Indiana Landmarks, Central Regional Office
- Indiana Landmarks, Southern Regional Office
- Indiana Landmarks, Southwest Field Office
- Lawrence County Historian
- Lawrence County Museum of History
- Loogootee/Martin County Representative
- Martin County Historical Society
- Mayor of Rockport
- Miami Tribe of Oklahoma
- Monroe County Historic Preservation Board of Review
- Newburgh Town Council
- Peoria Tribe of Indians of Oklahoma
- Pike County Historian/Historical Society
- Pokagon Band of Potawatomi Indians
- Rockport City Council
- Saving Historic Orange County
- Shawnee Tribe of Oklahoma
- Shoals Town Council



- United Keetoowah Band of Cherokee Indians
- Wyandotte Nation
- Gretchen Anderson
- Luke Baker
- B. J. Elmore
- Jim Himsel
- Mark Nowotarski
- David Ring
- LeRoy Seitz



MEETING AGENDA

- Meeting With:** SHPO
FHWA
INDOT CRO
Lochmueller Group
Consulting Parties
- Meeting Date:** April 20, 2023; 10:00 am EDT
- Regarding:** Mid-States Corridor Project 4th Consulting Party
Meeting (Des. No. 1801941)

ITEMS TO BE DISCUSSED

- I. Project Refresher and review of preliminary APEs
- II. Tier 1 Cultural Resources Identification Efforts Review
- III. Preferred alternative refinements discussion
- IV. Review of aboveground and archaeological resources along preferred alternative
- V. Revisions to Programmatic Agreement (PA)
- VI. Next Steps for Section 106: Tier 2 Studies
- VII. Questions/Comments on Cultural Resources



4/3/2023

**MID-STATES
CORRIDOR**

Mid-States Corridor Project Consulting Parties Meeting

Thursday, April 20, 2023

1

AGENDA

- Project Refresher and Review of Preliminary APEs
- Tier 1 Section 106 Methodology Review
- Preferred Alternative Refinements
- Review of Aboveground and Archaeological resources along preferred alternative
- Revisions to Programmatic Agreement
- Next Steps for Section 106: Tier 2 Studies
- Questions/Comments on Cultural Resources

Blackmore Store, Greene County

2

1



4/3/2023



3

PROJECT REFRESHER

- Tier 1 Environmental Impact Statement
- Evaluate improved highway connection
- Evaluate multiple corridors
 - SR 66 near the Natcher Bridge to I-69
 - Northwest directly to I-69
 - North directly to I-69
 - Northeast to I-69 via SR 37
- Twelve county study area

LOCHMUELLER GROUP

4

2



4/3/2023



TIER 1 vs. TIER 2 STUDY

Tier 1
“Big Picture Evaluation”

- Identify a preferred alternative
- Identify Sections of Independent Utility (SIUs) for Tier 2 studies
- Section 106 Programmatic Agreement

Tier 2
Separate, detailed evaluations

- Separate, detailed evaluation of each SIU
- Identify specific alignment and right-of-way requirements within corridor for each SIU
- Section 106 Formal Eligibility and Effects Determinations

5





SECTION 106 OVERVIEW

National Historic Preservation Act

- Federal agencies must take into account the effects of their undertakings on:
 - Historic aboveground and archaeological properties listed in or eligible for the National Register of Historic Places

Section 106 Process

- Identify historic aboveground and archaeological properties potentially affected by the undertaking within a preliminary APE = Tier 1 (Eligibility will not be finalized until Tier 2)
- Assess the undertaking’s effects on these properties = Tier 2
- Seek ways to avoid, minimize, or mitigate any adverse effects on historic and archaeological properties = Tier 2

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4/3/2023

SECTION 106 CONSULTING PARTIES



- Invitation letters sent to 347 potential CPs from December 2019 through March 2020
- Additional CPs joined us between October 2020 and May 2021 as interest grew
- Presently, we have 34 CPs

Who are you?

- Representatives of local governments, Native American tribes, environmental review agencies, historical societies, community organizations, and private citizens with a demonstrated interest in the Mid-States Corridor undertaking
- We welcome you all and thank you for your ongoing input, information, and guidance!

St. Paul's Evangelical Lutheran Church, Dubois County



Brinegar Chapel, Dubois County



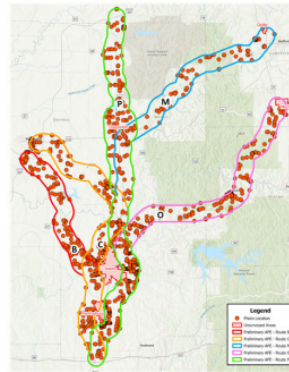
7

TIER 1 PRELIMINARY APEs



- **APE** = Area of Potential Effects for Section 106 Review
- 5 Preliminary APEs surveyed (B, C, M, O, P)
- Multiple Potential Highway Alignment Combinations to be Considered Within the 5 Preliminary APEs
- Tier 1 Preliminary APEs Not Based on Viewshed; Pre-Defined Uniform Distance
- New terrain corridors are 2,000 feet wide
- For existing highways: Preliminary APEs extend 4,000 feet from centerline
- For new terrain: Preliminary APEs extend 1 mile from edges of corridor

1,433 aboveground resources were identified and assessed for potential NRHP eligibility during Tier 1 APE studies




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4/3/2023


TIER 1 METHODOLOGY REVIEW & STATUS 


Milestone 1: Online Review of SHAARD aboveground and archaeological resources


- **Completed February-April 2020**

Milestone 2: Windshield Survey of aboveground resources


- Verify IHSSI/SHAARD structures remain extant and worthy of existing ratings
- Record undocumented structures within each preliminary APE
- Tier 1 survey limited to one photo per resource and brief textual notation
- **Completed May 2020 – February 2021** (Huntingburg, Jasper, Loggootee, Mitchell, and Oolitic, and west side of Bedford not surveyed)

Joe Schroeder Log House, Dubois County 

Harrison-Hines Farm, Dubois County 



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TIER 1 METHODOLOGY REVIEW & STATUS 


Milestone 3: Cultural Resources Summary in Tier 1 Draft Environmental Impact Statement (DEIS)


- Narrative
- Matrix (Spread Sheets detailing each resource by IHSSI/SHAARD rating system)
- Photographs and Maps
- **Completed April 2022**


Milestone 4: Draft Programmatic Agreement to Guide Tier 2 Environmental Study (Final Section 106 Milestone for Tier 1)

- **Released April 2022**
- Revisions made based on Consulting Party comments

Effects Determinations and Historic Property Reports (HPRs) with NRHP evaluations will be prepared in Tier 2 Studies

Crane Post Office, Greene County 

Shady Nook Hotel, Martin County 



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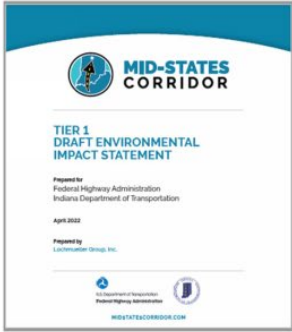
4/3/2023




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DRAFT ENVIRONMENTAL IMPACT STATEMENT  **MID-STATES
CORRIDOR**

- Tier 1 DEIS published in April 2022
- Detailed study required by National Environmental Policy Act (NEPA)
- Assesses benefits, impacts and costs
- Analysis detailed in DEIS chapters and appendices





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4/3/2023

INFORMATION IN THE DEIS

MID-STATES
CORRIDOR

- Identifies preferred alternative
- Includes basis for selection of preferred alternative
- Includes key commitments associated with the project
- DEIS is available online (<https://midstatescorridor.com/deis/>) and at several locations in the area

The diagram consists of four colored boxes arranged in a 2x2 grid. The top-left box is orange and labeled 'DEIS'. The top-right box is teal and labeled 'IMPACTS'. The bottom-left box is teal and labeled 'BENEFITS'. The bottom-right box is teal and labeled 'COSTS'. Arrows point from the DEIS box to the IMPACTS and BENEFITS boxes, and from the IMPACTS and COSTS boxes to the BENEFITS box.

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PREFERRED ALTERNATIVE

MID-STATES
CORRIDOR

Alternative P is the preferred corridor

- Produces the **best combination of benefits** in relation to defined goals
- Lowest impacts to environmental resources** among Alternatives M, O and P that meet core Purpose and Need goals
- Comparably **low level of impacts to several key resources** including wetlands (smallest impacts) and karst features (none)

The map shows the geographic area of the Mid-States Corridor. A red line indicates the 'PREFERRED ALTERNATIVE'. Other lines in grey and blue represent 'STUDIED ALTERNATIVES'. A legend in the bottom right corner identifies the lines: 'PREFERRED ALTERNATIVE' (red line), 'STUDIED ALTERNATIVES' (grey and blue lines), and 'New Alignments' (dashed lines). The map includes labels for counties like Knox, Lawrence, Macon, and others, and cities like Knoxville, Macon, and Dalton. A scale bar and north arrow are also present.

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PREFERRED ALTERNATIVE

Alternative P is the preferred corridor

- Approximately 2,000' corridor
- Within which a Super 2, Expressway, or combination alignment will be identified during Tier 2
- 4 Sections of Independent Utility (SIU) with further study/work identified
- Also includes a number of potential localized improvements along existing US 231

Legend:
PREFERRED ALTERNATIVE
SIU 1
SIU 2
SIU 3
SIU 4
SIU 5
Local Improvements
REFERENCE
County Boundaries

Map Title: Tier 2 Sections of Independent Utility

Scale: 0 10 20 Miles

Logos: MID-STATES CORRIDOR, LOCHMUELLER GROUP

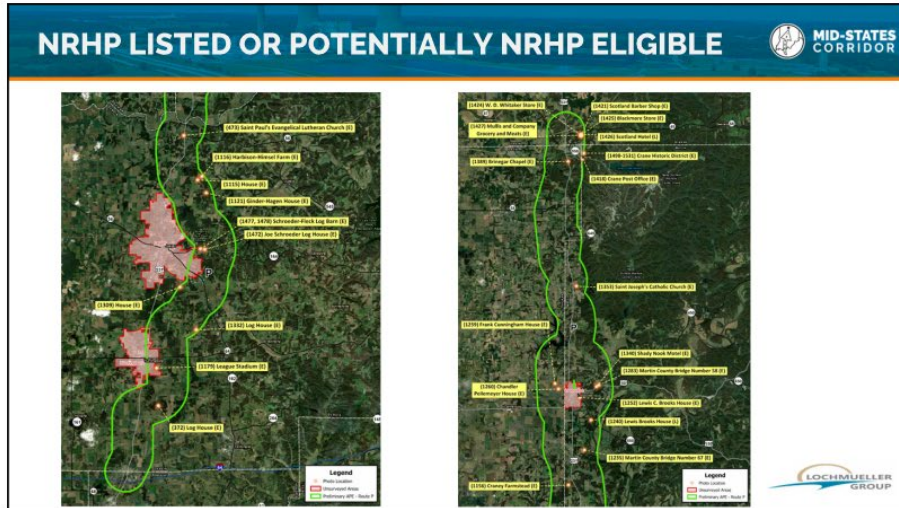
15

Refinements to the Preferred Alternative Loggootee Options

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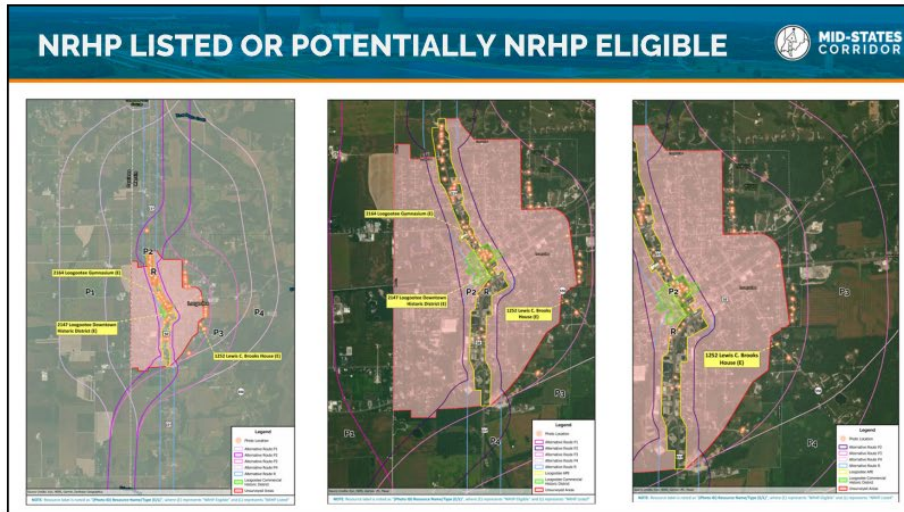
ADDED OPTIONS IN LOOGOOTEE

- Changes made in response to comments following the DEIS hearings
- Community asked for a closer look at other options
- Project team recommended three additional options
- Tier 2 will allow for the appropriate study and selection
- Alternative P remains the preferred alternative
- End-to-end, impact ranges differ little for new variations

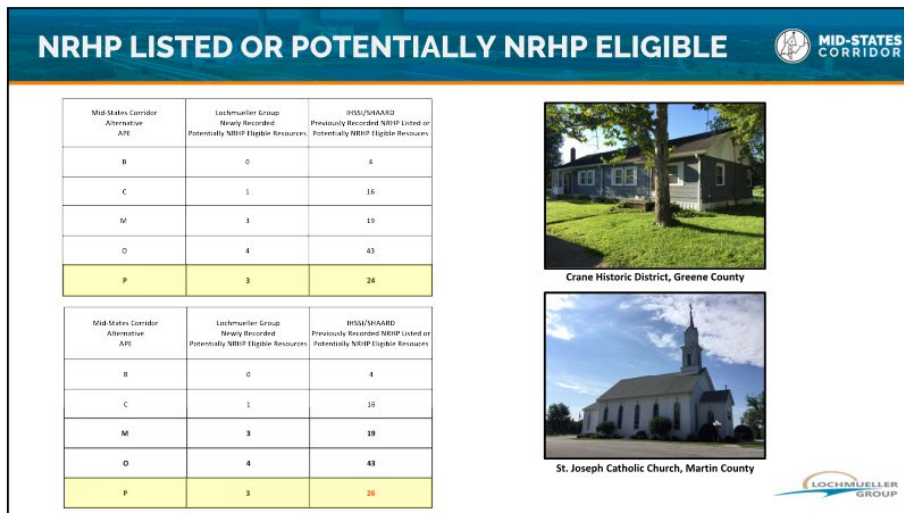
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NRHP LISTED OR POTENTIALLY NRHP ELIGIBLE

Newly Recorded Above-Ground Resources from Windshield Survey
Potentially NRHP Eligible Only

Photo ID Number	Lochmueller Rating	Name of Resource	Potentially NRHP-Eligible?	County	Township	Route
209	Notable	Ireland Post Office	Potentially Eligible	Dubois	Madison	C
372	Notable	Log House	Potentially Eligible	Dubois	Cass	M, O, P
1097	Notable	Bridge	Potentially Eligible	Lawrence	Marion	O
1179	Outstanding	League Stadium	Potentially Eligible	Dubois	Patoka	M, O, P
1332/1333	Notable	Log House	Potentially Eligible	Dubois	Jackson	M, O, P

League Stadium

Log House, Jackson Township

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NRHP LISTED OR POTENTIALLY NRHP ELIGIBLE

IHSSI/SHAARD Previously Recorded NRHP Listed or Potentially NRHP Eligible Resources

Photo ID Number	IHSSI Rating	Name of Resource	Potentially NRHP-Eligible?	County	Township	Route
2147-2161	Outstanding	Loogootee Commerical Historic District	Potentially Eligible	Martin	Perry	P2
2164	Notable	Loogootee Gymnasium	Potentially Eligible	Martin	Perry	P2
1252	Notable	Lewis C. Brooks House	Potentially Eligible	Martin	Perry	P4

Reynolds-Brooks Hardware Company, Perry Township


Loogootee Gymnasium, Perry Township

Lewis C. Brooks House, Perry Township

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ARCHAEOLOGICAL RESOURCES 

Tier 1 Virtual Review
SHAARD Database of Previously Recorded Sites

Summary of Results by Route

Route	Archaeological Sites			
	<i>Eligible</i>	<i>Potentially NRHP Eligible</i>	<i>Not Assessed</i>	<i>Ineligible</i>
B	0	0	17	9
C	0	1	18	36
M	0	6	18	1
O	0	0	4	6
P	1	5	40	70

Alternative P is the preferred corridor 

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DRAFT PROGRAMMATIC AGREEMENT

KEY TAKE AWAYS

- Establishes future consultation steps with federal agencies, tribes, and consulting parties
- Establishes APE guidelines for Tier 2 studies
- Establishes level of effort to identify and evaluate historic resources

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DRAFT PROGRAMMATIC AGREEMENT

Revisions Since Last Review

- Page 13, 6.b. concern was expressed about how unanticipated effects will be evaluated within the PA. Additional language was added to amend this.

D. Unanticipated Effects

Any unanticipated effects that have the potential to adversely affect a historic resource or post review discoveries of historic resources will be reported to the SHPO for consultation. Such anticipated effects may include the potential economic impacts on existing communities wherein such historic resources exist.

Next Steps

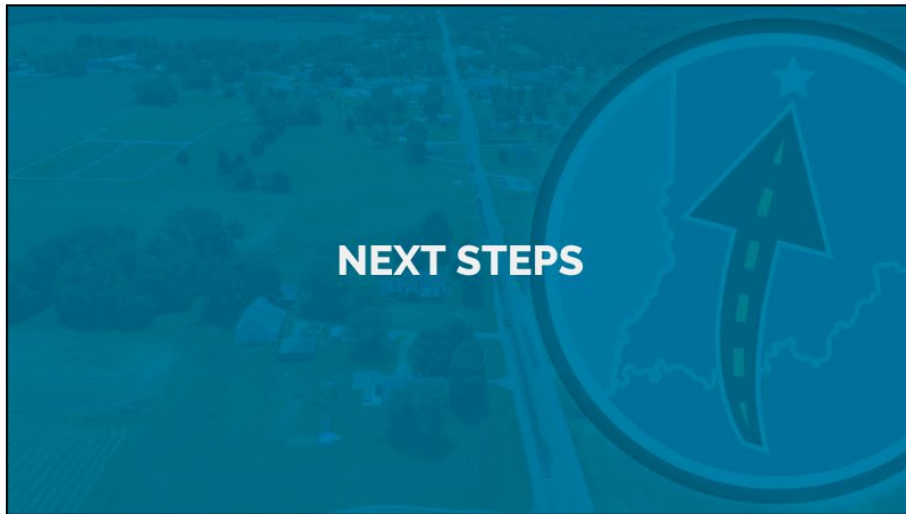
- PA will be sent to consulting parties for concurrence – 30-day review period

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NEXT STEPS

- Formal comment period through May 20
- Project Team will consider all comments
- Circulate Programmatic Agreement (PA)
- Preparation of Tier 1 Final Environmental Impact Statement (FEIS)
- Tier 1 FEIS will include final Programmatic Agreement
- Tier 2 studies will follow



Scotland Barbershop, Greene County




Martin County Bridge No. 58





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STILL TO BE DETERMINED 




- Right-of-way has not been determined
- Preferred alternative is 2,000-foot corridor
- Specific alignments approximately 200 to 500 feet won't be determined until Tier 2
- No schedule for the start of Tier 2 studies for each of the 4 Sections of Independent Utility
- Each Tier 2 study is expected to take about 2 years to complete
- Timing for US 231 local improvements still to be identified







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STAY ENGAGED 

 midstatescorridor.com
 Mid-States Corridor
  @MidStatesStudy

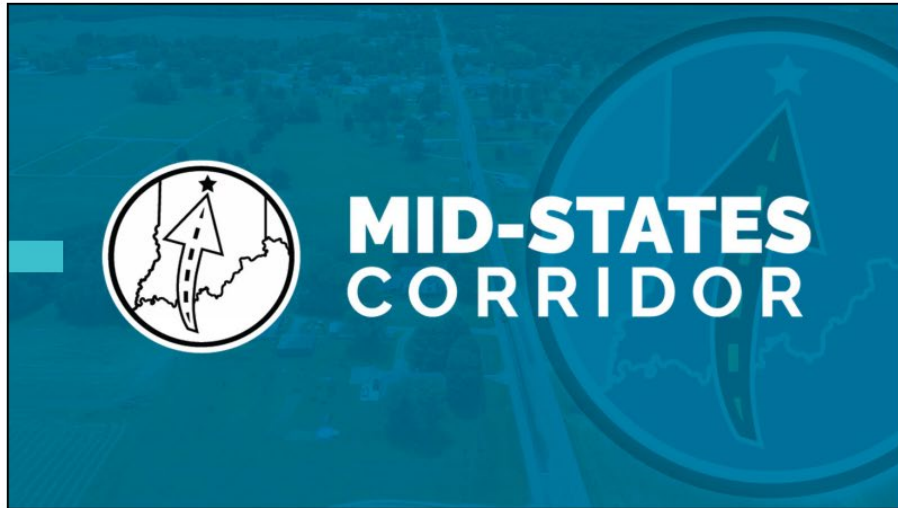
 812-482-3116
  Text MidStates to 33222 for project alerts
  info@midstatescorridor.com



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FIGURE 9: CONSULTING PARTY MEETING SUMMARY, MAY 9, 2023



MEETING SUMMARY

Date of Meeting: April 20, 2023
10:00am EDT

Re: Mid States Corridor Tier 1
Section 106 Consulting Party Meeting #4

Location: Microsoft Teams
Virtual Mtg

Issue Date: May 9, 2023

In-person at
Vincennes
University Jasper
Campus (850
College Ave, Jasper,
IN 47546) Center
for Technology,
Innovation and
Manufacturing
(CTIM) Room 230

Submitted By: Bre Henderson/Hannah Blad/Gary Quigg

In Attendance:

Patrick Carpenter	Federal Highway Administration
Kelyn Alexander	INDOT Cultural Resources Office
Matt Coon	INDOT Cultural Resources Office
Clint Kelly	INDOT Cultural Resources Office
Kyanna Wheeler	INDOT Project Management
Jason DuPont	Lochmueller Group
David Goffinet	Lochmueller Group
Gary Quigg	Lochmueller Group
Hannah Blad	Lochmueller Group
Bre Henderson	Lochmueller Group
Michael Grovak	Lochmueller Group
Toni L. Giffin	Division of Historic Preservation & Archaeology (SHPO)
Mandy Ranslow	Advisory Council on Historic Preservation
Ferman Yearby	Representing the Mayor of Rockport
Laura Renwick	Indiana Landmarks – Southern Regional Office
Mark Nowotarski	Stop Mid-States Coalition
Mark Schroeder	Mid-States Corridor Regional Development Authority





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ITEMS DISCUSSED:

Purpose

The purpose of the meeting was to provide an update to the consulting parties regarding additional preliminary Areas of Potential Effects (APEs) that have been developed and the subsequent field review and analysis that has been completed within these additional APEs to identify properties potentially eligible for inclusion within the National Register of Historic Places (NRHP) in the Loogootee area. These updates are related to refinements of the preferred alternative P based on comments on the Draft Environmental Impact Statement (DEIS). The meeting also updated the consulting parties with revisions to, and the current timeline of, the draft Programmatic Agreement (PA). The meeting also provided an opportunity to answer any questions, obtain comments, and listen to concerns from Consulting Parties regarding the project's identification of cultural resources and planned approach. As background, the presentation provided a "refresher" overview of the Mid-States Corridor project and a status update, a review of the preliminary corridors, a review of the Tier 1 and Tier 2 National Environmental Policy Act (NEPA) study process, and a review of Section 106 of the National Historic Preservation Act (NHPA) and its cultural resources study process.

The following subject headings provide an overview of the meeting discussion and are not presented as detailed minutes (wherein each individual speaker's questions or comments would be quoted as a matter of record). Although, within the Question & Answer section, for clarity, more precise wording has been used for optimal representation.

Introductions & Project Overview

- Following welcome and introductions, Jason DuPont (Lochmueller Group) began a PowerPoint presentation, providing a review of the meeting agenda which included: a project refresher and review of Preliminary APEs, a review of the Tier 1 methodology, a recap of the preferred alternative refinements, a review of above-ground and archaeological resources, revisions to the PA, a review of the next steps for Section 106 in Tier 2, and a question/comment period.

Project Review

- Mr. DuPont started this section with a review of the project corridors that were part of the study. Mr. DuPont explained the location of the corridors within the 12-county survey area, noting which major routes were involved. Mr. DuPont also touched on the reason for this project, which was to evaluate improved highway connectivity within the study area.



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Tier 1 vs. Tier 2 Study

- Mr. DuPont gave an overview of the Tier 1 vs Tier 2 study proceedings. He explained that Tier 1 is a “Big Picture Evaluation,” wherein the goals are to identify a preferred route, to identify sections of independent utility (SIUs), and to develop a Section 106 PA. Tier 2 involves separate and detailed evaluations of SIUs, identifies specific alignments and right-of-way requirements within the corridor for each SIU, and develops Section 106 Formal Eligibility and Effects Determinations.
- Toni Giffin (Division of Historic Preservation & Archaeology) asked Mr. DuPont if the SHPO was expected to comment on the recently revised PA that was submitted to the consulting parties prior to the meeting. Mr. DuPont responded affirmatively that it was anticipated that the consulting parties would comment on the revised PA and on any of the information provided today regarding the refined alignments or supplemental above-ground reviews.

Section 106 Overview

- Mr. DuPont explained the purpose of this federal law is to ensure federal agencies take into account the effects of their undertakings (projects) on historic and archaeological properties. Mr. DuPont also stated that the project is expected to receive federal funding, and that is why it is going through the Section 106 process at this time. Mr. DuPont noted that the impacts to cultural resources were being accounted for through the Tier 1 and Tier 2 process.
- Mr. DuPont noted 347 invitation letters were sent out resulting in our current number of 34 participating Consulting Parties. It was also noted that there have been four consulting party meetings (including this meeting) up to this point in the process. Mr. DuPont explained the types of groups and individuals asked to participate as Consulting Parties and thanked all those attending the meeting for their ongoing input, information, and guidance.

Tier 1 Preliminary APEs

- Mr. DuPont explained each APE for Tier 1 Review was not based on the viewshed to/from cultural resources, but rather was developed as pre-defined uniform distances. Mr. DuPont noted that a one-mile buffer was used as the preliminary APE. Windshield surveys were also used as supplemental information to the existing historic resources data. Mr. DuPont noted that it is anticipated that right-of-way would potentially only be approximately 300 feet in width but that right-of-way limits will be developed at the Tier 2 stage.



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- Mr. DuPont then reviewed the Tier 1 methodology and status. He noted Milestone 1 (online review of the State Historic Architectural and Archaeological Resource Database [SHAARD]) for each preliminary APE was completed in April 2020. Further, Milestone 2 (Windshield Survey of above-ground resources) began in May 2020 and was completed in February 2021. Continuing the Tier 1 status review, Mr. DuPont stated Milestone 3 (Cultural Resources Summary chapter within the DEIS) was completed in April 2022 and a recommended preferred alternative was identified. Mr. DuPont further noted that the draft PA was provided to consulting parties for review and comment in April 2022. Since then, minor revisions have been made to the PA as a result of consulting party comments.

DEIS Overview

- For this portion of the presentation Mr. DuPont presented the information on the DEIS. Mr. DuPont started this part of the presentation noting that most of the information that will be discussed can be found in the DEIS. The DEIS is a detailed study to assess benefits, impacts, and costs for all of the potential alternatives as required by the National Environmental Policy Act (NEPA). The online location of the DEIS was provided.
- Mr. DuPont then moved on to discuss the information within the DEIS including the preferred alternative (Alternative P), the basis for determining the preferred alternative, such as its best combination of benefits and comparably low impacts to resources. Alternative P addressed the core goals of the purpose and need of the project.
- Next Mr. DuPont delved into information regarding the SIUs. A map was shown of the individual SIUs; five in total for Alternative P. SIU 1 (Natcher Bridge on the Ohio River to I-64) will not involve any improvements so only four SIUs will be evaluated during Tier 2 studies. Mr. DuPont explained the areas which these SIUs will cover, sharing that SIU 2 from I-64 to State Road 56 in Haysville stretches across Dubois County; SIU 3 goes from Haysville to Loogootee; SIU 4 runs around or through Loogootee, and SIU 5 extends to the corridor terminus at I-69. He noted that the corridor is approximately 2,000 feet wide and that two facility types are being looked at currently, a Super 2 and an Expressway (or a combination of the two). He also shared that this project will include several potential improvements along existing US 231 and they will be independently evaluated during the Tier 2 process.
- Next, Mr. DuPont discussed the refinements to the Preferred Alternative (Loogootee options) that were developed in response to consulting party comments made about the DEIS. He noted that there were comments concerning potential economic impacts to Martin County within the Loogootee area, and that addressing these concerns warrants further studies which are appropriate for, and will be undertaken as a part of, Tier 2. However, at this time, refinements have been made to the preferred corridor



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within the Loogootee area which will allow for further flexibility within Tier 2 to address these concerns. After sharing this information, Mr. DuPont turned the presentation over to Gary Quigg (Lochmueller Group).

Alternative P – Historic Resources

- Mr. Quigg started out this section by displaying two maps of Alternative P, showing the preliminary APE and callouts showing the NRHP-eligible and listed properties within. Mr. Quigg then detailed the additional route variations in Loogootee. Additional routes in this area were added due to requests from consulting parties. Mr. Quigg noted that the project team recommended three additional route variations around the Loogootee area. These Loogootee variations along with the remainder of the DEIS Alternative P comprise Refined Preferred Alternative P (RPA-P) which will be presented in the Final Environmental Impact Statement (FEIS). He explained that during Tier 2 these alternatives will be studied further, and one will be chosen as the most appropriate. Mr. Quigg noted that the results of Tier 2 studies in this area will define the preferred alternative near Loogootee within one of these corridor variations.
- Mr. Quigg then shared images of the alternatives around Loogootee with the potential NRHP properties called out. Mr. Quigg noted that there are three potentially eligible properties: the Loogootee Gymnasium, the Loogootee Downtown Historic District, and the Lewis C. Brooks House. Though it was noted that the Lewis C. Brooks House has been heavily modified and may not meet the qualifications for eligibility during Tier 2. Due to its Notable rating the Lewis C. Brooks House was recommended potentially eligible during Tier 1. Mr. Quigg also pointed out the photo location points on the map where the area was surveyed for above ground cultural resources.
- Mr. Quigg then discussed the number of NRHP listed or potentially eligible properties along all the corridors, highlighting the refinements to Alternative P which now includes the three additional potentially eligible properties in the Loogootee area. Individual tables were displayed showing the newly identified resources and the previously recorded properties. Mr. Quigg noted that the newly identified potentially eligible resources along Alternative P included two log houses in Dubois County and League Stadium in Huntingburg.
- Following the discussion of the aboveground resources, Mr. Quigg talked about what work has been done regarding the belowground archaeological resources. Mr. Quigg noted that only a virtual review has been performed at this point in time, so only known previously surveyed archaeological sites have been identified. Mr. Quigg showed a table of all the known previously surveyed archaeological sites along all the alternatives (B, C, M, O, and P) but with RPA P highlighted, noting that 40 sites have not been assessed for



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NRHP eligibility and 70 have been previously determined ineligible for the NRHP. The two sites that have not been assessed need further archaeological testing to determine whether or not they are eligible for the NRHP. Six previously recorded sites have been determined eligible or potentially eligible for the NRHP along RPA P.

Programmatic Agreement

- The next section of the presentation focused on the PA included in the Consulting Party package distributed prior to the meeting. Mr. DuPont noted that there have been some minor revisions to the PA since it was last distributed to consulting parties. Based on consulting party feedback some administrative and small adjustments have been made to the PA. Mr. DuPont also noted that the Advisory Council on Historic Preservation (ACHP) will not consult, although they remain involved in project coordination.
- Mr. DuPont noted that the PA establishes what will take place during Tier 2 in regard to the evaluation of historic resources. He noted that the consulting parties will find the Tier 2 assessments more in line with how the Section 106 process usually proceeds, wherein there is a formal delineation of the APE, identification of historic resources, eligibility assessments, and effects determinations. If any adverse effects to resources are identified during the Tier 2 process, the appropriate mitigation or minimization steps will be determined.
- Mr. DuPont shared one of the changes to the PA as a result of comments received by consulting parties. The change was made on page 13, section 6.b. of the PA. Consulting parties were concerned on how unanticipated effects will be evaluated within the PA. Additional language was added to the PA to amend this in the form of "D. Unanticipated Effects: Any unanticipated effects that have the potential to adversely affect a historic resource or post review discoveries of historic resources will be reported to the SHPO for consultation. Such anticipated effects may include the potential economic impacts on existing communities wherein such historic resources exist."

Next Steps

- Mr. DuPont noted that the formal comment period for consulting parties to comment on the additional information and PA will extend through May 20, 2023. All comments received will be considered and potential refinements may be made based on the comments received from consulting parties. Following the end of the comment period the PA will be circulated and finalized, and a Tier 1 FEIS will be prepared. The finalized PA will be included within the FEIS. Once Tier 1 studies have been completed by obtaining the Record of Decision (ROD) from the Federal Highway Administration (FHWA), Tier 2 studies will follow.



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- Mr. DuPont concluded this portion of the presentation noting items that will be determined at a later time. These items include right-of-way, the APEs for each specific alignment within the multiple SIUs of the 2,000 ft corridor (which will be driven by viewshed), and the specific alignments themselves of approximately 200 to 500 feet in right-of-way width will all be determined later during Tier 2 studies. There is no timetable for when the Tier 2 studies will start for each SIU. It is estimated that it will take 2 years for the Tier 2 study for each individual SIU. In addition, the timing for the US 231 local improvements is yet to be identified. He ended the formal presentation by sharing multiple points of connection consulting parties may use to stay engaged with project progress, and then opened the floor for questions or comments.

Questions and Answer Period

- Ms. Giffin inquired whether historic property owners would be contacted during the Tier 2 process, to which Mr. DuPont responded that all property owners would be contacted, and that owners of NRHP-listed or eligible historic properties would receive communication specific to their situation.
- Mark Nowotarski (Stop Mid-States Coalition) inquired about feedback from Stop Mid-States and other consulting parties regarding why an alternative focusing on upgrading US 231 had not been considered. Mr. DuPont explained that the project team has evaluated all the feedback that they have received, including review of existing US 231, and that the alternative routes under consideration are scored on performance relative to purpose and need. The alternative routes extending to the northwest and the alternative of using existing US 231 performed poorly in comparison to the current proposed RPA P.
- Kyanna Wheeler (INDOT Project Manager) provided additional commentary in response to Mr. Nowotarski's inquiry regarding the additional evaluation of upgrading existing US 231 (Alternative R) which has been conducted.
- Mr. DuPont restated Ms. Wheeler's addition to his answer to Mr. Nowotarski for those attending online who could not hear her remarks, noting that she stated that all comments up to this point have been addressed and that responses to all comments on the DEIS will be included in the FEIS. In addition, Ms. Wheeler noted that this current meeting is taking place because of the previous comments received by consulting parties and that the information provided today showed additional information on the new alternatives that have been reviewed since those comments from consulting parties have been received.
- Ms. Giffin asked about the aforementioned economic impact and inquired if a business study or analysis will be conducted. She mentioned the downfall of business around Rte.



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66 in areas of the Midwest and asked if additional consideration/analysis would be conducted around Loogootee. Mr. DuPont confirmed that further study, including economic analysis, will be conducted during the Tier 2 process for the Loogootee area. Mr. DuPont also noted that the driving need for the project is based on regional needs and that while the route through or around Loogootee could influence the local economy in Loogootee, it does not result in significant difference in the regional performance measures.

- Mr. Nowotarski asked why work to improve US 231 would proceed if the Mid-States Corridor runs almost parallel to US 231. Mr. DuPont explained that those efforts are improvements to address localized issues and maintain the current infrastructure and that further studies would be conducted to further define the local improvements during Tier 2.
- Mr. Nowotarski commented that work was supposed to have started on existing US 231 and the organizations he is representing were favorable towards these improvements. He then asked, why is the state proceeding with this project which goes along side US 231 for the most part and at the same time has projects that upgrade US 231. Mr. DuPont noted that those US 231 improvements only address specific issues on the local facility whereas the Mid-States Corridor has a wider reach that seeks to address connectivity issues throughout several counties. Mr. Nowotarski asked why the work on US 231, which was slated to begin in 2022, was brushed aside for this project. Ms. Wheeler explained that work on US 231 was included in the DEIS and needed to be evaluated along with the other project alternatives based on coordination with FHWA. This work could not begin on US 231 without approval from FHWA and that is why work was not conducted in 2022. She stated that because this work on US 231 has been incorporated into the overall Mid-States Corridor plan, the FHWA approval will be included as part of the final approval on the Mid-States Corridor. She continued by sharing that due to traffic operation and other safety concerns, INDOT and FHWA are continuously looking at areas that could use further improvement and that is why US 231 is being improved.
- Mr. Nowotarski inquired about Tier 2 funding and whether all of it would come from FHWA. He asked if no additional funding from local government, private, or public sources would be asked for. Mr. DuPont answered that there are no funding commitments for subsequent phases at this time. Ms. Wheeler and Mr. DuPont commented that not all necessary conversations about funding have taken place at this time since discussions about funding cannot adequately take place until the Tier 1 decisions are completed. Ms. Wheeler further clarified that Tier 2 would likely take place without any federal funding and that INDOT has not finalized any decisions regarding moving forward with Tier 2. Mr. Nowotarski went on to ask if that means the Mid-States Regional Development Authority (RDA) potentially will have to go out and



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solicit funds from private entities. Ms. Wheeler answered that is not being said. She further stated that no funding commitments for Tier 2 have been made and that they cannot be made until Tier 1 is completed.

- Mr. DuPont stated that the project is anticipated to receive federal funding at some point prior to or during construction and that is why it is going through the proper processing as if it were already a federal undertaking. However, at this time in the project, the exact nature of that federal aid is unclear.
- Ms. Wheeler reiterated that if or when the project moves on to Tier 2, then talks will begin to be had about funding and that more questions will be able to be answered.
- Mr. Nowotarski inquired as to when a public announcement of Tier 2 is going to take place. Mr. DuPont answered that the Tier 1 process is wrapping up, although it is still ongoing, but it is expected to be finished and that the FEIS is expected to be published this summer. Sometime after that, discussions of public announcements for Tier 2 would begin.
- Hearing no further questions, Mr. DuPont noted that a meeting summary will be circulated prior to the end of the comment period for all consulting parties to review.
- The meeting ended at 10:53am (EDT).

The above constitutes our understanding of the meeting. If you believe there are omissions, additions, or corrections, please send your written comments within seven working days to Lochmueller Group.



**MID-STATES
CORRIDOR**

APPENDIX : PROGRAMMATIC AGREEMENT

Mid-States Corridor Tier 1 Environmental Impact Statement

Prepared for
Indiana Department of Transportation
Mid-States Regional Development Authority

MAY 30, 2023

Prepared by
Mid-States Corridor Project Consultant Team



PROGRAMMATIC AGREEMENT

**REGARDING IMPLEMENTATION OF THE SECTION 106
PROCESS AND TIER 2 NEPA STUDIES**

**MID-STATES CORRIDOR PROJECT: SR 66 TO I-69
DES. NO. 1801941**

**12 COUNTY STUDY AREA:
CRAWFORD, DAVIESS, DUBOIS, GREENE, LAWRENCE, MARTIN, MONROE,
ORANGE, PERRY, PIKE, SPENCER, WARRICK**

**FEDERAL HIGHWAY ADMINISTRATION
INDIANA STATE HISTORIC PRESERVATION OFFICER
INDIANA DEPARTMENT OF TRANSPORTATION**

May 30, 2023

WHEREAS the Federal Highway Administration ("FHWA"), in cooperation with the Indiana Department of Transportation (INDOT), is preparing a Tier 1 environmental impact statement (EIS) study of transportation solutions for the Mid-States Corridor (the undertaking) to improve regional mobility and connectivity between the Ohio River and I-69, address local system deficiencies, provide efficient movement of freight, support economic development, and enhance safety; and

WHEREAS the Mid-States Corridor Tier 1 National Environmental Policy Act (NEPA) study is evaluating a broad range of north-south oriented transportation improvements within a 12 County Study Area including Crawford, Daviess, Dubois, Greene, Lawrence, Martin, Monroe, Orange, Perry, Pike, Spencer, and Warrick Counties in Indiana between SR 66 near the Ohio River and I-69; and

WHEREAS the Mid-States Corridor Project is subject to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations (36 C.F.R. Part 800) that are in effect as of the execution of this Programmatic Agreement; and

WHEREAS FHWA has consulted with the Indiana State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

WHEREAS pursuant to 36 C.F.R. 800.4(b)(2) and 800.5 (a)(3), FHWA and INDOT have determined that a phased process (Tier 1 and Tier 2) for compliance with Section 106 of the National Historic Preservation Act (NHPA) is appropriate for the Mid-States Corridor with regard to the completion of the identification of historic properties, determinations of specific effects on

historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects;

WHEREAS FHWA and INDOT have undertaken efforts during Tier 1 within multiple alternative corridors to identify and evaluate historic and archaeological properties that are potentially eligible for the National Register of Historic Places (NRHP). Tier 1 efforts consisted of an online review of the State Architectural and Archaeological Research Database (SHAARD), as well as a windshield survey of aboveground resources to verify the status of existing inventoried properties and document previously unidentified properties that may be considered historic. In addition, an archaeological records check of each alternative to identify previously recorded archaeological sites, cemeteries, and mapped structures has been completed. FHWA and INDOT intend to undertake more in-depth efforts to identify and evaluate aboveground and archaeological properties and assess potential effects to these resources within a single preferred alternative corridor during Tier 2;

WHEREAS the SHPO concurs that the investigation of aboveground and archaeological properties completed to date is satisfactory for purposes of Tier 1 decision-making, with the understanding that further efforts to identify and evaluate aboveground and archaeological properties will take place, in consultation with consulting parties, including the SHPO and the federally recognized Tribes whose ancestral homelands include the State of Indiana (Tribes), during Tier 2;

WHEREAS FHWA and INDOT prepared the Mid-States Corridor Tier 1 Draft Environmental Impact Statement (DEIS) to determine what mode(s) of transportation will meet the purpose and need for the Mid-States Corridor and to identify the alternatives, and examine the relative effects of the proposed alternatives on known historic properties included in or eligible for inclusion in the NRHP within the alternatives in general terms, as described in the DEIS;

WHEREAS FHWA and INDOT identified a corridor approximately 2,000 feet wide as the preferred alternative corridor, and this preferred alternative is now identified as Refined Preferred Alternative P (See attached map in Appendix A);

WHEREAS it is the intention of FHWA and INDOT to further define “Local Improvements” as a part of the Mid-States Corridor during Tier 2. Such additional projects are identified in an illustrative fashion in the Draft EIS and may include the construction of auxiliary travel lanes, intersection improvements, access management and other upgrades to US 231 associated with the preferred Mid-States Corridor Alternative;

WHEREAS following the completion of the Tier 1 EIS, FHWA and INDOT will conduct Tier 2 environmental studies within the preferred alternative corridor and associated with the Local Improvements to determine the specific alignment/improvements and right-of-way, including compliance with the Section 106 process to determine specific impacts to historic properties as well as opportunities for avoidance, minimization of effects, and appropriate mitigation for the

undertaking;

WHEREAS FHWA and INDOT have determined that the Mid-States Corridor Project may affect historic properties listed in or determined eligible for listing in the NRHP, and, having consulted with the SHPO, desire to establish a Programmatic Agreement at this time pursuant to Section 800.14(b)(3) of the regulation (36 CFR Part 800) in order to establish a framework for implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and Section 110(1) of the same Act (16 U.S.C. 470h-2(1)) for the preferred alternative corridor which will be advanced in Tier 2;

WHEREAS any projects carried out by INDOT within the Mid-States Corridor during the term of this Agreement, including “Local Improvements”, that were not analyzed within the Tier 1 NEPA studies will be subject to separate consultations and compliance actions as specified in 36 CFR Part 800;

WHEREAS INDOT, FHWA and the SHPO have participated in consultations leading to the development of this Programmatic Agreement and have agreed to be signatories thereto;

WHEREAS development and execution of this Programmatic Agreement by FHWA, INDOT, and the SHPO indicates their participation in the Section 106 process followed during the Mid-States Corridor Tier 1 process and does not indicate a preference for a specific alternative;

WHEREAS FHWA and INDOT have communicated with the Advisory Council on Historic Preservation (ACHP or Council) regarding the development of this Programmatic Agreement;

WHEREAS the historic preservation (and other) organizations, local governments, and unaffiliated private citizens listed in Appendix B to this Programmatic Agreement were invited to participate as Section 106 Consulting Parties, have participated in Section 106 consultation during Tier 1 studies, are expected to continue as Section 106 Consulting Parties during Tier 2 studies, and have been invited to concur in this Programmatic Agreement;

WHEREAS execution of this Programmatic Agreement as a concurring party indicates participation as a Section 106 consulting party and acknowledgement that the party’s views were taken into consideration;

WHEREAS execution of this Programmatic Agreement as a concurring party does not necessarily indicate approval of the outcome of the Tier 1 NEPA analysis for the Mid-States Corridor;

WHEREAS the Tribes listed in Appendix B to this Programmatic Agreement were invited to participate as Section 106 Consulting Parties, have participated in Section 106 consultation during Tier 1 studies, are expected to continue as Section 106 Consulting Parties during Tier 2 studies, and have been invited to concur in this Programmatic Agreement;

WHEREAS the invited Tier 1 Section 106 Consulting Parties and Tribes and other interested

parties are invited to participate in the Tier 2 Section 106 process to consult on the historic properties identification, effects determinations, and a future agreement document that would delineate treatments to historic properties should adverse effects be identified;

NOW, THEREFORE FHWA, INDOT and the SHPO agree that the Mid-States Corridor undertaking shall be administered and implemented in accordance with the following Principles and Stipulations in order to take into account the potential effects of the undertaking on historic properties and to satisfy FHWA's and INDOT's Section 106 responsibilities for the undertaking:

Principles

FHWA and INDOT shall adhere to the following principles in complying with Section 106 of the NHPA for Tier 2 studies:

1. Although many decisions about the Mid-States Corridor, including the selection of a preferred alternative, will be made during the Tier 1 process, substantial opportunities will be available during Tier 2 analyses for consulting party input concerning design, construction options, and variances.
2. Consistent with 36 CFR 800.5(a)(1), FHWA and INDOT will take into account direct, indirect, and cumulative effects on historic properties.
3. FHWA and INDOT will seek, discuss, and consider the views of the consulting parties, and, where feasible, will seek agreement with them (36 CFR 800.16[f]) when making decisions under the stipulations of this Programmatic Agreement.
4. FHWA and INDOT will adhere to the stipulations of the Programmatic Agreement Among the Federal Highway Administration, the Indiana Department of Transportation, and the Indiana State Historic Preservation Officer Regarding the Implementation of the Federal Aid Highway Program in the State of Indiana (Minor Projects Programmatic Agreement - MPPA) dated July 13, 2011, and revisions thereto, during Tier 2 analyses wherein certain types of minor highway projects that typically have no effect on historic resources included in, or eligible for inclusion, within the National Register may be exempted from full Section 106 review. The MPPA is attached as Appendix C.
5. FHWA and INDOT will adhere to the stipulations of all other Programmatic Agreements related to cultural resources during Tier 2 analyses.
6. As a matter of public policy, reasonableness of cost must be considered when selecting measures to avoid, minimize, or mitigate adverse effects (FHWA policy is that mitigation measures must represent “a reasonable public expenditure” after considering the impacts of the action and benefits of the proposed mitigation measures) to historic properties, but cost should not be the only determining factor in mitigation decisions.

Stipulations

FHWA shall ensure that the following measures are implemented during Tier 2 studies:

I. Application of the MPPA

- A. If a project qualifies for one or more of the MPPA categories, full Section 106

consultation (as outlined in stipulations II through VII) will not be required. For example, it is anticipated that the MPPA may be applicable to some of the “Local Improvement” projects.

II. Consultation and Consulting Parties

A. Delegation of Consultation Authority

1. FHWA authorizes INDOT to conduct consultation with the SHPO and other consulting parties on its behalf, including identification of consulting parties, determining the area of potential effects (APE), determining the level of resource identification and documentation, NRHP eligibility determinations, and determinations of effect.
2. FHWA will remain ultimately responsible for all the findings and determinations and retains responsibility for complying with all federal requirements pertaining to direct government-to-government consultation with Native American Tribes and requests to the ACHP and National Park Service for participation in cases of adverse effect on National Historic Landmarks.
3. Except as provided below, FHWA will take the lead in consultation with Native American Tribes, in implementation of the dispute resolution clause of this Programmatic Agreement, and in resolving adverse effects in accordance with 36 CFR 800.6.

B. Consultation with the SHPO

As part of initial scoping for the Tier 2 NEPA studies, INDOT shall initiate consultation with the SHPO as provided in 36 CFR 800.2(c)(1).

C. Consultation with ACHP

1. FHWA shall notify the ACHP if there is a finding of adverse effect and shall invite the ACHP to participate in consultation if the undertaking will adversely affect any NRHP eligible or listed cultural resource.
2. Such notifications shall include the documentation specified in 36 CFR 800.11(e). The ACHP will apply all the criteria set forth in Appendix A of 36 CFR Part 800 to determine whether it will participate in consultation to resolve adverse effects.
3. In addition, FHWA and the consulting parties may seek advice, guidance, and

assistance from the ACHP on the application of this Programmatic Agreement to Tier 2 studies, including the resolution of disagreements, whether or not the ACHP is formally involved in the review of the undertaking.

D. Native American Tribal Consultation

FHWA shall consult according to the requirements of 36 CFR Part 800 when properties of religious and cultural significance to such Tribes may be affected by the undertaking. Such consultation will be guided by the Memorandum of Understanding (MOU) Among the Federal Highway Administration, Indiana State Historic Preservation Officer, Indiana Department of Transportation, and Federally Recognized Tribes Interested in Indiana Lands Regarding Tribal Consultation Requirements for the Indiana Federal Transportation Program (May 16, 2017). The MOU is attached as Appendix D.

E. Additional Consulting Parties and Public Involvement

1. INDOT shall confer with consulting parties about the Mid-States Corridor projects within their respective areas of jurisdiction (as established by each party in consultation with INDOT) unless these organizations request a narrower scope of consultation. Consulting parties include the SHPO, Tribal Historic Preservation Officers (or other tribal representative), environmental review agencies, local government representatives, local and statewide historical societies and preservation organizations, other organizations with a demonstrated interest in the undertaking, as well as unaffiliated private citizens who are landowners or have concerns about the project's effect on historic properties.
2. Representatives of agencies, government, organizations, or individuals with a demonstrated interest in, or a concern about, the effects of the undertaking on historic properties may become a consulting party by making a request to FHWA or INDOT during the term of this Programmatic Agreement.
3. INDOT shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking, its potential to affect historic properties, and the likely interest of the public in the undertaking.

III. The Consultation Process

A. Consultations about Identification of Historic Properties

1. For Tier 2 studies under Section 106, FHWA and INDOT shall review existing

information about historic properties within the project APE, conduct intensive field review, analysis, NRHP-eligibility evaluations, and, in consultation with the SHPO, determine any additional efforts necessary to identify historic properties.

2. FHWA and INDOT shall confer with the consulting parties to identify additional potential historic properties that may not have been previously documented.

B. Consultations about Eligibility of Historic Properties

1. Based on criteria of eligibility to the NRHP in 36 CFR 60.4 and guidance that may be developed in the historic context described in Stipulation IV.C, INDOT shall complete determinations of eligibility for all properties identified under Stipulation IV and request concurrence from the SHPO on these determinations.
2. If INDOT and the SHPO are unable to reach a consensus about the eligibility of a resource within the APE in the Tier 2 studies, FHWA will seek a determination of eligibility from the Keeper of the NRHP, as provided in 36 CFR 800.4(c)(2).

C. Consultations about Determinations of Effect

1. For the Tier 2 studies, INDOT shall provide the consulting parties with information about the NRHP-listed properties within the APE, any properties found through consensus determinations to be NRHP-eligible, and any properties being treated as NRHP eligible for the purposes of the undertaking.
2. INDOT shall then invite the consulting parties to provide their views on the nature of effects from the undertaking on the characteristics of those properties that qualify them for listing in the NRHP, and shall consider those views in making a determination of effect for the undertaking.
3. If INDOT finds that the undertaking will have no effect on historic properties or no adverse effect on historic properties, the agency shall notify the consulting parties of this finding and provide them with the documentation specified in 36 CFR 800.11(d) or (e) respectively.
4. If no signatories or consulting parties object to such findings within 30 days, INDOT will proceed with the undertaking. If any party objects, INDOT shall follow the dispute resolution stipulation process in Stipulation VIII of this

Programmatic Agreement to resolve the objection.

D. Consultation about Resolution of Adverse Effect

1. If INDOT finds during Tier 2 studies that the undertaking will have an adverse effect on historic properties, the agency shall notify ACHP following the procedures specified in 36 CFR 800.6(1) and consult further with the consulting parties about measures to avoid, minimize, or mitigate the adverse effect.
2. If the signatories to this Programmatic Agreement cannot reach a satisfactory resolution of the adverse effect during Tier 2 studies for the undertaking, and one or more signatories terminates consultation, FHWA shall either follow the procedures provided in ACHP's regulation at 36 CFR 800.6(c) to execute a Memorandum of Agreement or comply with the procedures in 36 CFR 800.7.

IV. Area of Potential Effects (APE)

- A. The Tier 1 APE for historic resources was based on the 2,000-foot-wide corridor for each alternative under consideration, plus an additional mile on either side of each corridor boundary. This width was proposed to address direct impacts to historic properties, as well as indirect impacts. The Tier 1 APE width will be carried forward to the Tier 2 study as the preliminary area of investigations. The APE for historic resources related to local road improvements initiated as a part of the Mid- States Corridor undertaking will be based on the viewshed to/from the project limits of each local road improvement only.
- B. The Tier 1 APE for archaeological resources was based on the 2,000-foot-wide corridor boundaries for alternatives under consideration. The literature review for Tier 2 will include archaeological resources documented within the 2,000-foot-wide preferred corridor. The Tier 2 APE for archaeological resources will be limited to the areas of direct impact or ground disturbance within the 2,000-foot-wide preferred corridor.
- C. During the Tier 2 studies, INDOT and the SHPO will review and refine the preliminary APE, as applicable, to adequately identify historic properties while taking into account the potential effects that may occur as a result of the project. Any changes to the APE will be based on field survey work to be completed as a part of the Tier 2 analysis and as additional, and more detailed, information on specific project elements becomes available. Changes to the APE will be made to ensure the APE is logical and practical, and that all potential impacts are considered.

- D. If INDOT proposes to refine or change the APE, then the agency shall consult with the SHPO to ensure the APE boundaries are consistent and logical.

V. Level of Effort to Identify and Evaluate Historic Resources

As early as possible, INDOT shall complete the following identification and evaluation efforts within the APE (limited to the viewshed to/from the project limits as determined by topography and structural density) for the entire preferred alternative corridor in consultation with the consulting parties as a part of Tier 2 studies:

A. Identification and Evaluation of Historic Resources

1. Section 106 review of Historic Resources during Tier 2 will be informed by the analysis completed in Tier 1 for each preliminary alternative corridor. The Tier 1 investigation for aboveground resources consisted of:
 - a. A complete review of the Indiana State Historic Architectural and Archaeological Research Database (SHAARD) online, which contains all data from the Indiana Historic Sites and Structures Inventory (IHSSI) including previously documented properties listed in, and eligible for listing in, the NRHP, properties listed in the State Register, as well as previously conducted cultural resource inventories and cultural resource management projects. SHAARD includes information on buildings, cemeteries, and bridges and provides their locations on the Indiana Historic Buildings, Bridges, and Cemeteries Map (IHBBC) online.
 - b. The completion of a “windshield survey” of aboveground historic resources throughout the entire Mid-States Corridor study area. This survey was conducted by Qualified Professional historians, meeting the Secretary of Interior’s Professional Qualification standards, who drove the entirety of all the APEs for each of the preliminary alternative corridors, photographing all previously documented SHAARD/IHSSI resources as well as newly identified resources the historians considered deserving of a rating of Contributing or higher. These digital photographs were uploaded via a GIS system to a project map for locational reference, which included the address, house style/type, and the appropriate IHSSI rating for the property.
 - c. The completion of a ratings matrix of historic structures, wherein previously documented properties from the SHAARD database, and newly documented properties from the Tier 1 “windshield survey,” from all the preliminary alternative corridors under consideration were placed according to the rating system (Contributing, Notable, Outstanding) used by the IHSSI surveys in

each county of the study area. This ratings matrix was used to help determine which of the preliminary alternative corridors will have the lowest impact to historic properties.

2. Historic resources identified during Tier 2 studies as a result of this stipulation's provisions will be recorded using the guidance and standards provided in the INDOT Cultural Resources Manual and established documentation requirements from the SHPO, as appropriate.
3. Historic resources 50 years or older by the project letting date located in the APE will be identified through intensive-level field survey and evaluated for NRHP eligibility by applying the NRHP criteria outlined in 36 CFR 60.4 and the historic context guidance developed in Stipulation IV. C of this Programmatic Agreement.
4. The identified historic resources and determinations of NRHP eligibility will be documented in a Historic Property Report submitted to and reviewed by the INDOT Cultural Resources Office prior to being submitted to the consulting parties for review and concurrence.
5. INDOT shall consider that the passage of time, changing perceptions of significance, or incomplete prior evaluations may require the agency to re-evaluate resources previously determined eligible or ineligible for the NRHP.

B. Identification and Evaluation of Archaeological Resources

1. Section 106 Review of Archaeological Resources during Tier 2 will be informed by the analysis completed in Tier 1 for each preliminary alternative corridor. The Tier 1 investigation for archaeological resources consisted of:
 - a. A complete review of SHAARD online, which contains data on all previously recorded archaeological sites, including a thorough examination of the Indiana Archaeological Features Map that provides locations of archaeological sites and features within each of the preliminary alternative corridors (available to Qualified Professional archaeologists). This information included location information and interment data on all cemeteries recorded within the Indiana Department of Historic Preservation & Archaeology Cemetery and Burial Ground Registry.
 - b. An investigation of historic maps for each of the 12 counties in the study area, focusing on the preliminary alternative corridors, to corroborate with existing recorded historic archaeological sites and note locations of potential

undocumented sites or features.

- c. Consulting party input, through formal meetings and individual communications with consulting parties by the Mid-States Corridor project team, wherein potential undocumented archaeological site locations were provided for further evaluation.
2. During the Tier 2 NEPA studies, archaeological investigations will follow Indiana Code (IC) 14-21-1, 312 IAC 21, 312 IAC 22, and the ***Guidebook for Indiana Historic Sites and Structures Inventory – Archaeological Sites***. If additional methodology is required for survey methods (i.e., predictive modeling), FHWA will involve consulting parties in determining such methodology.
 3. The historic significance and NRHP eligibility of identified archaeological resources will be evaluated by applying the NRHP criteria outlined in 36 CFR 60.4 and the historic context guidance developed in Stipulation IV. C. of this Programmatic Agreement.
 4. Phase I technical reports, which will include archaeological records reviews using SHAARD data and other available resources, will be prepared and submitted to INDOT's Cultural Resources Office for review as appropriate. Determinations of NRHP eligibility for any archaeological resources encountered during the Phase I investigations will be completed and submitted for review and concurrence to the Tribal consulting parties and the SHPO. All archaeological reports will meet the Secretary of the Interior's, and the SHPO's, standards.
 5. Phase II investigations will be conducted as necessary to evaluate potentially eligible archaeological resources identified, and Phase III data recovery will be completed to mitigate adverse effects to NRHP eligible archaeological sites. A scope of work or archaeological plan will be submitted to INDOT and the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (DHPA) for review, comment, and approval prior to fieldwork.
 6. Artifacts, associated records, and documentation from the archaeological investigations will be curated at a qualified curation facility pursuant to the requirements of 36 C.F.R. 79.
 7. Archaeological sites will be protected through the non-disclosure of

archaeological site locations to the public, according to the requirements in 16 U.S.C. 470hh, 16 U.S.C. 470w-3, 36 CFR Part 800.11 (c), and IC14-21-1-32.

8. Any unanticipated or inadvertent discoveries of archeological resources will be reported to INDOT, CRO and DHPA within two (2) business days pursuant to IC 14-21-1-27 and IC 14-21-1-29. Any such discoveries must also comply with the requirements of applicable federal statutes and regulations (36 CFR Part 800.13).
9. INDOT shall consider that the passage of time, changing perceptions of significance, or incomplete prior evaluations may require the agency to re-evaluate resources previously determined eligible or ineligible for the NRHP.

C. Historic Context Development

1. Historic contexts are information about historical trends and resources grouped by an important theme and a particular period of time. These documents link historic resources to important historical trends.
2. To evaluate NRHP eligibility of resources identified in the APE, INDOT may, in consultation with the SHPO and the other consulting parties, develop a historic context or contexts for the Mid-States Corridor, as appropriate. Context topics may be developed in consultation with consulting parties.

VI. Determining the Effect of the Undertaking on Historic Properties

In Tier 2, if properties listed in or eligible for inclusion in the NRHP are within the APE of the preferred alternative corridor, effects assessments for each historic property will be completed. The nature of the effect will be indicated for each individual resource affected. Effects assessments will be based on the criteria of adverse effect as defined in 36 CFR 800.5.

INDOT shall ensure that direct, indirect, and cumulative effects will be taken into account where appropriate during Tier 2 studies. Although the following list of possible categories of effects for the undertaking is not exclusive, if this undertaking may result in any of the categories of effects named here, then those effects will be taken into account in the manner indicated:

A. Physical Destruction or Damage

1. Avoidance of physical takes of historic properties, including historic

structures and features, as well as archaeological sites, shall be given full consideration in all cases.

2. The potential for effects to historic properties as a result of transportation facility construction, and construction-related vibration and noise, shall be assessed where appropriate. The general potential for, and nature of, such effects shall be considered early in planning; however, specific details of such assessments may need to be delayed until after the construction contractor has been selected.

B. Visual Effects

1. Visual effects considered will be related to the qualities of significance of the historic properties being affected. INDOT will meet with the appropriate consulting parties to discuss visual impact criteria appropriate to evaluating both new and cumulative visual effects of the undertaking upon historic properties. Cumulative visual effects include those that result from the incremental consequences of an undertaking when those effects are added to the visual effects of past INDOT undertakings.
2. The following points may be considered in these consultations:
 - a. Minimization and mitigation of visual impacts will take into consideration the qualities of the historic properties, particularly the requirements of Section 110(f) of the NHPA concerning National Historic Landmarks.
 - b. Changes to viewsheds to or from historic properties and changes to historic properties' character-defining visual features will be considered.

C. Noise Effects

FHWA and INDOT will seek to minimize noise effects on historic properties which have noise-sensitive characteristics that contribute to the historic significance, in accordance with state and federal noise regulations, policies and guidance. Specifically, the INDOT Traffic Noise Analysis Procedure (2022) will be followed. The INDOT noise policy, effective January 1, 2023, is based on INDOT's application of FHWA standards.

D. Unanticipated Effects

Any unanticipated effects that have the potential to adversely affect a historic resource or post review discoveries of historic resources will be reported to the

SHPO for consultation. Such unanticipated effects may include the potential economic impacts on existing communities wherein such historic resources exist.

VII. Resolution of Adverse Effects for Tier 2

As appropriate, FHWA and INDOT will consult with the SHPO and other consulting parties to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.

Consultation with the consulting parties regarding the resolution of adverse effects on historic properties shall follow the process described in Stipulation II.D. of this Programmatic Agreement.

Any mitigation measures developed in consultation with the SHPO and other consulting parties will be documented in a Memorandum of Agreement (MOA).

VIII. Historic Preservation Standards and Professional Qualifications

FHWA shall ensure that activities carried out under the terms of this Programmatic Agreement follow the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation and are conducted by staff or consultants meeting the Professional Qualification Standards for Archaeologists/Historians (48 FR 190: 44716-44742). Staff or consultants responsible for carrying out these activities shall be listed in the Indiana Division of Historic Preservation's Qualified Professional Roster.

IX. Dispute Resolution

Should any signatory to this Programmatic Agreement object in writing to FHWA regarding any action carried out or proposed with respect to the Tier 2 studies, or to the implementation of this Programmatic Agreement, FHWA shall consult with the objecting party to resolve the objection.

If, after initiating such consultation FHWA determines that the objection cannot be resolved through consultation, FHWA shall forward all documentation relevant to the objection to the ACHP, including the agency's proposed response to the objection, and also inform other signatories to this Programmatic Agreement of the objection.

Within 30 days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:

- A. Advise the agency that the ACHP concurs with the agency's proposed response to

the objection, whereupon the agency will respond to the objection accordingly;

- B. Provide the agency with recommendations, which the agency shall take into account in reaching a final decision regarding its response to the objection;
- C. Notify the agency that the objections will be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. The agency shall take the resulting comment into account in accordance with 36 CFR 800.7(c)(4).
- D. If comments or recommendations from the ACHP are provided, in accordance with this stipulation, then FHWA shall take into account any ACHP comment or recommendations provided in accordance with this stipulation with reference only to the subject of the objection. FHWA's responsibility to carry out all actions under any MOA that are not subject of the objection shall remain unchanged.

X. Amendment and Termination

Any signatory to this Programmatic Agreement may request that it be amended, whereupon the parties will consult to reach a consensus on the proposed amendment. Where no consensus can be reached, the Programmatic Agreement will not be amended.

In the event that Congress amends Section 106 of the NHPA, or in the case of substantial changes to 36 CFR 800, the parties to this Programmatic Agreement will meet to consider whether it would be appropriate to amend the Programmatic Agreement.

Any signatory to this Programmatic Agreement may terminate it by providing thirty (30) days written notice to the other signatories, provided that the signatories and concurring parties will consult during the period prior to termination to seek agreement on amendments of other actions that would avoid termination.

In the event of termination, FHWA shall comply with 36 CFR Part 800 for the Tier 2 undertaking of the Mid-States Corridor.

XI. Sunset Provision

This Programmatic Agreement is executed as of the last date shown below and expires upon completion of construction of the undertaking or 5 years after the Programmatic Agreement's execution, whichever occurs first, at which time it is subject to review, renewals, or expiration. The process for renewal, expedited for simplicity, will involve obtaining the signatures of the primary and invited signatories on the Programmatic

Agreement once any appropriate revisions are completed and approved.

XII. Participation by Additional Federal Agencies

Any additional federal agency that funds or authorizes a component of the Mid-States Corridor during the life of this Programmatic Agreement may choose to meet its Section 106 obligations at its own cost for that undertaking under the process provided in this Programmatic Agreement by executing the Additional Signatory Form and notifying FHWA, the ACHP, and the SHPO of its intention to do so. Notification to FHWA, the ACHP, and the SHPO should include an explanation of the nature of the agency's participation in or assistance to the Mid-States Corridor.

Execution and implementation of this Programmatic Agreement and of all supplements to this Programmatic Agreement evidence that FHWA and INDOT will take into account the effects of the Mid-States Corridor undertaking on historic properties.

SIGNATORIES (required):

FEDERAL HIGHWAY ADMINISTRATION

Signed by:

JERMAINE R HANNON	Digitally signed by JERMAINE R HANNON Date: 2023.06.25 20:01:51 -0400
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 Date: _____

Jermaine R. Hannon
Division Administrator, FHWA-IN Division

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by: Beth McCord Date: 6/22/2023

Beth McCord

Deputy State Historic Preservation Officer

INVITED SIGNATORIES

INDIANA DEPARTMENT OF TRANSPORTATION

Signed by: LEHilden Date: 6/16/2023

Laura Hilden

Director of Environmental Services, Indiana Department of Transportation

CONCURRING PARTY:

Signed by: _____ Date: _____

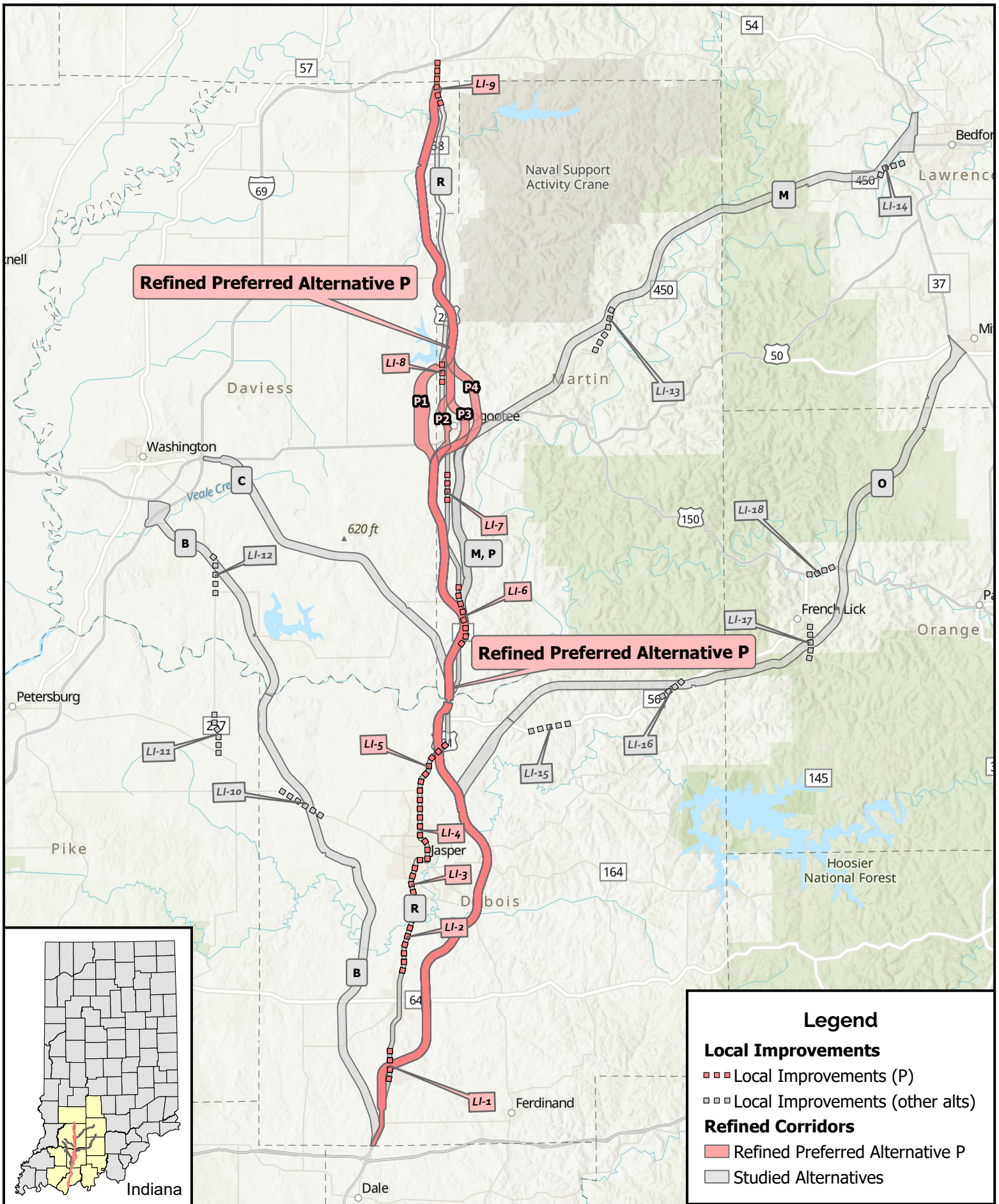
Name and Title:

CONCURRING PARTY:

Signed by: _____ Date: _____

Name and Title:

APPENDIX A: Refined Preferred Alternative P Map

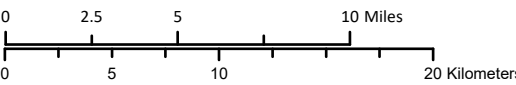
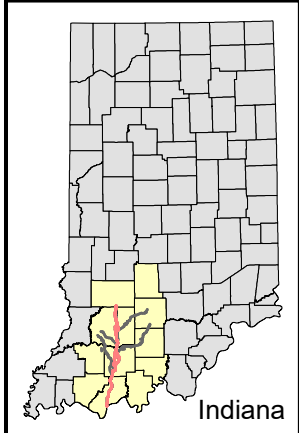


Refined Preferred Alternative P

Refined Preferred Alternative P

Legend

- Local Improvements**
- ■ ■ Local Improvements (P)
- □ □ Local Improvements (other alts)
- Refined Corridors**
- Refined Preferred Alternative P
- Studied Alternatives



APPENDIX B: List of Consulting Parties

Private Citizen	Gretchen Anderson
Private Citizen	Luke Baker
Private Citizen	B.J. Elmore
Private Citizen	Jim Himsel
Private Citizen	David Ring
Private Citizen	LeRoy Seitz
Private Citizen	Mark Nowotarski
Advisory Council on Historic Preservation	Mandy Ranslow, ACHP-FHWA Liaison
Bloomington Restorations	Steve Wyatt, Executive Director
Dale Town Council	Ray Striegel, President
Department of Historic Preservation & Archaeology	Chad Slider for Beth McCord (SHPO)
Delaware Nation Preservation	Carissa Speck, Director of Historic
Dubois County Commissioners	Chad Blessinger, Commissioner
Ellettsville Town Council	William Ellis, Council Member
Forest County Potawatomi	Benjamin Rhodd, THPO
Indiana Barn Foundation	Kent Yeager, Board Chair Cindy Barber, Board Member Danielle Bachant-Bell, Board Member
Indiana Forest Alliance	Jeff Stant, Executive Director
Indiana Landmarks, Central Region Specialist	Alex Brooks, Community Preservation
Indiana Landmarks, Southern Region	Gregory Sekula, Director Laura Renwick, Community Preservation Specialist

Indiana Landmarks, Southwest Field Office	Taylor Burden, Director
Lawrence County Historian	Ron Bell
Lawrence County Museum of History	Rowena Cross-Najafi, President
Loogootee/Martin County Officials Representative	Joe Lannan
Martin County Historical Society	Alyssa Kerns, Treasurer
	Bill Greene
Mayor of Rockport	Don Winkler
Miami Tribe of Oklahoma	Diane Hunter, THPO
Monroe County Historic Preservation Board of Review	Tammy Behrman for Danielle Bachant-Bell
Newburgh Town Council	Leanna Hughes
Pike County Historian/Historical Society	Sandy McBeth
Pokagon Band of Potawatomi	Matthew Bussler, THPO
Rockport City Council	Ferman Yearby
Saving Historic Orange County	Terry Cornwell, President
Shawnee Tribe	Erin Paden for Tonya Tipton, THPO
Shoals Town Council	Cecil Ragsdale, President

APPENDIX C: Minor Projects Programmatic Agreement

**Programmatic Agreement (PA)
Among the Federal Highway Administration,
the Indiana Department of Transportation,
the Advisory Council on Historic Preservation
and the Indiana State Historic Preservation Officer
Regarding the Implementation of the Federal Aid Highway Program
In the State of Indiana**

WHEREAS, the Federal Highway Administration (FHWA) administers the Federal Aid Highway Program in Indiana authorized by 23 U.S.C. §§ 101 et seq., through the Indiana Department of Transportation (INDOT) (23 U.S.C. § 315); and

WHEREAS, INDOT undertakes Federal minor highway projects that would qualify as Categorical Exclusions (CEs), including Local Public Agency Federal aid projects, as defined in 23 CFR 771, that do not individually or cumulatively have a significant impact on the environment, and therefore may not require the preparation of an environmental document; and

WHEREAS, FHWA has determined that certain types of minor highway projects typically have no effect upon historic properties included in or eligible for inclusion in the National Register and has consulted with the Advisory Council on Historic Preservation (Council), and the Indiana State Historic Preservation Officer (SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, INDOT participated in the consultation and has been invited to be a signatory to this PA; and

WHEREAS, INDOT maintains cultural resource staff and consultants meeting the Secretary of Interior's Professional Qualification standards (48 Federal Register (FR) 44716) and State of Indiana standards (Indiana Code 14-21-1 and 312 IAC 21) in the fields of archaeology, history and architectural history;

NOW, THEREFORE, FHWA, INDOT, the Council, and SHPO agree that the Federal Aid Highway Program shall be administered in accordance with the following stipulations to satisfy the FHWA Section 106 responsibility for all individual undertakings of the program.

STIPULATIONS

FHWA shall ensure that the following measures are carried out:

1. Purpose and Scope

A. This PA sets forth the process by which FHWA; with the assistance of INDOT; will meet its responsibilities for undertakings pursuant to Sections 106 and 110 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f).

B. FHWA Responsibilities - In compliance with its responsibilities under the NHPA, and as a condition of its award to INDOT of any assistance under the Federal Aid Highway Program, FHWA will ensure that INDOT carries out the requirements of this agreement and Council policies and guidelines for undertakings subject to this agreement.

C. INDOT Responsibilities

1. Pursuant to this agreement, INDOT will ensure that all cultural resource staff and/or consultants, employed under its contract to conduct work in the field of cultural resources, meet the qualifications set forth in the Secretary of Interior's Professional Qualification standards (48 FR 44716) and State of Indiana standards (IC 14-21-1 and 312 IAC 21) for such work. These qualified INDOT cultural resources personnel shall have the primary responsibility for implementing this PA.

2. Prior to December 31, 2007, and in consultation with SHPO and FHWA, INDOT will prepare a Cultural Resources Manual detailing the procedures for implementing this agreement. Upon approval of the Cultural Resources Manual by INDOT, SHPO, and FHWA, this programmatic agreement will be appended to the INDOT Cultural Resources Manual and be fully explained therein.

2. Minor Projects

The following types of undertakings, listed in Appendices A and B, are activities in which INDOT routinely utilizes Federal Aid highway funds and consist of minor projects that generally do not affect historic properties. None of the minor projects listed below will require consultation with or review by the SHPO, provided the undertaking:

- is limited to the activities specified
- is not part of a larger project
- is on an existing transportation facility
- if ground disturbance in previously disturbed soils is specified, occurs in soils previously disturbed by vertical and horizontal highway construction activities
- has no known public controversy based on historic preservation issues

Such minor projects fall into two categories: minor projects that do not require review by INDOT Cultural Resources staff (Category A; Appendix A), and minor projects that do require documentation and review by INDOT Cultural Resources staff to assess the likelihood that historic properties exist in the area of potential effects or determine the degree of existing soil disturbance within the project area (Category B; Appendix B).

For undertakings in Category B, or where questions arise about the need for review of an undertaking in Category A, INDOT Cultural Resources staff shall determine whether a

particular project should be exempt from SHPO review. If the SHPO specifically requests a copy of the documentation for a particular undertaking covered by this stipulation, INDOT will provide SHPO with the requested documentation and, if the project has not already been approved, will review the project in accordance with Stipulation 4 of this Agreement. All of the minor projects listed in Appendices A and B will be subject to regular internal audit by INDOT.

3. Documentation of Minor Projects

- A. Any minor project listed in Appendices A or B shall be documented in the National Environmental Policy Act documentation. The documentation shall reference and include the description of the specific stipulation in the PA that qualifies the project as exempt from further Section 106 review.
- B. INDOT Cultural Resources staff will utilize the County Interim Reports, most current Bridge Inventory, as well as additional documentation to assure projects are not adjacent to a National Register eligible property or district. Documentation may include construction plans, project area descriptions, soil survey data, photographs, and archaeological documentation.

4. Section 106 Consultation for FHWA Undertakings Not Exempt from Review

For those projects not exempt from review under terms of Stipulation 2, INDOT and FHWA shall review the undertakings in accordance with the procedures found in 36 CFR Part 800. Upon completion of the Cultural Resources Manual required in Stipulation 1, INDOT, using staff and/or consultants meeting the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-9), may independently perform the work and consultation described in the following sections of 36 CFR Part 800 (including any succeeding revisions to the regulations) on behalf of FHWA as follows:

36 CFR § 800.3

- (1) Establish undertaking
- (2) Coordinate with other reviews
- (3) Identify the appropriate SHPO and/or THPO
- (4) Plan to involve the public
- (5) Identify other consulting parties
- (6) Expediting consultation

36 CFR § 800.4

- (1) Determine scope of identification
- (2) Identify historic properties
- (3) Evaluate historic significance

(4) Results of identification and evaluation

36 CFR § 800.5

- (1) Apply criteria of adverse effect
- (2) Finding of no adverse effect
- (3) Consulting party review
- (4) Results of assessment

In recognition of the unique government-to-government relationship between the Federal government and Indian tribes, FHWA shall take the lead in identifying and establishing consultation with the Indian tribes and Tribal Historic Preservation Officers (THPO) consistent with 36 CFR § 800.3(c) - (f). If the tribe is agreeable, further consultation may be conducted among the tribe and INDOT.

A. Finding of “No Historic Properties Affected”

If INDOT determines, in consultation with the SHPO and consulting parties, that no historic properties will be affected by the undertaking, INDOT will make a finding of “no historic properties affected,” and documentation (800.11[d]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public inspection. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither SHPO nor another consulting party has objected to the finding. If the SHPO or any consulting party objects, in writing, to INDOT's finding within 30 days of receipt of an adequately documented finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6. If INDOT determines, in consultation with the SHPO and consulting parties, that historic properties may be affected by the undertaking, INDOT shall apply the Criteria of Adverse Effect, 36 CFR Part 800.5(a)(1).

B. Finding of “No Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have no adverse effect on historic properties, it will make a finding of “no adverse effect,” and documentation (800.11[e]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public comment. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither the SHPO nor another consulting party objects to the finding. If SHPO or any consulting party objects within 30 days of receipt of

adequate documentation, in writing, to INDOT's finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6.

C. Finding of “Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have an adverse effect on historic properties, it will notify FHWA and FHWA will ensure the Section 106 process is completed in accordance with 36 CFR 800.6. FHWA will be responsible for making a finding of “adverse effect” and the resolution of those effects.

5. Unanticipated Discovery

If any unanticipated discoveries of historic properties, sites, artifacts, or objects are encountered during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and IC 14-21-1-27 and 14-21-1-29 by stopping work in the immediate area and informing the SHPO, housed in the Indiana Department of Natural Resources (“DNR”) of such unanticipated discoveries or effects within two (2) business days. Any necessary archaeological investigations will be conducted according to the provisions of IC 14-21-1 and 312 IAC 21.

If any unanticipated effects on historic properties are found to be occurring during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and inform the SHPO immediately.

If any human remains are encountered during the implementation of any project exempted under this PA, work shall cease in the immediate area and the human remains left undisturbed. INDOT and FHWA will contact the county coroner and law enforcement officials immediately, and the discovery must be reported to the SHPO within two (2) business days. The discovery must be treated in accordance with IC 14-21-1 and 312 IAC 22. If the remains are determined to be Native American, FHWA will notify the appropriate federally recognized Indian Tribes.

Work at the site shall not resume until a plan for the treatment of the human remains is developed and approved in consultation with the SHPO and any appropriate consulting parties. The plan will comply with IC 14-21-1, 312 IAC 22, the current Guidebook for Indiana Historic Sites and Structures Inventory--Archaeological Sites, and all other appropriate federal and state guidelines, statutes, rules, and regulations.

6. Monitoring

A. INDOT, FHWA and the SHPO will consult as needed to review implementation of the terms of the PA.

B. FHWA and INDOT may monitor activities carried out pursuant with this agreement, and the SHPO will be invited to participate. INDOT shall cooperate in carrying out the monitoring effort. Should monitoring or other activities result in evidence that the requirements of this PA need modification or are not being met, FHWA, the SHPO, and INDOT will meet to develop and implement corrective measures.

7. Dispute Resolution

A. If the Indiana SHPO, INDOT, the Council, or a consulting party for an individual undertaking carried out under the terms of this agreement objects in writing to the FHWA regarding any action carried out or proposed with respect to the implementation of this PA, then FHWA shall consult with the objecting party to resolve this objection. If after such consultation FHWA determines that the objection cannot be resolved through consultation, then FHWA shall forward all documentation relevant to the objection to the Council, including FHWA's proposed response to the objection. Within fifteen (15) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- 1) Advise FHWA that the Council concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
- 2) Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.

B. Should the Council not exercise one of the above options within fifteen (15) days after receipt of all pertinent documentation, FHWA may assume the Council's concurrence with the proposed response to the objection.

8. Terminate, Modify, and Amend

A. Any party to this PA may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other action that would avoid termination. In the event of termination, FHWA shall conduct individual project review pursuant to 36 CFR Part 800.

B. FHWA, INDOT, and the SHPO will review this PA every ten (10) years from the date of execution for modifications or termination. If no changes are proposed and no party objects, the term of the PA will be extended automatically for another ten years without re-execution.

- C. Any party to this agreement may request that it be amended, whereupon the parties shall consult to consider such amendment. The amendment will be effective on the date a copy is signed by all of the original signatories. The lists of minor projects in Appendices A and B may be modified by the mutual written agreement of FHWA, INDOT, and the SHPO, and shall not require a formal amendment to this agreement.

Execution and implementation of this PA evidences that the Federal Highway Administration has satisfied its Section 106 responsibilities for all individual undertakings of highway projects covered under this agreement.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: Robert F. Tally, Jr.
Robert F. Tally, Jr., P.E.
Division Administrator

Date: 10/3/06

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler
John M. Fowler
Executive Director

Date: 10/12/06

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: Kyle Huffer
Kyle Huffer
Director, Indiana Department of Natural Resources

Date: 9/26/06

INDIANA DEPARTMENT OF TRANSPORTATION

By: Thomas O. Sharp
Thomas O. Sharp
Commissioner

Date: 9/20/2006

APPENDIX A

**Category A Minor Projects
Requires No Review by INDOT Cultural Resources Office**

Category A consists of projects that, by their nature, have no effect on properties listed in or eligible for inclusion in the National Register of Historic Places (hereinafter referred to as the “National Register”) and do not require review by INDOT Cultural Resources Office. All of the work under this Category must occur in previously disturbed soils, which are defined as soils that have been completely altered or displaced by earthmoving or other modern manipulation.

1. Any work on bridges limited to substructure or superstructure elements without replacing, widening, or elevating the superstructure under the conditions listed below (***BOTH Conditions A and B must be met***). This category **does not** include bridge replacement projects (when both superstructure and substructure are removed):
 - A. The project takes place in previously disturbed soils; *AND*
 - B. With regard to the bridges, at least one of the conditions (i, ii or iii) listed below must be satisfied:
 - i. The latest Historic Bridge Inventory identified the bridge as non-historic (see <http://www.in.gov/indot/2531.htm>);
 - ii. The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect AND the considerations listed in Section IV of the Program Comment do not apply;
 - iii. The bridge is part of the Interstate system and was determined not eligible for the National Register under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.
2. All work within interchanges and within medians of divided highways in previously disturbed soils.
3. Replacement, repair, lining, or extension of culverts and other drainage structures that do not exhibit wood, stone or brick structures or parts therein and are in previously disturbed soils.
4. Roadway work associated with surface replacement, reconstruction, rehabilitation, or resurfacing projects, including overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within previously disturbed soils where replacement, repair, or installation of curbs, curb ramps or sidewalks will not be required.
5. Repair, in-kind replacement or upgrade of existing lighting, signals, signage, and other traffic control devices in previously disturbed soils.
6. Repair, replacement, or upgrade of existing safety appurtenances such as guardrails, barriers, glare screens, and crash attenuators in previously disturbed soils.
7. Repair or in-kind replacement of fencing and hardscape landscaping elements and/or replacement of existing plant materials in previously disturbed soils and installation of new fencing and hardscape landscaping elements and plant materials limited to locations within interstate right-of way within previously disturbed soils.
8. Installation of new or modification of existing traffic control devices and systems, including signs, signals, markings, illumination, other warning devices and their supports, to improve safety at railway crossings in previously disturbed soils.
9. Installation, repair, or replacement of erosion control measures along roadways, waterways and bridge piers within previously disturbed soils.

10. Routine roadside maintenance activities necessary to preserve existing infrastructure or maintain roadway safety in previously disturbed soils.
11. Rehabilitation of existing rest areas and truck weigh stations within previously disturbed soils.
12. Removal and disposal of hazardous waste.
13. Work on concrete and asphalt decks of bridges identified in the Historic Bridge Inventory as National Register-listed or National Register-eligible (see <http://www.in.gov/indot/2531.htm>), which is limited to pavement resurfacing, overlay, pavement repair, pavement grinding, pavement marking, seal coating, joint repair, and in-kind replacement or repair of existing concrete curbs, curb ramps or sidewalks in previously disturbed soils, provided none of these actions impact structural members of the bridge.
14. Repair and/or replace existing MSE walls, retaining walls and noise walls in previously disturbed soils, using similar design, dimensions and materials.

APPENDIX B

Category B Minor Projects Requires Documentation and Review by INDOT Cultural Resources Office.

The Minor Projects Programmatic Agreement (MPPA) determination form itself will be prepared by INDOT Cultural Resources Office when the scope of work for the project falls in its entirety under one or more of the MPPA Categories. All Archaeological Reports prepared to determine if projects fall under this Category will be submitted to the Indiana SHPO and available for viewing (Tribes only) on the Indiana Section 106 Consultation and Outreach Portal Enterprise (INSCOPE)

Category B consists of projects that require documentation and review by INDOT Cultural Resources Office to determine the degree of existing soil disturbance within the project area or assess if properties listed in or eligible for inclusion in the National Register of Historic Places (hereinafter referred to as the National Register) are present within or adjacent to the project area and will be impacted by the project.

1. Replacement, repair, or installation of curbs, curb ramps, or sidewalks, including when such projects are associated with roadway work such as surface replacement, reconstruction, rehabilitation, or resurfacing projects, including overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking, under the following conditions [*BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied*]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be satisfied (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the Division of Historic Preservation and Archaeology (DHPA) and any archaeological site form information will be entered directly into the State Historic Architectural and Archaeological Database (SHAARD) by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

One of the two conditions listed below must be satisfied (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
- ii. Work occurs adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource under one of the two additional conditions listed below (*EITHER Condition a OR Condition b must be met and field work and documentation must be completed as described below*):
 - a. No unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and historic brick or stone retaining walls are present in the project area adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
 - b. Unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and historic brick or stone retaining walls are present in the project area adjacent to or within a National Register-listed or National Register-eligible individual above-ground resource or district and ANY ONE of the conditions (*1, 2, or 3*) listed below must be fulfilled:
 1. Unusual features described above will not be impacted by the project. Firm commitments regarding the avoidance of these features must be listed in the MPPA determination form and the NEPA document and must be entered into the INDOT Project Commitments Database. These projects will also be flagged for quality assurance reviews by INDOT Cultural Resources Office during/after project construction.

2. Unusual features described above have been determined not to contribute to the significance of the historic resource by INDOT Cultural Resources Office in consultation with the SHPO based on an analysis and justification prepared by their staff or review of such information from other qualified professional historians.
3. Impacts to unusual features described above have been determined by INDOT Cultural Resources Office to be so minimal that they do not diminish any of the characteristics that contribute to the significance of the historic resource, based on an analysis and justification prepared by their staff or review of such information from other qualified professional historians.

Field work and documentation required for fulfillment of condition B-ii:

When the project takes place adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource, it must be field checked by INDOT Cultural Resources Office staff or other qualified professional historian (meeting the Secretary of Interior's Professional Qualification standards [48 Federal Register (FR) 44716]) and photographic documentation must be prepared illustrating both the presence and/or absence of any unusual features along the project route adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource. This documentation must be submitted to INDOT Cultural Resources Office for review.

The only exception would be when it is determined that previous projects along the project route have eliminated the possibility that unusual features adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource exist. In this situation, documentation illustrating the modifications made through previous projects, such as replacement of curbs, curb ramps, or sidewalks, including plan sheets or contract documents and current photographs of the project area, must be submitted to the INDOT Cultural Resources Office for review. With such approved documentation, a site visit by a qualified professional is not required, unless questions arise during the review process. INDOT Cultural Resources Office has the discretion to require the project applicant's qualified professional conduct a site visit when it is not clear if unusual features may be present in the project area.

2. Installation of new lighting, signals, signage and other traffic control devices under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

3. Construction of added travel, turning, or auxiliary lanes (e.g., bicycle, truck climbing, acceleration and deceleration lanes) and shoulder widening under the following conditions ***[BOTH Condition A, which***

pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

4. Installation of new safety appurtenances, including but not limited to, guardrails, barriers, glare screens, and crash attenuators, under the following conditions *[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]*:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

5. Emergency repairs to maintain the integrity of roadways and bridges that are not identified in the latest Historic Bridge Inventory as being National Register-listed or National Register-eligible (see <http://www.in.gov/indot/2531.htm>).
6. Other minor actions if deemed appropriate for coverage under this MPPA, by consultation and mutual agreement between INDOT, FHWA, and the SHPO. The Tribes shall be provided information on all projects proposed to be cleared under this category for review prior to an agreement being signed between the agencies.
7. This Category has been eliminated. The work type previously included in this category has been included in the revised Category B-1.

8. Construction of pedestrian facilities including trails, multi-use paths, greenways, and associated minor activities defined below, under the following conditions [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs within areas previously disturbed by vertical and horizontal construction activities, including existing roadway, sidewalk, or rail bed, and is not on, within or adjacent to a National Register listed or eligible site; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

Activities associated with this category include the following:

- Pavement surface installation, replacement, rehabilitation, resurfacing, and reconstruction work, including widening, laying down of crushed stone or gravel, shoulder treatments, pavement repair, seal coating, pavement grinding, pavement marking, etc.;
 - Installation of new signals, signage, and other traffic control devices;
 - Installation of new safety appurtenances such as guardrails and barriers;
 - Installation of plant materials and hardscape landscaping elements, including, but not limited to bike racks, benches, trash cans, lighting, and other amenities;
 - Trail heads and parking lots;
 - Installation of pipes, culverts, and pedestrian bridges.
9. Installation, replacement, repair, lining, or extension of culverts and other drainage structures under the conditions listed below [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

One of the conditions below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work does not involve installation of a new culvert and other drainage structure, and there are no impacts to unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and retaining walls, under one of the following conditions (*Condition a, Condition b, or Condition c must be satisfied*):
 - a. The structure exhibits no wood, stone, or brick structures or parts therein; *OR*
 - b. The structure exhibits only modern wood, stone, or brick structures or parts therein; *OR*
 - c. The structure exhibits non-modern wood, stone, or brick structures or parts therein and the following conditions are met (*BOTH Condition 1 AND Condition 2 must be met*):
 1. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 2. The structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. Under this condition, a qualified professional (meeting the Secretary of Interior’s Professional Qualification standards [48 Federal Register (FR) 44716]) must prepare an analysis and justification that the structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. This documentation must be reviewed and approved by INDOT Cultural Resources Office.
 - ii. Work involves the installation of a new culvert and other drainage structures *AND/OR* there may be impacts to unusual features, including historic brick or stone sidewalks, curbs or curb ramps, stepped or elevated sidewalks and retaining walls, under the following conditions (*BOTH Condition a and Condition b must be satisfied*):
 - a. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 - b. The subject structure exhibits one of the characteristics described below (*Condition 1, Condition 2 or Condition 3 must be satisfied*):
 1. The structure exhibits no wood, stone, or brick structures or parts therein; *OR*
 2. The structure exhibits only modern wood, stone, or brick structures or parts therein; *OR*
 3. The structure exhibits non-modern wood, stone, or brick structures or parts therein but lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. Under this condition, a qualified professional (meeting the Secretary of Interior’s Professional Qualification standards [48 Federal Register (FR) 44716]) must prepare an analysis and justification that the structure lacks sufficient integrity and/or a context that suggests it might have engineering or historical significance. This documentation must be reviewed and approved by INDOT Cultural Resources Office.
10. Slide corrections, slope repairs, and other erosion control measures, in undisturbed soils under the conditions listed below [*BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied*]:

Condition A (Archaeological Resources)

An archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register listed or potentially National Register eligible archaeological resources, then full Section 106 review will be required. Copies of any reports will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

11. Scour protection for bridges that are listed in or eligible for inclusion in the National Register that is limited to placement of riprap around and adjacent to abutments, piers, and wingwalls under the conditions listed below [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

12. Replacement, widening, or raising the elevation of the superstructure on existing bridges, and bridge replacement projects (when both the superstructure and substructure are removed), under the following conditions [***BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied***]:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The conditions listed below must be met (***BOTH Condition i and Condition ii must be satisfied***)

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
- ii. With regard to the subject bridge, at least one of the conditions listed below is satisfied (*AT LEAST one of the conditions a, b or c, must be fulfilled*):
 - a. The latest Historic Bridge Inventory identified the bridge as non-historic (see <http://www.in.gov/indot/2531.htm>);
 - b. The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect AND the considerations listed in Section IV of the Program Comment do not apply;

- c. The bridge is part of the Interstate system and was determined not eligible for the National Register under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.
13. Construction and maintenance of environmental mitigation sites, including, but not limited to wetland and stream, forested floodway, and bat habitat under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The conditions listed below must be met (*BOTH Condition i and Condition ii must be satisfied*):

- i. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *AND*
 - ii. No demolition of existing structures will occur.
14. Installation of new traffic signal controller cabinets, handholes, traffic detection loops and housing, and ADA-complaint accessible pedestrian pushbutton pedestal poles in close proximity to existing traffic signals adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource under the following conditions ***[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]***:

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

No unusual features, including but not limited to historic brick or stone sidewalks, curbs or curb ramps are present at the location where such work will occur.

15. FHWA approval of the Broadband Access permit, issued by INDOT for installation of longitudinal broadband fiber optic cable duct, fiber optic conduit, fiber optic wire, hand holes, vaults and other related fiber optic equipment within the existing interstate right-of-way (r/w) in Indiana. The FHWA “permitted project area” is limited to the existing interstate r/w, which may be different from the “actual project area” for the broadband installation. **[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:**

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

The Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005 remains in effect and no element of the interstate system within the State of Indiana has been determined to possess “National Significance” in consultation with FHWA, INDOT, and SHPO and one of the two conditions listed below must be met (*EITHER Condition i OR Condition ii must be satisfied*):

- i. Work does not include the installation of micro or macro cellular structures along the interstate right-of-way; *OR*
- ii. Work includes the installation of micro and macro cellular structures along the interstate right-of-way under the following conditions (*EITHER Condition a OR Condition b must be satisfied*):
 - a. Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource; *OR*
 - b. Work occurs adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource, and INDOT Cultural Resources Office in consultation with the SHPO has determined that this work does not have the potential to diminish any of the characteristics that contribute to the significance of the historic resource based on an analysis and justification prepared by qualified professional historians;

NOTE: Under 23 CFR 1.23, regarding the shared use of Interstate r/w, the FHWA must approve the Broadband Access permit, issued by the INDOT. The approval of Broadband Access permit by FHWA is for the non-highway alternative shared use of the Interstate right-of-way only and not for areas that may be used by broadband companies outside the Interstate corridor. Adherence to any applicable state and federal laws outside this r/w is the responsibility of the permittee and not included as part of FHWA’s approval.

16. Installation of MSE walls, retaining walls and noise barriers (including earth berms, ground mounted noise walls and structure mounted noise walls) not exceeding 30’ in height within the Interstate r/w under the following conditions **[BOTH Condition A, which pertains to Archaeological Resources, and Condition B, which pertains to Above-Ground Resources, must be satisfied]:**

Condition A (Archaeological Resources)

One of the two conditions listed below must be met (*EITHER Condition i or Condition ii must be satisfied*):

- i. Work occurs in previously disturbed soils; *OR*
- ii. Work occurs in undisturbed soils and an archaeological investigation conducted by the applicant and reviewed by INDOT Cultural Resources Office determines that no National Register-listed or potentially National Register-eligible archaeological resources are present within the project area. If the archaeological investigation locates National Register-listed or potentially National Register-eligible archaeological resources, then full Section 106 review will be required. Copies of any archaeological reports prepared for the project will be provided to the DHPA and any archaeological site form information will be entered directly into the SHAARD by the applicant. The archaeological reports will also be available for viewing (by Tribes only) on INSCOPE.

Condition B (Above-Ground Resources)

Work does not occur adjacent to or within a National Register-listed or National Register-eligible district or individual above-ground resource.

APPENDIX D: Tribal Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM**

PREFACE

This Memorandum of Understanding (MOU) is the result of discussions among the Federal Highway Administration (FHWA), the Indiana Department of Transportation (INDOT), the Indiana State Historic Preservation Officer (SHPO), and federally recognized Tribes whose ancestral homelands include the State of Indiana (Tribes)¹. This document is intended to define and develop procedures for consultation in compliance with the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.), among the FHWA, INDOT, and Tribes. As required under the terms of the NHPA and resulting regulations (36 C.F.R. Part 800), consultation has revealed that many Tribes have aboriginal ties to what is now the State of Indiana. Those Tribes have requested to be consulted on future transportation projects in Indiana.

The FHWA and INDOT understand that cultural resources are revered by the Tribes and are a connection to their past and important to their cultural identity, sense of self and future well-being. Tribes are concerned with the continuing destruction of places and items of cultural value, including cultural resources, burial sites, and Traditional Cultural Properties (TCPs)². The destruction of these resources impacts Tribal cultural identity today. Cultural resources are tied to people's ancestors, some are related to important religious activities, and many have ongoing spiritual connections. The FHWA and INDOT recognize the importance of these cultural resources to aboriginal people living today.

The FHWA and INDOT recognize that transportation projects have the potential to adversely affect historic properties³: burials, funerary objects, sacred objects, objects of cultural patrimony, sacred sites, archaeological sites, and TCPs, as well as traditional cultural landscapes⁴ and traditional natural resources⁵ that may not be eligible and/or protected by the National Register but may still be of value to Tribes. The

¹ See Appendix A: COUNTY LISTING OF THE TRIBES' ANCESTRAL HOMELANDS AND TERRITORY IN THE STATE OF INDIANA.

² A Traditional Cultural Property (TCP) is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that: (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. (National Register Bulletin 38).

³ The term "historic property" is defined in the NHPA as, "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion, on the National Register"; such term includes artifacts, records, and remains which are related to such district, site, building, structure, or object (54 U.S.C. § 300308).

⁴ Traditional cultural landscapes are understood to be areas considered sacred or culturally significant by tribes that include plants, animals, sound, light, view shed, and other sometimes intangible features that are revered through or described through a tribe's language, songs, stories, ceremonies, and place names (ACHP's The Protection of Indian Sacred Sites: General Information, July 2015. <http://www.achp.gov/docs/sacred-sites-general-info-july-2015.pdf>; accessed December 11, 2015).

⁵ Traditional natural resources are understood to be trees, plants, berries, nuts, fruits, minerals, and any floral or fauna species that are considered sacred, medicinal, or culturally important to tribal religious beliefs, traditions, and practices (ACHP's The Protection of Indian Sacred Sites: General Information, July 2015. <http://www.achp.gov/docs/sacred-sites-general-info-july-2015.pdf>; accessed December 11, 2015).

FHWA and INDOT understand that the construction of the modern transportation network typically did not take into account impacts to these resources. The FHWA and INDOT do not wish further destruction of these culturally valued places, and recognize the inherent rights of Tribes to preserve those places that they value.

Modern development, including transportation construction, has the potential to destroy or adversely impact valuable cultural resources. This MOU is intended to ensure that all parties understand which cultural resources are important to Tribes and work together to protect and preserve them, or mitigate for their loss. The FHWA and INDOT are committed to providing a transportation system that will benefit all people of Indiana, both current and historic, and to learning tribal perspectives about cultural resources important to Tribes. The Tribes are committed to understanding transportation issues and the perspectives of the FHWA and INDOT. Jointly, we are committed to establishing a relationship of mutual trust and respect.

It is the intention of the FHWA and INDOT to work with Tribes to find appropriate ways to avoid, minimize or mitigate adverse effects to historic properties. The FHWA and INDOT pledge to always look for ways to avoid adverse effects to historic properties as the first option. When avoidance of adverse effects is impossible or impractical, given other concerns of equal importance, the FHWA and INDOT will work with the Tribes for appropriate and respectful resolution.

INDOT will ensure that the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. § 3001 et seq.) are followed when there is a discovery of human remains, burials or associated funerary objects (AFOs) on federal lands. In the event of a discovery of human remains or burial objects on non-federal lands during transportation planning or construction activities, at a minimum INDOT will comply with all applicable federal and state laws and regulations, including Section 106 of the NHPA of 1966 (54 U.S.C. § 300101 and 36 C.F.R. Part 800), the Indiana Historic Preservation Act (IC 14-21), and Indiana Administrative Code 312 IAC 22 (see III.C.2).

WHEREAS, all signatory Tribes identified in Appendix A are federally recognized sovereign, self-governing Indian Tribes with their own tribal laws, with established government-to-government relationships with the United States, and a historical connection to specific areas of Indiana, as shown in Appendix A: “COUNTY LISTING OF THE TRIBES’ ANCESTRAL HOMELANDS AND TERRITORY IN THE STATE OF INDIANA,” and have been consulted and agree to be signatories to this document;

WHEREAS, the Indiana SHPO has been consulted and agrees to be a signatory to this document;

WHEREAS, the FHWA wish to affirm the government-to-government relationship with the Tribes for consultation and cooperation regarding federal acts and orders including, but not limited to, Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101 et seq.); the National Environmental Policy Act, (42 U.S.C. § 4321 et seq.); the Archaeological Resource Protection Act (16 U.S.C. § 470aa et seq.); Presidential Executive Order 13007 (Indian Sacred Sites); Presidential Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments); Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. § 3001 et seq.); and, the American Indian Religious Freedom Act (42 U.S.C. § 1996);

WHEREAS, the FHWA is the federal agency with statutory responsibilities for administering the federal-aid highway program under 23 U.S.C. § 101 et seq., and INDOT administers and oversees federal funds for

state and local transportation projects in Indiana. The FHWA agrees to coordinate under a government-to-government relationship with Tribes with regard to federal responsibilities under Section 106 of the NHPA through the terms of this MOU. INDOT will also consult with Tribes to manage or advise on matters pertaining to cultural resources;

WHEREAS, the FHWA has determined that its undertakings may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP). FHWA and INDOT have also determined that its undertakings may have an effect upon traditional cultural landscapes and traditional natural resources that may not be eligible or protected by the National Register but may still be of value to Tribes. Through this MOU, FHWA and INDOT will consult with Tribes pursuant to Section 106 of the NHPA (54 U.S.C. § 300101 et seq.);

WHEREAS, the FHWA and INDOT are committed to: 1) avoiding, minimizing, and mitigating adverse effects to historic properties; 2) considering tribal interests in the preservation of significant cultural resources that are important to tribal well-being, growth, and prosperity; and 3) responding to the needs of Tribes;

WHEREAS, INDOT will employ departmental staff that meet the federal professional qualification requirements of 36 C.F.R. Part 61 and State of Indiana standards (IC 14-21-1 and 312 IAC 21). At a minimum, the professional staff required to carry out the terms of this MOU shall consist of one permanent, full time archaeologist;

WHEREAS, INDOT contracts archaeological fieldwork to only qualified professionals. INDOT will ensure that all consultants conducting archaeological fieldwork meet the federal professional qualification requirements of 36 C.F.R. Part 61 and State of Indiana standards (IC 14-21-1 and 312 IAC 21). INDOT ensures and will continue to ensure that fieldwork and reporting meets federal and state guidelines;

WHEREAS, the FHWA, INDOT, and the signatory Tribes aspire to engage in meaningful, long-term planning for the appropriate consideration of cultural resources important to Tribes, and to pursue the following:

- develop a comprehensive and efficient tribal consultation process based upon education and understanding for Section 106 undertakings;
- continue to identify ways to streamline the Section 106 process and procedural requirements;
- recognize that Tribes share the responsibility to engage in effective consultation;
- involve the Tribes' cultural experts to a greater extent and at an earlier point than before the implementation of this MOU;
- devote the time and energy needed to identify relevant transportation problems threatening cultural resources important to the Tribes; and
- accomplish any additional goals identified through consultation and agreed upon by the parties;

BE IT RESOLVED, the FHWA, INDOT and Tribes hereby agree that the implementation of tribal consultation on transportation projects shall be established through government-to-government relations with Tribes. At a minimum, consultation will be in accordance with the following stipulations in order to satisfy FHWA tribal consultation responsibilities under the NHPA.

STIPULATIONS

I. GENERAL

A. This MOU sets forth the process by which FHWA will meet its responsibilities of the Federal Aid Highway Program with regard to tribal consultation under Section 106 of the NHPA for transportation projects within the State of Indiana. This MOU establishes a protocol for consultation with Tribes on individual transportation projects.

B. Nothing in this MOU shall be interpreted to alter the requirements of the NHPA or its implementing regulations. In the event any portion of this MOU is deemed contradictory, or less restrictive, to law or regulation, only that portion becomes void. The sole contradictory provision or issue shall not negate the entire MOU. The parties should consult to resolve the contradictory issue with the intent to reform or amend that portion of the MOU to make it compliant with applicable law or regulation while all remaining provisions of the MOU remain in full force and effect.

C. No portion of this MOU shall be interpreted to limit the rights, duties, or responsibilities of any party as may be required under federal laws, regulations, policies, executive memoranda or executive orders, or Indiana state statutes.

D. Consultation with Tribes shall begin when Section 106 consultation is initiated and before a final transportation alternative is approved. Tribal early coordination shall be sent to ensure tribal views are considered into the decision making process and consultation shall continue throughout a Section 106 undertaking. A letter or email of notification, in and of itself, from FHWA/INDOT to a Tribe is not considered consultation. Consultation is a mutual, meaningful dialogue between FHWA, INDOT, SHPO, and Tribes regarding historic properties that may be affected by an undertaking. The FHWA and INDOT shall consult with Tribes on a government-to-government basis in recognition of its sovereign status as early as possible in the planning process and throughout the Section 106 process, regarding any activity or undertaking that might affect cultural resources of concern to the Tribes.

Consultation may include face-to-face meetings, as well as communications by mail, electronic mail, facsimile, and telephone. When it is determined that consultation will be by a face-to-face meeting, FHWA and INDOT will coordinate with the consulting party Tribes to develop a mutually agreed upon time and place to meet.

Consultation may be extended to include future management, protection, and preservation if historic properties that are of cultural and/or religious significance to Tribes are identified.

E. The FHWA and INDOT shall ensure that Tribes are afforded, in accordance with applicable federal, state, and local authorities and highway safety measures, the opportunity to conduct religious/traditional ceremonies within right-of-way owned by INDOT.

F. The FHWA and INDOT recognize that facilitating effective tribal consultation may require providing travel support for tribal officials. Future formal agreements may specify how this support may occur.

G. The FHWA and INDOT shall ensure that consultation with other consulting parties, including local governments, shall not include the dissemination, beyond those who have an official need to know, of

confidential information except as mandated by federal or state laws. Confidential information is defined as information pertaining to Native American⁶ sites, that, if disclosed may:

1. cause a significant invasion of privacy; risk harm to historic properties; or impede the use of a traditional religious site by practitioners (54 U.S.C. § 307103 et seq.);
2. risk harm to TCPs, traditional cultural landscapes, and traditional natural resources;
3. risk harm to archaeological sites that may contain burials or human remains, funerary objects, sacred objects and/or objects of cultural patrimony; or
4. risk harm to Native American historic properties in accordance with Section 304 of the NHPA.

H. As Native American archaeological sites, TCPs, traditional cultural landscapes, traditional natural resources, burial sites, funerary objects, sacred objects, and/or objects of cultural patrimony are non-renewable resources, FHWA and INDOT shall make a reasonable and good faith effort to inform the public and private landowners regarding stewardship, site protection and preservation which may include but not be limited to tax incentives or related benefits, lectures, exhibits, site-specific consultation, brochures, and videos.

I. A Tribe may request to enter the process at any time.

J. Tribes will be contacted if Native American human remains, burials, or burial objects are found during archaeological investigations or during construction. In any instance where Native American human remains are uncovered, Tribes will be notified in accordance with III.C. of this MOU.

⁶ Throughout this MOU, the term Native American can refer to pre-Columbian peoples and post-Columbian American Indians.

II. NOTIFICATION FOR CONSULTATION PROCEDURES

A. *Points of Contact*: The FHWA, INDOT, SHPO, and Tribes shall each designate primary and secondary contacts⁷. The primary contact for Tribes is the contact to whom all initial and formal correspondence goes, including notification and updates of public involvement for the Indiana Statewide Transportation Improvement Plan (STIP) and project specific Section 106 correspondence and documentation. If the individual designated as the primary point of contact is not available, communications shall be directed to the secondary contact. The primary and secondary contacts within each Tribe are responsible for involving the appropriate tribal individuals. Each party of this MOU shall provide in writing (hardcopy or email) the other parties with the phone numbers, email addresses, and mailing addresses for the primary and secondary contacts. Each party shall notify the other parties in writing (hardcopy or email) when either point of contact changes. On an annual basis, FHWA/INDOT will send an email request to the Tribes asking for new or updated contact information and update the contact list accordingly. Such changes shall not require the amendment of this agreement.

B. *Tribal Areas of Concern*: The Tribes have provided, or will provide, FHWA/INDOT with a listing of all Indiana counties that exist within their ancestral homeland and territory, in which they have an interest (see Appendix A). At the Tribes' discretion, a Tribe or Tribes may also be identified to review projects in other areas of Indiana. The FHWA/INDOT will maintain this list and will update as necessary when additional tribal interests are made known. If Tribes do not provide FHWA/INDOT with their counties of interest, FHWA/INDOT will utilize the table entitled *Indiana-Present Day Tribes Associated with Indiana Land Cessions 1784-1894* available from National NAGPRA Online Databases in its tribal consultation.

C. *Delegation of Certain Responsibilities to INDOT*: INDOT will provide Indiana STIP annual updates to Tribes and notify Tribes of public meetings and comment periods on the STIP. INDOT will conduct Early Coordination with the Tribes for applicable projects (see Stipulation II.F.), soliciting the Tribes' input as early as possible in the project's development, and providing them detailed project information as necessary or requested.

INDOT will maintain cultural resource staff, or utilize consultants, who, at a minimum, meet the federal qualifications set forth in the Secretary of the Interior's Professional Qualification Standards (36 C.F.R. Part 61) and State of Indiana standards (IC 14-21-1 and 312 IAC 21) for cultural resource studies. INDOT may also carry out consultation activities in accordance with Stipulation I.D., but FHWA will be involved in or monitor all such consultations and will at all times be available for direct communication with any party. The FHWA will be a signatory on all project-specific or other formal agreement documents.

D. *Indiana Program Documents*: The Indiana Statewide Transportation Improvement Program (STIP) is a four-year planning document that lists all projects expected to be funded in those four years with Federal funds and those state-funded projects that have been deemed as Regionally Significant. The list of projects included in the STIP is maintained on the INDOT website <http://www.in.gov/indot/2348.htm>.

E. *Programmatic Agreement and Projects Exempt from Section 106 Early Coordination*: FHWA and INDOT periodically execute programmatic agreements (PA) with the SHPO and the Advisory Council on Historic Preservation (ACHP) that determines how Section 106 is satisfied by FHWA in Indiana. At the

⁷ see Appendix B: POINT OF CONTACT LIST.

time of execution of this MOU, the FHWA IN Division administers Section 106 following the *Programmatic Agreement Among the Federal Highway Administration, the Indiana Department of Transportation, the Advisory Council on Historic Preservation Officer Regarding the Implementation of the Federal Aid Highway Program In the State of Indiana* dated September 6, 2006⁸. This PA includes categories of minor projects exempted from Section 106 early coordination and consultation. The project types exempted from Section 106 early coordination and consultation by the PA are generally limited to the repair, replacement or upgrade of existing transportation infrastructure. The PA can also be applied to three project types (B-8: Trails; B-9: Small Structure Replacements; and B-10: Slide Corrections) after an archaeological reconnaissance has identified no NRHP eligible archaeological sites within the project area. If a potentially eligible or eligible archaeological site is identified, the PA does not apply and Section 106 consultation is required. All archaeological reports prepared for review under the PA shall be provided to Tribes and SHPO.

FHWA and INDOT will consult with the Tribes in development of new programmatic agreements. As new programmatic agreements are executed, Appendix C will be updated with the most recent version without requiring amendment to this MOU.

No federal-aid projects are exempt from being listed in the Indiana STIP. Tribes will see a listing of *all* federal-aid projects in their counties of interest (see III.A). If a Tribe expresses concerns about a project listed in the STIP that qualifies for Section 106 clearance under the PA, FHWA and INDOT will consult further with the Tribe. Based on this consultation, FHWA and INDOT may determine that the PA is not applicable due to tribal concerns and Section 106 consultation will be required as outlined in III.A-C.

F. Transportation Projects to be Considered for Early Coordination: INDOT will initiate Early Coordination with Tribes and SHPO on projects that have the potential to affect cultural resources that may be of interest to Tribes. Early Coordination will be initiated for:

1. Any INDOT project that is considered to be a Federal undertaking that is subject to Section 106 as described in 36 C.F.R. Parts 800.3(a) and 800.16(y) and is not exempt from Section 106 early coordination and consultation through application of the PA. The FHWA/INDOT will coordinate with Tribes who claim association with that project's county (see II.B); and
2. The FHWA/INDOT will consult with Tribes regarding any properties in which they have an expressed interest as a result of their review of project documentation provided by INDOT.

G. Early Coordination: Early Coordination provides the SHPO, Tribes, and other consulting parties the opportunity to request participation in the Section 106 process and to comment on a project's anticipated impacts early in project development. Early Coordination may be conducted via an email generated from INDOT's Section 106 electronic consultation portal, an email sent by FHWA/INDOT, or hard copy correspondence sent by FHWA/INDOT, if requested. Minimally, Early Coordination will include a project description, topographical map indicating township, section and range, a request for the recipient to indicate their interest for consulting on the project, and request for any concerns/feedback. When Section

⁸ See Appendix C: PROGRAMMATIC AGREEMENT (PA) AMONG THE FEDERAL HIGHWAY ADMINISTRATION, THE INDIANA DEPARTMENT OF TRANSPORTATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION AND THE INDIANA STATE HISTORIC PRESERVATION OFFICER REGARDING THE IMPLEMENTATION OF THE FEDERAL AID HIGHWAY PROGRAM IN THE STATE OF INDIANA.

106 consultation is initiated and before a final transportation alternative is approved, tribal early coordination shall be sent to ensure tribal views are considered into the decision making process. Tribes will have 30 days from receipt of the early coordination letter to provide comments and/or concerns.

H. *Quality Assurance Reviews*: On an annual basis, FHWA and INDOT will conduct Quality Assurance Reviews (QARs) of post-construction transportation projects in three (of six) INDOT Districts. QARs consist of reviewing projects exempted from Section 106 early coordination and consultation through the PA to confirm that the PA was applied correctly based on the scope of work. QARs will also include on-site visits to project locations to verify that the project scope and construction were completed as explained in the PA or Section 106 documentation as appropriate and to ensure that any commitments regarding cultural resources were followed. Should a QAR involve a project in which Tribes expressed an interest during Section 106 consultation, Tribes will be notified two weeks prior to the QAR and invited to attend the site visit. In addition, if Tribes have specific projects of concern, they can request that those projects be included in future QARs at any time. If serious problems regarding tribal commitments not being followed are identified during a QAR, Tribes will be notified immediately. QAR annual reports will be provided to INDOT, FHWA, SHPO, and Tribes.

III. CONSULTATION PROCEDURES

A. *Indiana Program Documents*: On an annual basis, INDOT will email tribal contacts the STIP website address for review. INDOT will also notify tribal contacts by email when INDOT offers public comment periods or public meetings in development of a new STIP document. This information will give the Tribes the opportunity to review and comment on *all* projects in their counties of interest in advance of project development.

If a Tribe expresses interest in any project(s) listed in the STIP, detailed project information will be sent to them and the procedures under Stipulation III. B. will be followed.

B. *Early Coordination*: In addition to the regular notification of all projects in the Indiana STIP, INDOT will initiate Section 106 early coordination and consultation early in project development when Section 106 consultation is initiated and before a final transportation alternative is approved, for undertakings that are not categories of minor projects exempted from Section 106 early coordination and consultation (Appendix C). These are projects that INDOT has determined may have potential to affect historic properties.

Tribes, FHWA, SHPO, and INDOT mutually agree on the following consultation procedures for identifying and evaluating the effects of projects on cultural resources. These procedures shall comply with all applicable federal and state laws, statutes, and regulations. To the extent any provision conflicts with or is less protective of Tribal interests than applicable federal law or regulation, the federal law or regulation shall take precedent.

1. Early coordination letters and any follow up correspondence will be written on either INDOT or FHWA letterhead and signed by a representative of sending agency; informal correspondence between agencies and Tribes may be by email. INDOT will use Appendices A and B to identify and invite Tribes into Section 106 consultation for a project under study in their area of concern. The early coordination letter (ECL) will provide a project description along with a 7.5 minute quadrangle map showing the proposed project location, providing township, section, and range. The Tribe will notify INDOT if there is a Native American archaeological site, TCP, traditional cultural landscape, or traditional natural resource within the

project area, or if they have an interest in the undertaking. If INDOT does not receive a response from the Tribe by the date specified by INDOT (not fewer than 30 days) they may assume the Tribe has no interest in the undertaking.

2. Tribes that respond within the time allotted by INDOT (not fewer than 30 days) with an interest in the undertaking will be a consulting party for the project. Tribes may request additional project information, which INDOT will provide. The means of consultation will be negotiated on a project case-by-case basis as appropriate for each Tribe's interest and request. Tribes may re-enter into consultation at any point during the Section 106 process.

3. If there is any disagreement among the agencies and Tribes regarding the eligibility of an archaeological site, TCP, traditional cultural landscape or traditional natural resource all parties will have further discussions to attempt to reach agreement and will follow eligibility guidelines in National Park Service Bulletin 38.

If INDOT/FHWA and Tribes cannot reach agreement regarding the eligibility of an archaeological site, TCP, traditional cultural landscape or traditional natural resource after following the guidelines outlined in National Park Service Bulletin 38, the Tribe may, per the Section 106 regulations at 36 C.F.R. Part 800.4(c)(2), ask the ACHP to request that the federal agency obtain a formal eligibility determination from the Keeper of the National Register.

4. INDOT, in consultation with SHPO and Tribes, shall conduct appropriate archaeological investigations and prepare reports, which will be posted on INDOT's Section 106 electronic communication web portal. A notification that a report has been posted will be provided to the tribal contacts and SHPO. A hardcopy report will be provided to SHPO for as long as they require hard copy report submissions. Reports may also be sent by hardcopy to any consulting party Tribe that requests a hard-copy. The Tribes and SHPO will be provided a 30-day review period that will run concurrently.

Any response received from a consulting party Tribe during this period will be provided to SHPO for consideration in the identification of historic properties. If INDOT does not receive a response within the 30-day period from a consulting party Tribe, FHWA/INDOT may assume the Tribe has no comment regarding the outcome of the archaeological investigation.

5. For identified archaeological sites that FHWA and INDOT, in consultation with consulting party Tribes and SHPO, agree are not eligible for inclusion in the NRHP, no further archaeological investigations will be required. For projects where there are no historic properties present or none that will be affected, INDOT shall provide documentation of no historic properties affected as set forth in 36 C.F.R. Part 800.11(d) to the consulting party Tribes and SHPO.

6. For archaeological sites evaluated as eligible for listing on the NRHP, consultation will continue with the SHPO and consulting party Tribes to avoid, minimize or mitigate adverse effects to the eligible resource. When a historic property may be affected by the undertaking, FHWA/INDOT will apply the criteria of adverse effect as set forth in C.F.R. 36 Part 800.5(a)(1) and shall provide documentation as set forth in 36 C.F.R. Part 800.11(e) to the consulting party Tribes and the Indiana SHPO. If adverse effects cannot be avoided, then INDOT, FHWA, the Tribes, and SHPO will consult to develop a Memorandum of Agreement (MOA).

C. Unanticipated Discoveries During Construction: The following procedures will be used in the event that previously unreported and unanticipated artifacts or human remains (including funerary objects, sacred objects, and objects of cultural patrimony) are found during INDOT construction activities. The procedures differ depending on whether unanticipated artifacts (see Section C.1.) or human remains (including funerary objects, sacred objects, and objects of cultural patrimony) (see Section C.2.) are encountered. These procedures are intended to ensure that the project is in compliance with all applicable federal and state laws and regulations, including Section 106 of the NHPA of 1966 (54 U.S.C. § 300101 and 36 C.F.R. Part 800), the Indiana Historic Preservation Act (IC 14-21), Indiana Administrative Code 312 IAC 22, and INDOT Standard Specification 107.10.

1. *Procedures for an Unanticipated Discovery of artifacts:* In the event of unanticipated discovery of artifacts during INDOT construction activities, INDOT will follow these procedures:

- (a) The construction contractor (Contractor) shall immediately stop all construction activity within a 100 ft. radius of the discovery and cease further disturbance. If the Contractor is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other artifacts within the work site, the Contractor shall also immediately stop all construction activity beyond a 100 ft. radius of the discovery to the extent appropriate. The Contractor shall notify the INDOT Project Engineer (Engineer) who will inform INDOT CRO of the discovery. Within two business days from the time of discovery, INDOT CRO shall notify the Indiana Department of Natural Resources-Division of Historic Preservation and Archaeology (DHPA) and Tribes.

Within 48 hours of notification of the discovery, INDOT CRO shall review a description and photographs of the discovery provided by the Contractor or Engineer and determine whether construction may resume or if a site visit is warranted to document and evaluate the discovery. Consultation with Tribes and DHPA will be initiated to help determine the value of items found and assist in determinations of eligibility. If a site visit is warranted, INDOT CRO will have two business days following the site visit and Tribal input to determine the NRHP eligibility of the discovery. Tribes shall be invited to attend site visits to assist in eligibility determinations.

- (b) If the discovery is not eligible for listing on the NRHP, INDOT CRO will report the site to DHPA and inform the Engineer that construction in the area of the discovery may resume. If there is disagreement among the agencies and Tribes regarding the eligibility of a discovery for listing, all parties shall further consult to attempt to reach an agreement. If an agreement cannot be reached after following the guidelines outlined in National Park Service Bulletin 38, the Tribe may, per the Section 106 regulations at 36 C.F.R. Part 800.4(c)(2), ask the ACHP to request that the federal agency obtain a formal eligibility determination from the Keeper of the National Register.
- (c) If the discovery is determined, through consultation, to be eligible for listing on the NRHP, INDOT CRO will consult with Tribes, previously identified consulting parties, FHWA, SHPO and the ACHP regarding INDOT CRO's proposed actions to resolve the adverse effects, if adverse effects cannot be avoided. Tribes and other consulting parties will have two business days to provide their views on the proposed actions. INDOT/FHWA will ensure that the recommendations of Tribes and other consulting parties are taken into account prior to granting approval of the measures that will be implemented to resolve adverse effects. These measures may include:

- preparation of a mitigation plan by INDOT CRO in consultation with the Tribes for approval by the DHPA;
- implementation of the mitigation plan;
- archaeological mitigation of the site (data recovery);
- DHPA approval to resume construction following completion of the fieldwork component of the mitigation plan;
- photographic documentation and/or scaled mapping of the resource;
- visits to the site by Tribes and DHPA.

(d) Dispute Resolution: The FHWA will seek and take into account the recommendations of the ACHP in resolving any disagreements that may arise regarding determination of effects.

2. Procedures for an Unanticipated Discovery of Human Remains and Burials (including funerary objects, sacred objects, and objects of cultural patrimony): In the event of an unanticipated discovery of human remains or burials (including funerary objects, sacred objects, and objects of cultural patrimony as defined by 43 C.F.R. § 10.2(d)) during INDOT construction activities or FHWA/INDOT archaeological investigations, INDOT will comply with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. § 3001 et seq.), the Indiana Historic Preservation Act (IC 14-21), 312 IAC 22 and INDOT Standard Specification 107.10, and any other applicable federal and state laws, and will follow these procedures:

(a) Upon encountering human remains or an unmarked human burial (including funerary objects, sacred objects, and objects of cultural patrimony) during ground disturbing construction activities or archaeological investigations, INDOT, its consultant, or the Contractor shall immediately cease work within a 100 ft. radius of the discovery and inform local or state police and the county coroner. If the discovering party is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other human remains or an unmarked human burial within the work site, the party shall also immediately stop all construction activity beyond a 100 ft. radius of the discovery to the extent appropriate. If uncovered during construction, the Contractor shall notify the Engineer who will inform INDOT CRO of the discovery; INDOT CRO will then notify DHPA/SHPO and Tribes within two business days of the time of the discovery. If identified during archaeological work, INDOT will notify SHPO and Tribes within two business days of the time of discovery. In addition to ceasing work, the discovering party must make a reasonable effort to protect the human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently.

(b) In coordination with DHPA/SHPO and Tribes, INDOT CRO will determine if the skeletal remains are human, the degree to which they were disturbed, and if possible, assess their potential age and cultural affiliation without any further disturbance. If the skeletal remains are human and are Native American in origin, CRO will notify by email the point of contact(s) for each Tribe claiming interest in the county of the discovery. If discoveries are not of human remains, the INDOT CRO shall further consult with Tribes to determine if such discoveries are funerary objects, sacred objects, or objects of cultural patrimony.

(c) If it is determined by INDOT CRO, in consultation with DHPA/SHPO, FHWA, and Tribes, that intact or fragmented human remains are present and are Native American in origin, or that the discovered materials are funerary objects, sacred objects, and objects of cultural patrimony, INDOT

CRO will consult with Tribes, DHPA/SHPO, and FHWA regarding measures to avoid and protect the discovery or mitigate any adverse effect of the project on the discovery. These measures may include:

- INDOT CRO collaborating with design team to alter project plans to avoid human remains and/or burials (including funerary objects, sacred objects, and objects of cultural patrimony);
- avoiding the human remains and/or burial (including funerary objects, sacred objects, and objects of cultural patrimony) and preserving in place;
- if avoidance is not feasible, in consultation with Tribes, recovering the human remains and/or burial (including funerary objects, sacred objects, and objects of cultural patrimony) through standard archaeological methods;
- preparation of a mitigation plan by INDOT CRO in consultation with the Tribes for approval by the DHPA;
- implementation of the mitigation plan;
- archaeological mitigation of the site (data recovery);
- visits to the site by Tribes and DHPA;
- DHPA approval to resume construction following completion of the fieldwork component of the mitigation plan;
- consultation with Tribes, FHWA, and DHPA/SHPO regarding disinterment and reinterment of Native American human remains. FHWA and DHPA/SHPO will defer to tribal recommendations regarding cultural affiliations, disinterment, and reburial of Native American human remains and/or burials (including funerary objects, sacred objects, and objects of cultural patrimony).

IV. OTHER POINTS OF MUTUAL AGREEMENT

A. Execution and Implementation: This MOU is effective as of the date of the last signature among FHWA, SHPO, INDOT, and at least one Tribe with an interest in Indiana lands. Other Tribes may become signatory to this MOU after that date, without the need to amend this MOU. The successful implementation of this process shall constitute meaningful consultation between FHWA and the Signatory Tribes to fulfill tribal consultation requirements of Section 106 of the NHPA.

B. Annual Report and Evaluation of MOU Implementation: On an annual basis, INDOT will submit a report to FHWA, SHPO, and Tribes identifying projects processed under this MOU. The report shall include a description of actions taken to comply with this MOU. The report should provide a description and summary of exempted projects listed in Appendix C for which INDOT did not conduct Section 106 early coordination and consultation. At the same time, FHWA and INDOT will offer the opportunity for a meeting (in-person, teleconference or web-conference) with signatories to discuss issues defined in this MOU. The purpose of the annual meeting is to continue effective working relationships and evaluate the implementation of this agreement.

C. Confidentiality: The FHWA and INDOT acknowledge the need for confidentiality of certain tribal religious and cultural information that may be provided by Tribes during the course of consultations, and other aspects of tribal consultation conducted on cultural resource issues. Information identified as sensitive by consulted tribal members, and requested to remain confidential, will remain confidential to the extent permitted by state and federal law (54 U.S.C. § 307103 et seq. and Section 304 of NHPA).

D. *Dispute Resolution*: Should any signatory object at a later date to the implementation of this agreement in whole or in part, the objecting party will consult with all signatories to resolve the objection. If all signatories are unable to satisfactorily resolve the issue, and the issue involves resolution of the Adverse Effect of an INDOT project on a site eligible for inclusion on the NRHP, the administrative process defined in 36 C.F.R. Part 800.6 will be followed.

E. *Failure to Comply/Termination*: If any signatory determines that the terms of this MOU cannot be or are not being carried out, then the signatories shall consult regarding the reasons, and will seek amendment to the MOU, if appropriate. If the MOU is not amended, any signatory may terminate their participation in the MOU by providing 30 calendar days written notice to the other parties. In the event of termination by a Tribe, the FHWA and INDOT shall comply with 36 C.F.R. Part 800 and continue with individual tribal consultation with that Tribe. As long as the FHWA, INDOT, SHPO, and at least one Tribe continues to participate, the MOU will remain in effect, but the Tribes who have terminated their participation will no longer be held to the terms of this agreement.

F. *Amendment*: Any signatory to this MOU may request that it be amended, whereupon all signatories shall consult to consider such an amendment. Any resulting amendments shall be developed and executed among the signatories in the same manner as the original MOU. Any amendment to this MOU will go into effect only upon written agreement of all signatories.

G. *Participation in Similar Activities*: This MOU in no way restricts the FHWA, INDOT, or the signatory Tribes from participating in similar activities with other public or private agencies, organizations, and individuals.

H. *Commencement/Termination Date*: This MOU is executed as of the date of last signature between FHWA, INDOT, SHPO, the ACHP, and at least one Tribe. Other Tribes may become signatory to this agreement after that date. This MOU is effective through December 31, 2030, at which time it will expire unless specifically extended by signatory resolution. One year prior to expiration, the signatories will discuss whether this agreement should be renewed, modified, or allowed to expire.

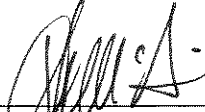
SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: Mayela Sosa
Mayela Sosa
Division Administrator

Date: 14 Feb 2017

INDIANA DEPARTMENT OF TRANSPORTATION

By: 

Joseph McGuinness
Commissioner

Date: 2/3/2017

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: _____



Cameron Clark,

Director, Indiana Department of Natural Resources

Date: _____

3-6-17

Insert individual Tribe(s) pages here:

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: RED CLIFF BAND OF LAKE SUPERIOR CHIPPWAS

Signature: Lawrence Balber


Date: 4/4/2017

Please Print Name: LAWRENCE BALBER

Title: TRIBAL HISTORIC PRESERVATIONS
OFFICER

**MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM**

Name of Tribe: Delaware Nation

Signature: 

Date: 5/16/2017

Please Print Name: Kerry Holton

Title: 5/16/2017

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: Niami Tribe of Oklahoma

Signature: Douglas Lansford Date: 3-16-17

Please Print Name: Douglas Lansford Title: Chief

**MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM**


Name of Tribe: Seneca-Cayuga Nation

Signature: William L. Fisher Date: 3-13-2017

Please Print Name: William L. Fisher Title: Chief

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: Delaware Nation

Signature: 

Date: 4/4/2017

Please Print Name: # Kerry Holton

Title: 4/4/2017

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: DELAWARE TRIBE OF INDIANS

Signature: Chester L. Brooks Date: 3-6-2017

Please Print Name: CHESTER L. BROOKS Title: CHIEF

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: Eastern Shawnee Tribe of Oklahoma

Signature: Glenna J. Wallace

Date: 3-1-2017

Please Print Name: GLENN J. WALLACE

Title: Chief

**MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM**

Name of Tribe: F. C. P.

Signature: alw. milham


Date: 3/20/2017

Please Print Name: AL W. MILHAM

Title: Vice Chairman

**MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM**

Name of Tribe: Leech Lake Band of Ojibwe

Signature:  Date: 3-16-17

Please Print Name: Faron Jackson Sr. Title: chairman

LEECH LAKE BAND OF OJIBWE



Maggi Jordan
Executive Assistant
Tribal Chairman
Maggi.Jordan@llojibwe.org
Fax: (218) 335-7225
190 Sailstar Drive NW
Cass Lake, MN 56633

Office: (218) 335-4404 Cell: (218) 513-5623

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: Pokagon Band of Potawatomi Indian

Signature: Jason M. Wesaw

Date: 3-31-17

Please Print Name: Jason M. Wesaw

Title: Government Manager

MEMORANDUM OF UNDERSTANDING
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
INDIANA STATE HISTORIC PRESERVATION OFFICER,
INDIANA DEPARTMENT OF TRANSPORTATION,
and
FEDERALLY RECOGNIZED TRIBES INTERESTED IN INDIANA LANDS
REGARDING TRIBAL CONSULTATION REQUIREMENTS
FOR THE INDIANA FEDERAL TRANSPORTATION PROGRAM

Name of Tribe: Turtle Mountain Band of Chippewa Indians

Signature: Wayne Keplin Date: 3/5/12

Please Print Name: Wayne Keplin Title: Tribal Chairman

**APPENDIX A: COUNTY LISTING OF THE TRIBES' ANCESTRAL HOMELANDS
AND TERRITORY IN THE STATE OF INDIANA**

Delaware Nation of Oklahoma

Bartholomew, Delaware Hamilton, Knox,
Madison, Marion, Orange, Posey, Washington,
Warrick and Wells

Wyandotte Nation

Adams and Allen

Delaware Tribe of Indians of Oklahoma

Delaware, Hamilton, Madison and any Delaware
sites

Eastern Shawnee Tribe

All Indiana counties

Forest County Potawatomi Community

Adams, Allen, Benton, Blackford, Boone,
Carroll, Cass, Clay, Clinton, DeKalb, Elkhart,
Fountain, Fulton, Grant, Hendricks, Howard,
Huntington, Jasper, Jay, Kosciusko, LaGrange,
Lake, LaPorte, Marshall, Miami, Montgomery,
Newton, Noble, Porter, Pulaski, Putnam, St.
Joseph, Starke, Steuben, Sullivan, Tippecanoe,
Tipton, Vermillion, Vigo, Wabash, Warren

Miami Tribe of Oklahoma

All Indiana counties

Peoria Tribe of Indians of Oklahoma

All Indiana counties

Pokagon Band of Potawatomi Indians

Fort Wayne and LaPorte

United Keetoowah Band of Cherokee Indians

Clark, Crawford, Dearborn, Floyd, Harrison,
Ohio, Perry, Posey, Spencer, Switzerland,
Vanderburgh, Warrick

APPENDIX B: POINT OF CONTACT LIST

	A	B	C	D	E	F	G	H	I	J	K
1	Agency Name	POC	Job Title	Telephone	Email Address	Address 1	Address 2	City	State	Zip Code	Counties of Interest
2	Absentee Shawnee Tribe of Oklahoma	Edwina Butler-Wolfe	Governor	405 275-4030		2025 South Gordon Cooper Drive		Shawnee	OK	74801	
3	Absentee Shawnee Tribe of Oklahoma	Leonard Longhorn	THPO	405 275-4030, ext. 6335	llonghorn@astribe.com	2025 South Gordon Cooper Drive		Shawnee	OK	74801	
4											
5	Bay Mills Indian Community	Levi Carrick, Sr.	Chairman	906-248-3241		12140 W. Lakeshore Dr.		Brimley	MI	49715	
6	Bay Mills Indian Community	Paula Carrick	THPO	906-248-8759	paulacarrick@baymills.org	12485 W. Lakeshore Dr.		Brimley	MI	49715	
7											
8	Bois Forte Band of Chippewa	Cathy Chavers	Chairman	218-757-3261	cchavers@boisforte-nsn.gov	5344 Lakeshore Drive		Nett Lake	MN	55772	
9	Bois Forte Band of Chippewa	Rose Berens	THPO	218-753-6026	rberens@boisforte-nsn.gov	1500 Bois Forte Road		Tower	MN	55790	
10											
11	Chippewa-Cree Tribe	Ken St. Marks	Chairman	406-395-5705		31 Agency Square, Box 544		Box Elder	MT	59521	
12	Chippewa-Cree Tribe	Alvin Windy Boy	THPO	406-395-4700, ext. 101	alvin@nei-yahw.com	PO Box 230		Box Elder	MT	59521	
13	Chippewa-Cree Tribe	Melody Henry		406-395-4700	melody.henry@nei-yahw.com	PO Box 230		Box Elder	MT	59521	
14											
15	Citizen Potawatomi Nation	John A. Barrett, Jr.	Chairperson	405-275-3121	rbarrett@potawatomi.org	1601 Gordon Cooper Drive		Shawnee	OK	74801	
16	Citizen Potawatomi Nation	Kelli Mosteller	THPO	405-878-5830	kelli_mosteller@potawatomi.org	1899 Gordon Cooper Drive		Shawnee	OK	74801	
17	Citizen Potawatomi Nation	Andrew Gourd	Assistant THPO	405-878-5830	andrew.gourd@potawatomi.org	1899 Gordon Cooper Drive		Shawnee	OK	74801	
18											
19	Delaware Nation of Oklahoma	Kerry Holton	President	405-247-2448		PO Box 825		Anadarko	OK	73005	Bartholomew, Delaware, Hamilton, Knox, Madison, Marion, Organe, Posey, Washington, Warrick, and Wells
20	Delaware Nation of Oklahoma	Nekole Alligood	Director of Cultural Preservation	405-247-2448 ext. 1403	nalligood@delawarenation.com	PO Box 825		Anadarko	OK	73005	Bartholomew, Delaware, Hamilton, Knox, Madison, Marion, Organe, Posey, Washington, Warrick, and Wells
21	Delaware Nation of Oklahoma	Corey Smith	Assistant Director of Cultural Preservation	405-247-2448, ext. 1405		P.O. Box 825		Anadarko	OK	73005	Bartholomew, Delaware, Hamilton, Knox, Madison, Marion, Organe, Posey, Washington, Warrick, and Wells
22											
23	Delaware Tribes of Indians, Oklahoma	Chester Brooks	Chief	918-337-6590		5100 Tuxedo Blvd		Bartlesville	OK	74006	Delaware, Hamilton, Madison (and any Delaware sites)
24	Delaware Tribes of Indians, Oklahoma	Brice Obermeyer	THPO	620-341-6699 918-335-7026 (cell)	bobermeyer@delawaretribe.org	Delaware Tribe Historic Preservation Office Roosevelt Hall, RM 212 1 Kellog Drive		Emporia	KS	66801	Delaware, Hamilton, Madison (and any Delaware sites)
25											
26	Eastern Shawnee Tribe of Oklahoma	Glenna Wallace	Chief	918-666-2435	gwallace@estoo.net	70500 East 128 Road		Wyandotte	OK	74370	All Indiana counties
27	Eastern Shawnee Tribe of Oklahoma	Robin Dushane	THPO	918-666-2435, ext. 247 918-533-4104 (cell)	rdushane@estoo.net	12705 E. 705 Road		Wyandotte	OK	74370	All Indiana counties
28											
29	Fond du Lac Band of Lake Superior Chippewa Indians	Kevin DuPuis	Chairman	218-879-4593		1720 Big Lake Road		Clogquet	MN	55720	
30	Fond du Lac Band of Lake Superior Chippewa Indians										
31											
32	Forest County Potawatomi Community	Harold G. Frank	Chairperson	715-478-7200	gus.frank@fcpotawatomi-nsn.gov	5416 Everbody's Road	PO Box 340	Crandon	WI	54520	Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clay, Clinton, DeKalb, Elkhart, Fountain, Fulton, Grant, Hendricks, Howard, Huntington, Jasper, Jay, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Noble, Porter, Pulaski, Putnam, St. Joseph, Starke, Steuben, Sullivan, Tippecanoe, Tipton, Vermillion, Vigo, Wabash, Warren
33	Forest County Potawatomi Community	Michael LaRonge	THPO	715-478-7354	michael.laronge@fcpotawatomi-nsn.gov	5320 Wensaut Lane		Crandon	WI	54520	Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clay, Clinton, DeKalb, Elkhart, Fountain, Fulton, Grant, Hendricks, Howard, Huntington, Jasper, Jay, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Noble, Porter, Pulaski, Putnam, St. Joseph, Starke, Steuben, Sullivan, Tippecanoe, Tipton, Vermillion, Vigo, Wabash, Warren
34											
35	Grand Portage Band of Minnesota Chippewa Tribe	Norman Deshampe	Chairman	218-475-2277		PO Box 428		Grand Portage	MN	55605	
36	Grand Portage Band of Minnesota Chippewa Tribe										
37											
38	Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Thurlow ("Sam") McClellan	Chairman	231-534-7129	thurlow.mcclellan@gtbindians.com	2605 North West Bay Shore Drive		Peshawbestown	MI	49682	
39	Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Cindy Winslow	THPO	231-534-7764	cindy.winslow@gtbindians.com	2605 North West Bay Shore Drive		Peshawbestown	MI	49682	
40	Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Sheila Chingwa	THPO		sheila.chingwa@gtbindians.com	2605 North West Bay Shore Drive		Peshawbestown	MI	49682	
41											
42	Hannahville Indian Community	Kenneth Meshigaud	Chairperson	906-466-2934	tydervien@hannahville.org	N14911 Hannahville B-1 Road		Wilson	MI	49896	
43	Hannahville Indian Community	Earl Meshigaud	NAGPRA contact	906-723-2270	earlmeshigaud@hannahville.org	N14911 Hannahville B-1 Road		Wilson	MI	49896	
44											
45	Ho-Chunk Nation, Wisconsin	Wilfrid Cleveland	President	715-284-9343, ext.1255		W9814 Airport Road		Black River Falls	WI	54615	
46	Ho-Chunk Nation, Wisconsin	Bill Quackenbush	THPO	715-284-7181, ext. 1121	bill.quackenbush@ho-chunk.com	W9035 Highway 54		Black River Falls	WI	54615	

APPENDIX C: PROGRAMMATIC AGREEMENT (PA) AMONG THE FEDERAL HIGHWAY ADMINISTRATION, THE INDIANA DEPARTMENT OF TRANSPORTATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION AND THE INDIANA STATE HISTORIC PRESERVATION OFFICER REGARDING THE IMPLEMENTATION OF THE FEDERAL AID HIGHWAY PROGRAM IN THE STATE OF INDIANA.

**Programmatic Agreement (PA)
Among the Federal Highway Administration,
the Indiana Department of Transportation,
the Advisory Council on Historic Preservation
and the Indiana State Historic Preservation Officer
Regarding the Implementation of the Federal Aid Highway Program
In the State of Indiana**

WHEREAS, the Federal Highway Administration (FHWA) administers the Federal Aid Highway Program in Indiana authorized by 23 U.S.C. §§ 101 et seq., through the Indiana Department of Transportation (INDOT) (23 U.S.C. § 315); and

WHEREAS, INDOT undertakes Federal minor highway projects that would qualify as Categorical Exclusions (CEs), including Local Public Agency Federal aid projects, as defined in 23 CFR 771, that do not individually or cumulatively have a significant impact on the environment, and therefore may not require the preparation of an environmental document; and

WHEREAS, FHWA has determined that certain types of minor highway projects typically have no effect upon historic properties included in or eligible for inclusion in the National Register and has consulted with the Advisory Council on Historic Preservation (Council), and the Indiana State Historic Preservation Officer (SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, INDOT participated in the consultation and has been invited to be a signatory to this PA; and

WHEREAS, INDOT maintains cultural resource staff and consultants meeting the Secretary of Interior's Professional Qualification standards (48 Federal Register (FR) 44716) and State of Indiana standards (Indiana Code 14-21-1 and 312 IAC 21) in the fields of archaeology, history and architectural history;

NOW, THEREFORE, FHWA, INDOT, the Council, and SHPO agree that the Federal Aid Highway Program shall be administered in accordance with the following stipulations to satisfy the FHWA Section 106 responsibility for all individual undertakings of the program.

STIPULATIONS

FHWA shall ensure that the following measures are carried out:

1. Purpose and Scope

A. This PA sets forth the process by which FHWA; with the assistance of INDOT; will meet its responsibilities for undertakings pursuant to Sections 106 and 110 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f).

B. FHWA Responsibilities - In compliance with its responsibilities under the NHPA, and as a condition of its award to INDOT of any assistance under the Federal Aid Highway Program, FHWA will ensure that INDOT

carries out the requirements of this agreement and Council policies and guidelines for undertakings subject to this agreement.

C. INDOT Responsibilities

1. Pursuant to this agreement, INDOT will ensure that all cultural resource staff and/or consultants, employed under its contract to conduct work in the field of cultural resources, meet the qualifications set forth in the Secretary of Interior's Professional Qualification standards (48 FR 44716) and State of Indiana standards (IC 14-21-1 and 312 IAC 21) for such work. These qualified INDOT cultural resources personnel shall have the primary responsibility for implementing this PA.
2. Prior to December 31, 2007, and in consultation with SHPO and FHWA, INDOT will prepare a Cultural Resources Manual detailing the procedures for implementing this agreement. Upon approval of the Cultural Resources Manual by INDOT, SHPO, and FHWA, this programmatic agreement will be appended to the INDOT Cultural Resources Manual and be fully explained therein.

2. Minor Projects

The following types of undertakings, listed in Appendices A and B, are activities in which INDOT routinely utilizes Federal Aid highway funds and consist of minor projects that generally do not affect historic properties. None of the minor projects listed below will require consultation with or review by the SHPO, provided the undertaking:

- is limited to the activities specified
- is not part of a larger project
- is on an existing transportation facility
- if ground disturbance in previously disturbed soils is specified, occurs in soils previously disturbed by vertical and horizontal highway construction activities
- has no known public controversy based on historic preservation issues

Such minor projects fall into two categories: minor projects that do not require review by INDOT Cultural Resources staff (Category A; Appendix A), and minor projects that do require documentation and review by INDOT Cultural Resources staff to assess the likelihood that historic properties exist in the area of potential effects or determine the degree of existing soil disturbance within the project area (Category B; Appendix B).

For undertakings in Category B, or where questions arise about the need for review of an undertaking in Category A, INDOT Cultural Resources staff shall determine whether a particular project should be exempt from SHPO review. If the SHPO specifically requests a copy of the documentation for a particular undertaking covered by this stipulation, INDOT will provide SHPO with the requested documentation and, if the project has not already been approved, will review the project in accordance with Stipulation 4 of this Agreement. All of the minor projects listed in Appendices A and B will be subject to regular internal audit by INDOT.

3. Documentation of Minor Projects

- A. Any minor project listed in Appendices A or B shall be documented in the National Environmental Policy Act documentation. The documentation shall reference and include the description of the specific stipulation in the PA that qualifies the project as exempt from further Section 106 review.
- B. INDOT Cultural Resources staff will utilize the County Interim Reports, most current Bridge Inventory, as well as additional documentation to assure projects are not adjacent to a National Register eligible property

or district. Documentation may include construction plans, project area descriptions, soil survey data, photographs, and archaeological documentation.

4. Section 106 Consultation for FHWA Undertakings Not Exempt from Review

For those projects not exempt from review under terms of Stipulation 2, INDOT and FHWA shall review the undertakings in accordance with the procedures found in 36 CFR Part 800. Upon completion of the Cultural Resources Manual required in Stipulation 1, INDOT, using staff and/or consultants meeting the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-9), may independently perform the work and consultation described in the following sections of 36 CFR Part 800 (including any succeeding revisions to the regulations) on behalf of FHWA as follows:

36 CFR § 800.3

- (1) Establish undertaking
- (2) Coordinate with other reviews
- (3) Identify the appropriate SHPO and/or THPO
- (4) Plan to involve the public
- (5) Identify other consulting parties
- (6) Expediting consultation

36 CFR § 800.4

- (1) Determine scope of identification
- (2) Identify historic properties
- (3) Evaluate historic significance
- (4) Results of identification and evaluation

36 CFR § 800.5

- (1) Apply criteria of adverse effect
- (2) Finding of no adverse effect
- (3) Consulting party review
- (4) Results of assessment

In recognition of the unique government-to-government relationship between the Federal government and Indian tribes, FHWA shall take the lead in identifying and establishing consultation with the Indian tribes and Tribal Historic Preservation Officers (THPO) consistent with 36 CFR § 800.3(c) - (f). If the tribe is agreeable, further consultation may be conducted among the tribe and INDOT.

A. Finding of "No Historic Properties Affected"

If INDOT determines, in consultation with the SHPO and consulting parties, that no historic properties will be affected by the undertaking, INDOT will make a finding of "no historic properties affected," and documentation (800.11[d]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public inspection. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither SHPO nor another consulting party has objected to the finding. If the SHPO or any consulting party objects, in writing, to INDOT's finding within 30 days of receipt of an adequately documented finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in

accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6. If INDOT determines, in consultation with the SHPO and consulting parties, that historic properties may be affected by the undertaking, INDOT shall apply the Criteria of Adverse Effect, 36 CFR Part 800.5(a)(1).

B. Finding of “No Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have no adverse effect on historic properties, it will make a finding of “no adverse effect,” and documentation (800.11[e]) will be forwarded to the SHPO for concurrence. Copies of this documentation will be provided to all consulting parties and will be made available for public comment. INDOT may proceed with the project if the SHPO has agreed, in writing, with the finding or if within 30 days of receipt neither the SHPO nor another consulting party objects to the finding. If SHPO or any consulting party objects within 30 days of receipt of adequate documentation, in writing, to INDOT's finding, the documentation will be submitted to FHWA for resolution. If, through consultation, consensus can be reached, the process will move forward in accordance with this agreement. If consensus is not achieved, the undertaking will not be developed under this agreement, but instead will proceed in accordance with 36 CFR Part 800.3 through 800.6.

C. Finding of “Adverse Effect”

If INDOT determines, in consultation with the SHPO and consulting parties, that the undertaking will have an adverse effect on historic properties, it will notify FHWA and FHWA will ensure the Section 106 process is completed in accordance with 36 CFR 800.6. FHWA will be responsible for making a finding of “adverse effect” and the resolution of those effects.

5. Unanticipated Discovery

If any unanticipated discoveries of historic properties, sites, artifacts, or objects are encountered during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and IC 14-21-1-27 and 14-21-1-29 by stopping work in the immediate area and informing the SHPO, housed in the Indiana Department of Natural Resources (“DNR”) of such unanticipated discoveries or effects within two (2) business days. Any necessary archaeological investigations will be conducted according to the provisions of IC 14-21-1 and 312 IAC 21.

If any unanticipated effects on historic properties are found to be occurring during the implementation of any project exempted under this PA, INDOT and FHWA shall comply with 36 CFR 800.13 and inform the SHPO immediately.

If any human remains are encountered during the implementation of any project exempted under this PA, work shall cease in the immediate area and the human remains left undisturbed. INDOT and FHWA will contact the county coroner and law enforcement officials immediately, and the discovery must be reported to the SHPO within two (2) business days. The discovery must be treated in accordance with IC 14-21-1 and 312 IAC 22. If the remains are determined to be Native American, FHWA will notify the appropriate federally recognized Indian Tribes.

Work at the site shall not resume until a plan for the treatment of the human remains is developed and approved in consultation with the SHPO and any appropriate consulting parties. The plan will comply with IC 14-21-1,

312 IAC 22, the current Guidebook for Indiana Historic Sites and Structures Inventory--Archaeological Sites, and all other appropriate federal and state guidelines, statutes, rules, and regulations.

6. Monitoring

- A. INDOT, FHWA and the SHPO will consult as needed to review implementation of the terms of the PA.
- B. FHWA and INDOT may monitor activities carried out pursuant with this agreement, and the SHPO will be invited to participate. INDOT shall cooperate in carrying out the monitoring effort. Should monitoring or other activities result in evidence that the requirements of this PA need modification or are not being met, FHWA, the SHPO, and INDOT will meet to develop and implement corrective measures.

7. Dispute Resolution

- A. If the Indiana SHPO, INDOT, the Council, or a consulting party for an individual undertaking carried out under the terms of this agreement objects in writing to the FHWA regarding any action carried out or proposed with respect to the implementation of this PA, then FHWA shall consult with the objecting party to resolve this objection. If after such consultation FHWA determines that the objection cannot be resolved through consultation, then FHWA shall forward all documentation relevant to the objection to the Council, including FHWA's proposed response to the objection. Within fifteen (15) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - 1) Advise FHWA that the Council concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
 - 2) Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.
- B. Should the Council not exercise one of the above options within fifteen (15) days after receipt of all pertinent documentation, FHWA may assume the Council's concurrence with the proposed response to the objection.

8. Terminate, Modify, and Amend

- A. Any party to this PA may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other action that would avoid termination. In the event of termination, FHWA shall conduct individual project review pursuant to 36 CFR Part 800.
- B. FHWA, INDOT, and the SHPO will review this PA every ten (10) years from the date of execution for modifications or termination. If no changes are proposed and no party objects, the term of the PA will be extended automatically for another ten years without re-execution.
- C. Any party to this agreement may request that it be amended, whereupon the parties shall consult to consider such amendment. The amendment will be effective on the date a copy is signed by all of the original signatories. The lists of minor projects in Appendices A and B may be modified by the mutual written agreement of FHWA, INDOT, and the SHPO, and shall not require a formal amendment to this agreement.

Execution and implementation of this PA evidences that the Federal Highway Administration has satisfied its Section 106 responsibilities for all individual undertakings of highway projects covered under this agreement.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: Robert F. Tally, Jr. Date: 10/3/06
Robert F. Tally, Jr., P.E.
Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 10/12/06
John M. Fowler
Executive Director

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: Kyle Hopper Date: 9/26/06
Kyle Hopper
Director, Indiana Department of Natural Resources

INDIANA DEPARTMENT OF TRANSPORTATION

By: Thomas O. Sharp Date: 9/22/2006
Thomas O. Sharp
Commissioner

APPENDIX A

**Category A (Minor Projects Requiring No Review
by INDOT Cultural Resources Staff)**

Category A consists of projects that, by their nature, have little to no potential to cause effect to historic properties and do not require review by INDOT Cultural Resources Staff.

1. Any work to be done on bridges under the conditions listed below. If all conditions cannot be met, please see Category B-12. This category **does not** include bridge replacement projects (when both superstructure and substructure are removed).

- The project takes place in previously disturbed soils; AND
- The bridge is not classified as Select or Non-Select in the latest historic bridge inventory, and the work is limited to bridge substructure or superstructure elements without replacing, widening, or elevating the superstructure; AND EITHER
- The bridge was determined not National Register eligible in the latest historic bridge inventory; OR
- The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect AND the considerations listed in Section IV. of the Program Comment do not apply; OR
- The bridge is part of the Interstate system, and was determined not National Register eligible under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.

2. All work within interchanges and within medians of divided highways in previously disturbed soils.

3. Replacement, repair, lining, or extension of culverts and other drainage structures which do not extend beyond or deeper than previous construction limits, and do not exhibit stone or brick structures or parts therein.

4. Roadway surface replacement, rehabilitation, resurfacing, or reconstruction, overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within areas previously disturbed by construction where replacement, repair, or installation of curbs or sidewalks will not be required.

5. Repair, replacement, or upgrade of existing lighting, signals, signage, and other traffic control devices in previously disturbed soils.

6. Repair, replacement, or upgrade of existing safety appurtenances such as guardrails, barriers, glare screens, and crash attenuators in previously disturbed soils.

7. Fencing and landscaping in previously disturbed soils.

8. Railway crossing signs and signal installation or modification and surface improvement in previously disturbed areas.

9. Erosion control within previously disturbed soils to prevent erosion of roadways, waterways and bridge piers.

10. Routine roadside maintenance activities necessary to preserve existing infrastructure and maintain roadway safety in previously disturbed areas.

11. Rehabilitation of existing rest areas and truck weigh stations within previously disturbed soils.

12. Hazardous waste removal and disposal constituting a public hazard and which require immediate removal.

13. Bridge deck resurfacing, overlay, pavement repair, seal coating, pavement grinding, and pavement marking on National Register of Historic Places eligible or listed bridges within areas previously disturbed by construction where replacement, repair, or installation of curbs, curb ramps, or sidewalks will not be required and provided the work is limited to the roadway cross section only and does not impact structural members of the bridge. Work under this category can only take place where the existing surface is already concrete or asphalt pavement.

APPENDIX B

**Category B (Minor Projects Requiring Submittal
of Documentation and Review by INDOT Cultural Resources Staff)**

Category B consists of projects that do require documentation and review by INDOT Cultural Resources staff to assess the likelihood that historic properties exist in the area of potential effects or determine the degree of existing soil disturbance within the project area.

1. Roadway surface replacement, rehabilitation, resurfacing, or reconstruction, overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within areas previously disturbed by construction where replacement, repair, or installation of curbs or sidewalks will be required when such activities do not take place adjacent to or within a National Register listed or eligible bridge, property or historic district.
2. Installation of new lighting, signals and other traffic control devices in previously disturbed soils when such activities do not take place adjacent to or within a National Register listed or eligible bridge, property or historic district.
3. Construction of turning and auxiliary lanes (e.g., truck climbing, acceleration and deceleration lanes) and shoulder widening in areas previously disturbed by vertical and horizontal construction activities except when adjacent to or within a National Register listed or eligible bridge, property or historic district.
4. Installation of new safety appurtenances such as guardrails, barriers, glare screens, and crash attenuators, when such activities do not take place adjacent to or within a National Register listed or eligible bridge, property or historic district.
5. Emergency repairs to maintain the integrity of bridges (except National Register listed or eligible bridges) and roadways.
6. Other minor actions if deemed appropriate for coverage under this PA, by consultation and mutual agreement between INDOT, FHWA, and the SHPO.
7. Roadway surface replacement, rehabilitation, resurfacing, or reconstruction, overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within areas previously disturbed by construction where replacement, repair, or installation of curbs or sidewalks will be required when such activities take place adjacent to or within a National Register listed or eligible bridge, property or historic district, but where the National Register listed or eligible bridge, property or historic district does not possess any unusual features such as brick or stone sidewalks, curbs or sidewalks/curb ramps; stepped or elevated sidewalks, curbs or sidewalks/curb ramps; or any other feature whose replacement or modification might constitute an adverse effect to nearby properties. All projects proposed to fall under this stipulation must be reviewed by INDOT Cultural Resources Staff (both archaeologists and historians) as outlined in Stipulations 2 and 3 of this agreement. They also must be field checked by an INDOT Cultural Resources' staff historian or other qualified professional historian (meeting the Secretary of Interior's Professional Qualification standards [48 Federal Register (FR) 44716]). The Cultural Resources staff historian, or other qualified professional historian, shall survey the project area for any unusual features. If no unusual features are observed adjacent to or within a National Register listed or eligible bridge, property or historic district, documentation will be gathered to this effect for the project files. If a non-INDOT qualified professional historian field checks the project area, the documentation must be sent to the INDOT Cultural Resources Section for review and approval. If unusual features are observed, full Section 106 review will be required.
8. For the purposes of this programmatic agreement, certain recreational trail projects are considered *minor projects*,

IF ONE OF THE FOLLOWING TWO CONDITIONS IS MET:

Condition 1

Construction of a trail would occur within an existing roadway, sidewalk, or rail bed where replacement, repair, or installation of a trail feature occurs within areas previously disturbed by vertical and horizontal construction activities, and not on, within, or adjacent to a National Register listed or eligible site, bridge, property or historic district. In such a case, the project may be reviewed as a *minor project*, according to Stipulation 2 of this agreement, as long as the project is not otherwise disqualified from treatment of a *minor project*. If the trail construction occurs on, within, or adjacent to a National Register listed or eligible archaeological site, bridge, property or historic district, then the project must complete full Section 106 review consultation pursuant to Stipulation 4 of this agreement. Any archeological resources uncovered accidentally during construction must be treated according to Stipulation 5 of this agreement.

OR

Condition 2

Construction of a trail would occur within previously undisturbed soils and such trail construction would not occur on, within or adjacent to National Register eligible or listed archaeological resources, as determined by an archaeological investigation (archaeological records check up to a Phase Ia reconnaissance, as determined by the INDOT Cultural Resources Section) of the project area, submitted to the INDOT Cultural Resources Section by the applicant. If the archaeological investigation determines that no National Register eligible or listed archaeological resources are present within the project area, then the project may be reviewed as a *minor project*, according to Stipulation 2 of this agreement, as long as the project is not otherwise disqualified from treatment as a *minor project*. If the archaeological investigation locates National Register eligible or listed archaeological resources, then the project must complete full Section 106 review consultation pursuant to Stipulation 4 of this agreement. Any archaeological resources uncovered accidentally during construction must be treated according to Stipulation 5 of this agreement. Copies of any reports will be provided to the DHPA from the INDOT Cultural Resources Section and the archaeological site form information will be entered directly into SHAARD.

In addition, trail construction must not occur on, within, or adjacent to an above-ground National Register listed or eligible site, bridge, property or historic district. If the trail construction occurs on, within, or adjacent to an above-ground National Register listed or eligible site, bridge, property or historic district, then the project must complete full Section 106 review consultation pursuant to Stipulation 4 of this agreement.

Activities related to trail projects that are considered minor in nature may include the following:

- roadway surface replacement; rehabilitation, resurfacing, or reconstruction; overlays; laying down of crushed stone or gravel
- shoulder treatments; pavement repair; seal coating; pavement grinding
- pavement marking
- installation of new signals and other traffic control devices
- installation of new safety appurtenances such as guardrails and barriers
- installation of trees, bike racks, benches, trash cans, and other amenities, excluding lighting
- the installation of directional signage
- trail heads that do not involve rehabilitation or alteration of National Register eligible, potentially eligible, or listed structures and occur within areas previously disturbed by vertical and horizontal

construction activities but do not involve rehabilitation or alteration of National Register eligible, potentially eligible, or listed structures

- parking lots that occur within areas previously disturbed by vertical and horizontal construction activities

Any activities NOT included in the above list are NOT considered minor in nature, are not covered under this agreement, and require a full Section 106 review consultation pursuant to Stipulation 4 of this agreement.

9. Replacement, repair, lining, or extension of culverts and other drainage structures in undisturbed soils, under the conditions listed below. If both conditions of this stipulation cannot be met, full Section 106 review will be required pursuant to Stipulation 4 of this agreement.

- The structure does not exhibit non-modern wood, stone, or brick structures or parts therein, or a context that suggests it might have engineering or historical significance.
- The project does not take place on, adjacent to, or within a National Register listed or eligible bridge, property or historic district.

Additionally, an archaeological investigation (archaeological records check up to a Phase Ia reconnaissance, as determined by the INDOT Cultural Resources Section) must be conducted by the applicant to assure that no National Register-eligible sites are within the undisturbed project area. If the archaeological investigation determines that no National Register eligible or listed archaeological resources are present within the project area, then the project may be reviewed as a minor project, according to Stipulation 2 of this agreement. If the archaeological investigation locates National Register eligible or listed archaeological resources, then the project must complete full Section 106 review consultation pursuant to Stipulation 4 of this agreement. Any archaeological resources uncovered accidentally during construction must be treated according to Stipulation 5 of this agreement. Copies of any reports will be provided to the DHPA from the INDOT Cultural Resources Section and the archaeological site form information will be entered directly into SHAARD.

10. Slide corrections, slope corrections, and similar erosion control measures, in soils not previously disturbed under the conditions listed below. If all conditions of this stipulation cannot be met, full Section 106 review will be required pursuant to Stipulation 4 of this agreement.

- The project does not take place adjacent to or within a National Register listed or eligible bridge, property or historic district.
- An archaeological investigation (archaeological records check up to a Phase Ia reconnaissance, as determined by the INDOT Cultural Resources Section) has been conducted by the applicant to assure that no National Register-eligible sites are within the undisturbed project area. If the archaeological investigation determines that no National Register eligible or listed archaeological resources are present within the project area, then the project may be reviewed as a *minor project*, according to Stipulation 2 of this agreement. If the archaeological investigation locates National Register eligible or listed archaeological resources, and those resources cannot be avoided, then the project must complete full Section 106 review consultation pursuant to Stipulation 4 of this agreement. Any archaeological resources uncovered accidentally during construction must be treated according to Stipulation 5 of this agreement. Copies of any reports will be provided to the DHPA from the INDOT Cultural Resources Section and the archaeological site information will be entered directly into SHAARD.

11. Scour protection projects for bridges that are eligible for listing in or listed in the National Register of Historic Places under the conditions listed below. If all conditions cannot be met, full Section 106 review will be required pursuant to Stipulation 4 of this agreement.

- Scour protection allowable under this category is defined as placement of riprap around and adjacent to abutments, piers, wingwalls, etc. Scour protection that involves more complex measures, such as installation of gabion walls or other retaining devices, is not allowable under this category.
- Ground excavation may be necessary so that riprap can be laid and the top of the riprap is at the ground elevation. If ground excavation is involved, the project must take place in previously disturbed soils.

12. Replacement, widening, or raising the elevation of the superstructure on existing bridges, and bridge replacement projects (when both the superstructure and substructure are removed), under the conditions listed below. If all conditions cannot be met, full Section 106 review will be required pursuant to Stipulation 4 of this agreement.

- The project takes place in previously disturbed soils; AND
- The bridge is not classified as Select or Non-Select in the latest historic bridge inventory, and the project does not take place within 0.25 mile of any other National Register listed or eligible property or historic district; AND EITHER
- The bridge was determined not National Register eligible in the latest historic bridge inventory; OR
- The bridge was built after 1945, and is a common type as defined in Section V. of the *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* issued by the Advisory Council on Historic Preservation on November 2, 2012 for so long as that Program Comment remains in effect AND the considerations listed in Section IV. of the Program Comment do not apply; OR
- The bridge is part of the Interstate system, and was determined not National Register eligible under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the Advisory Council on Historic Preservation on March 10, 2005, for so long as that Exemption remains in effect.

APPENDIX D: THE INDIANA HISTORIC PRESERVATION ACT (IC 14-21) AND 312 IAC 22

IC 14-21

ARTICLE 21. HISTORIC PRESERVATION AND ARCHEOLOGY

IC 14-21-1

Chapter 1. Division of Historic Preservation and Archeology

IC 14-21-1-1

Applicability of chapter

Sec. 1. This chapter does not apply to the human remains of individuals who die after December 31, 1939.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-2

"Artifact" defined

Sec. 2. As used in this chapter, "artifact" means:

- (1) a feature that is:
 - (A) nonportable evidence of past human behavior or activity;
 - (B) found on or in the ground, including structural remains; and
 - (C) formed before December 31, 1870; or
- (2) an object made, modified, or used before December 31, 1870.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.2.

IC 14-21-1-3

"Burial ground" defined

Sec. 3. (a) As used in this chapter, "burial ground" means ground in which human remains are buried, including the surrounding area that is either:

- (1) marked by a permanent visible boundary, including a fence or wall; or
- (2) if there is not a permanent visible boundary, determined by the department based on records or surveys of the land containing the historic or prehistoric site in which human remains, mounds, or burial objects are reported to occur.

(b) The term includes the following:

- (1) The land associated with or incidental to the burial of human remains.
- (2) Subject to section 1 of this chapter, historic cemeteries or land with human remains buried before January 1, 1940.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.3.

IC 14-21-1-4

"Burial object" defined

Sec. 4. As used in this chapter, "burial object" means any item intentionally placed in a burial ground at or near the time of burial.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-5

"Council" defined

Sec. 5. As used in this chapter, "council" refers to the advisory council established by IC 14-9-6-1.
As added by P.L.1-1995, SEC.14. Amended by P.L.95-2006, SEC.8.

IC 14-21-1-6

Repealed

(Repealed by P.L.85-2008, SEC.6.)

IC 14-21-1-7

"Human remains" defined

Sec. 7. As used in this chapter, "human remains" means any part of the body of a human being in any:

- (1) stage of decomposition; or
- (2) state of preservation.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-8

"Plan", "archeological plan", and "development plan" defined

Sec. 8. (a) As used in this chapter, "plan" refers to:

- (1) an archeological plan, as described in subsection (b); or
- (2) a development plan, as described in subsection (c).

(b) As used in this chapter, "archeological plan" means a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

(c) As used in this chapter, "development plan" means:

- (1) a plan for the erection, alteration, or repair of any structure; or
- (2) a plan for the excavation or the covering of any ground related to construction.

As added by P.L.1-1995, SEC.14. Amended by P.L.46-2000, SEC.7; P.L.26-2008, SEC.4.

IC 14-21-1-9

"Register" defined

Sec. 9. As used in this chapter, "register" refers to the register of Indiana historic sites and historic structures established under this chapter.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-10

"Review board" defined

Sec. 10. As used in this chapter, "review board" refers to the historic preservation review board established by this chapter.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-10.4

"State college or university project" defined

Sec. 10.4. As used in this chapter, "state college or university project" means a project of a state college or university that involves the construction, renovation, or demolition of one (1) or more buildings.

As added by P.L.135-1996, SEC.2.

IC 14-21-1-11

Administration and development of programs and policies

Sec. 11. The division of historic preservation and archeology shall administer and develop the

IC 14-21-1-12

Duties of division

Sec. 12. The division shall do the following:

(1) Develop a program of historical, architectural, and archeological research and development, including continuing surveys, excavations, scientific recording, interpretation, and publication of the state's historical, architectural, and archeological resources.

(2) Prepare a preservation plan for the state that establishes planning guidelines to encourage the continuous maintenance and integrity of historic sites and historic structures.

However, the plan is not effective until the plan has been:

(A) presented to the council for review and comment; and

(B) approved by the review board after public hearing.

(3) Undertake the action necessary to qualify the state for participation in sources of federal aid to further the purposes stated in subdivisions (1) and (2).

(4) Provide information on historic sites and structures within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(5) Advise and coordinate the activities of local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(6) Provide technical and financial assistance to local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(7) Review environmental impact statements as required by federal and state law for actions significantly affecting historic properties.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-13

Powers of division

Sec. 13. The division may do the following:

(1) Recommend the purchase, lease, or gift of historic property of archeological importance and make recommendations to the director, council, and commission regarding policies affecting the operation and administration of these sites and structures by the section of historic sites of the division of state museums and historic sites.

(2) Prepare and review planning and research studies relating to archeology.

(3) Conduct a program of education in archeology, either within the division or in conjunction with a postsecondary educational institution.

(4) Inspect and supervise an archeological field investigation authorized by this chapter.

As added by P.L.1-1995, SEC.14. Amended by P.L.2-2007, SEC.169.

IC 14-21-1-13.5

Survey and registry of Indiana burial grounds

Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society (as defined in IC 36-10-13-3).

(3) The Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a postsecondary educational institution.

(5) A township trustee.

(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director

considers appropriate. The director shall use a gift or grant received under this subsection:

- (1) to carry out subsection (a); and
- (2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470w-3 and 16 U.S.C. 470hh.

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

As added by P.L.46-2000, SEC.8. Amended by P.L.177-2001, SEC.2; P.L.1-2005, SEC.143; P.L.1-2007, SEC.128; P.L.2-2007, SEC.170; P.L.3-2008, SEC.101.

IC 14-21-1-14

Duties upon proposed transfers of property by the state

Sec. 14. (a) This section does not apply to real property that is owned by a state educational institution.

(b) The Indiana department of administration shall notify the division of a proposed transfer of real property owned by the state at the earliest planning stage and not later than ninety (90) days before the date of the proposed transfer.

(c) The division shall:

- (1) inspect the property; and
- (2) notify the Indiana department of administration of the location of each historic site or historic structure on the property; not later than thirty (30) days after receiving notice under subsection (b). If the division does not notify the Indiana department of administration under subdivision (2) within thirty (30) days after receiving notice under subsection (b), the Indiana department of administration may proceed with the proposed transfer.

(d) If the Indiana department of administration receives notice under subsection (c)(2) of a historic site or historic structure on the property, the Indiana department of administration shall reserve control of the appropriate historic property by means of a covenant or an easement contained in the transferring instrument.

(e) The department shall administer property of which control is reserved under subsection (d).

As added by P.L.1-1995, SEC.14. Amended by P.L.135-1996, SEC.3; P.L.2-2007, SEC.171; P.L.33-2011, SEC.3.

IC 14-21-1-15

Duties regarding registers and federal preservation grants

Sec. 15. The division shall do the following:

- (1) Undertake a statewide survey to identify and document historic sites and historic structures.
- (2) Prepare and maintain a register of Indiana historic sites and historic structures and establish criteria for the listing of historic sites and historic structures on the register.
- (3) Maintain the Indiana part of the National Register of Historic Places under 16 U.S.C. 470 et seq.
- (4) Administer the federal preservation grants program under 16 U.S.C. 470 et seq.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-16

Field investigations or alteration of historic property without permit

Sec. 16. Except as provided in section 18 and sections 25 through 27 of this chapter, a person who knowingly, without a permit, conducts a field investigation or alters historic property within the boundaries of property owned or leased by the state commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.14. Amended by P.L.54-1997, SEC.7.

IC 14-21-1-17

Additions to or removals from register

Sec. 17. (a) Any person may nominate a site or structure for addition to or removal from the register. Upon approval of the nomination by the division, all affected persons shall be notified.

(b) If an objection to the action is not filed with the division within thirty (30) days after the notification date, the nomination is automatically approved.

(c) If an objection is received within thirty (30) days, a designated member of the review board shall hold a hearing and make a determination. The review board shall make the final decision regarding a nomination, subject to administrative review by the commission under IC 4-21.5.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-18

Alteration of historic sites or structures; certificate of approval; exceptions; survey of historic sites and structures; reports

Sec. 18. (a) A:

- (1) historic site or historic structure owned by the state; or
- (2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) An application for a certificate of approval:

- (1) must be filed with the division; and
- (2) shall be granted or rejected by the review board after a public hearing.

(c) Subsections (a) and (b) do not apply to real property that is owned by a state educational institution.

(d) The commission for higher education and each state educational institution, in cooperation with the division of historic preservation and archeology, shall develop and continually maintain a survey of historic sites and historic structures owned by the state educational institution. Historic sites and historic structures include buildings, structures, outdoor sculpture, designed landscapes, gardens, archeological sites, cemeteries, campus plans, and historic districts. A survey developed under this subsection must conform with the Indiana Historic Sites and Structures Survey Manual.

(e) The state historic preservation officer no later than one (1) year after receipt of a ten

(10) year capital plan under IC 14-21-1-18.5 shall:

- (1) review a proposed state educational institution project that involves a historic site or historic structure owned by a state educational institution; and
- (2) submit an advisory report to the commission for higher education, the state educational institution, and the general assembly. An advisory report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(f) Not more than thirty (30) days after a state educational institution, under section 18.6 of this chapter, submits to the division a description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state historic preservation officer shall:

- (1) review the description of the proposed project; and
- (2) submit to the state educational institution an advisory report concerning the proposed project. The state educational institution shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

As added by P.L.1-1995, SEC.14. Amended by P.L.135-1996, SEC.4; P.L.54-1997, SEC.8; P.L.28-2004, SEC.130; P.L.2-2007, SEC.172.

IC 14-21-1-18.5

State college or university to submit copy of capital plan regarding alteration or demolition of historic sites or structures

Sec. 18.5. When submitting its biennial budget request, a state educational institution must:

- (1) submit to the division of historic preservation and archeology of the department of natural resources a copy of any ten (10) year capital plan of the state educational institution that is required by the budget agency or the commission for higher education; and
- (2) identify the projects included in the capital plan that may involve the alteration or demolition of historic sites or structures.

As added by P.L.135-1996, SEC.5. Amended by P.L.2-2007, SEC.173.

IC 14-21-1-18.6

Alteration of historic sites or structures not identified in capital plan; submission of description; publication of notice

Sec. 18.6. (a) As used in this section, "substantial alteration" means a conspicuous, exterior material change in a historic site or historic structure which, in the good faith judgment of a state college or university, affects the historic character of the historic site or historic structure.

(b) If a proposed project of a state educational institution:

- (1) involves the substantial alteration, demolition, or removal of a historic site or historic structure;

and

- (2) is not identified in-a-capital plan submitted to the division under section 185 of this chapter; the state educational institution shall submit a description of the proposed project to the division and publish a notice describing the project one (1) time in a newspaper of general circulation in the county in which the proposed project is located. The submission of the description and the publication of the notice must be at least thirty (30) days before the commencement of the proposed project.

As added by P.L.54-1997, SEC.9. Amended by P.L.2-2007, SEC.174.

IC 14-21-1-19

Director as state historic preservation officer

Sec. 19. The director is designated as the state historic preservation officer.
As added by P.L.1-1995, SEC.14.

IC 14-21-1-20

Review board; establishment; members

Sec. 20. (a) The historic preservation review board is established.

(b) The review board consists of nine (9) members as follows:

(1) The director.

(2) At least five (5) individuals meeting minimum professional requirements established by the United States Department of the Interior in 36 CFR, Part 61, as in effect on January 1, 1984.

(3) Professionals in the following disciplines:

(A) History.

(B) Prehistoric or historic archeology.

(C) Architecture or historical architecture.

(c) The division director is a nonvoting advisor to the review board entitled to attend and participate in the proceedings of all meetings of the review board.

(d) The director shall, with the concurrence of the governor, appoint the members of the review board under subsection (b)(2) and (b)(3) for terms of three (3) years. The terms shall be staggered so that the terms of two (2) or three (3) members expire each year. A member may be reappointed.

(e) Appointments to the review board shall be made in accordance with 36 CFR, Part 60, and 36 CFR, Part 61, as in effect on January 1, 1984.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-21

Review board; chairman

Sec. 21. The director is chairman of the review board. The review board may select other officers that the review board determines.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-22

Review board; duties

Sec. 22. (a) The review board shall carry out the duties:

(1) required by this chapter; and

(2) as required under 16 U.S.C. 470 et seq. and the regulations relating to 16 U.S.C. 470 et seq.

(b) The review board shall also advise the division and the department as requested by the director.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-23

Review board; per diem compensation and traveling expenses

Sec. 23. (a) Each member of the review board who is not a state employee is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1 (b) for each day that the member is engaged in the official business of the committee. The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the review board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures

established by the Indiana department of administration and approved by the budget agency.
As added by P.L.J-1995, SEC.14.

IC 14-21-1-24

Applicability of statutes regarding disturbance of grounds

Sec. 24. (a) As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

(b) Sections 25, 26, 28, and 29 of this chapter do not apply to the following:

(1) Surface coal mining regulated under IC 14-34.

(2) Cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

(5) Qualified professional archeologists, as determined by the department, who conduct phase 1a archeological surveys according to guidelines adopted by the department.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.5.

IC 14-21-1-25

Rules concerning standards for plans; action on submitted plans

Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Subject to subsection (e), plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.

(e) Proposed plans submitted to the department must be:

(1) approved;

(2) denied; or

(3) held because of the need for additional information; by the department not more than sixty (60) days after the date of submission. If the department does not take any action on the plan within the time required by this subsection, the plan is considered to be approved, unless approval is prohibited under a state or federal law. If the department requests additional information under subdivision (3), the department shall approve or deny the resubmitted plan not more than thirty (30) days after the resubmitted plan is received.

As added by P.L.1-1995, SEC.14. Amended by P.L.46-2000, SEC.9; P.L.26-2008, SEC.6.

IC 14-21-1-25.5

Notice of discovered burial ground; recommendations

Sec. 25.5. (a) If a Native American Indian burial ground is discovered, the department shall immediately provide notice to the Native American Indian affairs commission established by IC 4-4- 31.4.

(b) If Native American Indian human remains are removed from a burial ground, the

department shall provide the following to the Native American Indian affairs commission:

(1) Any written findings or reports that result from the analysis and study of the human remains.

(2) Written notice to the Native American Indian affairs commission that the analysis and study of the human remains are complete.

(c) After receiving written notice under subsection (b)(2), the Native American Indian affairs commission shall make recommendations to the department regarding the final disposition of the Native American Indian human remains.

As added by P.L.283-2003, SEC.2.

IC 14-21-1-26

Disturbing ground to discover artifacts, burial objects, or human remains; penalty

Sec. 26. (a) A person who disturbs the ground for the purpose of discovering, uncovering, or moving artifacts, burial objects, or human remains must do so in accordance with a plan approved by the department under section 25 of this chapter or under IC 14-3-3.4-14 (before its repeal).

(b) A person who recklessly, knowingly, or intentionally violates this section commits the following:

(1) A Class A misdemeanor, if the violation does not involve disturbing human remains.

(2) A Class D felony, if the violation involves disturbing human remains.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC. 7.

IC 14-21-1-26.5

Development plan requirements; penalty

Sec. 26.5. (a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-l(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-l(h)).

(4) A surface coal mining and reclamation operation permitted under IC 14-34.

(b) Except as provided in this subsection and subsections (c) and (d), a person may not disturb the ground within one hundred (100) feet of a burial ground for the purpose of excavating or covering over the ground or erecting, altering, or repairing any structure without having a development plan approved by the department under section 25 of this chapter or in violation of a development plan approved by the department under section 25 of this chapter. The department must review the development plan as required by section 25(e) of this chapter.

(c) A development plan:

(1) must be approved if a person intends to:

(A) excavate or cover over the ground; or

(B) construct a new structure or alter or repair an existing structure; that would impact the burial ground or cemetery;
and

(2) is not required if a person intends to:

(A) excavate or cover over the ground; or

(B) erect, alter, or repair an existing structure;

for an incidental or existing use that would not impact the burial ground or cemetery.

(d) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a burial ground must be approved as follows:

(1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery

commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.

(2) A development plan of a governmental entity other than:

(A) a municipality; or

(B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the department.

(e) If a burial ground is within an archeological site, an archeological plan is required to be part of the development plan.

(f) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or grave markers while committing the offense.

As added by P.L.46-2000, SEC.JO. Amended by P.L.177-2001, SEC.3; P.L.26-2008, SEC.8.

IC 14-21-1-27

Duties when buried human remains or burial grounds are disturbed; penalty

Sec. 27. (a) A person who disturbs buried human remains or burial grounds shall do the following:

(1) Notify the department within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.14. Amended by P.L.52-1997, SEC.4; P.L.14-2000, SEC.38; P.L.26-2008, SEC.9.

IC 14-21-1-28

Penalty for disturbing human remains or grave markers

Sec. 28. A person who recklessly, knowingly, or intentionally disturbs human remains or grave markers while moving, uncovering, or removing artifacts or burial objects either:

(1) without a plan approved by the department under:

(A) section 25 of this chapter; or

(B) IC 14-3-3.4-14 (before its repeal); or

(2) in violation of such a plan; commits Class D felony.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.JO.

IC 14-21-1-29

Duty upon discovering artifacts or burial objects; penalty

Sec.29. (a) A person who discovers, uncovers, or moves an artifact or burial object while disturbing the ground for a purpose other than the discovery, uncovering, or moving of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground and the area within one hundred (100) feet of the artifact or burial object.

(2) Notify the department within two (2) business days after the time of the disturbance.

(b) After notification under subsection (a), the department may do any of the following:

(1) Authorize the person to continue the ground disturbing activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after ten (10) business days from the date that the department receives notice.

(c) A person who violates subsection (a) commits a Class A infraction.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.11.

IC 14-21-1-30

Amateur groups encouraged to establish codes of ethics

Sec. 30. The department shall actively encourage all groups of amateur archeologists to establish and maintain a code of ethics as a minimum guide for the conduct of searches for evidence from the life and culture of past ages.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-31

Adoption of rules

Sec. 31. (a) The commission shall adopt rules under IC 4-22-2 to implement this chapter.

(b) When adopting rules under this chapter the commission shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) Applicable laws, standards, and guidelines for the conduct of archeology and codes of ethics for participation in archeology.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-32

Confidential archeological site information

Sec. 32. (a) Subject to subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:

(1) risk harm to the historic or archeological site;

(2) cause a significant invasion of privacy; or

(3) impede the use of a traditional religious site by practitioners.

(b) The division may not disclose to the public reports and information required to be confidential under federal law.

(c) If the director of the division determines that reports and information should be confidential under subsection (a), the director of the department, in consultation with the director of the division, shall determine who may have access to the confidential reports and information.

As added by P.L.26-2008, SEC.12.

IC 14-21-1-33

Persons authorized to accompany conservation officers to determine violations

Sec. 33. An employee of the division or a person authorized by the department may accompany a conservation officer on public or private property to determine if there is a violation of this article.

As added by P.L.26-2008, SEC.13.

IC 14-21-1-34

Homeowner assistance program; archeology preservation trust fund

Sec. 34. (a) The division may conduct a program to assist private homeowners who have accidentally discovered an artifact, a burial object, or human remains and who need assistance to comply with an approved plan to excavate or secure the site from further disturbance. The division may conduct the program alone or by entering into an agreement with any entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director of the division considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms and obligations of the gift or grant.

(c) The auditor of state shall establish the archeology preservation trust fund to hold money received under subsection (b).

(d) The director of the division shall administer the archeology preservation trust fund. The expenses of administering the fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the archeology preservation trust fund that is not currently needed to meet the obligations of the fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(f) Money in the archeology preservation trust fund at the end of a state fiscal year does not revert to the state general fund. There is annually appropriated to the division the money in the archeology preservation trust fund for the division's use in carrying out the purposes of this section.

(g) The division may adopt rules under IC 4-22-2 to govern the administration of this section.
As added by P.L.26-2008, SEC.14.

IC 14-21-1-35

Restitution orders

Sec. 35. (a) In addition to:

(1) a:

(A) sentence imposed under this chapter for a felony or misdemeanor; or

(B) judgment imposed under this chapter for an infraction; and

(2) an order for restitution to a victim; a court may order an individual to make restitution to the archeology preservation trust fund established under section 34 of this chapter for the division's costs incurred because of the offense committed by the individual.

(b) In ordering restitution under this section, the court shall consider the following:

(1) The schedule of costs submitted to the court by the division.

(2) The cost to the property owner to restore or repair the damaged area of an archeological site or burial ground and place the property in the property's original condition as nearly as practicable.

(3) The amount of restitution that the individual is or will be able to pay.

(c) The court shall immediately forward to the division a copy of an order for restitution made under this section.

As added by P.L.26-2008, SEC.15.

IC 14-21-1-36

Possession of looted property; penalty

Sec. 36. A person who knowingly or intentionally receives, retains, or disposes of an

artifact, a burial object, or human remains obtained in violation of this chapter commits possession of looted property, a Class D felony. However, the offense is a Class C felony if the fair market cost of carrying out a scientific archeological investigation of the area that was damaged to obtain the artifact, burial object, or human remains is at least one hundred thousand dollars (\$100,000).

As added by P.L.26-2008, SEC.16.

ARTICLE 22. HUMAN REMAINS, BURIAL OBJECTS, AND ARTIFACTS

Rule 1. Definitions

312 IAC 22-1-1 Application of definitions

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 1. The definitions contained in this rule apply throughout this article and are in addition to those set forth in 312 IAC

1. (*Natural Resources Commission; 312 IAC 22-1-1; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30*

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-2 "Agricultural purpose" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 2. "Agricultural purpose" includes the following:

- (1) Farming.
- (2) Dairying.
- (3) Pasturage.
- (4) Agriculture.
- (5) Horticulture.
- (6) Floriculture.
- (7) Vitaculture.
- (8) Ornamental horticulture.
- (9) Olericulture.
- (10) Pomiculture.
- (11) Animal husbandry.
- (12) Poultry husbandry.

(*Natural Resources Commission; 312 IAC 22-1-2; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30*

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-3 "Artifact" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 3. "Artifact" means an object made or shaped by human workmanship before December 11, 1816. (*Natural Resources Commission; 312 IAC 22-1-3; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-4 "Burial ground" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 4. "Burial ground" means ground in which human remains are buried, including the land associated with or incidental to the burial of human remains. (*Natural Resources Commission; 312 IAC 22-1-4; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-*

312130184RFA)

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312 IAC 22-1-5 "Burial object" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 5. "Burial object" means an item intentionally placed in a burial ground at or near the time of burial. (*Natural Resources Commission; 312 IAC 22-1-5; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-6 "Cultural" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 6. "Cultural" means patterned behavior consisting of beliefs, values, customs, art, morals, or laws practiced in whole or in part by a corporate group of society as a measure of inclusiveness that is verifiable by archaeological, historical, or anthropological study. (*Natural Resources Commission; 312 IAC 22-1-6; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-*

312130184RFA)

312 IAC 22-1-7 "Division" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-9-4-1; IC 14-21-1

Sec. 7. "Division" means the division of historic preservation and archaeology. (*Natural Resources Commission; 312 IAC 22-1-7; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-1-8 "Division director" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 8. "Division director" means the director of the division. (*Natural Resources Commission; 312 IAC 22-1-8; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19,*

2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-9 "Historic property" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 9. "Historic property" means any historic site, historic structure, or other personal or real property located on or in a historic site or historic structure. (*Natural Resources Commission; 312 IAC 22-1-9; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3375; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-1-10 "Historic site" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 10. "Historic site" means any site that is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. A historic site includes any adjacent property that is necessary to Indiana Administrative Code Page 2

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the preservation or restoration of the site. (*Natural Resources Commission; 312 IAC 22-1-10; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-1-11 "Historic structure" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 11. "Historic structure" means any structure that is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. A historic structure includes any adjacent property that is necessary to the preservation or restoration of the structure. (*Natural Resources Commission; 312 IAC 22-1-11; filed Jun 21, 2001,*

2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-12 "Human remains" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 12. "Human remains" means any part of the body of a human being in any stage of decomposition or state of preservation. However, this article does not apply to the human remains of individuals dying after December 31, 1939. (*Natural Resources Commission; 312 IAC 22-1-12; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-1-13 "Investigation" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 13. "Investigation" means an archaeological or historical investigation that does the following:

- (1) Principally employs amateur archaeologists.
- (2) Is not under the control or supervision of a principal investigator.
- (3) Uses systematic methods and techniques to locate, identify, evaluate, recover, treat, analyze, and conserve artifacts and associated contexts.
- (4) Results in the production of a report detailing its various activities and findings.

(*Natural Resources Commission; 312 IAC 22-1-13; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30*

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-14 "Plan" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 14. "Plan" means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages. (*Natural Resources Commission; 312 IAC 22-1-14; filed Jun 21, 2001,*

2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-15 "Principal investigator" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

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Sec. 15. "Principal investigator" means the individual who is responsible for coordinating, developing, and completing an archaeological project under IC 14-21-1 and 312 IAC 20. (*Natural Resources Commission; 312 IAC 22-1-15; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-1-16 "Register" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1-15

Sec. 16. "Register" means the register of Indiana historic sites and historic structures established under IC 14-21-1-15.

(*Natural Resources Commission; 312 IAC 22-1-16; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30*

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-17 "Related field" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 17. "Related field" means anthropology, physical anthropology, or another discipline to archaeology where archaeological or bioarchaeological course work and fieldwork are part of the background and research. (*Natural Resources Commission; 312 IAC 22-1-17; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-18 "Religious" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 18. "Religious" means a system of beliefs, symbols, rituals, or ideology practiced in whole or in part by a corporate group of society that:

(1) serves to define human, sacred, or supernatural relations and the rationale for human existence; and

(2) is verifiable by archaeological, historical, or anthropological study.

(*Natural Resources Commission; 312 IAC 22-1-18; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30*

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-19 "Review board" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1-20

Sec. 19. "Review board" means the historic preservation review board established under IC 14-21-1-20. (*Natural Resources Commission; 312 IAC 22-1-19; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3376; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-20 "Scientific investigation" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 20. "Scientific investigation" means an archaeological, anthropological, physical anthropological, or historical investigation that does the following:

(1) Is conducted under the control or supervision of a principal investigator.

(2) Employs specialized, systematic methods and techniques to locate, identify, evaluate, recover, treat, analyze, and conserve

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any artifacts, burial objects, and buried human remains and associated contexts.

(3) Produces a report detailing its various activities and findings.

(Natural Resources Commission; 312 IAC 22-1-20; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-1-21 "Site" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 21. "Site" means any aboriginal mound, fort, earthwork, village location, burial ground, ruin, mine, cave, battleground, shipwreck, or other similar location on land or under water or any location that contains or once contained a structure. *(Natural Resources Commission; 312 IAC 22-1-21; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-1-22 "Structure" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 22. "Structure" means any manmade construction. *(Natural Resources Commission; 312 IAC 22-1-22; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-1-23 "Traditional" defined

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 23. "Traditional" means a cultural or religious practice or behavior pattern that is:

- (1) shared by a corporate group;
- (2) passed from generation to generation as part of the socialization process; and
- (3) verifiable by archaeological, historical, or anthropological study.

(Natural Resources Commission; 312 IAC 22-1-23; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30

p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

Rule 2. Intentional and Accidental Discoveries of Human Remains and Artifacts; Permits

312 IAC 22-2-1 Application

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1-27; IC 14-22-1; IC 14-34; IC 23-14

Sec. 1. (a) This article establishes standards for each of the following:

- (1) Investigations.
- (2) Scientific investigations.
- (3) The accidental discovery or purposeful disturbance of archaeological sites and human remains on any property.
- (4) The issuance of permits.
- (5) Permit conditions required to satisfy IC 14-22-1 and this article.

(b) A person must satisfy this article where:

- (1) an investigation or scientific investigation is required;
- (2) a permit must be issued or conditioned;
- (3) the director issues an order to locate, identify, evaluate, recover, treat, or protect artifacts, burial objects, or burial

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grounds; or

(4) human remains require treatment or reburial.

(c) Except as required by IC 14-21-1-27, this article does not apply to the following:

- (1) Surface coal mining regulated under IC 14-34.
- (2) Cemeteries and human remains subject to regulation under IC 23-14.
- (3) Disturbing the earth for an agricultural purpose.
- (4) Collecting any object, other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made.

(d) This article sets forth how the department shall protect human remains discovered as a result of an accidental discovery, the conduct of an investigation, the conduct of a scientific investigation, or a violation of IC 14-21-1. The department may, according to the context, condition, or nature of the discovery of the human remains, do any of the following:

- (1) Take custody of the human remains.
- (2) Assign or remand custody or ownership of the human remains to an institution that satisfies 312 IAC 22-3-9(f).

(3) Designate or prescribe the conditions or scheduling for the reburial of remains under 312 IAC 22-3-9(b).
(*Natural Resources Commission; 312 IAC 22-2-1; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-2-2 Administration

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 4-21.5-1-15; IC 14-21-1

Sec. 2. (a) The division is responsible for conduct of the technical and professional functions of the department under this article.

(b) The review board or the division director may make an initial order or determination under this article.

(c) The commission is the ultimate authority for a final order or determination under this article. (*Natural Resources Commission; 312 IAC 22-2-2; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3377; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-2-3 Permits

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1-26; IC 14-21-1-28

Sec. 3. (a) No person may disturb the ground, or continue the disturbance following an accidental discovery, for the purpose of discovering or removing artifacts, burial objects, grave markers, or human remains without a prior permit issued by the department under IC 14-22-1-26 [*sic.*, IC 14-21-1-26], IC 14-22-1-28 [*sic.*, IC 14-21-1-28], and this article.

(b) Except as provided in section 7 of this rule, an applicant for a permit must comply with the following:

(1) A plan, which includes the information required under 312 IAC 22-3-2 through 312 IAC 22-3-8, shall be submitted with each permit application.

(2) An application to conduct an investigation or a scientific investigation shall be filed at least thirty (30) days before the proposed commencement of the project.

(c) An application for a permit to conduct an investigation or a scientific investigation shall be reviewed by the division to determine whether the permit is issued. A favorable determination must be made with respect to each of the following factors before

a permit can be issued:

(1) The application is found to be complete, technically accurate, and feasible.

(2) The applicant has demonstrated that the information derived will contribute to:

(A) Indiana's history or archaeology; or

(B) understanding the physical or cultural nature of past human populations.

(3) The requirements of 312 IAC 22-3-9 are satisfied.

(4) The applicant will provide for the treatment of human remains in conformance with section 1(d) of this rule.

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(5) The rights and interests of landowners are considered, including written documents that demonstrate each of the following have been adequately addressed by the applicant:

(A) A determination of the ownership of any human remains, burial object, or artifact which is recovered.

(B) Consent of the landowner for access by the applicant to the site for the purpose of conducting any activities set forth in the permit, including the plan.

(C) Consent of the landowner for access by the department to the site to determine compliance with the conditions of the permit.

(*Natural Resources Commission; 312 IAC 22-2-3; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3378; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-2-4 Notification and permit conditions

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1; IC 23-14

Sec. 4. (a) Except as provided in subsections (c) through (d), a person who discovers an artifact or a burial object while disturbing the ground for a purpose other than the discovery of artifacts or burial objects must do the following:

(1) Immediately cease disturbing the ground.

(2) Notify the department within two (2) business days after the time of disturbance.

(b) After a notification made under subsection (a) is received, the department may do either of the following:

(1) Authorize the person to continue the ground disturbing activity with or without conditions.

(2) Require that continued ground disturbance activity be conducted only under a plan approved under this article. However, this subdivision does not apply if the department does not respond within thirty (30) days from the date that the department receives the notification.

(c) A person who disturbs any human remains must do the following:

- (1) Immediately cease disturbing the ground.
 - (2) Notify the department within two (2) business days after the time of the disturbance.
 - (d) After a notification made under subsection (c) is received, the department may do any of the following:
 - (1) Require the person to submit additional information to enable the department an informed determination whether the disturbed human remains are exempt from IC 14-21-1 and this article. Exempt human remains shall be treated and reburied under IC 23-14.
 - (2) Authorize the person to continue the ground disturbing activity with or without conditions.
 - (3) Require that continued ground disturbance activity be conducted only under a permit issued under this article.
- (Natural Resources Commission; 312 IAC 22-2-4; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3378; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-2-5 Permit determinations and revocations

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 4-21.5-1-4; IC 4-21.5-3-8; IC 4-21.5-4; IC 14-21-1

Sec. 5. (a) Where an application for a permit is received by the department that is not complete, the division may:

- (1) provide instructions to the applicant for completion of the application; or
- (2) return the application with a notification that a permit will not be issued until sections 2 through 3 of this rule are satisfied. A determination under this subdivision is an agency order under IC 4-21.5-1-4 and is subject to administrative review.

(b) The department may inspect the site of an investigation or a scientific investigation to determine whether a person is in compliance with IC 14-21-1, this article, and the terms of a permit issued under this article.

(c) The department may, under IC 4-21.5-3-8, revoke a permit, if the division determines the permittee has violated IC 14-21-1, this article, or the terms of a permit issued under this article. The director may, under IC 4-21.5-4, seek appropriate emergency or temporary relief with respect to a permit or an activity for which a permit is required. *(Natural Resources Indiana Administrative Code Page 7*

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Commission; 312 IAC 22-2-5; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3378; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-2-6 Disturbing the ground in the absence of or violation of a plan

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1-26; IC 14-21-1-28

Sec. 6. (a) A person who disturbs the ground for the purpose of discovering artifacts or burial objects must do so in accordance with a plan approved by the department in a permit issued under IC 14-21-1 and this article.

(b) Criminal sanctions for violation of IC 14-21-1 and this article are set forth in IC 14-21-1-26 and IC 14-21-1-28. *(Natural Resources Commission; 312 IAC 22-2-6; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3379; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-2-7 Emergency permits

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 4-21.5-4; IC 14-21-1

Sec. 7. (a) The division director may, under IC 4-21.5-4, issue an emergency permit to conduct a scientific investigation where imminent or irreparable damage to an historic site or a burial ground is likely to occur due to natural or cultural causes before a permit can be processed under section 3(b) of this rule.

(b) An emergency permit must satisfy each of the following:

- (1) The performance standards contained in IC 14-21-1.
- (2) The requirements of 312 IAC 22-3-2 through 312 IAC 22-3-9.
- (3) To the extent feasible, the requirements of section 3(c) of this rule.
- (4) Any other conditions set forth by the department in the emergency permit.

(c) An emergency permit issued under this section expires on the elapse of ninety (90) days unless an earlier expiration date is set forth in the emergency permit. *(Natural Resources Commission; 312 IAC 22-2-7; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3379;*

readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

Rule 3. Participation; Plans; Personnel; Project Facilities; Analysis; Curation; Treatment and Disposition of Human Remains; Project Documentation; Reporting

312 IAC 22-3-1 Application

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 1. (a) This rule establishes the standards applicable to the following:

- (1) Participation.
- (2) Plans.
- (3) Personnel.
- (4) Project facilities.
- (5) Analyses.
- (6) Curation.
- (7) Treatment and disposition of human remains.
- (8) Project documentation.
- (9) Reporting.

(b) The requirements of this rule shall be applied in a manner that recognizes each of the following:

- (1) The important and complex nature of historic sites and burial grounds.

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(2) The need to provide for scientific investigations that contribute to the understanding of the past.

(3) An understanding that important site information in the form of materials and features may be present beyond artifacts, burial objects, and human remains.

(4) The need to use specialized methods and techniques in:

- (A) archaeology;
- (B) anthropology;
- (C) geology;
- (D) biology;
- (E) physical anthropology; and
- (F) forensic sciences;

for the recovery and analysis of site information.

(5) A realization of the paramount role of:

- (A) archaeologists;
- (B) cultural anthropologists;
- (C) physical anthropologists; and
- (D) related professionals;

with specialized training in data recovery, processing, analysis, and reporting to develop, coordinate, or direct scientific investigations.

(6) A recognition of the expertise and interest of amateur archaeologists in the participation in site discovery projects and scientific investigations.

(7) An understanding of the need to protect:

- (A) a historic site that is listed on or eligible for listing on the state register of historic sites and structures or the National Register of Historic Places; or
- (B) a burial ground.

(Natural Resources Commission; 312 IAC 22-3-1; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3379; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-3-2 Participation

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 2. (a) A scientific investigation must be carried out under the direction of a principal investigator where any of the following conditions are present:

- (1) The investigation must be conducted to satisfy a state or federal law other than this article.
- (2) The investigation will be conducted on a property owned or leased by the state or one (1) of its agencies.
- (3) The investigation will be funded in whole or in part by the state.
- (4) The investigation will be conducted on a site that is listed on or eligible for listing on the state register of historic sites and structures or the National Register of Historic Places.
- (5) The investigation is likely to result in the discovery of buried human remains.

(b) A participant in an investigation or scientific investigation who has a supervisory or decision making responsibility must adhere to a code of conduct that does each of the following:

- (1) Promotes the scientific investigation and conservation of past cultures so the investigation is conducted in the interests of qualified research, environmental review, or historic preservation review related compliance, or site management or protection.
- (2) Demonstrates sensitivity for treating other human beings with respect and dignity.
- (3) Considers the interest and expertise of amateur archaeologists and professional archaeologists.

(c) A scientific investigation that is approved by the division as part of a federal or state environmental review requirement does not require a separate permit under this article. This subsection does not relieve a person of the responsibility for reporting and responding under IC 14-21-1 and this article to any accidental discovery. (*Natural Resources Commission; 312 IAC 22-3-2; Indiana Administrative Code Page 9*)

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filed Jun 21, 2001, 2:35 p.m.: 24 IR 3379; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed

Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-3-3 Plans

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 3. (a) A plan must be submitted with any application for a permit for an investigation or a scientific investigation. The plan shall provide a coherent approach to the type of project or investigation, the environmental and cultural setting, and the type of archaeological or human remains known to exist or yet unidentified in the project area. A plan shall consider the time constraints

upon the applicant, the rights and interests of landowners, personnel needed to accomplish the work, and the season and environmental conditions within which work would be accomplished.

(b) A plan shall consider the appropriate use of each of the following persons:

(1) Professionals in:

(A) archaeology;

(B) anthropology;

(C) physical anthropology;

(D) medicine;

(E) forensic science;

(F) biology;

(G) cultural geography;

(H) geology; and

(I) paleontology.

(2) Amateur archaeologists.

(c) A plan for a scientific investigation that will address an archaeological site, result in the recovery of artifacts, or result in the recovery of burial objects or buried human remains shall satisfy the requirements under subsections (b) and (d) and section 4 of this rule.

(d) A plan for a scientific investigation where buried human remains are likely to be recovered or disturbed shall additionally provide a scientific justification for the recovery or disturbance of those human remains that does each of the following:

(1) Demonstrates the need to recover or disturb the buried human remains to protect, treat, or conserve the remains or important scientific information that might otherwise be lost through unavoidable natural or human activities.

(2) Defines a methodology governed by systematic scientific methods that incorporates recording, recovery, and conservation methods and techniques used by professional archaeologists and related professionals who routinely locate, identify, record, recover, analyze, treat, conserve, and curate human remains.

(3) Demonstrates the disturbed or recovered human remains are and will be treated in a dignified and respectful fashion that recognizes their cultural, religious, or traditional importance to living human groups.

(e) A plan submitted to conduct an investigation, other than a scientific investigation, shall include each of the following:

(1) The location of the project area, including the county, township, range, and section and, if available, the street address.

(2) A description of the project area, including the natural environment and cultural environment.

(3) The portion of the United States Geological Survey Quadrangle Section map (1:24000) that locates the area and an accurate map of the area of investigation.

(4) A clearly and concisely written plan supported by appropriate references and other written material that justifies the need to undertake the recovery of buried artifacts.

(5) A demonstration that the recovery, if undertaken, will contribute to the understanding, interpretation, or conservation of Indiana's historic and archaeological resources.

(6) An identification of the methods to be employed that will enable the recording and recovery of artifacts and associated contexts in a systematic and controlled fashion.

(7) A process that will result in minimal damage to organic and fragile materials during recording and recovery.

(8) Provision for notes, drawings, photographs, collections of artifacts, descriptive lists of recovered artifacts and samples, Indiana Administrative Code Page 10

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and documents that will enable the permittee to produce a report of the findings.

(9) Standards for plan and profile maps of all excavation units and exposed or excavated features or cultural strata.

- (10) The names of persons or organizations who may work during the investigation and recovery of artifacts.
- (11) The name and address of the person who will have supervisory or decision making responsibility for the investigation.
- (12) The beginning date and ending date of the investigation.
- (13) The place where any recovered artifacts and curated or associated contexts will be cleaned, processed, and housed.
- (14) A proposal for the conservation of artifacts and associated context through:
 - (A) the documentation of an agreement with an established institution; or
 - (B) if the permittee will provide for conservation, a conservation plan that describes how the recovered artifacts and associated context will be conserved to prevent degradation and the loss of integrity.
- (15) A proposal for access to the completed project for continued or future research.
- (16) A strategy for the timely termination of the project and the protection of the site if the project:
 - (A) discovers human remains or burial objects; or
 - (B) identifies buried deposits that have been defined by the department as nonrecoverable without the assistance or direction of a principal investigator under section 2(a) of this rule.
- (f) A final report of findings must be submitted under this section in accordance with the following specifications:
 - (1) The use of standard quality paper on white bond, eight and one-half (8½) inches wide and eleven (11) inches long.
 - (2) Inclusion of a title page with the:
 - (A) project title;
 - (B) project supervisor;
 - (C) name of the organization; and
 - (D) if applicable, name of the agency or institutional affiliation, any coauthors, and date of issuance of the report.
 - (3) Inclusion of a table of contents, as well as any appropriate figures and appendices.
 - (4) Acknowledgements to persons and organizations assisting in the project.
 - (5) Appropriate reference to the plan approved as part of the permit, including a statement of investigation goals and methods.
 - (6) Data analysis.
 - (7) Results of the investigations.
 - (8) Conclusions and recommendations.
 - (9) Bibliographic references.
 - (10) Completed Historic Sites and Structures Inventory-Archaeology Site Forms.
 - (11) Copies of completed notes, drawings, a descriptive list of all recovered artifacts and samples and photographs generated by the project.
 - (12) Location where the recovered artifacts and associated contexts will be housed, and the name of the person responsible for curation, if the plan provides for curation.

(Natural Resources Commission; 312 IAC 22-3-3; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3380; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-3-4 Personnel qualifications

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 4. (a) A person who conducts an investigation or a scientific investigation under this article must satisfy the qualification standards established by 312 IAC 21-3-4.

(b) In addition to the requirements of subsection (a), the department may require the use of professionals with specialized expertise as appropriate to serve in a capacity equivalent to that of a principal investigator in the exercise of a particular permit involving the removal of human remains or as appropriate to the removal of particular human remains. Persons who may possess the required expertise include those in the areas of archaeology, anthropology, physical anthropology, paleopathology, or another closely related field. Qualifications for these professionals include the following requirements:

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- (1) A graduate degree in anthropology or another closely related field as anticipated in this subsection.
- (2) Satisfaction of either of the following:
 - (A) Three (3) years of supervisory experience in archaeology, anthropology, physical anthropology, paleopathology, or a closely related field where the principal focus of professional study has been the recovery, evaluation, analysis, and curation of artifacts, materials and information, burial objects, and human remains discovered in historic, archaeological, or historic burial ground sites, and whose professional work has resulted in the study of paleopathology and human osteology. This work:
 - (i) shall include cranial, postcranial, and dental analysis, and destructive and nondestructive scientific testing of human remains; and
 - (ii) must have resulted in the preparation of a research-oriented monograph, thesis, or dissertation.
 - (B) Accreditation by the Forensic Anthropology Section of the American Academy of Forensic Sciences.

(c) A field or laboratory supervisor may submit draft and final reports that address the recovery, evaluation, analysis, or curation of human remains. To qualify as a field or laboratory supervisor, a person must satisfy either of the following requirements:

(1) A master's degree in archaeology, anthropology, physical anthropology, or paleopathology or a related field and one (1) year of supervisory experience in the excavation or laboratory techniques pertinent to the recovery, evaluation, analyses, and curation of human remains from an historic, archaeological, or a burial ground located within an historic site.

(2) Accreditation by the Forensic Anthropology Section of the American Academy of Forensic Sciences.

(d) A field or laboratory technician is an assistant supervisor or field or laboratory field or laboratory crew member with experience in archaeological or physical anthropological techniques related to the recovery and preparation for analysis of human

remains recovered from historic, archaeological, or historic burial ground sites. A laboratory technician must:

(1) be experienced in laboratory analyses and techniques; and

(2) hold a bachelor's degree in anthropology, or a closely related field, or possess equivalent background, with one (1) year of field recovery, preparation, or analyses.

(e) Qualification for specialists in the fields of medicine, forensic medicine, pathology, or related sciences who are employed during the course of scientific investigations to provide biological, genetic, or chemical information will be based on verifiable professional accreditation or qualifying graduate degrees. (*Natural Resources Commission; 312 IAC 22-3-4; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3381; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-3-5 Project facilities

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 5. A person who performs an investigation or a scientific investigation under this article must demonstrate both of the following with respect to project facilities:

(1) Adequate facilities and equipment will be provided to conduct any nonfield portions of the plan in a manner which is no less effective than the requirements of 312 IAC 21-3-5.

(2) If the recovery of human remains is part of the plan, sufficient arrangements will be made for any special or technical analyses. These arrangements must include reference to paleopathology, osteology, radiometry, radiology, biochemistry, and any other discipline needed to properly evaluate the human remains relative to their cultural and chronological context and condition when recovered.

(*Natural Resources Commission; 312 IAC 22-3-5; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3382; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA*)

312 IAC 22-3-6 Analyses

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

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Sec. 6. (a) A person who performs an investigation or a scientific investigation under this article must demonstrate both of the following:

(1) The analysis requirements will be met in a manner which is no less effective than the analysis requirements contained in 312 IAC 21-3-6.

(2) If the recovery of human remains is part of the plan, the analysis requirements will be met in a manner which is no less effective than those contained in section 9(a) through 9(c) of this rule.

(b) The director may require analyses in addition to those required in section 9(b) through 9(c) of this rule for a scientific investigation that requires the application of specialized technology or methods to resolve issues of genetic affinity or scientific research in the study of past human populations. (*Natural Resources Commission; 312 IAC 22-3-6; filed Jun 21, 2001, 2:35 p.m.:*

24 IR 3382; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-3-7 Curation; scientific investigations

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 7. (a) The curation of artifacts, materials, and specimens recovered during a scientific investigation is controlled by 312 IAC 21-3-8(a) through 312 IAC 21-3-8(b).

(b) In addition to the requirements contained in subsection (a), section 9(g) through 9(h) of this rule applies to the recovery of buried human remains. (*Natural Resources Commission; 312 IAC 22-3-7; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3382; readopted*

filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-

312130184RFA)

312 IAC 22-3-8 Documentation and reporting

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 8. (a) Project documentation and reporting for a scientific investigation is controlled by 312 IAC 21-3-8(a) through 312 IAC 21-3-8(d).

(b) In addition to the requirements of subsection (a), this subsection applies if human remains are recovered, evaluated, or analyzed. Documentation shall be provided that details or integrates the results of the study of the human remains to satisfy section

9(b) through 9(c) of this rule with evaluations (based upon the context and condition of those remains) as to their value for ascertaining genetic affinity or scientific value and recommendations for their long term curation.

(c) Project documentation and reporting for investigations is controlled by section 3 of this rule. (*Natural Resources Commission; 312 IAC 22-3-8; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3382; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-*

312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-3-9 Treatment and disposition of human remains

Authority: IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1; IC 23-14

Sec. 9. (a) In determining whether human remains, which are subject to IC 14-21-1 and this article, should be reburied or should be curated and retained for further analysis and study, the following factors shall be considered by the director:

(1) Whether there was a scientific investigation of the burial content and context, including the physical remains and associated artifacts, burial objects, and grave markers.

(2) Whether physical anthropological analysis of the remains consistent with prevailing technology will minimally address cultural or genetic affinity through the analysis of biological data.

(3) Whether ethnic, ethnohistorical, historical, anthropological, or archaeological documents or records establish the validity or verification of interests.

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(4) Whether another factor that may be considered under IC 14-21-1 bears upon the propriety of retention or reburial.

(b) Subject to verification under subsection (a), the director may require the reburial of human remains. Before reburial occurs, the director shall determine whether scientific value exists that warrants further examination, and, if further examination is needed, the schedule within which the examination must be completed. Factors that may be required during the examination are as follows:

(1) An analysis of dentition, including measurements, casting, attrition, pathologies, premortem modifications, and postmortem modifications.

(2) An analysis of cranial and postcranial remains for an overall biological assessment of growth, pathologies, trauma, postmortem modifications, nonmetric genetic markings, and measurements.

(3) The removal of samples for destructive analyses to ascertain the age of an interment (through Carbon 14 or similar analyses), bone histology, isotope, or trace element analysis, including radiological analyses as applicable to the context and condition of the remains.

(4) Other specialized testing determined by the director to be appropriate because of unique or unusual conditions, circumstances, or contexts.

(c) Conditional analyses of human remains that are accidentally disturbed or deliberately disturbed in violation of IC 14-21-1 shall be conducted in a timely fashion based upon the availability of qualified professional persons and of facilities suitable for the

scientific investigation of human remains.

(d) In addition to the requirements of IC 14-21-1 and this article, the reburial of human remains must conform to IC 23-14, except where either of the following is determined:

(1) Conditions encountered at a burial ground have integrity so that:

(A) in-place scientific investigation may occur; and

(B) removal of the human remains is not in the best interests of the protection or preservation of those remains.

(2) Where reinterment conditions should replicate those prescribed by cultural, religious, or traditional values and where the reinterment context is the same as disinterment. For example, reinterment may take place on Native American reservation land in Indiana dedicated as a burial ground.

(e) A person may petition the director for the reburial of human remains. Any approval of a petition is conditioned upon compliance with IC 14-21-1, this article, and terms contained in the approval. The director may require that the petitioner satisfy the costs of reburial. A person who removes human remains in violation of IC 14-21-1, this article, or a petition approved under this subsection, must satisfy reburial costs. A plan approved in association with a scientific investigation may be required by the

director to identify who will satisfy costs associated with the discovery, recovery, analysis, and curation of any human remains. To the extent allowed by law, however, the director may modify the allocation of reburial costs under this subsection if required to prevent manifest injustice.

(f) Human remains that are retained for a future scientific investigation may be held only by a public institution, private institution, university, or college that has a faculty or research staff, laboratories, analytical facilities, and curatorial facilities dedicated to the study of the physical and cultural nature of past human populations. Any future scientific investigation of the human remains must be conducted under the direction of a principal investigator or similar professional from a related field in a manner consistent with the scientific investigation of human remains as required in this article. *(Natural Resources Commission; 312 IAC 22-3-9; filed Jun 21, 2001, 2:35 p.m.: 24 IR 3383; readopted filed Jul 19, 2007, 12:30 p.m.: 20070808-IR-312070192RFA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

Rule 4. Expedited License for a Qualified Cemetery Restoration Project

312 IAC 22-4-1 Application

Authority: IC 14-10-2-4; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 1. (a) This rule provides an expedited licensure process for cemetery restoration.

(b) A person who qualifies for and complies with this rule is not required to obtain approval of a plan under 312 IAC 21-3-3 or a permit under 312 IAC 22-2-3.

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(c) A license is not available under this rule for either of the following:

(1) A cemetery that is part of a historic site or historic structure owned by the state.

(2) A project that includes activities other than cemetery restoration.

(Natural Resources Commission; 312 IAC 22-4-1; filed Jan 5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-4-2 Additional definitions

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 2. (a) The definitions in this section are in addition to those in IC 14 and 312 IAC 1 and apply throughout this rule.

(b) "Cemetery" means any land or structure in Indiana that is:

(1) dedicated to; and

(2) used for, or intended to be used for;

the internment, entombment, or inurnment of humans *[sic]* remains.

(c) "Cemetery restoration" refers to the following:

(1) Probing the ground of a cemetery.

(2) Recovering, restoring, and resetting a fallen grave memorial.

(d) "Grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item that is located in a cemetery and used to mark the burial of human remains.

(e) "Probing" means inserting an object into the ground, to a depth not greater than six (6) inches, for the purpose of locating a fallen grave memorial in a cemetery. *(Natural Resources Commission; 312 IAC 22-4-2; filed Jan 5, 2011, 3:12 p.m.: 20110202-*

IR-312100059FRA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-4-3 Application for cemetery restoration license

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 3. (a) A person who wishes a cemetery restoration license must submit a written application to the division.

(b) The applicant must provide the division with the following:

(1) The location of the cemetery. An applicant must not include more than one (1) cemetery in a license application.

(2) A document from the cemetery owner showing permission to provide cemetery restoration.

(3) If land owned by a person other than the owner of the cemetery would be crossed to access the cemetery, a document showing permission to perform the crossing.

(4) Who would be the coordinator of the cemetery restoration.

(5) Any other information reasonably required by the division form referenced in subsection (a).

(Natural Resources Commission; 312 IAC 22-4-3; filed Jan 5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-4-4 Identification of a permanent visible boundary for a cemetery

Authority: IC 14-10-2-4; IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 4. For a cemetery, which is not marked by a permanent visible boundary, the division may require an applicant to

identify the boundary as a condition for approval of a cemetery restoration. The applicant may use land records, surveys, historical records, and any other relevant sources to help identify the boundary. (*Natural Resources Commission; 312 IAC 22-4-4; filed Jan*

5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)
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312 IAC 22-4-5 Qualification as coordinator

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 5. (a) The division shall establish minimum training standards that a coordinator of a project for cemetery restoration must meet. Those standards shall include successful completion of training in the appropriate techniques for each of the following:

- (1) Probing in a cemetery to locate a fallen grave memorial.
- (2) Recovering a fallen grave memorial.
- (3) Restoring a fallen grave memorial.
- (4) Resetting a grave memorial in the cemetery.

(b) "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes*" (U.S. Department of the Interior, National Park Service, 1996) is the professional guide for training a coordinator.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or is available for review and copying at the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology, Indiana Government Center South, Room 274, 402 West Washington Street, Indianapolis, Indiana 46204.

(c) A person who does not satisfy the minimum standards set forth in this section cannot serve as a coordinator under this rule. (*Natural Resources Commission; 312 IAC 22-4-5; filed Jan 5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013, 10:16 a.m.: 20131016-IR-312130184RFA)*

312 IAC 22-4-6 Approval of cemetery restoration license

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 6. (a) The division may issue a written license to a coordinator for a project for cemetery restoration that satisfies this rule. The license shall require compliance with this rule and may include special conditions if otherwise needed for compliance with IC 14-21-1.

(b) Except as provided in this subsection, a license issued under subsection (a) expires one (1) year after issuance. The division may, on one (1) occasion, renew a license under subsection (a) for a period not longer than one (1) year. (*Natural Resources Commission; 312 IAC 22-4-6; filed Jan 5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013,*

10:16 a.m.: 20131016-IR-312130184RFA)

312 IAC 22-4-7 Reports after project completion

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 7. (a) The coordinator must submit a report to the division within sixty (60) days of the earlier of the following events:

- (1) Completion of the project for cemetery restoration.
- (2) The expiration of a license, including any period of license renewal, under section 6(b) of this rule.

(b) The report must include each of the following:

- (1) A summary of the work conducted.
- (2) Documentation for grave memorials that were recovered or restored.
- (3) A map showing the location of any work.
- (4) Other information if required by a license issued under section 6 of this rule.

(c) The division shall review the report and inform the coordinator whether the:

- (1) work described meets the standards of the division; and
- (2) report is complete and acceptable.

(d) The division may issue a license to the coordinator for another project or projects for a cemetery restoration, if the division informs the coordinator that the work described in a project report:

- (1) meets the standards of the division; and
- (2) is complete and acceptable.

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(e) Except as provided in subsection (f), the division shall not issue another license to a coordinator under this rule if a coordinator does not submit a report as required by any of the following:

(1) Subsection (a).

(2) During the periods of their effectiveness:

(A) SECTION 7(a) of LSA Document #08-899(E); and

(B) SECTION 7(a) of LSA Document #09-773(E).

(f) The division may issue another license for a cemetery restoration, if a report is submitted after the periods described in subsection (e), and the division determines the delinquent submission of the report did not cause significant harm. (*Natural Resources Commission; 312 IAC 22-4-7; filed Jan 5, 2011, 3:12 p.m.: 20110202-IR-312100059FRA; readopted filed Sep 19, 2013,*

10:16 a.m.: 20131016-IR-312130184RFA)

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