



U.S. Department
of Transportation

**Federal Highway
Administration**

Indiana Division

575 North Pennsylvania Street, Room 254
Indianapolis, Indiana 46204

February 12, 2007

HDA-IN

Mr. Karl Browning
Commissioner
Indiana Department of Transportation
Indianapolis, IN 46204

Dear Mr. Browning:

On January 29, 2007, we received your letter dated January 26, 2007 concerning the comments received on the I-69 Evansville to Indianapolis Tier 1 Re-evaluation report dated June 2006. The intent of this correspondence is to complete our review of the process created with the release of the re-evaluation report and to allow you to fully move forward with Tier 2 studies as was originally intended with the release of the Tier 1 Record of Decision (ROD) dated March 24, 2004.

My staff has reviewed the comments received on the re-evaluation document and considered your responses to those comments. We make the following finding based on the supplied documentation:

In consideration of your correspondences dated November 22, 2006 and January 29, 2007, we find that there are no changes in the proposed action that would result in significant environmental impacts that were not adequately evaluated in the Tier 1 Environmental Impact Statement (EIS); and any new information or circumstances relevant to the environmental concerns and bearings on the proposed action or its impacts would not result in significant environmental impacts not adequately evaluated in the Tier 1 EIS.

The basis for this finding by the Federal Highway Administration (FHWA) is discussed below.

Due to the determination by the State of Indiana to withdraw the request to consider tolling on I-69 from Indianapolis to Evansville, there is no reason to further evaluate the technical issues related to those comments or to consider that issue as a reason for a Supplemental EIS.

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Additional information has been collected regarding the Indiana Bat as part of the Tier 2 studies. Additional coordination occurred with the U.S. Fish and Wildlife Service (USFWS) under the requirements of the Endangered Species Act based upon this additional information. In a Revised Programmatic Biological Opinion, dated August 24, 2006, USFWS made the finding that the project is not likely to jeopardize the continued existence of the Indiana Bat. This is the same finding USFWS made in its original Biological Opinion for this project, dated December 3, 2003. In the August 24, 2006 document, the USFWS also concluded that the project is not likely to adversely modify the bat's designated Critical Habitat. It was always assumed that Indiana Bats were likely present near or within the corridor. The Tier 2 studies only further detailed their location. Therefore, there is no reason to consider a Supplement to the Tier 1 EIS because of the additional information collected for the Indiana Bat.

Regarding interchanges and access roads located beyond the Tier 1 corridor, it was the intent of the Tier 1 ROD to allow for the consideration of alternatives for the mainline of I-69 within the designated corridor. Other related design considerations, such as access and frontage roads, interchanges, and mitigation could occur outside the corridor. This would allow for the most flexibility in the development of alternatives for each Tier 2 section. Further, these elements were not analyzed in Tier 1 in detail and were intended to be thoroughly considered in Tier 2 and the impacts will be identified and mitigated as appropriate. Therefore, no revision to the Tier 1 ROD is needed concerning this issue.

Regarding the consideration of a new interchange near the Monroe/Greene County line which would be in lieu of another interchange in Greene County, we find that the proposals being considered are consistent with the commitment in the Tier 1 Final EIS. Also, the detail necessary to make a final decision on interchange locations was beyond the scope of Tier 1 which did not make any final determinations on interchange locations. Interchange locations are being fully analyzed in the Tier 2 process. In coordination with the USFWS and other agencies, we believe that any modification of this commitment in Tier 2 will be in compliance with the intent of the original commitment to limit interchanges and discourage secondary growth and impacts in karst areas. Coordination with USFWS and other agencies will continue before a decision on this interchange is made. We also note that the Tier 1 ROD specifically stated that these mitigation measures "will be reviewed and may be modified in Tier 2 in consultation with environmental resource agencies." Therefore, this issue falls within the approved decisions in the Tier 1 ROD and no supplement to the Tier 1 EIS is needed.

We appreciate your decision to maintain the commitment to bridge the Patoka River Floodplain. This commitment supports a number of issues including providing for the connectivity of the Patoka River National Wildlife Refuge through the region. This will benefit wetlands, water quality, endangered species and other wildlife. The decision also represents your response to issues that are important to other agencies.

Finally, we agree with your report on the "Comments on Issues Not Addressed in the Re-evaluation" (Section D) that were included in the comments received. We agree that they were either appropriately considered in Tier 1 EIS or that they are issues which are appropriate to be evaluated in the Tier 2 studies.

Regarding USFWS's comment on the re-evaluation that the "selection of Alternative 1 would best fulfill FHWA's responsibility to use its authorities to conserve endangered and threatened species as set forth in Section 7(a)(1) of the Endangered species Act", as you stated, we are fulfilling our responsibility through the completion of the committed Conservation Measures in the Tier 1 Biological Assessment (as updated by the Addendum). Because Alternative 1 would not sufficiently address the Tier 1 project goals (particularly the core goals), and therefore determined to not be a reasonable alternative in the Tier 1 FEIS, it would not be reasonable to select it in consideration of Section 7(a)(1) of the Endangered Species Act or any other applicable law.

At this time, we would like to thank you and your staff for the thorough review of the comments received. Although the re-evaluation request has been withdrawn, we believe that this process, which was beyond the scope required by regulation, was helpful in identifying some additional issues and will help as we proceed with other projects and the Tier 2 studies.

If you require further information please contact Tony DeSimone of this office at (317) 226-5307 (e-mail: Anthony.desimone@fhwa.dot.gov).

Sincerely,



Robert P. Tally, Jr., P.E.
Division Administrator

cc:

Ms. Michelle Hilary (INDOT)

Tom Seeman (INDOT)