

# APPENDIX A

## AGENCY COMMENT LETTERS

### Federal Agency Letters

- |    |  |                  |
|----|--|------------------|
| 1. | United States Department of Agriculture  | March 2, 2005    |
| 2. | United States Department of Health & Human Services,<br>Public Health Service            | March 25, 2007   |
| 3  | United States Department of Commerce,<br>National Oceanic and Atmospheric Administration | April 11, 2005   |
| 4. | Department of the Army, Detroit District,<br>Corps of Engineers                          | April 18, 2005   |
| 5. | United States Environmental Protection Agency  | May 13, 2005     |
| 6  | United States Department of the Interior   | August 15, 2005  |
| 7. | United States Department of the Interior,<br>Fish and Wildlife Service                   | October 17, 2006 |
| 8. | United States Department of Transportation,<br>Federal Highway Administration            | May 14, 2007     |

### State of Michigan Agency Letters

- |    |  |                  |
|----|--|------------------|
| 1. | Michigan Department of Natural Resources     | March 4, 2005    |
| 2. | Michigan Department of Agriculture           | March 25, 2005   |
| 3. | Michigan Department of Environmental Quality | March 30, 2005   |
| 4. | Michigan Department of Community Health      | March 31, 2005   |
| 5. | Michigan Department of Natural Resources     | October 25, 2006 |
| 6. | Michigan Department of Transportation        | May 29, 2007     |

### State of Indiana Agency Letters

- |    |   |                   |
|----|---|-------------------|
| 1. | Indiana Department of Natural Resources,<br>Division of Water                               | February 25, 2005 |
| 2. | Indiana Department of Natural Resources,<br>Division of Historic Preservation & Archaeology | March 22, 2005    |
| 3. | Indiana Department of Transportation  | April 8, 2005     |

### **Other Agency Letters**

- |    |   |                |
|----|---|----------------|
| 1. | Indiana University, Indiana Geological Survey | March 21, 2005 |
| 2. | Indiana Michigan Power (AEP)                  | April 12, 2005 |
| 3. | Michigan State University Extension           | April 29, 2005 |
| 4. | Indiana Michigan Power (AEP)                  | May 29, 2007   |

### **Cultural Resource Groups**

- |    |  |               |
|----|--|---------------|
| 1. | Little Traverse Bay Bands of Odawa Indians | July 6, 2000  |
| 2. | Citizen Potawatomi Nation                  | July 7, 2000  |
| 3. | Wyandotte Nation                           | July 17, 2000 |

**FEDERAL AGENCY LETTERS**



March 2, 2005

United States  
Department of  
Agriculture

Natural  
Resources  
Conservation  
Service

Michigan State  
Office

3001 Coolidge  
Road, Suite 250  
East Lansing, MI  
48823-6321  
(P) 517-324-5270  
(F) 517-324-5171  
[www.mi.nrcs.usda.gov](http://www.mi.nrcs.usda.gov)

Ms. Margaret Barondess, Manager  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

**RE: US-131 Improvement Study, St. Joseph County, Michigan Draft  
Environmental Impact Statement (dated November 2004)**

Dear Ms. Barondess:

We have devoted a considerable amount of time reviewing the proposal for US-131 in St. Joseph County, Michigan, that studies a stretch from the Indiana Toll Road (I-80/90) to a point 1 mile north of Cowling Road. We are keenly aware of the necessity to manage the amount of traffic that flows through this corridor.

Our concerns with any of the Practical Alternatives (PA's) presented in the study rest with the amount of prime agricultural land negatively impacted. This is especially true for a PA or land areas receiving a Land Evaluation and Site Assessment score greater than 160. Soil resources that are considered prime agricultural land are valuable assets to the State of Michigan and the US's agricultural economy. This part of the US-131 project just happens to cross one of the few, largely farmed, highly productive prairie areas in the State of Michigan.

The possible loss of roughly 350 to 386 acres of prime farmland in one project is not minimal (estimates for PA 3 & 4). The indirect loss of prime farmland due to parcel splits and future development around new interchanges will greatly increase these figures. Of all of the PA's proposed, PA 3 and PA 4 from Constantine, Michigan, south to the Indiana state line will potentially be the most destructive to the prime farmland of this prairie, especially the proposed interchange at US-12.

The 1997 Census of Agriculture has the amount of cropland in St. Joseph County, Michigan, as 184, 840 acres. A page-by-page review of the Michigan Agricultural Statistics 2002-2003 publication has figures totaling about 170,300 acres of cropland. This suggests a loss of 14,000 acres of cropland in 6 years. The 1997 National Resources Inventory (revised December 2000) estimates that 33 percent of the land lost in Michigan to non-farm uses between 1992 and 1997 was prime farmland.

Prime farmland figures total 173,965 acres in the 1983 Soil Survey of St. Joseph County, Michigan. This figure includes mapping units that are forested. The 1997 National Resources Inventory (revised NRI Dec. 2000) for Michigan estimated a loss of 287,400 acres of prime farmland for the 15-year period 1982 to 1992. That's



The Natural Resources Conservation Service works in partnership with the American people to conserve and sustain natural resources on private lands.

Natural Resources

An Equal Opportunity Provider

Margaret Barondess

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about a 3.5 percent loss. A 3.5 percent loss in St. Joseph County would leave an estimated result of 167,900 acres of prime farmland for 1992. For the 5-year period 1992 to 1997, one percent or 81,400 acres of prime farmland was lost to non-farm uses (revised NRI Dec. 2000). A one percent loss factor applied to the 1992 figure of 167,900 acres of prime farmland in St. Joseph County yields an estimated 1997 figure of 166,000 acres.

The 2002-2003 Michigan Agricultural Statistics estimates that an additional 14,000 acres of farmland was lost in St. Joseph County for the period 1997 to 2003. If 33 percent of the converted farmland was prime as it was for the 92' to 97' period then approximately 161,000 acres of prime farmland remains in St. Joseph County. Section 3.2 (Farmland) of this study does statistically reflect our findings. A large proportion of conversions fall on prime farmland because it is the easiest land to convert. Therefore, the loss of roughly 350 to 386 more acres of prime farmland due in part to Federal action is not as minimal as Section 4.2 (Farmland Impacts) of your study suggests.

The need for improving the US-131 corridor in this area is apparent. Michigan continues to yearly loose a considerable amount of prime agricultural land to other uses to the point it ranks ninth in the nation in non-Federal land developed during the period 1992 to 1997 (revised NRI Dec. 2000). PA's 3 and 4 from the town of Constantine, Michigan, south to the Indiana state line poses the greatest threat to a loss of very productive prime farmland. Therefore, stronger considerations need to be taken into account for direct and indirect impacts that these PA's will pose on the estimated 161,000 acres of prime agricultural land left in St. Joseph County, Michigan. These soils are irreplaceable.

Thank you for this opportunity to comment.

Sincerely,



JOHN A. BRICKER  
State Conservationist



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Centers for Disease Control  
and Prevention (CDC)  
Atlanta GA 30341-3724

March 25, 2005

Ms. Margaret Barondess, Manager  
Environmental Section  
Project Planning Division  
State of Michigan Department of Transportation  
PO Box 30050  
Lansing, Michigan 48909

Dear Ms. Barondess:

Thank you for sending us a copy of the Draft Environmental Impact Statement (DEIS) for US - 131 Improvements from Indiana Toll Road (I-80/90) to a point one mile north of Cowling Road, located in St. Joseph County, Michigan and Elkhart County, Indiana. We are responding on behalf of the Department of Health and Human Services (DHHS), U.S. Public Health Service.

We have reviewed this document for potential health and safety impacts on human populations and believe that these impacts were adequately addressed. This project should have very positive effects on the community and there should be very minimal threats to health and safety from project construction. Therefore, we have no project specific comments to offer at this time.

Please send us a copy of the Final EIS when it becomes available. We would also appreciate receiving, any future environmental impact statements which may indicate potential public health impact and are developed under the National Environmental Policy Act (NEPA).

Sincerely yours,

A handwritten signature in cursive script that reads "Paul Joe".

Paul Joe, DO, MPH  
Medical Officer  
National Center for Environmental Health (F16)  
Centers for Disease Control & Prevention



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
PROGRAM PLANNING AND INTEGRATION  
Silver Spring, Maryland 20910

APR 11 2005

Bob Parsons  
Public Hearings Officer  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

Dear Mr. Parsons:

Enclosed are comments on the Draft Environmental Impact Statement for the US 131 Improvement Study. We hope our comments will assist you. Thank you for giving us the opportunity to review this document.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Kennedy".

Susan A. Kennedy  
Acting NEPA Coordinator

Enclosure



MEMORANDUM FOR: Susan A. Kennedy  
Acting NEPA Coordinator

FROM: Charles W. Challstrom  
Director, National Geodetic Survey

SUBJECT: US 131 Improvement Study DEIS

The subject statement has been reviewed within the areas of the National Ocean Service (NOS) responsibility and expertise and in terms of the impact of the proposed actions on NOS activities and projects.

All available geodetic control information about horizontal and vertical geodetic control monuments in the subject area is contained on the National Geodetic Survey's home page at the following Internet World Wide Web address: <http://www.ngs.noaa.gov>. After entering the this home page, please access the topic "Products and Services" and then access the menu item "Data Sheet." This menu item will allow you to directly access geodetic control monument information from the National Geodetic Survey data base for the subject area project. This information should be reviewed for identifying the location and designation of any geodetic control monuments that may be affected by the proposed project.

If there are any planned activities which will disturb or destroy these monuments, NOS requires not less than 90 days' notification in advance of such activities in order to plan for their relocation. NOS recommends that funding for this project includes the cost of any relocation(s) required.

For further information about geodetic control monuments, please contact:

Brett Howe  
SSMC3 8746, NOAA, N/NGS  
1315 East West Highway  
Silver Spring, Maryland 20910

Voice: (301) 713-3197 ext. 115  
Fax: (301) 713-4175  
Email: [Brett.Howe@noaa.gov](mailto:Brett.Howe@noaa.gov)

DEPARTMENT OF THE ARMY

DETROIT DISTRICT, CORPS OF ENGINEERS

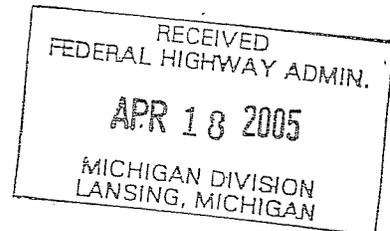
BOX 1027

DETROIT, MICHIGAN 48231-1027

April 18, 2005

IN REPLY REFER TO

Engineering & Technical Services  
Regulatory Office  
File No. 00-275-000-0



James J. Steele, Division Administrator  
U.S. Department of Transportation  
Federal Highway Administration, Michigan Division  
315 West Allegan Street, Room 201  
Lansing, Michigan 48933

Dear Mr. Steele:

In accordance with your February 28, 2005, request for Department of the Army (DA), Corps of Engineers concurrence with the purpose and need, and alternatives to be carried forward (the first and second concurrence points), and review of the Draft Environmental Impact Statement (DEIS) for proposed improvements to US-131 in St. Joseph County, Michigan, and Elkhart County, Indiana, we offer these inputs.

The DEIS states that the purpose of the study is to identify potential alternatives that 1) support the safe and efficient movement of goods and people, and 2) cost effectively support the economic growth of the region and the State, by improving traffic operations within the study corridor. We concur with these objectives. The DEIS statement of need was more difficult to define. We recognize the factual basis of the data provided in the DEIS and your projections made from them, and concur with your statement of need. We visited the project site and recognize the reality of the safety and congestion concerns that already exist along this stretch of US-131, and particularly through Constantine, Michigan. In summary, we concur with purpose and need, the first concurrence point.

We agree with the corridor selection, the result of an earlier process, and recognize the constraints inherent in this project on the selection of alternatives to be carried forward (the second concurrence point). This has clearly been a long and arduous task, and we feel that the resulting choices presented in the DEIS are good selections that offer a broad range of benefits, costs and impacts tradeoffs for further analysis. We applaud the avoidance of Stag Lake Bog, the Cranberry Bog, and Kerr Creek Fen, wetlands whose functions are not easily mitigated, but note that some of the alternatives to be carried forward do cross the high quality habitat that surrounds these resource features. The actual bog or fen feature is usually tightly interdependent with its adjacent habitat, and we do encourage avoidance or minimization of such losses. In summary, we concur with the alternatives carried forward, the second concurrence point, and look forward

to perhaps assisting in devising means to lessen some of the resource impacts associated with some of these selected alternatives.

We have no further comments on the DEIS. It appears to have been well researched and presented, and we did not note any deficiencies that we wish to address.

As a result of transfer of some of the Corps of Engineers regulatory responsibilities to the Michigan Department of Environmental Quality (MDEQ), we do not have permit authority on any portion of the project corridor. There is no requirement that MDOT file a permit application with the Corps for this project. We look forward to continuing to contribute as a consulting agency for the third concurrence point.

Should you have any questions, please contact Henry Rosenfield at the above address or telephone (313) 226-6706. Please refer to File Number: 00-275-000-0.

Sincerely,

ORIGINAL SIGNED BY

John Konik  
Chief, Regulatory Office  
Engineering & Technical Services

Copy furnished:

→ Mr. Abdelmoez A. Abdalla, U.S. DOT  
Mr. Kevin Pierard, U.S. EPA  
Mr. Kameron J. Jordan, MDEQ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 13 2005

REPLY TO THE ATTENTION OF

B-19J

James Steele, Division Administrator  
Federal Highway Administration, Michigan Division  
315 West Allegan Street, Room 201  
Lansing, Michigan 48933

Re: Comments on the Draft Environmental Impact Statement (DEIS) for the U.S.  
Route 131 Improvement Study (Elkhart County, Indiana, and St. Joseph County,  
Michigan), EIS No. 050052

Dear Mr. Steele:

In accordance with the U.S. Environmental Protection Agency's (U.S. EPA) responsibilities under both the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Draft Environmental Impact Statement (DEIS) for the proposed transportation improvements for a 17-mile stretch of U.S. Route 131 in Elkhart County, Indiana, and St. Joseph County, Michigan. The project needs, as stated in the DEIS, involve the following:

1. Inadequate system operations in the U.S. Route 131 Corridor,
2. Present and forecasted traffic capacity,
3. Traffic crash rates, and
4. Substandard roadway geometry.

The DEIS evaluates six "Practical Alternatives" within a one-mile wide corridor extending north from the Indiana Toll Road in Elkhart County, Indiana, to a point one mile north of Cowling Road in St. Joseph County, Michigan. Four of these alternatives are 5-lane freeway alignments, and two alternatives are 2-lane non-freeway alignments. Additionally, the DEIS states that Transportation System Management (TSM) improvements may be part of any Practical Alternative. We understand that a Recommended Alternative will be identified and presented within the Final Environmental Impact Statement (FEIS) for the project, which may be a composite of two or more of the six Practical Build Alternatives, or the No-Build Alternative.

Your February 28, 2005, DEIS cover letter requested our Agency's concurrence on the "Purpose and Need" and the range of "Alternatives Carried Forward" for detailed analysis points, per the NEPA/Section 404 Concurrence Process. We concur with these two points.

We assigned a rating to each of the six Practical Alternatives described in the DEIS. Also, we assigned a final rating for the entire document. Of the six Practical Alternatives, we have the

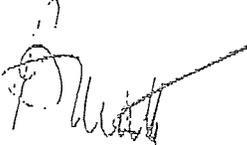
most serious issues with Alternatives PA-3 and PA-4. We rated Alternatives PA-3 and PA-4 as "environmental objections, insufficient information" (EO-2). We object to Alternatives PA-3 and PA-4 because of their direct and indirect impacts to high quality wetlands. In particular, Alternative PA-4 would have direct impacts on an extensive area (approximately 54 acres) of high-quality floodplain forest and forested wetlands. Alternative PA-4 impacts the largest number of wetland complexes, the greatest wetland acreage, and the highest quality wetlands of any of the Build Alternatives. Additionally, the high-quality wetlands in the study area provide observed or potential habitat for certain threatened and endangered species (i.e., Copperbelly Water Snake, Indiana Bat, River Redhorse, Wild Rice, and Snuffbox Mussel). In addition, Alternatives PA-3 and PA-4 directly impact wetlands hydrologically connected to a high quality bog, the Stag Lake Bog. These two alternatives could impact the hydrology of that bog. Alternatives PA-3 and PA-4 would build a new interchange at U.S. Route 12, immediately north of high-quality wetlands surrounding the White Pigeon River. According to the DEIS, these wetlands could be indirectly impacted by future growth associated with the new interchange. For these reasons, Alternatives PA-3 and PA-4 may not be consistent with the Clean Water Act (CWA) Section 404(b)(1) Guidelines.

We rated four alternatives (PA-1, PA-2, PA-5, and PA-5 MOD) as "environmental concerns, insufficient information" (EC-2). Our concerns with these four alternatives also apply to Alternatives PA-3 and PA-4. Specifically, we are concerned about: (1) the insufficient level of wetland information provided, (2) project impacts to trout habitat in the St. Joseph River, (3) wildlife corridor impacts for the White Pigeon, St. Joseph, and Rocky Rivers, and (4) migratory bird impacts. Although we rated these four alternatives equally, we believe that Alternatives PA-5 and PA-5 MOD would cause the least environmental impacts of all the Practical Alternatives.

We rated the DEIS in its entirety as "environmental objections, insufficient information" (EO-2). Our rating is based on ratings assigned to the most environmentally damaging Practical Alternatives, PA-3 and PA-4. Please refer to the enclosed Summary of Rating Definitions Sheet. This rating will be published in the Federal Register. Our detailed comments are enclosed.

We look forward to the opportunity to discuss our comments with you in greater detail and to work with you in the spirit of cooperation. If you have any questions or comments, please feel free to contact me, or your staff may contact Newton Ellens, at (312) 353-5562.

Sincerely yours,



Bharat Mathur  
Acting Regional Administrator

Enclosures

1. Ratings for Practical Alternatives
2. Detailed Comments
3. Summary of Ratings Definitions Sheet

cc: Gerald Fulcher, Jr., Transportation and Flood Hazard Unit Chief  
Land and Water Management Division  
Michigan Department of Environmental Quality

Craig Czarnecki, Supervisor  
East Lansing Ecological Services Field Office  
U.S. Fish and Wildlife Service

Bob Parsons, Public Hearings Officer  
Michigan Department of Transportation

William Ortiz, Chief  
Wildlife Division  
Michigan Department of Natural Resources

Ratings for the Practical Alternatives in the U.S. Route 131 Improvement Study,  
St. Joseph County, Michigan and Elkhart County, Indiana

Practical Alternative Ratings and Basis for Ratings		
Practical Alternative	Description/Basis for Rating	Rating
PA-1	<p>PA-1 would be a five-lane roadway on the existing US-131 alignment between the Indiana Toll Road and Brown/Dickinson Road, and then would become a four-lane limited access freeway that bypasses the Village of Constantine and part of the commercial area along US-131 in the City of Three Rivers. Where the freeway crosses Hoffman Road and the Rocky River in Three Rivers, PA-1 would be a four-lane urban freeway with a median barrier.</p> <p>Total Wetlands (16 acres), Floodplain Forest/Forested Wetlands (16 acres) High Quality Wetlands (4 acres) Bog Impacts? No Induced Development Impacts to Wetlands from interchanges? No</p>	Environmental Concerns, Insufficient Information (EC-2)
PA-2	<p>PA-2 would be a five-lane roadway on the existing US-131 alignment from the Indiana Toll Road to just north of Anderson Road. From north of Anderson Road to Brown/Dickinson Road, PA-2 would be a four-lane limited access freeway along the existing alignment. The roadway would then feature the same four-lane bypass of Constantine as PA-1 before rejoining the existing US-131 alignment at Drummond Road. PA-2 follows the existing alignment as a four-lane freeway from Drummond Road to the northern terminus of the project.</p> <p>Total Wetlands (22 acres), Floodplain Forest/Forested Wetlands (20 acres) High Quality Wetlands (7 acres) Bog Impacts? No Induced Development Impacts to Wetlands from interchanges? No</p>	EC-2
PA-3	<p>PA-3 would be a five-lane roadway on the existing US-131 alignment between the Indiana Toll Road and Anderson Road. From Anderson Road to Riverside Drive, PA-3 would be a four-lane limited access freeway. At Riverside Drive, PA-3 meets the PA-1 alignment and would be constructed with the same features as PA-1 to the northern terminus of the project.</p> <p>Total Wetlands (23 acres), Floodplain Forest/Forested Wetlands (22 acres) High Quality Wetlands (9 acres) Bog Impacts? Impact to wetland associated with bog Induced Development Impacts to Wetlands from interchanges? Likely</p>	Environmental Objections, Insufficient Information (EO-2)
PA-4	<p>PA-4 is the same as PA-3 from the Indiana Toll Road to Dickinson Road. From Dickinson Road to north of Broadway Road, PA-4 would continue as a four-lane limited access freeway, providing the furthest west bypass of</p>	EO-2

	<p>Constantine and a bypass of the commercial area along US-131 in Three Rivers. North of Broadway Road, PA-4 follows the same alignment as PA-1 and PA-3.</p> <p>Total Wetlands (58 acres),                  Floodplain Forest/Forested Wetlands (54 acres)                  High Quality Wetlands (11 acres)                  Bog Impacts? Impact to wetland associated with bog                  Induced Development Impacts to Wetlands from interchanges? Likely</p>	
<p>PA-5</p>	<p>PA-5 would be a two-lane roadway on the existing US-131 alignment from the Indiana Toll Road north to Brown Dickinson Road, and from Garber Road north to M-60. PA-5 includes a new bypass of the Village of Constantine, following the same alignment as described above for PA-1 and PA-2. Around Constantine, PA-5 would be a controlled access roadway. North of M-60, PA-5 follows the existing US-131 alignment as a five-lane cross-section, maintaining at-grade intersections.</p> <p>Total Wetlands (1/2 acre),                  Floodplain Forest/Forested Wetlands (1/2 acre)                  High Quality Wetlands (1/2 acre)                  Bog Impacts? No                  Induced Development Impacts to Wetlands from interchanges? No</p>	<p>EC-2</p>
<p>PA-5 MOD</p>	<p>PA-5 MOD is the same alternative as PA-5 south of North River Road. At North River Road, PA-5 MOD curves northeast and connects with existing US-131 at the existing signalized intersection at Youngs Prairie Road in the Village of Constantine. This would become a four-legged intersection and remain signalized. From here PA-5 MOD continues north as a two-lane section on the existing US-131 alignment to north of Gleason Road. North of Gleason Road to the study limits, PA-5 MOD is the same alternative as PA-5</p> <p>Total Wetlands (1/2 acre),                  Floodplain Forest/Forested Wetlands (1/2 acre)                  High Quality Wetlands (1/2 acre)                  Bog Impacts? No                  Induced Development Impacts to Wetlands from interchanges? No</p>	<p>EC-2</p>
		

**DETAILED COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT  
(EIS) FOR THE U.S. ROUTE 131 IMPROVEMENT STUDY, ST. JOSEPH COUNTY,  
MICHIGAN AND ELKHART COUNTY, INDIANA, EIS NO. 050052**

Wetland Impacts

We object to two Practical Alternatives (PA-3 and PA-4) because of concerns regarding their direct and indirect impacts on high-quality wetlands in the study area. According to the DEIS, the study area is rich with floodplain forest and forested wetlands. Most of these wetlands are associated with the three rivers in the study area: the White Pigeon, St. Joseph, and Rocky Rivers. These wetlands are high quality and would be difficult to replace through mitigation. They have relatively undisturbed plant communities and/or riparian buffer zones that provide natural areas and support a variety of wildlife. Additionally, our Agency has information, which we would be pleased to share, indicating that the White Pigeon and St. Joseph riparian ecosystems have regionally high ecological quality. Another high quality wetland in the study area includes an acidic peatland bog, called the Stag Lake Bog. In this part of Michigan, bogs are scarce and would be difficult to replace.

The DEIS states that high-quality wetlands provide observed or potential habitat for the following threatened and endangered species:

Species	Status	Potential habitat in study area?	Species spotted at site?	River bordering wetlands
Copperbelly Water Snake	Federally threatened	Yes	No	White Pigeon.
Indiana Bat	Federally endangered	Yes	No	
River Redhorse	State threatened	Yes	No	St. Joseph
Wild Rice	State threatened	Yes	Yes	
Snuffbox Mussel	State endangered	Yes	No	

We encourage further coordination with the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources to ensure that the potential of each alternative to impact these Federal and State listed species is sufficiently documented. If impacts are determined, those impacts should be addressed consistent with applicable law.

Of the six Practical Alternatives proposed, Alternatives PA-1, PA-2, PA-3, and PA-4 would have extensive impacts on wetlands. Direct wetland impacts associated with these alternatives are 16.24, 22.43, 22.96 and 57.87 acres respectively. Alternative PA-4 not only impacts the greatest acreage of wetlands, but it also impacts the greatest acreage of high quality wetlands (10.5 acres). An additional concern with both Alternatives PA-3 and PA-4 is their direct impact on a wetland complex that is hydrologically connected to the Stag Lake Bog. The DEIS does not provide information on the hydrology of the bog, so we cannot make a determination regarding the nature and extent of impacts that either alternative may have on the bog. The close proximity of Alternatives PA-3 and PA-4 to the bog may also subject the bog to induced development impacts as well.

Although both Alternatives PA-2 and PA-3 will impact a similar extent of wetland (over 22 acres), PA-3 also has the potential to impact the Stag Lake Bog as well. Therefore, we object to Alternative PA-3, based on the combination of 22.96 acres of impact and the potential to indirectly impact Stag Lake Bog. We also object to Alternative PA-4, due to the extent and high quality of the wetlands being impacted. As such, Alternatives PA-3 and PA-4 do not appear to be the least environmentally damaging practicable alternatives (LEDPA), and therefore may not be permissible under the Clean Water Act.

Finally, Alternatives PA-3 and PA-4 include an interchange at U.S. Route 12, which is immediately north of floodplain forests and forested wetlands surrounding the White Pigeon River. The DEIS states, "The introduction of a new crossing over the White Pigeon River under PA-3 and PA-4 may encourage some potential future growth south of the US-131/US-12 interchange. This could result in indirect impacts to high quality wetlands." These potential indirect impacts to the high-quality White Pigeon River wetlands further support our concerns regarding Alternatives PA-3 and PA-4.

#### Wetland Information

Certain wetland data are not included in the DEIS. Therefore, it is difficult to fully assess: (1) the functions and values of these wetlands and (2) the significance of impacts caused by each Practical Alternative. We request that future wetland-related documentation for this project include a plant list (specifically the dominant species), floristic quality index (FQI) values, and detailed wildlife functions. Such information will help to clarify the nature and extent of potential impacts caused by each Practical Alternative.

#### Trout Stream Impacts for the St. Joseph River

According to the DEIS, the entire St. Joseph River is designated as a migratory route for trout. We are concerned about project impacts to trout in the St. Joseph River. Trout are pollutant-intolerant fish that only exist in cold water streams. Cold water streams are fed by adjacent wetlands; therefore, impacts to wetlands adjacent to cold water streams can increase the temperature of these streams. Each of the Practical Alternatives considered by the DEIS impacts

the wetlands adjacent to the St. Joseph River. Each alternative also may introduce pollutants to the St. Joseph River (from construction activities and from stormwater runoff). The DEIS does not evaluate the impacts of the Practical Alternatives on trout in the St. Joseph River. The FEIS should include this information, and commit to mitigate for any impacts that may be identified.

#### Wildlife Corridor Impacts

We are concerned about project impacts to wildlife corridors in the study area. As stated above, the White Pigeon, St. Joseph, and Rocky Rivers are surrounded by wetlands, which support a variety of wildlife (including habitat for certain threatened and endangered species, described above). The riparian zones in the study area provide wildlife corridors through the study area. According to the DEIS, Alternatives PA-1, PA-2, PA-3, and PA-4 would require crossing over floodplains associated with the three rivers in the study area. Alternatives PA-5 and PA-5 MOD would only require one new river crossing over the St. Joseph River. According to the DEIS, the proposed bridge structures would span each stream channel, plus six feet on either side to provide wildlife corridors on the river banks. In a March 30, 2005 comment letter to the Michigan Department of Transportation (MDOT), the Michigan Department of Environmental Quality (MDEQ) indicated that a six-foot wildlife corridor does not seem sufficient given the high quality of the resource. We concur with MDEQ's judgment. After the project proponents choose a "Recommended Alternative," they should coordinate with MDEQ, the Michigan Department of Natural Resources, and the U.S. Fish and Wildlife Service for bridge design and pier placements.

#### Neotropical Migrant Impacts

We are concerned about impacts to neotropical migrant birds in the study area. The DEIS states that two state species of special concern were observed in the study area (Prothonotary Warbler and Yellow-throated Warbler). Both species are neotropical migrant birds. Neotropical migrant populations are declining due to predation, nest parasitism, breeding habitat loss, mortality from avian disease (e.g. West Nile Virus), and habitat destruction along migration routes. According to the DEIS, Alternatives PA-1, PA-2, PA-3, and PA-4 would impact Prothonotary Warbler and Yellow-throated Warbler populations. As a mitigation measure, the DEIS states that construction would be avoided "to the extent possible" at the site where the two warbler species were observed during the warbler nesting season. Impacts to neotropical migrant birds, eggs or fledglings left in the nests would be a violation of the Migratory Bird Treaty Act. Direct ecological impacts to neotropical migrants throughout the forest should be explored in greater depth in the FEIS. Also, the project proponents should define nesting season dates for the neotropical migrants in the project area, and commit to avoid disturbing these birds' habitat during this time.

## SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION<sup>\*</sup>

### Environmental Impact of the Action

#### LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

#### EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS state, this proposal will be recommended for referral to the CEQ.

### Adequacy of the Impact Statement

#### Category 1-Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### Category 2-Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

<sup>\*</sup>From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



ER 05/210

AUG 15 2005

*East Lansing*  
*P-3*

Mr. James J. Steele  
Division Administrator  
Federal Highway Administration  
Federal Building, Room 207  
315 West Allegan Street  
Lansing, Michigan 48933-1528

Dear Mr. Steele:

As requested, the Department of the Interior (Department) reviewed the draft Environmental Impact Statement (EIS) and Section 4(f) Evaluation for U.S. 131 Improvement Study (17 miles), from the Indiana Toll Road in Elkhart County, Indiana, to Cowling Road in St. Joseph County, Michigan. The Department offers the following comments for your consideration.

## General Comments

The draft EIS provides a comparison between the no-build alternative and six practical (build) alternatives to improve U.S. 131, which currently exists as a combination of 2, 3, and 4 lane sections. A Preferred Alternative has not been identified. The draft EIS discusses the environmental consequences of each alternative; however, the document does not adequately disclose potential impacts to wildlife, fisheries, and threatened and endangered species. In addition, the discussion of mitigation measures to reduce impacts to fish and wildlife resources is insufficient. The discussions of potential impacts to threatened and endangered species include contradictory statements; and the descriptions of responsibilities under the Endangered Species Act (ESA) of 1973, as amended, contain factual errors. In spite of these shortcomings in the document, it appears that impacts to the natural environment under either Practical Alternative 5 (PA-5) or Practical Alternative 5 Modified (PA-5 MOD) would be substantially less than under any of the other build alternatives and that these two alternatives are the environmentally preferable alternatives. Accordingly, we recommend that either PA-5 or PA-5 MOD be selected as the preferred build alternative. We note these two alternatives also appear to have fewer impacts to the built environment in the project area and cost much less than the other build alternatives.

### Section 4(f) Comments

Because the draft EIS does not identify a Preferred Alternative, the Department cannot provide a concurrence with a determination under Section 4(f) of the Department of Transportation Act of 1966 (48 U.S.C. 1653(f)). However, should the Federal Highway Administration (FHWA) and the Michigan Department of Transportation (MDOT) decide either the PA-5 or PA-5 MOD are the Preferred Alternatives, there would not appear to be direct impacts to Section 4(f) resources, with the exception of the historic site at 63280 U.S. 131 in Constantine, the Gibson farmhouse. Here, the construction of PA-5 would result in use of 14 acres from the farm site. What cannot be determined from the Section 4(f) Evaluation is whether the 14 acres is a use of the historic site; according to the report on these resources, the house is eligible for the National Register of Historic Places but the farm property and the outbuildings are not eligible. Depending on the extent of the site boundaries, there may not be a direct use of this property since the alternative brings the pavement within 325 feet of the house. Indirect use from a visual intrusion may constitute a use, but the evaluation was not clear. The PA-5 MOD would not create a direct impact to this property. None of the noise levels appear to result in constructive use of any of these properties. We request to be provided the mitigation information that is being planned to minimize potential harm to this resource, perhaps in the form of sound screening. All other build alternatives appear to have greater impacts to one or more section 4(f) resources, for which there are apparently avoidance alternatives.

### Specific Comments

#### Aquatic Issues and Wild and Scenic Rivers Issues

Section 3.13, *Aquatic Issues*, discusses the St. Joseph River (River) and its environs, but fails to mention the section of the river, from Barrien Springs to Jonesville, a distance of approximately 187 miles that has been designated as a component of the Nationwide Rivers Inventory (NRI). Section 3.15, *Wild and Scenic Rivers* fails to mention the NRI. The NRI is a register of rivers that may be eligible for inclusion in the National Wild and Scenic River System. Rivers were included on the NRI to the degree to which they are free-flowing; to the degree to which the rivers and their corridors are undeveloped, and for the outstanding natural and cultural characteristics of the rivers and their immediate environments. Section 5(d) of the National Wild and Scenic River Act (Public Law 90-542) requires that "In all planning for the use and development of water and related land resources, consideration shall be given by all Federal Agencies involved to potential national wild, scenic and recreational river areas." In partial fulfillment of the section 5(d) requirements, the National Park Service (NPS) has compiled and maintains the NRI.

The intent of the NRI is to provide information to assist in making balanced decisions regarding use of the nation's river resources. A Presidential directive and subsequent instructions issued by the President's Council on Environmental Quality require that

each Federal Agency, as part of its normal environmental review processes, take care to avoid or mitigate adverse effects on rivers identified in the NRI. Further, all agencies are required to consult with the NPS prior to taking actions that could effectively foreclose wild, scenic, or recreational status for rivers on the inventory.

The River, running through Berrien, St. Joseph, Cass, Branch, Calhoun, and Hillsdale Counties was nominated to the NRI in 1982. The nomination defined two stretches of the river, the stretch mentioned above, and the portion between its mouth at Lake Michigan to the dam at Berrien Springs, a distance of about 25 miles. According to the description from 1982, the River flows through southern Michigan farmland and hardwood forest areas. The River rises in Michigan, dips into Indiana, and then back into Michigan to empty into Lake Michigan. It was described as a good canoeing stream with fair fishing. It is a fairly long river with good recreation potential. At least by 1982, it was proposed by the State of Michigan for study for inclusion in the State Natural Rivers System; it is not so listed today. To be nominated to the NRI, a river must have at least one outstanding remarkable value (ORV); the St. Joseph River was nominated based upon its recreational value.

The crossing of the River has the potential to affect the designation of the river as a river listed on the NRI. Its ORV has been identified as recreational, however there is no mention of river recreation in the draft EIS. We would expect the final EIS to address the fact of the NRI designation, detail the extent of recreational use on this segment of the river (within the study area), describe the impacts to recreation from this crossing, and provide mitigation measures or enhancements if necessary.

#### Fisheries and Aquatic Habitat

Section 4.13.2, *Impacts to Fisheries and Aquatic Habitat*, page 4-49. This section discusses the potential impacts of the river crossings in all of the build alternatives and identifies the primary impacts as potential siltation, erosion, increased turbidity, and highway runoff. The build alternatives that involve new crossings of the River or White Pigeon River would require significant clearing and removal of the existing forest cover along these rivers, however, the draft EIS does not analyze the effect of the loss of this vegetative cover on fisheries and aquatic resources. Vegetative cover strongly influences water temperature and, thus, the biota occurring in these water bodies. This analysis should be included in the final environmental impact statement (final EIS). Also, piers and/or footings placed in the river(s) or other construction activity directly in the channel(s) could cause temporal impacts to fish passage during construction. If any of the build alternatives would require these kinds of activities, the final EIS should address the potential impacts to fisheries.

#### Wildlife and Terrestrial Habitat

Section 3.19.3, *Vertebrates*, pages 3-31 to 3-32. This section identifies the riparian areas in the study area as important migratory bird habitat and "crucial to many

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songbirds." The document shows that 69 species of native migratory birds, including the yellow-throated warbler, prothonotary warbler, and loggerhead shrike, were observed during site investigations. The draft EIS identifies the prothonotary warbler and yellow-throated warbler as State species of special concern and the loggerhead shrike as a State-listed endangered species. Correspondence from the Michigan Department of Natural Resources, which is included in appendix D of the draft EIS, indicates that the State of Michigan lists the yellow-throated warbler as a threatened species, not a species of special concern. Section 3.19.3 should be corrected in the final EIS.

Section 4.19, *Wildlife and Vegetation Impacts*, page 4-55. The draft EIS states, "landscaping of the ROW (right-of-way) will attempt to replace the functions of existing affected vegetation" therefore, the build alternatives will not have a long-term effect on wildlife habitat. The build alternatives that involve new crossings of White Pigeon and/or St. Joseph Rivers would have significant impacts to the forested riparian corridors. We maintain that landscaping in the right-of-way would not mitigate for forested riparian habitat loss. In addition, landscaping in rights-of-way that is attractive to wildlife exposes animals to a greatly increased risk of mortality from collisions with vehicles. We recommend the final EIS fully address habitat loss and the suggestion for replacement of habitat in the right-of-way is reconsidered.

Section 4.19 discusses impacts to vegetation and generalized habitat but does not address direct impacts to wildlife. Section 3.19.3 provides a list of reptiles, amphibians, birds, and mammals that occur in the study area. Construction activities in existing habitat, particularly the riparian habitat along White Pigeon and St. Joseph Rivers, would likely result in direct impacts, including mortality, to these wildlife species. Removal of this riparian habitat during the breeding season may cause take of migratory birds, nests, eggs, and/or young and should be avoided. In addition, the direct loss of habitat, as well as the fragmentation of remaining habitat, may also negatively impact migratory birds. Although wetland mitigation may replace some lost habitat functions and values, the temporal loss of habitat and impacts to migratory birds and other wildlife should be addressed. The final EIS should fully disclose these potential impacts.

Section 4.19.1, *Impacts to Habitat and Vegetation*, pages 4-55 to 4-56. This section recognizes that "wildlife would be displaced due to impacted habitat" but indicates that "there is suitable habitat within the study area for displaced wildlife." The latter statement would seem to indicate that habitat loss does not affect wildlife. Although suitable habitat may remain in the study area, it is likely occupied by many of the same wildlife species that would be displaced from impacted areas. Furthermore, it is unlikely these habitats would be so far below carrying capacity as to be able to absorb the potentially high number of displaced wildlife, assuming that individuals were able to locate and move to other suitable habitat. These statements should be modified and a more thorough analysis of the impacts of habitat loss needs to be included in the final EIS.

Section 4.19.3, *Mitigation of Wildlife and Vegetation Impacts*, page 4-57. This section states that impacts would be reduced through minimization of tree removal. We recommend this section also discuss mitigation for impacts to upland habitats that are adjacent to and biologically connected with larger tracts of habitat, such as the White Pigeon and St. Joseph Rivers, Stag Lake, and Fabius State Game Area. As reiterated in the March 10 memorandum from the FHWA concerning *Federal-aid Eligibility of Wetland and Natural Habitat Mitigation*, mitigation for impacts to natural habitat is clearly eligible for Federal-aid participation. We recommend including this information in the final EIS.

Section 4.30.9, *Wildlife and Migratory Birds Mitigation*, page 4-96. In spite of the numerous species of migratory birds observed in the project area and the identification of the riparian habitats as "crucial for songbirds," the only mitigation measure the draft EIS addresses in this section is for work on existing bridges or structures over watercourses. As several of the build alternatives include new river crossings where no structures currently exist, this discussion of mitigation is inadequate. Additional mitigation measures, such as construction timing and sequencing, as well as habitat replacement should be addressed in the final EIS.

As migratory birds are a Federal trust resource, Executive Order 13186 and the Fish and Wildlife Service (FWS) Director's Order No. 172 direct the FWS to coordinate with other Federal Agencies to promote the conservation of migratory birds and ensure that environmental analyses of Federal actions evaluate the effects on migratory birds, with an emphasis on species of concern. Because of the presence of numerous species of migratory birds, including State-listed species and species of special concern, we recommend the final EIS include a full evaluation of potential impacts to migratory birds as well as mitigation measures for migratory birds.

#### Threatened and Endangered Species

Section 3.20.2, *Listed Animal Species*, page 3-33. The draft EIS states the FWS indicated the potential for federally listed species or candidate species to occur within the project area. These species are the Indiana bat (*Myotis sodalis*), copperbelly water snake (*Nerodia erythrogaster neglecta*), and eastern massasauga rattlesnake (*Sistrurus catenatus catenatus*). The Indiana bat is Federally listed as endangered and the copperbelly water snake as threatened. The massasauga is a Federal candidate species.

This section of the draft EIS references a letter, dated June 15, 2000, from the FWS East Lansing, Michigan, Field Office; however, appendix D includes only the FWS July 26, 2001, correspondence. The June 15, 2000, correspondence needs to be included in the appendix in the final EIS. This section also states that "no biological assessment was conducted, since no evidence of Federally listed species was observed and likely will not be affected by the project." The draft EIS clearly states that suitable habitat for

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the Indiana bat occurs in the study area. Mist-net surveys for Indiana bat were not conducted; therefore, it is incorrect to state there is no evidence of this species when suitable habitat exists and no surveys have been conducted. Also, the statement regarding the preparation of a biological assessment (BA) is incorrect; we address FHWA responsibilities under the ESA at the end of this letter.

In discussing the Indiana bat, this section states the study area "does not provide suitable wintering habitat or optimal roosting habitat, since there are no upland intermittent streams; however, the floodplain may provide suitable foraging habitat, as it is a floodplain forest community near a perennial stream, which has roosting habitat." This statement does not correctly describe the habitat needs of the Indiana bat. In Michigan, summering Indiana bats roost in trees in riparian, bottomland, and upland forests. Indiana bats may summer in a wide range of habitats, from highly altered landscapes to intact forests. We recommend the description of Indiana bat habitat be corrected in the final EIS.

Section 4.20, *Threatened and Endangered Species*, page 4-57. This section states the build alternatives will not have a substantial impact on listed plant or animal species and that no Federally listed species, or State threatened, or endangered species were observed. The previous sections of the draft EIS clearly state that yellow-throated warbler and loggerhead shrike, both of which are State-listed species, were observed in the project area. This section should be corrected in the final EIS with respect to these two species. With respect to Indiana bats, the credibility of the statement that listed species were not observed is called into question when there appears to have been no attempt made to conduct the types of surveys (i.e., mist-net surveys) necessary to observe the species. In addition, this section indicates that direct impacts to federally listed species were not identified. This statement may need to be modified in the final EIS, depending upon the outcome of section 7 consultation between FHWA and FWS.

Section 4.20.2, *Listed Animal Species*, page 4-59 to 4-61. This section reiterates that impacts to federally listed species are not anticipated; however, on page 4-61, the draft EIS states that loss of trees could eliminate roosting trees for the Indiana bat. We maintain that loss of roosting trees constitutes an adverse effect; these two statements contradict each other. Page 4-59 asserts, "There is a reasonable degree of certainty that these habitats have been adequately investigated and the species are not present within the study area." As we have noted, mist-net surveys for Indiana bat were not conducted; therefore, no investigation into the presence of this species has occurred despite the fact that suitable habitat is available in the project area. In addition, page 4-61 states, "There is also a possibility of impacts to undetected Indiana bat populations...." This statement contradicts not only the claim the habitats were adequately investigated but also the assertion that impacts to listed species are not anticipated.

This section also states that "no observations of any of these species were made within these respective habitats; therefore a biological assessment is not required." As we

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previously mentioned, this is an incorrect understanding of the requirements to prepare a BA. The FHWA responsibilities under ESA are discussed below.

Section 4.20.3, *Mitigation of Threatened and Endangered Species Impacts*, page 4-62. The draft EIS indicates that removal of mature trees would be avoided to the extent possible between April 1 and October 1. We recommend the final EIS should provide a clarification of the phrase "to the extent possible."

#### Federal Agencies' Responsibilities under ESA

Section 7(c) of the ESA requires Federal Agencies or their designees to prepare a BA for major construction projects. A major construction project means any major Federal action significantly affecting the quality of the human environment, as referred to in the National Environmental Policy Act, requires preparation of an EIS. Only if an action agency has concluded informal consultation with the FWS with a finding of "not likely to adversely affect" can the action agency forego preparation of a BA. As that has not occurred, the assertions in the draft EIS that preparation of a BA is not required are incorrect and these statements should be corrected in the final EIS. Furthermore, if preparation of a BA is required and has not been initiated within 90 days of receipt of the list of species, the Federal Agency should verify the accuracy of the species list with the FWS. Because the last correspondence with FWS is from July 26, 2001, we recommend the FHWA request an updated species list from the FWS.

We recommend that FHWA or its designee initiate Section 7 consultation with the FWS office by requesting an updated species list. Results of the Section 7 consultation should be included in the final EIS. Statements in the final EIS regarding potential impacts to Federally listed species should also be appropriately modified, depending upon the results and outcome of the Consultation.

#### **Summary Comments**

We recommend the final EIS provide a better description of the potential impacts to wildlife, fisheries, and threatened and endangered species of each of the build alternatives. The final EIS should provide more discussion of mitigation measures to avoid, minimize, and offset the impacts of each of the build alternatives to fish and wildlife resources. The contradictory statements with respect to threatened and endangered species should be corrected and Section 7 consultation should be completed. We believe that PA-5 and PA-5 MOD are the environmentally preferable alternatives and recommend that either PA-5 or PA-5 MOD be selected as the preferred build alternative.

The Department has a continuing interest in working with the FHWA and the MDOT to ensure impacts to resources of concern to the Department are adequately addressed. For matters related to fish and wildlife resources and threatened and endangered species, please continue to coordinate with the Field Supervisor, U.S. Fish and Wildlife

Mr. James J. Steele.

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Service, 2651 Coolidge Road, Suite 101, East Lansing, Michigan 48823-6316, telephone 517-351-2555. For matters related to Section 4(f) resources and rivers listed on the NRI, please contact the Regional Environmental Coordinator Nick Chevance, Midwest Regional Office, National Park Service, 601 Riverfront Drive, Omaha, Nebraska, 68102, telephone 402-661-1844.

We appreciate the opportunity to provide these comments.

Sincerely,



Willie R. Taylor  
Director, Office of Environmental  
Policy and Compliance

cc:

Mr. Abdelmoez A. Abdalla  
Environmental Program Manager  
Federal Highway Administration  
15 W. Allegan Street, Room 201  
Lansing, Michigan 48933

Ms. Margaret Barondess  
Manager, Environmental Section  
Michigan Department of Transportation  
425 W. Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909

Mr. James J. Steele.

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bcc:  
OEPC, OEPC Director, AS/PMB (r), AS/FWP  
REO/PHI  
NPS, FWS, GS  
ACHP/SHPO - Michigan  
DOT  
FHWA  
FNP-0001  
FNP-2310  
NPS-MWR-PC (Chevance)  
NPS-MWR-P/G (Anderson)  
Jhoogland:es:ER-05/0210

NPS: E-mail surnamed letter by Jacob Hoogland sent 8/8/05  
PEP: ESmith:8/12/05  
PEP: WTaylor:8/15/05



FISH AND WILDLIFE SERVICE

East Lansing Field Office (ES)  
2651 Coolidge Road, Suite 101  
East Lansing, Michigan 48823-6316

IN REPLY REFER TO:

RECEIVED

OCT 18 2006

October 17, 2006

Mr. Stu Kogge  
Wetland and Coastal Resources  
5801 W. Michigan Avenue  
Lansing, Michigan 48917

Re: Endangered Species List Request, US 131 Bypass around the City of Constantine, (T6S, R12W, Sections 25 & 36; T5S, R12W, Sections 1, 11, 14, 23, 26 & 36), St. Joseph County, Michigan

Dear Mr. Kogge:

Thank you for your September 22, 2006, request for information about species federally listed as endangered or threatened, species proposed for listing, candidate species, and critical habitat near your proposed project. Your request and this response are made pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act).

Our records indicate that the Indiana bat (*Myotis sodalis*), copperbelly water snake (*Nerodia erythrogaster neglecta*) and eastern massasauga rattlesnake (*Sistrurus catenatus enatus*) may occur in the proposed action area. The Indiana bat is federally listed as endangered, and the copperbelly is listed as threatened. The massasauga is a federal candidate species.

#### Indiana Bat

The summer range of Indiana bats in Michigan includes the southern half and most of the western coastal counties of the Lower Peninsula. Summering Indiana bats roost in trees in riparian, bottomland, and upland forests, ranging from highly altered landscapes to intact forests. In Michigan, Indiana bats are often found in palustrine forested wetlands with an open understory. Roost trees generally are large (greater than 9 inches in diameter), dead, dying, or live trees with peeling or exfoliating bark, which allows the bat to roost between the bark and bole of the tree. Favored roost trees are usually exposed to the sun. Female Indiana bats typically form colonies that use several alternate roost trees in addition to primary roost trees. Individual bats are known to travel up to 7.8 kilometers (4.8 miles) between roosts in a single night and at least 2 to 4 kilometers from roost trees while foraging. Should suitable habitat occur in the proposed project area and

### Copperbelly Water Snake

Suitable habitat for the copperbelly water snake consists of bottomland forest, scrub/shrub and emergent wetlands, and the uplands around them. Copperbellies commonly move from wetland to wetland, moving through wooded or vegetated upland corridors. The copperbelly hibernates in upland and floodplain forests near wetlands and commonly in crayfish burrows although debris piles, felled tree root networks, or rock piles may also be used. Because of its propensity to travel from one wetland to another, this species maintains a fairly large home range. We recommend you assess the proposed project area's suitability to support the copperbelly water snake.

### Eastern massasauga rattlesnake

The eastern massasauga rattlesnake prefers sedge- or grass-dominated wetlands and tends to avoid open water. Areas with single or a few scattered shrubs may be utilized to assist the snake with thermoregulation, but heavily wooded or closed-canopy areas are avoided. Massasaugas hibernate in wetlands, often in crayfish burrows, in water below the frost line. Massasaugas hibernate singly or in small groups and tend to return to the same hibernacula each year. The snakes continue to use wetlands in the spring and fall but may move to open-field uplands in summer. Females give birth in August and early September and often utilize upland habitats for bearing their young. The home range size for individual snakes varies widely and is dependent on habitat quality. Although the Act does not extend protection to candidate species, we encourage their consideration in project planning. Avoidance of unnecessary impacts to candidate species will reduce the likelihood that they will require the protection of the Act in the future.

Because this project involves a federal action (i.e., authorized, funded, or carried out in whole or in part by a federal agency), the federal action agency, or its designated agent, is responsible for determining if the proposed project *may affect* federally listed threatened or endangered species or designated critical habitat. If you determine that the project *may affect but is not likely to adversely affect* federally listed species or designated critical habitat, the action agency or its designee must seek written concurrence from us. If the federal agency determines that the project is *likely to adversely affect* federally listed species or adversely modify designated critical habitat, the federal agency must initiate formal consultation by providing this office with a copy of the biological assessment and any other relevant information used to reach the determination. Additional information regarding requirements for federal agencies under the Act can be found in Enclosure A (attached).

Because endangered species data changes continuously, we recommend you contact this office for an updated species list if more than six months have passed prior to commencement of the proposed work. In addition, if the project requires modifications or new information becomes available that indicates the presence of listed species, species proposed for listing or their critical habitat, you should consult with this office.

Sincerely,

  
go Craig A. Czarnecki  
Field Supervisor

cc: MDNR, Wildlife Division, Lansing, MI (Attn: Lori Sargent)

s: admin/archives/oct06/US131Constantinebypass\_LR.blh

Section 7 of the Endangered Species Act of 1973, as amended (Act) directs Federal agencies in their responsibilities to listed species and critical habitat. Section 7(a)(2) of the Act directs all Federal agencies to consult with the FWS to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of listed species or critical habitat. This process is referred to as "section 7 consultation."

Section 7 consultation is typically initiated by a Federal action agency (action agency) by requesting a list of proposed and listed species and critical habitat that may be present in the action area. Based on this list, the action agency must provide the FWS with an analysis and determination of the effects of proposed actions that *may affect* listed species or critical habitat. Actions that are *not likely to adversely affect* listed species and critical habitat require informal section 7 consultation, while actions that are *likely to adversely affect* listed species and critical habitat require formal section 7 consultation. All decisions made under section 7 require the FWS and action agencies to employ the best available scientific and commercial data in their analysis.

The action agency or its designee must assess the potential effects on listed species and critical habitat. The assessment is called a Biological Assessment (BA). By regulation, a BA is prepared for "major construction activities" as defined under the National Environmental Policy Act (NEPA). Although a BA is technically not required for "non-major" construction activities, the action agency must still supply the FWS with an analysis and determination of effects for all Federal actions that *may affect* listed species or critical habitat. The FWS uses the BA, along with any other available information, to decide if concurrence with the determination of effects as made by the action agency is warranted. The BA should be completed within 180 days after initiation of consultation. If work on the BA has not been initiated within 90 days of receipt of the species list, you should verify the accuracy of the species list with the FWS.

To complete the BA, the action agency or its designee should, at a minimum:

1. determine whether suitable habitat exists if the species is likely to be present, which may include an onsite inspection of the area to be affected by the proposal (should be documented in BA);
2. review literature and scientific data to determine species distribution, habitat needs, and other biological requirements;
3. consult experts including those within the FWS, state conservation departments, universities, and others who may have information not yet published in scientific literature;
4. review and analyze the effects of the proposal on the species in terms of individuals and populations present in the action area;
5. analyze alternative actions that may provide conservation measures;
6. make a determination of effects as directed by section 7 of the Act; and
7. prepare a report (the BA) documenting the analysis, including a discussion of study methods used, any problems encountered, and other relevant information.

Note that section 7(d) of the Act states action agencies shall not make any irreversible or irretrievable commitment of resources during the consultation process which would result in violation of the requirements under section 7(a)(2). Planning, design, and administrative actions may be taken; however, no irrevocable actions (e.g., construction) may begin.

We strongly encourage coordination with the FWS early and often in the consultation process. Not only will this save time by minimizing re-drafts of BAs, but we may also have the opportunity to work with the action agency in the development of a project that avoids or eliminates adverse effects before final decisions are made.

**A. Cover letter-** Includes the purpose of the consultation, project title, and consultation number (if available). Indicate the listed species and critical habitat involved and the determination made for each (see below).

**B. Action Area description-** The action area is defined as the extent of the direct and indirect effects of the project. Describe all areas that may be impacted considering that, in some cases, the action area may not be contiguous or may reach beyond the immediate project footprint.

**C. Project description-** Describe the proposed action. Be detailed, specific, and quantify whenever possible. Describe any conservation measures included in the proposed action to minimize effects on listed species.

**D. Species Analyses-**

1. Affected environment (quantify whenever possible)
2. Species biology (this should constitute a relatively small portion of the document)
3. Current status of the species in the action area (include the effects of any past or ongoing actions)
4. Critical habitat (if applicable)
5. Effects of the proposed action on each species and critical habitat including direct and indirect, and effects of interrelated and interdependent actions.

**E. Cumulative Effects-** Includes the effects of all future state or private activities, not involving Federal activities, which are reasonably certain to occur within the action area (for projects with adverse effects only).

**F. Summary/Conclusion and a Determination of Effects-** (select one for each species/critical habitat):

**No effect-** appropriate when there are absolutely no effects of the project, positive or negative, on listed resources. "No effect" does not include small effects or effects that are unlikely to occur. If effects are beneficial, insignificant (in size), or discountable (extremely unlikely), a "may affect, not likely to adversely affect" determination is appropriate (see below). A "no effect" determination does not require written concurrence from the FWS; however, the action agency should document and support the determination.

i. **May affect-**

a. **Not likely to adversely affect-** appropriate when all effects are beneficial, insignificant, or discountable.

Beneficial effects have contemporaneous positive effects without any adverse effects to the species or habitat. *Insignificant effects* are small in size, and should not reach the scale where take occurs.

*Discountable effects* are extremely unlikely to occur. Based on best judgment, a person would not:

1) be able to meaningfully measure, detect, or evaluate insignificant effects or 2) expect discountable effects to occur. This determination requires informal written concurrence from the FWS.

b. **Likely to adversely affect-** appropriate when adverse effects cannot be avoided. A combination of beneficial and adverse effects is still "likely to adversely affect," even if the net effect is neutral or positive. Adverse effects do not qualify as discountable simply because they are not certain to occur. The probability of occurrence must be extremely small to achieve discountability. Likewise, adverse effects do not meet the definition of insignificant because they are less than major. If an adverse effect can be detected in any way or if it can be meaningfully articulated in a discussion of the results, then it is not insignificant. This determination requires a request for formal consultation with the FWS.

**G. References**

**H. List of Contacts Made**

**I. Maps/Photographs/Figures**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

Michigan Division

**COPY**

315 W. Allegan, Room 201  
Lansing, Michigan 48933

May 14, 2007

Mr. Jason Latham, Planning Manager  
MDOT - Coloma TSC  
3880 Red Arrow Highway  
Benton Harbor, Michigan 49022-9551

Dear Mr. Latham:

US-131 Constantine Alignment Change

The Federal Highway Administration hereby accepts the MDOT proposal to change the alignment for the proposed preferred alternative. This alignment shift is within the existing limits of the study area and will avoid impact to an identified historic property. The changed alignment segment will traverse farmland and require additional archaeological and environmental analysis for determining potential impacts and inclusion into the Environmental Impact Statement document.

Please feel free to contact me should additional communication be needed regarding this matter.

Sincerely,

Ronald L. Krauss  
Area Engineer

For: James J. Steele  
Division Administrator

cc: Mike O'Malley, MDOT (B340)  
Charlie O'Neill, FHWA  
Dave Calabrese, FHWA  
Profile No. 21411

MOVING THE  
**AMERICAN**  
ECONOMY

**STATE OF MICHIGAN AGENCY LETTERS**



STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

REBECCA A. HUMPHRIES  
DIRECTOR

March 4, 2005

Ms. Margaret Barondess, Manager  
Environmental Section  
Project Planning Division  
Department of Transportation  
PO Box 30050  
Lansing, MI 48909

RE: Proposed improvements to US-131 from Indiana Toll Road to a point one mile north of Cowling Road

Dear Ms. Barondess:

The location of the proposed project was checked against known localities for rare species and unique natural features, which are recorded in a statewide database. This continuously updated database is a comprehensive source of information on Michigan's endangered, threatened and special concern species, exemplary natural communities and other unique natural features. Records in the database indicate that a qualified observer has documented the presence of special natural features at a site. The absence of records may mean that a site has not been surveyed. Records may not always be up-to-date. In some cases, the only way to obtain a definitive statement on the presence of rare species is to have a competent biologist perform a field survey. Projects that are submitted to the Department of Environmental Quality (DEQ) are routinely checked for such features regardless if they are on public or private land.

Under Act 451 of 1994, the Natural Resources and Environmental Protection Act, Part 365, Endangered Species Protection, "a person shall not take, possess, transport, ... fish, plants, and wildlife indigenous to the state and determined to be endangered or threatened," unless first receiving an Endangered Species Permit from the Department of Natural Resources, Wildlife Division. *Responsibility to protect endangered and threatened species is not limited to the list below. Other species may be present that have not been recorded in the database.*

The presence of threatened or endangered species does not preclude activities or development, but may require alterations in the project plan. Special concern species are not protected under endangered species legislation, but recommendations regarding their protection may be provided. Protection of special concern species will help prevent them from declining to the point of being listed as threatened or endangered in the future.

If the project is located on or adjacent to wetlands, lakes, streams, or other regulated resources, additional permits may be required. To obtain more information regarding permits in these areas, please visit the DEQ's website at <http://www.michigan.gov/deq>. Or you may contact the Michigan Department of Environmental Quality, Land and Water Management Division at 517-241-1515.

The following is a summary of the results for the project in St. Joseph County.

The following list includes unique features that are known to occur on or near the site(s) and may be impacted by the project. Federally threatened or endangered species are marked with an asterisk (\*). Please contact the U.S. Fish and Wildlife Service, 2651 Coolidge Road, Suite 101, East Lansing, MI, 48823 or (517) 351-2555 for information on federal regulations that apply to these species.

common name	status	scientific name
Yellow throated warbler	state threatened	<i>Dendroica dominica</i>

NATURAL RESOURCES COMMISSION  
Keith J. Charters-Chair • Mary Brown • Bob Garner • Gerald Hall • John Madigan • Frank Wheatlake

STEVENS T. MASON BUILDING • P.O. BOX 30028 • LANSING, MICHIGAN 48909-7528  
www.michigan.gov/dnr • (517) 373-2329

Prairie coreopsis	state threatened	<i>Coreopsis palmata</i>
Prairie birdfoot violet	state threatened	<i>Viola pedatifida</i>
Hairy wild-petunia	state threatened	<i>Ruellia humilis</i>
Prothonotary warbler	special concern	<i>Protonotaria citrea</i>
Leadplant	special concern	<i>Amorpha canescens</i>
White false indigo	special concern	<i>Baptisia lactea</i>

The yellow-throated warbler has been known to occur in sections 11 and 12, T8S R12W near the Pigeon River Crossing. Michigan's yellow-throated warbler population is closely associated with mature sycamores. This tree is characteristic of bottomland and river floodplain forests. They have also been associated with mature silver maples and American basswood. The yellow-throated warbler is one of the earliest to return to Michigan in the spring, arriving in the state from mid-April to mid-May. Nests are generally placed in sycamores, far from the trunk and a substantial distance from the ground. Most individuals leave the breeding grounds by August. This warbler is an opportunistic feeder that gleans or "flycatches" a wide range of insect species.

The prairie coreopsis has been found in section 1, T8S R12W. It persists only within the boundaries of pre-settlement mesic prairies. Through loss of habitat, it has been restricted to a few roadsides and railroad rights-of way where prairie plants survive in deep loam soil often amidst weeds and shrubs. This species flowers in late June and July.

The prairie birdfoot violet has been known to occur in section 36, T7S R12W. Prairie birdfoot violet is a species characteristic of rich, mesic blacksoil prairies, now consisting of tiny remnants along roads and railroads, most of which are highly degraded and weedy. Here its native associates include *Andropogon gerardii* (big bluestem), *Ratibida pinnata* (prairie coneflower), *Aster azureus* (sky blue aster), *Amorpha canescens* (leadplant), *Achillea millefolium* (yarrow), and *Solidago canadensis* (Canada goldenrod). This species apparently hybridizes with *V. sororia* (woolly blue violet), *V. affinis*, and perhaps *V. palmata*. Flowering occurs from May to early June.

The hairy wild-petunia has been known to occur in section 36, T7S R12W. This species grows in sandy loam soils that support dry-mesic prairie or savanna habitat prior to European settlement. Now, this plant survives on tiny, highly degraded habitat remnants, with all known remaining colonies occupying "edge" habitat—roadsides and railroad rights-of-way vegetated primarily by weedy or opportunistic species. Hairy wild-petunia seems to thrive best where competition from other vegetation is minimal or controlled by disturbance such as roadside mowing. This perennial generally flowers during August.

The leadplant, found in section 1, T8S R12W, inhabits prairies, dry bluffs and hills, sandy roadsides and clearings. Flowering occurs in June and July.

White or prairie false indigo, found in section 1, T8S R12W, is a conspicuous glaucous (whitish), hairless, bushy herb a meter or more tall, with showy white flowers and a large black pod. Over half the Michigan colonies for which habitat data have been reported are from very weedy, disturbed or successional sites, including fence rows, roadsides, railroad rights-of-way, dry ditches, and old fields. Most of these sites lie within the bounds of former prairies or savannas. Some colonies have been found in remnants of mesic prairie, most of which are also degraded and somewhat weedy, often persisting in unmowed portions of cemeteries and in railroad rights-of-way. This perennial flowers in July and fruits begin developing in August.

The prothonotary warbler has been known to occur in section 11, T8S R12W near the Pigeon River crossing. The prothonotary warbler is found in wooded bottomlands, most often along the banks of southern Michigan rivers, even at times where forests are only thin borders of willows. Streams 20 to 40m wide bordered by red maple and other associated trees seem to be their preferred breeding areas. This is a hole-nesting warbler. Most nests, which are built of moss and lined with fine grass, are built in low woodpecker holes or natural cavities; however, the prothonotary warbler readily accepts bird houses. In southern Michigan, the usual date of arrival is during the first week of May. Nesting begins almost immediately. Occasionally a second nesting is attempted. Most of the prothonotary warblers have migrated south by late August. To protect this species, woodlands need to be maintained in riparian areas.

In summary, the project site may include suitable habitat for the above listed species. Potential impacts might include direct destruction of species and disturbance of critical habitat. Specifically, because this project may affect a protected species, clearance from this office in the form of a "No Effect" statement will be needed before work on this project begins. To obtain an evaluation for project clearance, please provide at least one of the following to this office:

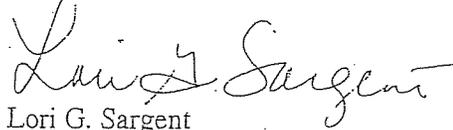
1. Description of the project area with regard to the species habitat type(s) described above. A recent photo of the project site and a map that shows habitat type(s) and location(s) of the proposed project will be necessary. This can be done by the landowner, other responsible party, or knowledgeable source (i.e. botanist, ecologist, biologist, experienced birder, etc.). This level of evaluation will only define the presence or absence of available habitat. If this office determines that there is no significant available habitat, the project may be cleared at this point. If potential habitat does exist, the next level of evaluation must be undertaken (see options 2 or 3 below).
2. A statement from a knowledgeable source (see above) stating that suitable habitat is or is not present and why the project will not impact the species or habitat(s) identified above.
3. Results from a complete and adequate survey by a knowledgeable source (see above) showing whether or not the above listed species are present in the affected project area. Guidelines for conducting surveys can be obtained from this office on request. For additional information and guidance for conducting surveys, including consultation with MNFI staff biologists, please contact me at the number below.

In most situations, the most efficient, thorough, and expeditious evaluation of the project and its impacts results from option 3. Responses and correspondence can be sent to:

Michigan Department of Natural Resources  
Wildlife Division – Natural Heritage Program  
PO Box 30180  
Lansing, MI 48909

Thank you for your advance coordination in addressing the protection of Michigan's natural resource heritage. If you have further questions, please call me at 517-373-1263.

Sincerely,



Lori G. Sargent  
Endangered Species Specialist  
Wildlife Division



STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

DAN WYANT  
DIRECTOR

March 25, 2005

Ms. Margaret M. Barondess  
Environmental Section Manager  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Dear Ms. Barondess:

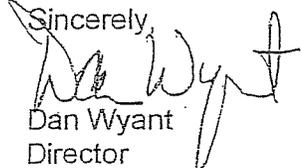
I received your request for review and comment on the Draft Environmental Impact Statement (DEIS) for the proposed 17 mile reconstruction of US-131, from the Indiana Toll Road (I-80/90) to one mile north of Cowling Road. I have reviewed the plans with Michigan Department of Agriculture staff.

As noted in our July 16, 2001 response to the preliminary engineering study of this project, our primary concerns with this project as they relate to the functions of the Michigan Department of Agriculture are direct and indirect losses of productive agricultural lands; impacts to lands enrolled under the Farmland and Open Space Preservation Section of P.A. 451 of 1994 (formerly P.A. 116 of 1974); and impacts on established County and Intercounty drains.

In discussion with the St. Joseph County Drain Commissioner, we find no potential impacts to intercounty or county drain systems in any of the Practical Alternatives presented. All Practical Alternatives, except the No-Build, have some amount of impact on productive farmlands and farmland enrolled under the Farmland and Open Space Preservation Act. While you have noted that none of the alternatives would impact more than .25 percent of the total farmland in St. Joseph County, we consider any loss of especially prime farmland to be significant. We would like this, as well as impacts to farming operations, to be taken into consideration when selecting the final Alternative. With this in mind, in reviewing the Practical Alternatives we find that PA-5 and PA-5 Modified have the least overall direct and indirect impacts on prime farmland, on lands enrolled in the Farmland and Open Space Preservation Act and on the operations of farming businesses.

We do not have any additional concerns regarding the issues identified in the DEIS.

We appreciate being included in this DEIS review process. Feel free to contact Abigail Eaton, Resource Specialist at 517/241-3933 if we can be of further assistance on this project.

Sincerely,  
  
Dan Wyant  
Director



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

March 30, 2005

Ms. Margaret M. Barondess, Manager  
Environmental Section  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

Dear Ms. Barondess:

SUBJECT: Draft Environmental Impact Statement (DEIS) for the US-131 Improvement Study from Indiana Toll Road to one mile north of Cowling Road St. Joseph County, Michigan

We have completed our review of the DEIS for the US-131 Improvement Study in St. Joseph county. The project proposes 17 miles of improvements along US-131 between the Indiana Toll Road to one mile north of Cowling Road which is just north of Three Rivers, Michigan. The current roadway consists of a combination of 2 lane, 4 lane and 5 lane sections. The current level of service (LOS) ranges from A-D while the projected 2025 LOS based on a no-build alternative will range from B-E during certain periods of the day.

The purpose and need of the proposed project is to:

1. Identify potential alternatives that support the safe and efficient movement of goods and people and that cost effectively support the economic growth of the region by improving traffic operations.
2. Provide assurance of sufficient capacity to accommodate future traffic growth.
3. Improve roadway inefficiencies.
4. Improve US-131 highway operations.

The following alternatives are considered in the DEIS and recommended to be carried forward:

1. No build
2. Practical Alternative 1 (PA-1) freeway:
3. Practical Alternative 2 (PA-2) freeway:
4. Practical Alternative 3 (PA-3) freeway:
5. Practical Alternative 4 (PA-4) freeway:

6. Practical Alternative 5 (PA-5) two lane non freeway:

7. Practical Alternative 5 modified (PA-5 MOD) two lane non freeway:

Other alternatives including Transportation System Management, public transit and multi-modal were developed and dismissed.

Under the National Environmental Policy Act and Section 404 regulatory process for transportation projects, we agree on the second concurrence point as to the selection of the alternatives to carry forward. We had previously provided concurrence on Purpose and Need in a March 5, 2003 correspondence.

We have the following comments:

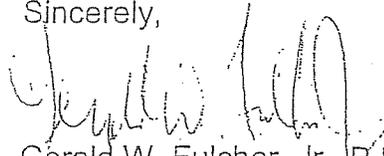
1. The DEIS estimates the following wetland impacts: PA-1-16.2 acres; PA-2-22.4 acres; PA-3-23.0 acres; PA-4-57.9 acres; PA-5-0.51 acres and PA-5 MOD-0.51 acres. It appears that in looking at table 2-3 that each alternative will provide an acceptable LOS based on 2025 projections. If this is the case, then the alternative that has the smallest environmental impacts should be strongly considered. Choosing an alternative that has a higher degree of environmental impacts will have to be thoroughly documents and supported in the final EIS.
2. Page iii of the executive summary refers to Dickerson Road. Should this be Dickinson Road?
3. In a number of locations the DEIS refers to the Michigan Department of Environmental Quality (MDEQ), Surface Water Quality Division. Surface Water Quality Division should be replaced by Water Bureau.
4. The legend on Figure 3.2 indicates that wetlands are identified by dark purple even though no purple appears on the map.
5. Each of the proposed build alternatives will require at least one new bridge structure at the White Pigeon River, St. Joseph River or Rocky River. Section 3.19.1 states that the areas adjacent to these rivers contain well developed riparian corridors consisting of floodplain forest with interspersed deciduous woods and forested wetlands. It further states that a floristic quality assessment of the entire St. Joseph River floodplain area indicate a high quality vegetative community. The Rocky River floodplain area is described as having a moderate quality forest with some diversity. The state threatened plant species of wild rice was found in the St. Joseph River floodplain while three animal species of special concern were found in the White River floodplain. The main point is that the floodplain areas along these three main channels appear to be of a high quality and any new or expanded bridge crossings need to take these floodplain values into account. Section 4.14.1 indicates that the proposed bridge structures will span the existing stream channel plus 6 feet on either side to provide a wildlife corridor on the river banks. A six foot span within the floodplain areas does not seem sufficient given the high quality of the resource. Once an alternative is decided on, it is suggested that early coordination with the MDEQ, US Fish and Wildlife Service and the Michigan Department of Natural Resources Wildlife Division take place regarding any bridge designs and pier placements.

This coordination should take place well before any design and funds are committed to the project.

6. Section 4.19 discusses Wildlife and vegetation impacts. Better documentation of the wildlife use within the floodplain corridor should be provided.

If you have any questions, please contact me or Ms. Holly Stearns at 517-373-4667.

Sincerely,



Gerald W. Fulcher, Jr., P.E., Chief  
Transportation and Flood Hazard Unit  
Land and Water Management Division  
517-335-3172

- cc: Mr. Abdel Abdella, U.S. Federal Highway Administration  
Ms. Sherry Kamke, U.S. Environmental Protection Agency  
Mr. Craig Czarniecki, U.S. Fish and Wildlife Service  
Mr. John Konik, U.S. Army Corps of Engineers  
Mr. Kamron Jordan, MDEQ  
Ms. Holly Stearns, MDEQ



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

JANET OLSZEWSKI  
DIRECTOR

March 31, 2005

Margaret Barondess, Manager  
Environmental Section  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Re: US-131 Improvement Study  
St. Joseph County, Michigan  
Elkhart County, Indiana  
Environmental Impact Statement

Dear Ms. Barondess:

In reference to the environmental impact study of the US-131 corridor from the State line to one mile north of Cowling Road in St. Joseph County, there are a number of licensed health facilities that may impacted by construction.

Neither the Village of White Pigeon nor the Village of Constantine has access to a hospital in their community. Therefore, they rely on the Three Rivers Hospital for critical care and emergencies. Currently, it would appear that US-131 is the primary route that ambulances and the public would take to get to Three Rivers Hospital. Where the proposed plan calls for an upgrade to the current roadway, construction delays may impede passage of an emergency vehicle. There is a direct route from White Pigeon (Kalamazoo Rd.), through the eastern edge of Constantine (Constantine Rd.) that appears to be a secondary route that could be used for transportation to the Three Rivers Hospital, but the condition of the roadway cannot be determined from the impact study. For the public and ambulances attempting to reach the Three Rivers Hospital from the west side of US-131, they will have a higher degree of difficulty reaching the hospital if there are road closures.

The Three Rivers Hospital, two Nursing Homes, two Homes for the Aged, and an ESRD (dialysis unit) are all located within an approximate half-mile of the proposed roadway upgrade. These facilities will all be impacted by the increased noise level and increased airborne dirt and debris due to the construction activity. All but one facility is on the east side of US-131, so transportation to the facility in the event of an emergency should not be a problem.

Ms. Barondess  
March 31, 2005  
Page 2

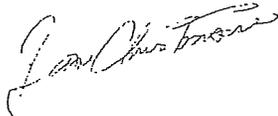
The facility that is on the west side and on the north end of the project (Riverview Manor) will be impacted the greatest. However, it appears that it is on a road that has a direct route to the north side of Three Rivers as long as its intersection with US-131 remains open.

The affect facilities and their addresses are:

- |   |                       |              |
|---|-----------------------|--------------|
| • Three Rivers Hospital                                   | 701 S. Health Parkway | Three Rivers |
| • Riverview Manor (NH <sup>1</sup> and AGD <sup>2</sup> ) | 55378 Wilbur Road     | Three Rivers |
| • Heartland Health Care Center                            | 517 S. Erie St.       | Three Rivers |
| • RCG Three Rivers (ESRD <sup>3</sup> )                   | 601 S. Health Parkway | Three Rivers |
| • Bowman House (AGD)                                      | 1215 N. Elm St.       | Three Rivers |

In summary, the greatest impact of the proposed US-131 corridor upgrade will be emergency transportation to the Three Rivers Hospital. Staging for areas of road replacement and upgrade have to consider how emergency vehicles can use the route without traffic delays.

Sincerely,



Jan Christensen, Deputy Director  
Health Policy, Regulation & Professions Administration

JC/AM/kg

cc: Thomas J. Freebury, Director, HFS  
James D. Scott, P.E., Manager, HFES

---

<sup>1</sup> Nursing Home

<sup>2</sup> Home for the Aged

<sup>3</sup> End-Stage Renal Disease (dialysis unit)



STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

REBECCA A. HUMPHRIES  
DIRECTOR

October 25, 2006

Stu Kogge  
Wetland and Coastal Resources  
5801 West Michigan Ave.  
Lansing, MI 48917

RECEIVED  
OCT 30 2006

RE: Threatened and Endangered Species Review for US-131 bypass around the City of Constantine

Dear Mr. Kogge:

The location of the proposed project was checked against known localities for rare species and unique natural features, which are recorded in a statewide database. This continuously updated database is a comprehensive source of information on Michigan's endangered, threatened and special concern species, exemplary natural communities and other unique natural features. Records in the database indicate that a qualified observer has documented the presence of special natural features at a site. The absence of records may mean that a site has not been surveyed. Records may not always be up-to-date. In some cases, the only way to obtain a definitive statement on the presence of rare species is to have a competent biologist perform a field survey.

Under Act 451 of 1994, the Natural Resources and Environmental Protection Act, Part 365, Endangered Species Protection, "a person shall not take, possess, transport, ... fish, plants, and wildlife indigenous to the state and determined to be endangered or threatened," unless first receiving an Endangered Species Permit from the Department of Natural Resources, Wildlife Division. *Responsibility to protect endangered and threatened species is not limited to the list below. Other species may be present that have not been recorded in the database.*

The presence of threatened or endangered species does not preclude activities or development, but may require alterations in the project plan. Special concern species are not protected under endangered species legislation, but recommendations regarding their protection may be provided. Protection of special concern species will help prevent them from declining to the point of being listed as threatened or endangered in the future.

If the project is located on or adjacent to wetlands, lakes, streams, or other regulated resources, additional permits may be required. To obtain more information regarding permits in these areas, please visit the DEQ's website at <http://www.michigan.gov/deq>. Or you may contact the Michigan Department of Environmental Quality, Land and Water Management Division at 517-241-1515.

The following is a summary of the results for the project in St. Joseph County, T6S R12W sections 25 & 36 and T7S R12W sections 1, 11, 14, 23, 26, 36.

The following list includes unique features that are known to occur on or near the site(s) and may be impacted by the project.

common name	status	scientific name
Prairie birdfoot violet	state threatened	<i>Viola pedatifida</i>
Hairy ruellia	state threatened	<i>Ruellia humilis</i>
Prairie coreopsis	state threatened	<i>Coreopsis palmata</i>
False conocephalon	special concern	<i>Kuhnia eupatorioides</i>
White or Prairie false indigo	special concern	<i>Baptisia lactea</i>
Leadplant	special concern	<i>Amorpha canescens</i>
Spotted gar	special concern	<i>Lepisosteus oculatus</i>

The state threatened **prairie birdfoot violet** (*Viola pedatifida*) has been known to occur near the project area in T7S R12W section 36. Prairie birdfoot violet is a species characteristic of rich, mesic blacksoil prairies, now consisting of tiny remnants along roads and railroads, most of which are highly degraded and weedy. Here its native associates include *Andropogon gerardii* (big bluestem), *Ratibida pinnata* (prairie coneflower), *Aster azureus* (sky blue aster), *Amorpha canescens* (leadplant), *Achillea millefolium* (yarrow), and *Solidago canadensis* (Canada goldenrod). This species apparently hybridizes with *V. sororia* (woolly blue violet), *V. affinis*, and perhaps *V. palmata*. Flowering occurs from May to early June.

The state threatened **hairy ruellia** (*Ruellia humilis*) has been known to occur near the project area in T7S R12W section 36. Hairy ruellia grows in sandy loam soils that support dry-mesic prairie or savanna habitat. This plant survives on tiny, highly degraded habitat remnants, with all known remaining colonies occupying "edge" habitat—roadsides and railroad rights-of-way vegetated primarily by weedy or opportunistic species. This species appears to thrive best where competition from other vegetation is minimal or controlled by disturbance such as roadside mowing. This perennial flowers in August.

The state threatened **prairie coreopsis** (*Coreopsis palmata*) has been known to occur near the project area in T7S R12W section 36. It persists only within the boundaries of pre-settlement mesic prairies. Through loss of habitat, it has been restricted to a few roadsides and railroad rights-of-way where prairie plants survive in deep loam soil often amidst weeds and shrubs. This species flowers in late June and July.

The special concern **false boneset** (*Kuhnia eupatorioides*) has been known to occur near the project area in T7S R12W section 36. False boneset inhabits sandy fields, prairies, disturbed areas including roadsides and bluffs. Flowering occurs from late July to October.

The special concern **white or prairie false indigo** (*Baptisia lactea*) has been known to occur near the project area in T7S R12W section 36. It is a conspicuous glaucous (whitish), hairless, bushy herb a meter or more tall, with showy white flowers and a large black pod. Over half the Michigan colonies for which habitat data have been reported are from very weedy, disturbed or successional sites, including fence rows, roadsides, railroad rights-of-way, dry ditches, and old fields. Most of these sites lie within the bounds of former prairies or savannas. Some colonies have been found in remnants of mesic prairie, most of which are also degraded and somewhat weedy, often persisting in unmowed portions of cemeteries and in railroad rights-of-way. This perennial flowers in July and fruits begin developing in August.

The special concern **leadplant** (*Amorpha canescens*) has been known to occur near the project area in T7S R12W section 36. It inhabits prairies, dry bluffs and hills, sandy roadsides and clearings. Flowering occurs in June and July. As a species of special concern, the leadplant is not protected under endangered species legislation, but it is becoming rare throughout its range and should be protected to prevent future listing.

The special concern **spotted gar** (*Lepisosteus oculatus*) has been known to occur in the St. Joseph River in T7S R12W section 23. The spotted gar requires clear, quiet water with abundant vegetation. It occurs in backwater areas of rivers, lakes and wetlands. Like other gar species, it is tolerant of warm water with low dissolved oxygen levels. They tolerate low dissolved oxygen levels because of a curious behavior they exhibit called "breaking." At the surface of the water, they open and close their jaws, taking air in through their mouths. The spotted gar typically spawns in shallow, warm water in late spring or early summer.

In summary, the project site may include suitable habitat for the above listed species. Potential impacts might include direct destruction of species and disturbance of critical habitat. Specifically, because this project may affect a protected species, clearance from this office in the form of a "No Effect" statement will be needed before work on this project begins. To obtain an evaluation for project clearance, please provide at least one of the following to this office:

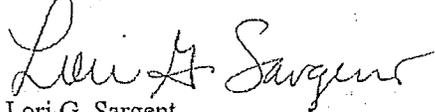
1. Description of the project area with regard to the species habitat type(s) described above. A recent photo of the project site and a map that shows habitat type(s) and location(s) of the proposed project will be necessary. This can be done by the landowner, other responsible party, or knowledgeable source (i.e. botanist, ecologist, biologist, experienced birder, etc.). This level of evaluation will only define the presence or absence of available habitat. If this office determines that there is no significant available habitat, the project may be cleared at this point. If potential habitat does exist, the next level of evaluation must be undertaken (see options 2 or 3 below).
2. A statement from a knowledgeable source (see above) stating that suitable habitat is or is not present and why the project will not impact the species or habitat(s) identified above.
3. Results from a complete and adequate survey by a knowledgeable source (see above) showing whether or not the above listed species are present in the affected project area. Guidelines for conducting surveys can be obtained from this office on request. For additional information and guidance for conducting surveys, including consultation with MNFI staff biologists, please contact me at the number below or go to the DNR website at [www.michigandnr.com/publications/pdfs/huntingwildlifehabitat/TB\\_consultants.pdf](http://www.michigandnr.com/publications/pdfs/huntingwildlifehabitat/TB_consultants.pdf).

In most situations, the most efficient, thorough, and expeditious evaluation of the project and its impacts results from option 3. Responses and correspondence can be sent to:

Michigan Department of Natural Resources  
Wildlife Division – Natural Heritage Program  
PO Box 30180  
Lansing, MI 48909

Thank you for your advance coordination in addressing the protection of Michigan's natural resource heritage. If you have further questions, please call me at 517-373-1263 or e-mail at [SargenL2@michigan.gov](mailto:SargenL2@michigan.gov).

Sincerely,



Lori G. Sargent  
Endangered Species Specialist  
Wildlife Division

 COPY



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
**DEPARTMENT OF TRANSPORTATION**  
LANSING

KIRK T. STEUDLE  
DIRECTOR

May 29, 2007

The Honorable Cameron S. Brown  
Michigan State Senate  
P.O. Box 30036  
Lansing, Michigan 48909

The Honorable Rick Schaffer  
Michigan House of Representatives  
P.O. Box 30014  
Lansing, Michigan 48909

Dear Senator Brown & Representative Schaffer:

The Michigan Department of Transportation (MDOT) is in receipt of the May 21, 2007, US-131 Bypass Motion, passed by the Constantine Village Council. MDOT's position regarding the issues raised and the steps to be contemplated are described below.

MDOT has been involved in environmental clearance activities for the corridor for many years. In 2006, the environmental study took a change in course resulting from the anticipated benefits and costs associated with a corridor upgrade. In cooperation with your office(s), we collectively agreed to commit to a bypass of Constantine. This decision was announced publicly and at several meetings with the community to collectively develop this project.

Since the announcement to proceed with the Constantine bypass project in April 2006, MDOT has attended approximately six separate meetings of the US-131 Stakeholders Committee and the US-131 Corridor Committee. In addition, last month we attended a public hearing scheduled by the Constantine Village Council to address issues and answer the questions of local citizens and businesses. In total, approximately 100 people attended this meeting and the comments were largely favorable and in support of the project.

The adoption of the motion by the Council presents significant challenges for moving forward with the project, in the context of the federal legislation that guides the environmental clearance process. The National Environmental Policy Act legislation urges consensus among stakeholders to avoid imposing projects upon communities that do not support them. As such, MDOT in the past has viewed resolutions or motions of this nature as support for the no build alternative and ended the project at the study phase.

MDOT is concerned at this late stage in the environmental process, that objections of this nature and magnitude are being expressed. Further, due to budgetary constraints, MDOT is unable to support the addition of new project components that could lead to a substantial increase in the cost of the project.

The Honorable Cameron S. Brown  
The Honorable Rick Schaffer  
Page 2  
May 29, 2007

The logo consists of a square icon containing the letters 'C' and 'C' stacked vertically, followed by the word 'COPY' in a bold, sans-serif font.

MDOT is prepared to move forward with the Constantine bypass project if the build alternative remains consistent with the project alternative within the environmental clearance document. If the will of the village has changed and the community leaders would like us to reconsider the project, we are willing to accommodate that request. However, MDOT will not enter into negotiations with the community regarding the addition of project components that will increase the cost of the project.

Thank you for considering the implications of the Village of Constantine's action on the environmental clearance process. If you have any questions, please contact either me or Susan Mortel, Director, Bureau of Transportation Planning, at (517) 373-0343.

Sincerely,

Kirk T. Steudle  
Director

cc: V. Blaxton, MDOT  
B. Welke, Southwest Region  
J. Latham, Southwest Region  
R. DeCook, Governmental Affairs  
S. Mortel, MDOT  
D. Wresinski, MDOT



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Room N758

Indianapolis, Indiana 46204-2216

(317) 232-5533

FAX: (317) 232-0238

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MITCHELL E. DANIELS, Jr., Governor.

THOMAS O. SHARP, Commissioner

Writer's Direct Line

April 8, 2005

Ms. Margaret Barondess, Manager  
Environmental Section  
Project Planning Section  
Michigan Department of Transportation  
Murray D. Wagoner Building  
P. O. Box 30050  
Lansing, Michigan 48909

Re: Draft Environmental Impact Statement for the improvements to U.S.131 from the Indiana Toll Road (I-80/90) to a point one mile north of Cowling Road

Dear Ms. Barondess:

The Environmental Assessment Section has completed the review of this Draft EIS. Our comments are as follow:

- 1) Section 3.11 and 4.11 discuss groundwater issues as they relate to sole source aquifers. In Section 3.11, paragraph 1, it is stated that the St. Joseph Aquifer is located south of the Indiana Toll Road. INDOT Environmental Assessment Section reference map for this aquifer shows the northern aquifer extending to the state line. INDOT wants to ensure this document covers any EPA regulations, requirements, and comments relative to the St. Joseph Aquifer within the Indiana portion of the study.
- 2) Page 4-85, paragraph 3, concerning Rule 5, Indiana has changed the "five acre" requirement to "one acre".

Thank you for giving INDOT the opportunity to review and comment on this document. If you have questions concerning the above comments please contact Stephen Collins at (317) 233-3427 or [scollins@indot.state.in.us](mailto:scollins@indot.state.in.us).

Sincerely,

*Lyle R. Sadler*

Lyle R. Sadler, Manager  
Environmental Assessment Section  
Division of Environment, Planning and Engineering

LRS/SC

Cc: Indiana FHWA  
file

THIS IS NOT A PERMIT

State of Indiana  
DEPARTMENT OF NATURAL RESOURCES  
Division of Water

Early Coordination/Environmental Assessment

DNR #: ER-11461 Request Received: February 25, 2005

Requestor: State of Michigan Department of Transportation  
Margaret Barondess, Manager  
Murray D Van Wagener Building  
PO Box 30050  
Lansing, MI 48909-7550

Project: US 131 Draft Environmental Impact Statement

(previous DNR # 1244; stopped  
July 8, 2002)

County/Site info: Elkhart

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

Regulatory Assessment: This proposal may require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) for any proposal to construct, excavate, or fill in or on the floodway of a stream or other flowing waterbody which has a drainage area greater than one square mile. Please submit more detailed plans to the Division of Water's Technical Services Section if you are unsure whether or not a permit will be required.

Natural Heritage Database: The Natural Heritage Program's data have been checked. To date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

Fish & Wildlife Comments: Fish, wildlife, and botanical resource losses as a result of this project can be minimized through implementation of the following measure. Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion.

Contact Staff: Christie L. Kiefer, Environ. Coordinator, Environmental Unit  
Our agency appreciates this opportunity to be of service. Please do not hesitate to contact the above staff member at (317) 232-4160 or 1-877-928-3755 (toll free) if we can be of further assistance.

Date: April 7, 2005

Jon W. Eggen  
Environmental Supervisor  
Division of Fish and Wildlife

# DNR

Indiana Department of Natural Resources

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



March 22, 2005

Margaret Barondess, Manager  
Environmental Section  
Project Planning Division  
Michigan Department of Transportation  
Murray D. Van Wagoner Building  
Post Office Box 30050  
Lansing, Michigan 48909

Federal Agency: Federal Highway Administration

Re: Draft Environmental Impact Statement for the improvements to US 131 from the Indiana Toll Road to St. Joseph County, Michigan (DNR #8244)

Dear Ms. Barondess:

Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated February 18, 2005, and received on February 24, 2005, for the above indicated project in York Township, Elkhart County, Indiana.

Thank you for providing our office with a copy of the Draft Environmental Impact Statement. Based upon the information provided, it is our understanding that you have hired an archaeological contractor (CCRG) to coordinate that aspect of the project review with our office. Therefore, we will comment further on that aspect of the review when we have been contacted by the archaeological contractor.

*A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at [www.achp.gov](http://www.achp.gov) for your reference. If you have questions about our comments, please call our office at (317) 232-1646. Questions about archaeological issues should be directed to Christopher Koeppel. Questions about historic buildings or structures pertaining to this project should be directed to Karie A. Brudis.*

Be advised that John R. Goss no longer holds the title of Indiana SHPO. As of February 21, 2005, Kyle J. Hupfer, who was appointed by the Governor Daniels, became the new Indiana SHPO.

Very truly yours,

Jon C. Smith  
Deputy State Historic Preservation Officer

JCS:CDK:KAB:kab

cc: Robert F. Tally, Jr., Division Administrator, Federal Highway Administration  
Lyle Sadler, Indiana Department of Transportation  
emc: Todd Zeiger, Director, Northern Regional Office, Historic Landmarks Foundation of Indiana