

Conditional Sales Agreement

WITNESSETH THIS AGREEMENT dated **March 7, 2013**, by and between **THE STATE OF INDIANA** acting through the Indiana Department of Administration, ("Seller") and _____, ("Buyer").

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property (collectively, "Property"):

- 1.1 Property. The property commonly known as **INDOT Code 3097 – 5&7, CR 175 East, Spencer County, Indiana** described on the attached **Exhibit A** ("Land") together with all buildings, improvements and fixtures constructed or located on the Land ("Buildings") and all easements of record and rights benefiting or appurtenant to the Land (collectively the "Property"), subject to all existing legal rights-of-way, easements, conditions and restrictions of record.
- 1.2 Access. The subject parcel currently has limited public access or right of entry. The buyer will be responsible for gaining legal access to the property. Ingress/Egress permits may be submitted to the Department of Transportation and approved or denied at the agencies sole discretion. No assurance of such a permit is expressed or implied.
- 1.3 Personal Property. No personal property is being sold or conveyed as a part of this Purchase Agreement.

2. Purchase Price, Buyer's Premium, and Manner of Payment. The total purchase price ("Purchase Price") to be paid for the Property shall be _____ Dollars (\$_____). The Purchase Price shall be payable as follows:

- 2.1 In conjunction with execution of this Agreement (the "Execution Date"), Buyer shall submit _____ Dollars (\$_____) to Seller as earnest money ("Earnest Money"). In the event this Agreement is not accepted by Seller, the Earnest Money shall be promptly returned to Buyer. Upon acceptance of this Offer by Seller, such Earnest Money shall secure the Buyer's performance of this Agreement and in the event of a default by Buyer in the performance of its obligations herein specified, Seller shall have the right to terminate this Agreement and the Earnest Money shall be paid to Seller as liquidated damages as Seller's sole remedy at law or in equity; and
- 2.2 The balance of the Purchase Price, subject to adjustments as set forth herein, shall be payable in certified funds or by electronic transfer of funds on the "Closing Date" (as hereinafter defined).
- 2.3 In addition to the Purchase Price, Buyer shall, at Closing as hereinafter defined, pay Seller's representative a 10% Buyer's premium pursuant to the terms of a separate addendum to this Agreement.

3. Contingencies and Inspection Period. The obligation of the Seller is contingent upon approval of the transaction contemplated by this Agreement as required by **IC 4-13-2-14.1, IC 4-13-2-14.2 and IC 4-20.5-7**.

4. Closing. In the event that Seller has accepted this Agreement and the parties proceed to closing, the closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur within thirty (30) days following State approval as set forth above (the "Closing Date"), **such final closing is subject to and conditional upon approval by the Office of the Governor and the Indiana Attorney General**, unless extended by mutual agreement of the parties. The Closing shall take place at a time, place, and on a date agreeable by Seller and Buyer. The Buyer will be responsible for title fees, escrow fees, and costs charged by the company with whom the earnest money is deposited as outlined in Section 5.1.

4.1 Seller's Closing Documents. On the Closing Date, Seller shall have executed and delivered or caused to be delivered to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:

4.1.1 Deed. A Quitclaim Deed conveying the Property to Buyer, **an exemplar of such Quitclaim Deed is attached hereto as Exhibit B**.

4.1.2 Documents. Copies of all contracts, permits and warranties affecting the Property that will survive the Closing, if any.

4.1.3 Sales Disclosure Form. An Indiana sales disclosure form.

4.1.4 Other Documents. All other documents reasonably determined by Buyer to be necessary to transfer title to the Property to Buyer free and clear except Permitted Exceptions to Title.

4.2 Buyer's Closing Documents. On the Closing Date, Buyer will execute and deliver to Seller the following (collectively, "Buyer's Closing Documents"):

4.2.1 Purchase Price. Funds representing the Purchase Price, by electronic transfer of immediately available funds.

4.2.2 Assumption of Contracts, Permits, Warranties and Miscellaneous Documents. An Assumption of Contracts, Permits and Warranties, if any, assuming Seller's obligations under such documents.

4.2.3 Sales Disclosure Form. An Indiana sales disclosure form.

4.2.4 Other Documents. All other documents reasonably determined by Seller or Title Company to be necessary to complete the transaction contemplated by this Agreement. Including a Vendor Information form required by the State of Indiana Auditor's Office, **an exemplar of such Vendor Information form is attached hereto as Exhibit C**.

5. Allocation of Costs. Seller and Buyer agree to the following allocation of costs regarding this Agreement:

5.1 Title Insurance and Closing Fee. Buyer shall be solely responsible for the payment of all premiums and fees associated with title insurance, including any and all closing fees or recording charges. Buyer shall be responsible for payment, at or before Closing, of search fees charged by the title company from whom Seller obtained a preliminary title review and commitment. Unless waived by the title company, said closing fees shall be payable by Buyer whether or not Buyer obtains a policy of title insurance.

5.2 Taxes and Assessments. The Property being conveyed is owned by the State of Indiana and is exempt from all real property taxes. The Seller shall assume no responsibility or liability for any real property taxes or other assessments from

which it is statutorily exempt. Buyer shall be solely responsible for, and indemnify Seller against, any and all real property taxes assessed with respect to the Real Property on or after Closing.

- 5.3 Utilities. Seller shall either ensure that utility service to the Property is disconnected as of the Closing Date or shall cooperate with Buyer in having such utility services transferred to Seller's account. All contracts relating to operating the Property shall be canceled as of the Closing Date.

- 5.4 Attorney's Fees. Each of the parties will pay its own attorney's fees.

6. Evidence of Title. In the event that Buyer does not order and receive a commitment for title insurance, Seller shall, at its expense, within ten (10) days after written request from Buyer, furnish to Buyer a copy of the documents by which the State obtained or otherwise holds title or a letter from the State Land Office describing the documents by which the State obtained and otherwise holds title. Seller will cooperate with the Buyer or its title company in clarifying or resolving any perceived deficiencies or clouds in the title, but shall not be required to incur any expense beyond commitment of the time of the State Land Office. If such issues cannot be resolved to Buyer's satisfaction, Buyer may terminate this Agreement, and the Earnest Money, if any, shall be returned.

7. Maintenance of the Real Property Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date, Seller shall maintain the Property and improvements in a reasonably prudent manner. Seller shall execute no contracts, leases or other agreements regarding the Property between the date hereof and the Date of Closing that are not terminable on or before the Closing Date, without the prior written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

8. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

- 8.1 Existence; Authority. Seller has the requisite power and authority to enter into and perform this Agreement and to execute and deliver Seller's Closing Documents; such documents have been duly authorized by all necessary action.
- 8.2 Contracts. Seller has made available to Buyer a correct and complete copy of any Contract and its amendments which will survive a closing hereunder, if any.
- 8.3 Operations. Seller has received no written notice of actual or threatened cancellation or suspension of any utility services for any portion of the Property. Seller has received no written notice of actual or threatened special assessments or reassessments of the Property.
- 8.4 Litigation. To Seller's knowledge, there is no litigation or proceeding pending or threatened against or relating to the Property, nor does Seller know of or have reasonable grounds to know of any basis for any such action or claim.
- 8.5 Physical Condition. Seller makes no representation or warranty concerning the physical condition of the Property and puts Buyer to the obligation to satisfy itself pursuant to the contingency contained in Section 3 above.

9. Casualty; Condemnation. If all or any part of the Property is materially damaged by fire, casualty, the elements or any other cause, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice within thirty (30) days after Seller's notice. If eminent domain proceedings are threatened or commenced against all or any part of the Property, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all

Earnest Money by giving notice within thirty (30) days after Seller's notice. Termination of this Agreement and return of all Earnest Money are Seller's sole remedies

10. Notices. Any notice required or permitted hereunder shall be given by personal delivery upon an authorized representative of a party hereto; or if mailed by United States certified mail, return receipt requested, postage prepaid; or if transmitted by facsimile copy followed by mailed notice; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller: Commissioner
Indiana Department of Administration
402 W. Washington St., W479
Indianapolis, IN 46204

With Copy to: Attorney General
Office of the Indiana Attorney General
302 W. Washington St.
Indianapolis, IN 46204

If to Buyer:

With a Copy to:

Notices shall be deemed effective on the date of receipt. Any party may change its address for the service of notice by giving notice of such change ten (10) days prior to the effective date of such change.

11. Miscellaneous. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns. This Agreement has been made under the laws of the State of Indiana, and any suit must be brought in an Indiana court of competent jurisdiction.

12. Remedies. If Buyer defaults, and if Buyer fails to cure such default within ten (10) days of the date of notice of such default from Seller, then Seller shall have the right to terminate this Agreement by giving written notice of termination to Buyer. In the event of termination Seller will receive the Earnest Money as liquidated damages, time being of the essence of this Agreement. The termination of this Agreement and retention of the Earnest Money will be the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance. Buyer's sole remedy for any default by Seller shall be termination of this Agreement and return of the Earnest Money.

13. Buyer's Examination. Buyer is relying solely upon its own examination of the Property and inspections in determining its physical condition, character, and suitability for Buyer's intended use of the Property and is not relying upon any representation by Seller or any broker, except for those made by Seller directly to Buyer in writing in **Exhibit D, which is attached to this**

agreement. Buyer agrees and acknowledges that it is accepting the Property “**AS IS**” subject to all faults of every kind and nature whatsoever, whether latent or patent, and whether now or hereafter existing, and Buyer acknowledges that it has based its decision to purchase the Property solely upon information obtained independently by Buyer. Buyer shall sign a Hold Harmless Affidavit, **an exemplar of such Hold Harmless Affidavit is attached hereto as Exhibit E.** Buyer shall acquire the Property subject to all laws imposed upon the Property by any governmental or quasi-governmental authority having jurisdiction thereof. Buyer represents and warrants to Seller that Buyer has not relied, and will not rely, upon the representation or statement, or the failure to make any representation or statement, by Seller or Seller’s agents, employees or by any person acting or purporting to act on the behalf of Seller with respect to the physical condition of the Property.

14. Compliance with Telephone Privacy. As required by IC 5-22-3-7:

(1) the Buyer and any principals of the Buyer certify that (A) the Buyer, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Buyer will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2) The Buyer and any principals of the Buyer certify that an affiliate or principal of the Buyer and any agent acting on behalf of the Buyer or on behalf of an affiliate or principal of the Buyer (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

15. Withdrawal of Offer. This Agreement shall be deemed to be withdrawn, unless accepted by Seller, after one-hundred-fifty (150) days of delivery to Seller. In the event of a withdrawal under this section, Buyer shall be entitled the return of the Earnest Money.

16. Additional terms.

17. Non-Collusion and Acceptance. The undersigned attests, subject to the penalties for perjury, that he/she is the Buyer, or that he/she is the properly authorized representative, agent, member or officer of the Buyer, that he/she has not, nor has any other member, employee, representative, agent or officer of the Buyer, directly or indirectly, to the best of the undersigned’s knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid any sum of money or other consideration for the execution of this Property Purchase Agreement other than that which appears upon the face of this Agreement.

In Witness Whereof, Buyer and the Seller have, through their duly authorized representatives, entered into this Property Purchase Agreement. The parties, having read and understood the foregoing terms, do by their respective signatures dated below hereby agree to the terms thereof.

BUYER:

Signature

Printed Name

Title

BUYER SHALL TAKE TITLE OF THE PROPERTY AS FOLLOWS:

BUYERS PRIMARY ADDRESS:

SELLER:

State of Indiana acting through the Indiana Department of Administration.

By _____
For:

EXHIBIT "A"

Project: NH-075-3(015)

Sheet 1 of 1

Code: 3097

Parcel: 5, Excess Land

Form _____

A part of the Southeast Quarter of Section 12, Township 6 South, Range 6 West, Spencer County, Indiana, and being All that portion of Parcel 5, Indiana Department of Transportation L.A. Code 3097 (Instrument Number 2002R-06811), that lies outside of the Limited Access Right-of-Way Lines as shown on the attached Parcel Plat marked Exhibit "B, described as follows: Commencing at the northeast corner of said quarter section, said point being designated as point "4032" on said Parcel Plat; thence along the east line of said section, South 00 Degrees 23 Minutes 16 Seconds West, a distance of 99.983 meters (328.03 Feet) to the northeast corner of Deed Record 184, Page 350; thence along the north line of Deed Record 184, Page 350, North 89 Degrees 32 Minutes 15 Seconds West, a distance of 29.290 meters (96.09 Feet) to point "4776" as shown on said Plat, and the POINT OF BEGINNING; thence South 14 Degrees 58 Minutes 00 Seconds West, a distance of 145.921 meters (478.74 Feet) to point "4773" as shown on said Plat; thence along the line formed between points "4773" and "4774", South 23 Degrees 03 Minutes 50 Seconds West, a distance of 8.614 meters (28.26 Feet), more or less, to a point on the south line of Deed Record 184, Page 350; thence along said south line, North 89 Degrees 38 Minutes 04 Seconds West, a distance of 83.779 meters (274.87 Feet) to point "5085" as shown on said Plat; thence North 05 Degrees 17 Minutes 45 Seconds East, a distance of 17.986 meters (59.01 Feet) to point "5084" as shown on said Plat; thence North 85 Degrees 35 Minutes 11 Seconds East, a distance of 45.589 meters (149.57 Feet) to point "5086" as shown on said Plat; thence North 51 Degrees 11 Minutes 14 Seconds East, a distance of 18.929 meters (62.10 Feet) to point "5087" as shown on said Plat; thence North 09 Degrees 28 Minutes 19 Seconds East, a distance of 40.637 meters (133.32 Feet) to point "5088" as shown on said Plat; thence North 24 Degrees 03 Minutes 14 Seconds East, a distance of 82.330 meters (270.11 Feet) to the north line of Deed Record 184, Page 350 (and point "5089" as shown on said Plat); thence along said north line, South 89 Degrees 32 Minutes 15 Seconds East, a distance of 22.731 meters (74.58 Feet) to the POINT OF BEGINNING; said described tract containing 0.5842 Hectares (1.444 Acres), more or less.

[This description is subject to any and all easements, rights of way, covenants, or restrictions; recorded or observable. Also, subject to the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (to be known as U.S.R. 231 and Project NH-075-3(15)) to and from the above described abutting lands; in particularly, the 145.921 meters (478.74 Feet) and the 8.614 meters (28.26 Feet) courses described above. This restriction shall be a covenant running with the land and shall be binding upon all successors in title to the said abutting lands.]



This description was prepared for the
Indiana Department of Transportation by
Richard Paul Croix Hodges, Indiana RLS #
20400026, this 7th day of February, 2011.

Richard Paul Croix Hodges, 02/07/2011

This description was written from information obtained from the County Recorder's Office and other sources which were not necessarily checked by a field survey.

EXHIBIT "A"

Project: NH-075-3(015)

Sheet 1 of 1

Code: 3097

Parcel: 7, Excess Land

Form _____

A part of the Northeast quarter of the Southeast quarter of Section 12, Township 6 South, Range 6 West, Spencer County, Indiana described as follows: Beginning at an iron pipe marking the Northeast corner thereof; thence running South with the Township line 328.03 feet to an iron stake; thence West parallel with the North line 665 feet, more or less, to an iron pipe already set; thence North 00 degrees 05 minutes 03 seconds East 328.03 feet to the North line of said quarter quarter section marked with an iron pipe; thence South 89 degrees 44 minutes 59 seconds East 665.03 feet to the point of beginning. Containing 5 acres, more or less. (This description was quoted verbatim from the existing descriptions in Deed Record 178, Page 278-9 and Instrument # 2003R-06146.)

Excepting therefrom: A part of the Southeast Quarter of Section 12, Township 6 South, Range 6 West, Spencer County, Indiana, and being All that portion of Parcel 7, Indiana Department of Transportation L.A. Code 3097 (Instrument Number 2002R-06811), that lies inside of the Limited Access Right-of-Way Lines as shown on the attached Parcel Plat marked Exhibit "B, described as follows: Beginning at the northeast corner of said quarter section, said point being designated as point "4032" on said Parcel Plat; thence along the east line of said section, South 00 Degrees 23 Minutes 16 Seconds West, a distance of 99.983 meters (328.03 Feet) to the southeast corner of the above described 5 acre tract; thence along the south line of said 5 acre tract, North 89 Degrees 32 Minutes 15 Seconds West, a distance of 29.290 meters (96.09 Feet) to a point on the line formed between points "4773" and "4775" as shown on said Plat; thence North 14 Degrees 58 Minutes 00 Seconds East, a distance of 93.305 meters (306.12 Feet) to point "4775" as shown on said Plat; thence along the line formed between points "4775" and "4777", North 02 Degrees 37 Minutes 19 Seconds West, a distance of 9.667 meters (31.72 Feet), more or less, to a point on the north line of the said 5 acre tract and the north line of the quarter section; thence along said north line, South 89 Degrees 32 Minutes 15 Seconds East, a distance of 6.311 meters (20.71 Feet) to the POINT OF BEGINNING; said described tract containing 0.1643 Hectares (0.406 Acres), more or less.

[This description is subject to any and all easements, rights of way, covenants, or restrictions; recorded or observable. Also, subject to the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (to be known as U.S.R. 231 and Project NH-075-3(15)) to and from the above described abutting lands; in particularly, the 93.305 meter (306.12 Feet) and the 9.667 meter (31.72 Feet) courses described above. This restriction shall be a covenant running with the land and shall be binding upon all successors in title to the said abutting lands.]



*This description was prepared for the
Indiana Department of Transportation by
Richard Paul Croix Hodges, Indiana RLS #
20400026, this 9th day of February, 2011.*


Richard Paul Croix Hodges, 02/09/2011

This description was written from information obtained from the County Recorder's Office and other sources which were not necessarily checked by a field survey.

EXHIBIT B

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, that the STATE OF INDIANA, acting through the Governor of the State of Indiana and the Commissioner of the Indiana Department of Administration, or their respective designees, and by the authority of Indiana Code 4-20.5-7-11, RELEASES and QUITCLAIMS to:

for good, valuable, and sufficient consideration, receipt of which is hereby acknowledged, the real property located in _____ County, Indiana and more fully described on Exhibit A, attached hereto and incorporated fully herein.

Subject to all existing legal rights-of-way, easements, conditions, and restrictions of record.

IN WITNESS WHEREOF, the undersigned have executed the foregoing Quitclaim Deed on behalf of the State of Indiana this _____ day of _____ 2011.

**David L. Pippen, Designee for
Mitchell E. Daniels, Jr. Governor**

State of Indiana)

County of Marion)

ss:

Before me, a Notary in and for said County and State, personally appeared David L. Pippen, designee of the Governor of Indiana pursuant to IC 4-20.5-7-17 (b), and acknowledged execution of the foregoing Quitclaim Deed this _____ day of _____ 2011.

Notary signature: _____

Notary name printed: _____

My commission expires: _____ I reside in _____ County

[illegible]

My commission expires: _____ I reside in _____ County

Filed in Indiana State Land Office:

This instrument prepared by Tim A. Grogg Esq. (Attorney No. 7316-03), Legal Counsel, Indiana Department of Administration, 402 West Washington Street, W 479, Indianapolis, IN 46204. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

EXHIBIT C



Vendor Information

State Form 53788 (12-08)
Approved by Auditor of State, 2008
Approved by State Board of Accounts, 2008

Name and telephone number of the Person who completed this document must be provided.

Name: _____

Daytime Telephone Number: _____

Send completed form to Auditor of State, 240 Statehouse, 200 W. Washington St., Indianapolis, IN 46204 or fax to (317) 234-1916

Print or Type

Legal Name (OWNER OF THE EIN OR SSN AS NAME APPEARS ON YOUR TAX RETURN. DO NOT ENTER THE BUSINESS NAME OF A SOLE PROPRIETORSHIP ON THIS LINE.)

Trade Name (Doing Business as Name D/B/A) (Complete only if payment is to be made payable to the DBA name)

Remit Address

Purchase Order Address - Optional

Enter 9-digit Taxpayer Identification Number (TIN) of the legal name:

(SSN=Social Security Number, EIN=Employer Identification Number)

(Individual's SSN) _____ - _____ or EIN _____ - _____

Check legal entity type (A box must be checked in this section. Check only one box.)

- ☐ Individual ☐ Sole Proprietorship ☐ Partnership
☐ Estate / Trust Note: Show above, the name and number of the legal trust, or estate, not personal representatives
☐ Other [Limited Liability Company (LLC) (attach IRS Form 8832 if applicable), Joint Venture, Club, etc.]
☐ Corporation Do you provide legal or medical services? ☐ Yes ☐ No
☐ Government (or Government operated entity)
☐ Organization Exempt from Tax under Section 501(a)

One box must be checked ☐ I am a U.S. Person (including a U.S. resident alien) ☐ I am not a U.S. Person (a W-8 must be filed with the Auditor of State)

☐ Add Deposit ☐ Change Deposit **Indiana law (I.C. 4-13-2-14.8) requires that YOU receive PAYMENT(S) by means of electronic transfer of funds.**

SECTION 1: AUTHORIZATION

According to Indiana law, your signature below authorizes the transfer of electronic funds under the following terms:

Account Holder's Name: _____ Account Number: _____

Type of Account: ☐ Checking (Demand) ☐ Savings

SECTION 2: FINANCIAL INSTITUTION'S APPROVAL (Attach a voided check or have your financial institution complete this section)

The financial institution identified below agrees to accept automated deposits under the terms set forth herein:

Name of Financial Institution: _____

Telephone: (____) _____

Address: _____

Number and Street, and/or P.O. Box No.

Financial Institution's Authorized Signature

City, State, and Zip Code (00000-0000)

Title

ABA Transit-Routing Number

_____, 20____

Date

SECTION 3: ELECTRONIC NOTIFICATION OF ELECTRONIC FUND TRANSFER (EFT) DEPOSITS

(Complete this section only if you are requesting electronic notification. You may provide up to four email addresses.)

I hereby request that all future notices of EFT deposits to the bank account specified above be sent to the following email addresses:

I agree to the provisions contained on the reverse side of this form.

NAME (Print or Type) _____ TITLE _____

AUTHORIZED SIGNATURE _____ DATE _____ PHONE _____

EXHIBIT D

CATEGORICAL EXCLUSION LEVEL 1 FORM

Date: September 1, 2011

☐

Initial Version

☐

Additional Information to CE Level 1 Dated:

Purpose of this document:

☒

CE Level 1 documentation for exempted projects

☐

State-funded categorical exemption documentation

Approval of Exempt, CE Level 1 or State-Funded CE:

Ernest A. Stapp
Environmental Scoping Manager or
Environmental Policy Manager

9/2/11
Date

PROJECT INFORMATION			
Project Number, County, Route	New US 231 Excess Right-of-Way Parcel # 5 and 7, LA Code 3097, in Spencer County	Des Number	N/A
Project Description	New US 231 Excess Right-of-Way Parcel # 5 and 7, LA Code 3097, in Spencer County are going to be sold. See Attachment 1 for a Project Location Map.		
Purpose and Need for Action:	The purpose of this CE is to clear the excess right-of-way from US 231, Parcel # 5 and 7, for sale. This would relieve INDOT of the cost of maintaining these parcels and provide funds from the sale to come back to the INDOT.		
Alternatives Considered:	The do-nothing alternative was considered, but rejected since it would not meet the purpose and need of the projects.		
Project Termini:	North of SR 70, located West of New US 231		
Funding Source(s):	___ Federal <u>X</u> State ___ Local	Estimated Cost	N/A
Project Sponsor:	INDOT	Project Length	N/A

Name and organization of CE Level 1 Preparer:: INDOT, Brittney Smith, E.I.

SCOPE OF THE PROPOSED ACTION		
Public Involvement	No: X	Possible:
Comments:	No public controversy is expected. Any applicable public involvement procedures will be followed.	
Relocation of residences/businesses/etc.*	No: X	Possible:
Comments:	No structures will be acquired under this project. No relocations will be necessary.	
Right-of-way in acres (permanent and temporary)*	No: X	Possible:
Comments:	No new right-of-way be acquired as part of this project.	
Added through-traffic lanes – length*	No: X	Possible:
Comments:	No through-lanes will be added.	
Permanent alteration of local traffic pattern*	No: X	Possible:
Comments:	There will be no alteration of local traffic patterns. No new roads or changes in access are planned.	
Facility on new location or realignment*	No: X	Possible:
Comments:	There will be no new alignment or realignment of existing roads.	
Disruption to public facilities/services (such as schools, emergency service)	No: X	Possible:
Comments:	Any disruption will be temporary, and public service providers will be notified. Traffic will be appropriately maintained.	
Involvement with existing bridge(s) (Include structure number(s))	No: X	Possible:
Comments:	No bridges will be involved in this project.	

INVOLVEMENT WITH RESOURCES		
Watercourses Impacted (linear feet)	No: X	Possible:
Comments:	There will be no construction in waterways as part of this project	
Other Surface Waters (such as ponds, lakes, reservoirs, in acres)	No: X	Possible:
Comments:	There will be no construction in water bodies as part of this project.	
Wetlands (acres)*	No: X	Possible:
Comments:	There will be no adverse impacts to wetlands as part of this project.	
Disturbance of Terrestrial Habitat (acres)	No: X	Possible:
Comments:	There will be no construction which adversely affects habitat as part of this project. Removal of invasive species will produce a net benefit to the habitat values of some areas.	

INVOLVEMENT WITH RESOURCES		
Karst Features	No: X	Possible:
Comments:	There are no karst features present in this County nor is it part of the Karst MOU.	
Threatened and Endangered Species Present/Impacted*	No: X	Possible:
Comments:	This project is included under the September 1993 MOU which exempts such projects from coordination with the United States Fish and Wildlife Service. No endangered species should be impacted.	
Impacts to Sole Source Aquifer*	No: X	Possible:
Comments:	There is no known Sole Source Aquifer located in the Vincennes District.	
Flood Plains (note transverse or longitudinal impact)	No: X	Possible:
Comments:	The project will not alter flood elevations.	
Farmland (acres)	No: X	Possible:
Comments:	This project is not of a type which will affect farmland. Any property which is acquired will be maintained in its present undeveloped state.	
Cultural Resources (Section 106)*	No: X	Possible:
Comments:	Excess right-of-way parcels are cleared under state law, not Federal 106. The archaeological survey has been completed for parcels 5 and 7 near Chrisney. Phase Ib intensive reconnaissance report was sent to DHPA on July 12, 2011. See Attachment 2 for more information.	
Section 4(f) and Section 6(f) Resources *	No: X	Possible:
Comments:	Although there may be Section 4(f) or 6(f) resources near the project, none of the resources will be adversely affected.	
Air Quality Non-attainment Area	No: X	Possible:
Comments:	This projects is exempt from air quality analysis in accordance with 40 CFR Part 93.126 Table 2. This project is not projects of air quality concern and therefore will have no significant impact on air quality.	
Noise Analysis Required*	No: X	Possible:
Comments:	This project is not a Type I project. In accordance with 23 CFR 772 and the INDOT Traffic Noise Policy (FHWA concurrence on February 26, 2007), these actions do not require formal noise analysis.	
Community/Economic Impacts	No: X	Possible:
Comments:	No negative impacts are anticipated for the established communities.	
Environmental Justice	No: X	Possible:
Comments:	There will be no relocations as part of this project. No disproportionate adverse impacts to protected populations are expected.	
Hazardous Materials	No: X	Possible:

INVOLVEMENT WITH RESOURCES

Comments:	These properties were appropriately assessed for hazardous materials concerns. A Phase I was completed by INDOT Environmental Services on December 22, 2010. See Attachment 3.
-----------	--

Permits

No:

Possible: **X**

Comments:	The permit need for this project will be determined by the project designer at a later phase. The designer will be responsible for obtaining the necessary permits for this project.
-----------	--

*Criteria used for determination of CE Level. See threshold table below.

ENVIRONMENTAL COMMITMENTS:

Any work in a wetland area within INDOT's right of way or in borrow/waste areas is prohibited unless specifically allowed in the US Army Corps of Engineers or IDEM permit. (Required)

If any archaeological artifacts or human remains are uncovered during construction, federal law and regulations (16 USC 470, et seq.; 36 CFR 800.11, et al.) and State Law (IC 14-21-1) require that work must stop immediately and that the discovery must be reported to the Division of Historic Preservation and Archaeology in the Indiana Department of Natural Resources within 2 business days. INDOT's Cultural Resources Section in Environmental Services shall also be notified. (Required)

If any potential hazardous materials are discovered during construction the IDEM Spill Line should be notified with details of the discovery within 24 hours. INDOT Office of Environmental Services, Hazardous Materials Unit should then be contacted to organize the proper handling of the material to be in accordance with the IDEM guidelines. (Required) Permits may be required for this project. It will be the responsibility of the designer to submit plans to ES to process permits. (Required)

If any scope changes take place, the Vincennes District Planning and Programming Office shall be consulted. A scope change could cause this environmental document to no longer be valid. (INDOT – Required)

If unexpected karst features are discovered during construction, work shall cease immediately in the affected area and ES will be contacted. ES will coordinate with USFWS to determine appropriate protective measures. (Call ES Nathan Saxe – 317-232-0240) (INDOT – Required)

Erosion control measures will be taken as if this project had a Rule 5 Erosion Control Permit. (Required)

Categorical Exclusion Level Thresholds

	Level 1	Level 2	Level 3	Level 4
Relocations	None	≤ 2	> 2	> 10
Right of way¹	< 0.5 acres	< 10 acres	≥ 10 acres	≥ 10 acres
Length of added through lane	None	< 1 miles	≥ 1 mile	≥ 1 mile
Permanent Traffic pattern alteration	None	None	Yes	Yes
New alignment	None	None	< 1 mile	≥ 1 mile ²
Wetlands	< 0.1 acres	< 1 acre	< 1 acre	≥ 1 acre
Stream Impacts	≤ 300 linear feet of stream impacts, no work beyond 75 feet from pavement	> 300 linear feet impacts, or work beyond 75 feet from pavement	N/A	N/A
Section 4(f)*	None	None	None	Any impacts
Section 6(f)	None	None	Any impacts	Any impacts
Section 106	"No Historic Properties Affected" or falls within guidelines of Minor Projects PA	"No Adverse Effect" or "Adverse Effect"	N/A	If ACHP involved
Noise Analysis Required	No	No	Yes ³	Yes ³
Threatened/Endangered Species*	"Not likely to Adversely Affect", or Falls within Guidelines of USFWS 9/8/93 Programmatic Response	N/A	N/A	"Likely to Adversely Affect" ⁴
Sole Source Aquifer Groundwater Assessment	Detailed Assessment Not Required	Detailed Assessment Not Required	Detailed Assessment Not Required	Detailed Assessment Required
Approval Level • ESM ⁵ • ES ⁶ • FHWA	Yes	Yes	Yes Yes	Yes Yes Yes

*These thresholds have changed from the March 2009 Manual.

¹Permanent and/or temporary right of way.

²If the length of the new alignment is equal to or greater than one mile, contact the FHWA's Air Quality/Environmental Specialist.

³In accordance with INDOT's Noise Policy.

⁴If the project is considered Likely to Adversely Affect Threatened and/or Endangered Species, INDOT and the FHWA should be consulted to determine whether a higher class of document is warranted.

⁵Environmental Scoping Manager

⁶Environmental Services

Attachment 1

Project Location Map

**US 231 Excess Right-of-Way
Parcel 5 and 7 Location Map**



Attachment 2

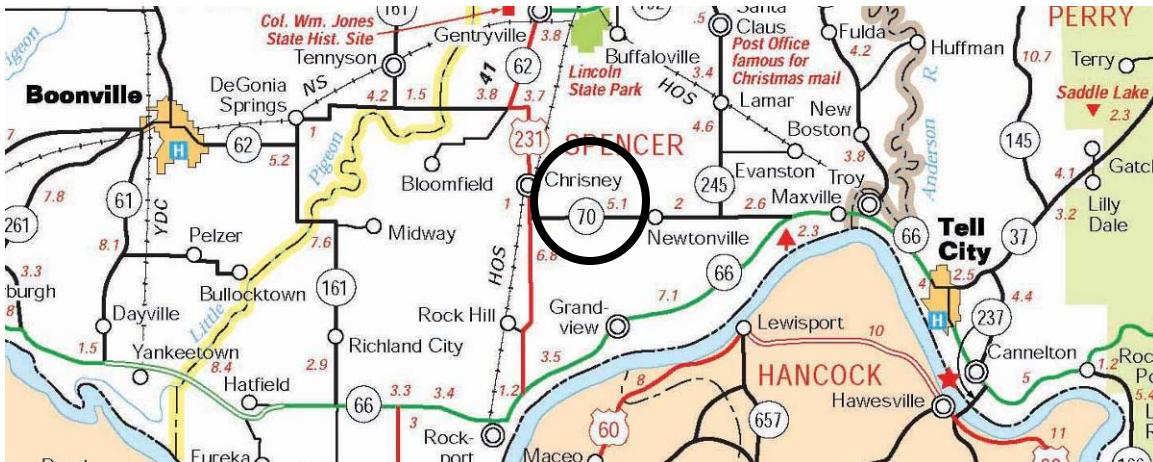
Archaeological Report

**Archaeological Records Check, Phase Ia Reconnaissance, and Phase Ib Intensive Survey:
For the Sale of Excess Parcels 5, 7, and 43 Along New US 231 (INDOT Des No 926136A)
Spencer County, Indiana**

Prepared By:
David Moffatt
Principal Investigator

Prepared for:
Indiana Department of Transportation, Vincennes District
Brittney Smith, Scoping Engineer
3560 S. U.S. 40
Vincennes, IN 47591

July 11, 2011



Cultural Resources Office
Environmental Services
Indiana Department of Transportation
100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 233-3703

MANAGEMENT SUMMARY

In response to a request from the Indiana Department of Transportation (INDOT), Vincennes District an archaeological records check, Phase Ia reconnaissance, and Phase Ib intensive survey has been conducted for the proposed sale of land parcels 5, 7, and 43 in Spencer County, Indiana. This work was conducted by INDOT, Cultural Resources Office (CRO) personnel who meet the Secretary of Interior's Professional Qualification Standards as per 36 CFR Part 61.

The three parcels were purchased in conjunction with the US 231 realignment (Des No 926136A). Parcels 5 and 7 are adjacent properties, located next to US 231. Parcel 43 is located 545m southeast of Parcel 5 and 7, east of the US 231 interchange with SR 70. The three parcels have a total area of 3.2ha (7.8ac).

The records check found that ten archaeological reconnaissances have recorded six archaeological sites within 1.6 km (1 mi) of the project areas. The Phase Ia archaeological reconnaissance recorded four prehistoric archaeological sites within Parcel 7; 12Sp1443-12Sp1446.

Based on the results of the Phase Ia archaeological field reconnaissance and other relevant information, 12Sp1445 is unlikely to yield important information on the region's prehistory and so is ineligible to the National Register of Historic Properties (NRHP) and Indiana Register of Historic Sites and Structures (IRHSS). Taken together 12Sp1443, 12Sp1444, and 12Sp1446 were considered to have the potential to yield important information for the Early Archaic period in southwest Indiana. These sites were considered potentially eligible to the NRHP and IRHSS and a Phase Ib intensive survey of these sites was conducted to help make a final determination of eligibility.

Based on the results of the Phase Ia and Phase Ib assessment, sites 12Sp1443, 12Sp1444, and 12Sp1446 are not eligible to either the IRHSS or NRHP and no further work is recommended.

Since there is no federal involvement with the disposal of these properties, Section 106 of the National Historic Preservation Act (NHPA) does not apply. The reconnaissance and Phase Ib assessment was conducted in accordance with IC 14-21-1. If human remains, features, or midden deposits are revealed at any time, all activities will cease until INDOT, Cultural Resources Office (CRO) and IDNR, DHPA are contacted and mitigation is completed.



Figure 1. Flakes from 12Sp1446.

CONCLUSION AND RECOMMENDATIONS

In response to a request from the Indiana Department of Transportation (INDOT), Vincennes District an archaeological records check and Phase Ia reconnaissance has been conducted for the proposed sale of land parcels 5, 7 and, 43 in Spencer County, Indiana. In addition, Phase Ib intensive survey has been conducted on sites 12Sp1443-12Sp1446 located in Parcel 7.

No cultural materials were located in Parcel 5. The remains of two sheds and a scatter of jars, bottles, and other debris found on Parcel 43 were not definitively older than 50 years and so the property was not considered to be an archaeological site.

Four prehistoric sites were recorded within Parcel 7, two lithic scatters (12Sp1443 and 12Sp1444), a camp (12Sp1446), and an isolated find (12Sp1445). Based on the results of the Phase Ia archaeological field reconnaissance and Phase Ib intensive survey, sites 12Sp1443-12Sp1445 appears to be limited activity/resource extraction areas. These types of sites, due to their limited use, are not expected to contain cultural features or midden. The presence of FCR suggests that 12Sp1446 may have been a base camp, created by Early Archaic people organized into small mobile groups using a foraging or residential mobility strategy (Stafford 1994). If so, its use seems to have been used for a short period of time. There is no indication of midden development or features. The artifact density is low, and the site is small. It is unlikely that sites 12Sp1443-12Sp1446 have the potential to yield important information to the region's prehistory and so are ineligible to the NRHP or the IRHSS. Since there is no federal involvement with the disposal of these properties, Section 106 of the National Historic Preservation Act (NHPA) does not apply. The reconnaissance was conducted per IC 14-21-1. If human remains, features, or midden deposits are revealed at any time, all activities will cease

until INDOT, Cultural Resources Office (CRO) and IDNR, DHPA are contacted and mitigation is completed.



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



August 12, 2011

Staffan D. Peterson, Ph.D.
Manager, Cultural Resources Office
Environmental Services
Indiana Department of Transportation
100 North Senate Avenue, Room N642
Indianapolis, Indiana 46204

State Agency: Indiana Department of Transportation ("INDOT")

Re: Archaeological Records Check, Phase Ia Reconnaissance, and Phase Ib Intensive Survey: For the Sale of Excess Parcels 5, 7, and 43 Along US 231 (INDOT Des. No. 926136A) Spencer County, Indiana (DHPA No. 11462)

Dear Dr. Peterson:

Pursuant to Indiana Code 14-21-1-14, the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology ("DHPA") has conducted a review of the materials dated July 11, 2011, and received by the DHPA July 13, 2011, for the above indicated project in Grass Township and Hammond Township, Spencer County, Indiana.

We have reviewed the archaeological records check, phase Ia reconnaissance, and phase Ib intensive survey (Moffatt, 07/11/2011). Based upon the submitted information and the documentation available to the staff of the Indiana SHPO, we have not identified any currently known archaeological resources listed in or eligible for inclusion either in the National Register of Historic Places ("NRHP") or in the Indiana Historic Sites and Structures Inventory ("IHSSI") within the proposed project areas Parcel 5 and Parcel 43. Additionally, we concur with the opinion of the archaeologist that archaeological sites 12-Sp-1443, 12-Sp-1444, 12-Sp-1445, 12-Sp-1446, located within the proposed project area Parcel 7, are not eligible for inclusion either in the National Register of Historic Places ("NRHP") or in the Indiana Historic Sites and Structures Inventory ("IHSSI"). Therefore, we concur with the opinion of the archaeologist that no further investigations appear necessary in these proposed project areas.

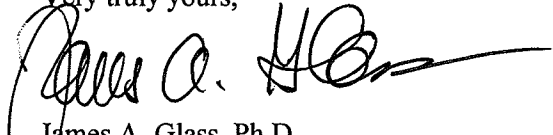
As a reminder, please be advised that the site forms for archaeological sites 12-Sp-1444, 12-Sp-1445, and 12-Sp-1446 have not yet been entered into the SHAARD system. Thank you for submitting the site form for archaeological site 12-Sp-1443 to the SHAARD database; it has been reviewed and approved.

Parts of parcels 5 and 7 appear to have been within the area of potential effects, as delineated in the historic property short report ("HPSR"; Kennedy, 3/17/2011) for the related and federally-assisted US 231 Chrisney Lake Remediation Project. We have checked that HPSR, the photographs in the phase Ia and phase Ib report for this excess parcel review, and the 2001 Spencer County Interim Report, and we do not believe that there are any historic structures within parcels 5, 7, or 43.

If any archaeological artifacts or human remains are uncovered during any future construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days.

If you have further questions regarding this determination, please contact the DHPA. Questions about archaeological issues should be directed to Wade T. Tharp at (317) 232-1650 or wtharp1@dnr.IN.gov. Questions about historic buildings or structures pertaining to this project should be directed to John L. Carr at (317) 233-1949 or jcarr@dnr.IN.gov. Additionally, in any future correspondence regarding the sale of excess parcels 5, 7, and 43 along US 231 in Spencer County, please refer to DHPA No. 11462.

Very truly yours,



James A. Glass, Ph.D.
Director, Division of Historic Preservation & Archaeology

JAG:WTT:JLC:jlc

emc: Staffan D. Peterson, Ph.D., Indiana Department of Transportation
Mary Kennedy, Indiana Department of Transportation
Shaun Miller, Indiana Department of Transportation
C. David Moffatt, Indiana Department of Transportation
Melany Prather, Indiana Department of Transportation
Steve Harless, Indiana Department of Administration

Attachment 3

Hazardous Material Report

PHASE I
ENVIRONMENTAL SITE ASSESSMENT

INDOT Excess
For Disposal
Parcels, # 5 Approximately 2.0 acres
& Parcel # 7 Approximately 6.0 acres
Adjacent to West Side of New US 231 Right Of Way
1,000 feet north of SR 70
Southeast of Chrisney, Spencer County, IN

Prepared for

Wayne Dittelberger
Vincennes District

Prepared by

Hazardous Materials Unit
Office of Environmental Services
Indiana Department of Transportation

12/22/2010



12/22/2010

Vincennes District

Attention: Wayne Dittelberger

Re: Phase I Environmental Site Assessment Report

Excess property Parcel # 5, approximately 2.0 acres and Parcel # 7, approximately 6.0 acres, on the west side of New US 231, 1,000 feet north of SR 70, Spencer County. The acreages are approximate, as measured from air photography. This section of new US 231 has been paved and the shoulders have been graded, but the section of highway has not been opened to the public, as of the date of this report.

INDOT's Hazardous Materials Unit is pleased to submit our report describing the findings of the Phase I Environmental Site Assessment of two adjacent INDOT excess parcels. Both parcels were acquired by INODT as part of the new US 231 highway. The portions of the properties that were not used in the construction and right of way for the new highway have been declared excess and will be disposed of. Both properties are wooded. The properties are adjacent to each other, and are both located between the new US 231 and Chrisney Lake, which is west of the two parcels. Both parcels are landlocked, with access only to adjoining neighbors. Both parcels are undeveloped, with no buildings or structures. Both parcels are 1,000 feet north of the intersection of New US 231 and SR 70, in Spencer County In. This assessment was prepared in general accordance with the American Society of Testing and Materials (ASTM) Standard Practices for Environmental Site Assessments: Phase I ESA Process (ASTM Designation: E1527-2000).

The purpose of the Phase I ESA was to gather sufficient information to render an independent professional opinion about the environmental condition of the properties. This assessment included a site reconnaissance as well as research of available environmental records and maps.

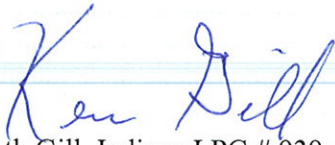
This Phase I Environmental Assessment deviates somewhat from a standard Phase I Environmental Assessment in that it is abbreviated in some aspects. This is a rural area, mostly used for agriculture and has never been commercially or industrially developed. The parcel is landlocked, with no publically available access. A search *has been conducted* of the Indiana Department of Environmental Management maps, and environmental records. ASTM criteria were observed, and contaminant map layers for a one mile search from the subject property. No recognized environmental conditions of any kind were found.

Therefore it is justified that a highly detailed investigation into historical land use of the parcel and of adjacent areas was not performed.

If you have any questions or require further clarification of the report findings, please contact the undersigned at your convenience. Thank you for the opportunity to be of service to Vincennes District.

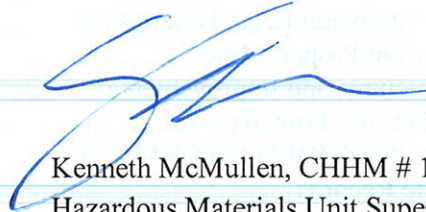
Yours very truly,

Written by :

A handwritten signature in blue ink, appearing to read "Ken Gill".

Kenneth Gill, Indiana LPG # 939
INDOT Environmental Project Manager

Reviewed by :

A handwritten signature in blue ink, appearing to read "Ken McMullen".

Kenneth McMullen, CHHM # 14768
Hazardous Materials Unit Supervisor

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EXECUTIVE SUMMARY

Vincennes District engaged INDOT's Hazardous Materials Unit to conduct a Phase I Environmental Site Assessment (ESA) of INDOT parcels # 5 (approx 2.0 acre) and #7 (approx. 6.0 acre). Both parcels are located on the west side of New US 231 right of way, 1,000 feet north of SR 70, in Spencer County. This section of the new highway has not yet been opened to the public, as of the date of this report. The properties are located one mile southeast of Chrisney Indiana, and 500 feet east of Chrisney Lake. The properties are subsequently referred to in this report as "the subject property" or "the subject properties". This assessment was prepared in general accordance with the American Society of Testing and Materials (ASTM) Standard Practices for Environmental Site Assessments: Phase I ESA Process (ASTM Designation: E1527-2000).

The purpose of the Phase I ESA was to identify any potential sources of environmental risk or liability on the subject properties. This assessment included a site reconnaissance as well as environmental records research.

The subject properties consist of excess parcels that were obtained by INDOT for the construction of new US 231. The current land use of the subject property is vacant, and completely wooded. No buildings or structures were present on the subject property at the time of the field reconnaissance.

Based on the information gathered and on observations made during this investigation, the Phase I Environmental Site Assessment has identified no on-site environmental conditions associated with the subject property.

Based on the information gathered and on observations made during this investigation, the Phase I Environmental Site Assessment has identified no off-site environmental conditions associated with the subject property.

A Phase I Environmental Site Assessment in conformance with the scope of work and ASTM Practice E 1527-2000 was performed on the subject property. This assessment revealed no evidence of any recognized environmental conditions associated with the subject property.

Based on the results of the Phase I Environmental Site Assessment of the subject property, no further investigation, i.e. Phase II Investigation, is recommended at this time. Both properties may be disposed of with reasonable assurance that there are no environmental issues that would negatively impact the value of or the sale of the properties.

1.0 INTRODUCTION

Vincennes District engaged INDOT's Hazardous Materials Unit to conduct a Phase I Environmental Site Assessment (ESA) of the INDOT excess Parcels #5 and #7, located on the west side of NEW US 231 right of way, 1,000 feet north of SR 70, in Spencer County. The parcels are referred to in this report as "the subject property" or "the subject properties". This assessment was prepared in general accordance with the American Society of Testing and Materials (ASTM) Standard Practices for Environmental Site Assessments: Phase I ESA Process (ASTM Designation: E1527-2000).

1.1 Purpose

The purpose of the Phase I ESA was to identify any potential sources of environmental risk or liability on the subject property. This assessment included a site reconnaissance as well as research and interviews with representatives of the public, property management, and regulatory agencies.

1.2 Scope of Services

The scope of work for this assessment was in general accordance with the American Society of Testing and Materials (ASTM) Standard Practices for Environmental Site Assessments: Phase I ESA Process (ASTM Designation: E1527-2000). These methodologies are described as representing good commercial and customary practice for conducting an ESA of a property for the purpose of identifying recognized environmental conditions.

1.3 Significant Assumptions

While this report provides an overview of potential environmental concerns, both past and present, the environmental assessment is limited by the availability of information at the time of the assessment. It is possible that unreported disposal of waste or illegal activities impairing the environmental status of the property may have occurred which could not be identified. The conclusions and recommendations regarding environmental conditions that are presented in this report are based on a scope of work authorized by the Client. Note, however, that virtually no scope of work, no matter how exhaustive, can identify all contaminants or all conditions above and below ground.

1.4 Limitations and Exceptions

The report has been prepared in accordance with generally accepted environmental methodologies referred to in ASTM 1527-2000, and contains all of the limitations inherent in these methodologies. No other warranties, expressed or implied, are made as to the professional services provided under the terms of our contract and included in this report.

The conclusions of this report are based in part, on the information provided by others. The possibility remains that unexpected environmental conditions may be encountered at the site in locations not specifically investigated. Should such an event occur, INDOT's Hazardous Materials Unit must be notified in order that we may determine if modifications to our conclusions are necessary.

The services performed and outlined in this report were based, in part, upon visual observations of the site and attendant structures. Our opinion cannot be extended to portions of the site that were unavailable for direct observation, reasonably beyond the control of INDOT's Hazardous Materials Unit.

The objective of this report was to assess environmental conditions at the site, within the context of our contract and existing environmental regulations within the applicable jurisdiction. Evaluating compliance of past or future owners with applicable local, provincial and federal government laws and regulations was not included in our contract for services.

Our observations relating to the condition of environmental media at the site are described in this report. It should be noted that compounds or materials other than those described could be present in the site environment.

1.5 User Reliance

This report may be distributed and relied upon by INDOT, its successors and assigns. Reliance on the information and conclusions in this report by any other person or entity is not authorized without the written consent of INDOT's Hazardous Materials Unit.

2.0 SITE DESCRIPTION

2.1 Location and Legal Description

The subject properties, Parcels # 5 and Parcel # 7, are located adjacent to the west side right of way, on new US 231, 1,000 feet north of SR 70, one mile southeast of Chrisney, in Spencer County Indiana. This is a remnant of a parcel that was acquired by INDOT for the construction of new US 231. At the time of the site visit, this section of US 231 was paved and the right of way was graded and seeded, but was not yet open to the public. The parcels are approximately 2.0 acres for Parcel # 5 and approximately 6.0 acres for parcel # 7. The parcels are marked onto a USGS topographical map, an aerial photograph in Appendix 1 and Appendix 2.

The current description of the subject property is vacant undeveloped woodland. Bordering the subject property to the north is a small agricultural field. Bordering the property to the east is new US 231, and east of that are more woodlands. To the south is a large residential lot, with a house and garage and a stone land. To the west is more woodland, and 500 feet to the west of the property boundary is Chrisney Lake.

The land use in the area is transportation (new US 231), agricultural, and woodland. There is minor residential use nearby

2.2 Current Property Use

The subject property is currently used for:

Vacant, undeveloped, woodland with nearby Chrisney Lake.

2.3 Structures and Improvements

No buildings or structures were present on the subject property.

2.4 Adjoining Property Use

The current adjoining property uses are:

North:	Undeveloped agricultural field
South:	Single large residential property
East:	US 231, not yet opened to public, and wooded land
West:	Wooded land, 500 feet further west is Chrisney Lake

The following recognized environmental concerns (RECs) were noted from a visual inspection of the adjoining properties:

North:	None
South:	None
East:	None
West:	None

3.0 USER PROVIDED INFORMATION

The user (INDOT Vincennes District Office) provided an aerial photo of the site, and a black and white aerial photograph with the locations of the two parcels marked.

3.1 Title Records

A review of the chain-of-title information was not part of the scope of work for this assessment.

3.2 Environmental Liens or Activity and Use Limitations

No environmental liens were reported.

3.3 Specialized Knowledge

No specialized knowledge of RECs or other potential environmental concerns were reported.

No property valuation reduction relating to environmental concerns was reported.

3.4 Owner, Property Manager and Occupant

The subject property is currently owned by The State of Indiana. The parcel was obtained by INDOT for use in the construction of new US 231. This is a remnant of the original parcel, and has been declared excess, and will be disposed of.

3.5 Reason for Performing Phase 1 ESA

The Phase 1 ESA was prepared by OES. This Phase 1 ESA was requested for the following reason:

- A Phase I Environmental Assessment is required before the INDOT parcels can be disposed of.

3.6 Prior Environmental Reports

No prior environmental reports were identified for the subject property.

3.7 Other

No other information was provided by the user.

4.0 RECORDS REVIEW

4.1 Historical Use Information

Historical use formation describing the subject property was obtained from a variety of sources as discussed below. This information is summarized in the table below.

Period/Date	Land Use	Source of Information
1940, 1950, 1955, 1960, 1966, 1974	Highway air photos in these years indicate parcel is undeveloped, mostly wooded.	Indiana Geological Survey Indiana Historical Aerial Photography Index
Chrisney USGS Topo 1960. Photorevised 1988	1988 photorevised map indicates buildings on and near parcel. The buildings were not present on the 1960 topo map. The buildings are not present at the present time.	U.S.G.S. Topographical Maps, portions of Chrisney and Rockport Quadrangles

4.1.1 City Directories

No City directories were reviewed as the subject property is a rural area, for which no City Directory has been prepared.

4.1.2 Aerial Photographs

Historical aerial photographs dating back to the 1930s are often available from local and federal government sources. Aerial photographs of the subject and adjoining properties were reviewed for indications of previous uses. The results of this review are summarized below.

Year	Scale	Description
1940	1:27918	Ind Geological Survey Historical Aerial Photographs; poor quality
1950	1:20563	Ind Geological Survey Historical Aerial Photographs; poor quality
1955	1:20560	Ind Geological Survey Historical Aerial Photographs; poor quality
1960	1:23813	Ind Geological Survey Historical Aerial Photographs; poor quality
1966	1:23560	Ind Geological Survey Historical Aerial Photographs; fair quality
1974	1:23110	Ind Geological Survey Historical Aerial Photographs; good quality

4.1.3 Fire Insurance Maps

Fire insurance maps are used to determine fire hazards and were produced for most urban areas since the late 1800s. This is not an urban area, and Sanborn maps have never been produced for this area.

4.1.4 Additional Historical Use Sources

No additional historical use sources were identified.

4.1.5 Historical Use of Adjoining Properties

Aerial photographs as far back as 1940 were reviewed, and topographical maps going back as far as 1960 were reviewed. The historical uses of the property and of the adjoining properties have been agriculture and hardwood forest. There is no indication of any development on the two parcels or near the two parcels that would create an environmental risk. This section has been abbreviated in that highly detailed research into the historical use of adjoining properties was not conducted. A search of IDEM's contaminant layer maps was conducted, and no contaminates of any type (gas stations, landfills, special cleanups) were not identified within a one mile distance of the property.

4.2 Standard Environmental Records

A search of available federal and state environmental records was obtained from IDEM, EPA, US Coast Guard sources. A copy of this search is provided in Appendix B. The provided search reports meets or exceeds the regulatory records search requirements of ASTM E1527-2000.

Due to discrepancies in the location of some facilities in the databases arising from incorrect or incomplete addresses some facilities may be listed as unmappable. No unmappable facilities were observed to be within the ASTM minimum search distance of the subject property.

A review of the regulatory information from this database search for possible recognized environmental conditions (RECs) within the ASTM minimum search distance is provided in the Federal and State sections below.

4.2.1 Federal Environmental Records

National Priorities List

The federal Environmental Protection Agency (EPA) maintains the National Priorities List of uncontrolled or abandoned hazardous waste sites identified for priority remedial actions under the Superfund Program.

A review of the NPL List indicates that there are no NPL facilities on the subject property.

A review of the NPL List indicates that there are no NPL facilities on the adjoining properties within the minimum search distance

CERCLIS LIST

The Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) list is maintained by the EPA and contains sites that have been investigated or are currently being investigated for possible inclusion on the NPL.

A review of the CERCLIS List indicates that there are no CERCLIS facilities on the subject property.

A review of the CERCLIS List indicates that there are no CERCLIS facilities sites on adjacent parcels or within the minimum one mile search distance.

RCRA CORRACTS TSD Facilities List

The EPA maintains a database of the Treatment, Storage and Disposal (TSD) of hazardous waste from reporting facilities under the Resource Conservation and Recovery Act (RCRA). The CORRACTS database is the EPA's list of TSD facilities subject to corrective action.

A review of the RCRA CORRACTS TSD List indicates that there are no RCRA CORRACTS TSD facilities on the subject property.

A review of the RCRA CORRACTS TSD List indicates that there are no RCRA CORRACTS TSD sites on adjoining properties or RCRA CORRACTS TSD facilities sites within the one mile minimum search distance.

RCRA Non-CORRACTS TSD Facilities List

The Non-CORRACTS database is the EPA's list of TSD facilities that are not currently subject to corrective action.

A review of the RCRA TSD List indicates that there are no RCRA TSD facilities on the subject property.

A review of the RCRA TSD List indicates that there are no RCRA TSD facilities on the adjoining properties within the minimum search distance

RCRA Generator List

A review of the RCRA Generator List indicates that there are no RCRA Generator facilities on the subject property.

A review of the RCRA Generator List indicates that there are no RCRA Generator facilities on the adjoining properties or within the minimum search distance

ERNS List

The Emergency Response Notification System (ERNS) is a national database used to collect information or reported release of oil or hazardous substances.

A review of the ERNS List indicates that there are no ERNS sites on the subject property.

A review of the ERNS List indicates that there are no ERNS sites on the adjoining properties within the minimum search distance.

4.2.2 State Environmental Records

State Priorities List

The State Priority List (SPL) contains sites that have been ranked to receive funding for remedial actions and/or investigation under the Hazardous Substance Remedial Action Trust Fund.

A review of the SPL List indicates that there are no SPL facilities on the subject property.

A review of the SPL List indicates that there are no SPL facilities on the adjoining properties within the minimum search distance

CERCLIS List

The state maintains a list of facilities that are considered state-equivalent CERCLIS sites.

A review of the state CERCLIS List indicates that there are no state CERCLIS facilities on the subject property.

A review of the state CERCLIS List indicates that there are no state CERCLIS facilities on the adjoining properties within the minimum search distance

SWLF List

Each state maintains a list of facilities permitted as solid waste landfills, incinerators or transfer stations.

A review of the SWLF List indicates that there are no SWLFs on the subject property.

A review of the SWLF List indicates that there are no SWLFs on the adjoining properties within the minimum search distance

LUST List

A map and environmental files of reported leaking underground storage tanks (LUST) is maintained by IDEM. A review of the state LUST List indicates that there are no LUST sites on the subject property.

A review of the state LUST List indicates that there are no LUST sites on adjoining properties or on sites within the one half mile minimum search distance.

UST List

The state maintains a list of registered underground storage tanks.

A review of the state UST List indicates that there are no UST locations on the subject property.

A review of the state UST List indicates that there are no UST sites on adjoining sites or on sites within the minimum one quarter mile search distance.

4.2.3 Local Environmental Records

County Recorder

The county recorder/assessor's office was not contacted regarding the presence of recorded environmental liens or easements for the subject property.

INDOT already owns the subject property.

Fire Department

The Fire Department was not contacted regarding this undeveloped site.

Building Department

No buildings exist or will be demolished as part of this construction.

Other Agencies

No other agencies were contacted or were reviewed in the preparation of this report.

4.3 Physical Setting

4.3.1 Topography

The United States Geological Survey (USGS) Chrisney Quadrangle Map was reviewed. According to this map the average elevation of the subject property fluctuates from 430 to 500 feet above Mean Sea Level. Some of the topography in the area is steeply sloping. The two parcels are at approximately the same elevation as the new US 231.

4.3.2 Regional Geology.

The subject property is located in the Booneville Hills physiographic province. Bedrock is typically of the Pennsylvanian system, according to the Indiana Geological Society. This unit is characterized as consisting of limestone and minor amounts of dolomite and shale.

4.3.3 Soil Survey

The United States Department of Agriculture (USDA) Soil Survey map indicates the property soils in the area of the property consist of the Hosmer-Zanesville Soil Association, and the Zanesville-Wellston Association

4.3.4 Hydrogeology

The regional bedrock dip in this area is to the west. Surficial drainage is to the northwest, by the east fork of Pigeon Creek. It is therefore probable that the subsurface water flow direction is to the west or northwest. The depth to groundwater cannot be reasonably estimated.

4.3.6 Wetland Information

The United States Fish and Wildlife wetland inventory was reviewed to determine if the subject property contained any identified wetland areas. According to this map the subject property does not contain any identified wetland areas. Chrisney Lake is present some 400 feet to the west of the property. Chrisney Lake is approximately 25 acres in size.

4.3.7 Other

No other physical setting data was reviewed.

5.0 SITE RECONNAISSANCE

The subject property was inspected by Kenneth Gill, INDOT Project Geologist, on 12/17/2010. The weather during the inspection was cold, gray and overcast.

All areas of the subject property were accessible by foot at the time of the inspection. Neither parcel is accessible by car, as no public roadway is present.

The following obstructions limited the inspection of areas of the subject property:

None.

During the site reconnaissance, adjacent buildings were visually evaluated for any recognized environmental concerns (RECs). No concerns were noted.

5.1 General Property Conditions

5.1.1 Building Heating and Cooling

There are no heated buildings on the subject property.

There are no air-conditioned buildings on the subject property.

5.1.2 Solid Waste Disposal

There is no solid waste generated on the property.

5.1.3 Process Wastewater Disposal

Process wastewater is not generated at the subject property or on adjacent parcels.

5.1.4 Sewage Discharge

There is no sanitary sewage associated with Parcel 5 or parcel 7. Adjacent properties are served by septic systems.

5.1.5 Surface Water Drainage

Surface water moves to the northwest along natural drainageways. There are no permanent creeks, streams or rivers on or near the two parcels.

5.1.6 Wells and Cisterns

No wells were observed on the subject property.

There are no cisterns located on the subject property.

5.1.7 Additional Property Conditions

No additional property conditions were observed.

5.2 Environmental Conditions

5.2.1 Hazardous Material Storage, Use and Handling

No hazardous materials were observed to be stored or used on the subject property.

No petroleum products were observed to be stored or used on the subject property.

No drums or containers of regulated substances were observed on the subject property.

No hazardous waste was observed to be generated, stored or disposed at the subject property.

No bio-hazardous waste was observed on the subject property.

5.2.2 Spill and Stain Areas

No areas of stained soil greater than de minimus (10 sq. ft.) were observed on the subject property.

No areas of stained pavement greater than de minimus (10 sq. ft.) were observed on the subject property.

No areas of stressed vegetation greater than de minimus (10 sq. ft.) were observed on the subject property.

5.2.3 Polychlorinated Biphenyls (PCBs)

The past use of PCBs in electrical equipment such as transformers, fluorescent lamp ballasts, and capacitors was common. PCBs in electrical equipment are controlled by United States EPA regulation 40 CFR, Part 761. According to this regulation there are three categories for classifying electrical equipment; less than 50 ppm of PCBs is considered "Non-PCB"; between 50 and 500 ppm is considered "PCB-Contaminated"; and greater than 500 ppm is considered "PCB".

There are no known electrical transformers or other equipment that might contain PCBs that were identified on or near Parcels 5 and 7. There are no electrical lines on or crossing either of the two parcels.

5.2.4 Asbestos Containing Materials (ACMs)

The common use of potential friable asbestos-containing materials (ACMs) (pipe/boiler insulation and fireproofing) in construction generally ceased voluntarily in the mid-1970s.

There are no buildings on the property and there are no buildings near the property.

5.2.5 Aboveground Storage Tanks (ASTs)

Determining the presence of ASTs is considered essential in assessing potential contamination sources. Visual inspection and the review of tank registration records are used to determine the possible existence of past and present ASTs in the area of the subject property. It must be noted however, that the absence of certain site conditions or lack of records may restrict or prevent the determination of the number and contents of ASTs on the subject property.

No aboveground storage tanks were observed on the subject property or within the one mile search distance.

5.2.6 Underground Storage Tanks (USTs)

Determining the presence of USTs is considered essential in assessing potential contamination sources. Visual inspection and the review of tank registration records are used to determine the possible existence of past and present USTs in the area of the subject property. It must be noted however, that the absence of certain site conditions or lack of records may restrict or prevent the determination of the number and contents of USTs on the subject property.

No IDEM registered underground storage tanks were identified from environmental records within a one half mile search distance. No underground storage tanks were observed during the site reconnaissance from the roadways on any parcel within the one half mile search distance. One UST and 2 LUST sites were identified on IDEM maps which were over one mile distant from the subject properties. According to ASTM criteria, UST sites must be identified within one quarter mile of the subject properties, and LUST sites must be identified within one half mile of the subject properties.

5.2.7 Landfills

No evidence of a landfill was observed or reported on the subject property.

There is no evidence of dumping activity on the subject property.

5.2.8 Pits, Sumps, Catch Basins and Lagoons

No pits, ponds, or lagoons were observed on the subject property.

No sumps or catch basins, other than those used for storm water, were observed on the subject property.

5.2.9 Radon

Radon is an odorless, invisible gas that occurs naturally in soils. Natural radon levels vary and are closely related to geologic formations. It cannot be detected without specialized equipment. Radon may enter buildings through basement sumps or other openings.

The EPA has established the recommended safe radon level at 4 pCi/L. The EPA has prepared a map dividing the country into three Radon Zones; Zone 1 for those areas with the average predicted indoor radon concentration in residential dwellings exceeding the EPA Action limit of 4 pCi/L; Zone 2 for those areas where the average predicted radon level is between 2 and 4 pCi/L; and Zone 3 for those areas where the average predicted radon level is below 2 pCi/L.

According the EPA Map of Radon Zones the subject property is in Zone 2, where the predicted radon levels vary between 2.0 pCi/L and 4.0 pCi/L EPA Action Limit. Radon typically accumulates in areas with stagnant air, especially in cellars and basements. In outdoor situations, radon typically does not accumulate, but is dispersed by wind. Radon is not considered to be an environmental threat on parcel 4 unless buildings with basements or crawl spaces are constructed.

5.2.11 Other Environmental Conditions

No high-tension transmission lines or electrical substations which could generate significant electromagnetic frequencies were identified on or near the subject property.

There were no major sources of noise and vibration identified on or near the subject property.

No other information was provided by the user.

6.0 INTERVIEWS

No Interviews were conducted with individuals knowledgeable of the subject property. The subject property is a current State owned highway.

7.0 FINDINGS AND CONCLUSIONS

7.1 On-Site Environmental Concerns

Based on the information gathered and on observations made during this investigation, the Phase I Environmental Site Assessment has identified no on-site environmental conditions associated with the subject property.

7.2 Off-Site Environmental Concerns

Based on the information gathered and on observations made during this investigation, the Phase I Environmental Site Assessment has identified no off-site environmental conditions associated with the subject property.

7.3 Conclusions

A Phase I Environmental Site Assessment in conformance with the scope of work and ASTM Practice E 1527-2000 were performed on the subject property. This assessment revealed no evidence of any recognized environmental conditions associated with the subject property, or on adjacent properties.

8.0 RECOMMENDATIONS

Based on the results of the Phase I Environmental Site Assessment of the subject property, additional environmental investigation (i.e. Phase II) is **not recommended** at this time.


9.0 CLOSURE

This report has been prepared for the sole benefit of Vincennes District. The report may not be relied upon by any other person or entity without the express written consent of OES and Vincennes District.

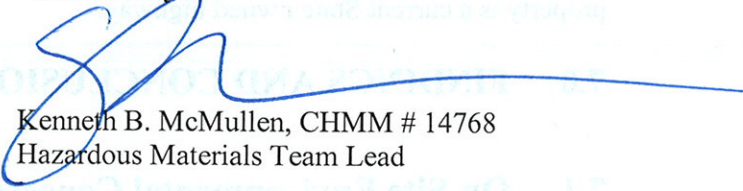
Except for the limitations and exceptions discussed in Section 1.4, this Phase I ESA complies with the scope of work and ASTM Standard 1527-2000.

Respectfully submitted,
INDOT's Hazardous Materials Unit

Prepared by:


Kenneth Gill, Indiana LPG #939
INDOT Project Manager

Reviewed by:


Kenneth B. McMullen, CHMM # 14768
Hazardous Materials Team Lead

10.0 REFERENCES

The following documents, maps, or other publications may have been used in the preparation of this report.

American Society for Testing and Materials (ASTM) 2000. Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process (ASTM E 1527-00). Philadelphia, PA, USA.

Federal Emergency Management Agency, National Flood Insurance Program, Flood Insurance Maps.

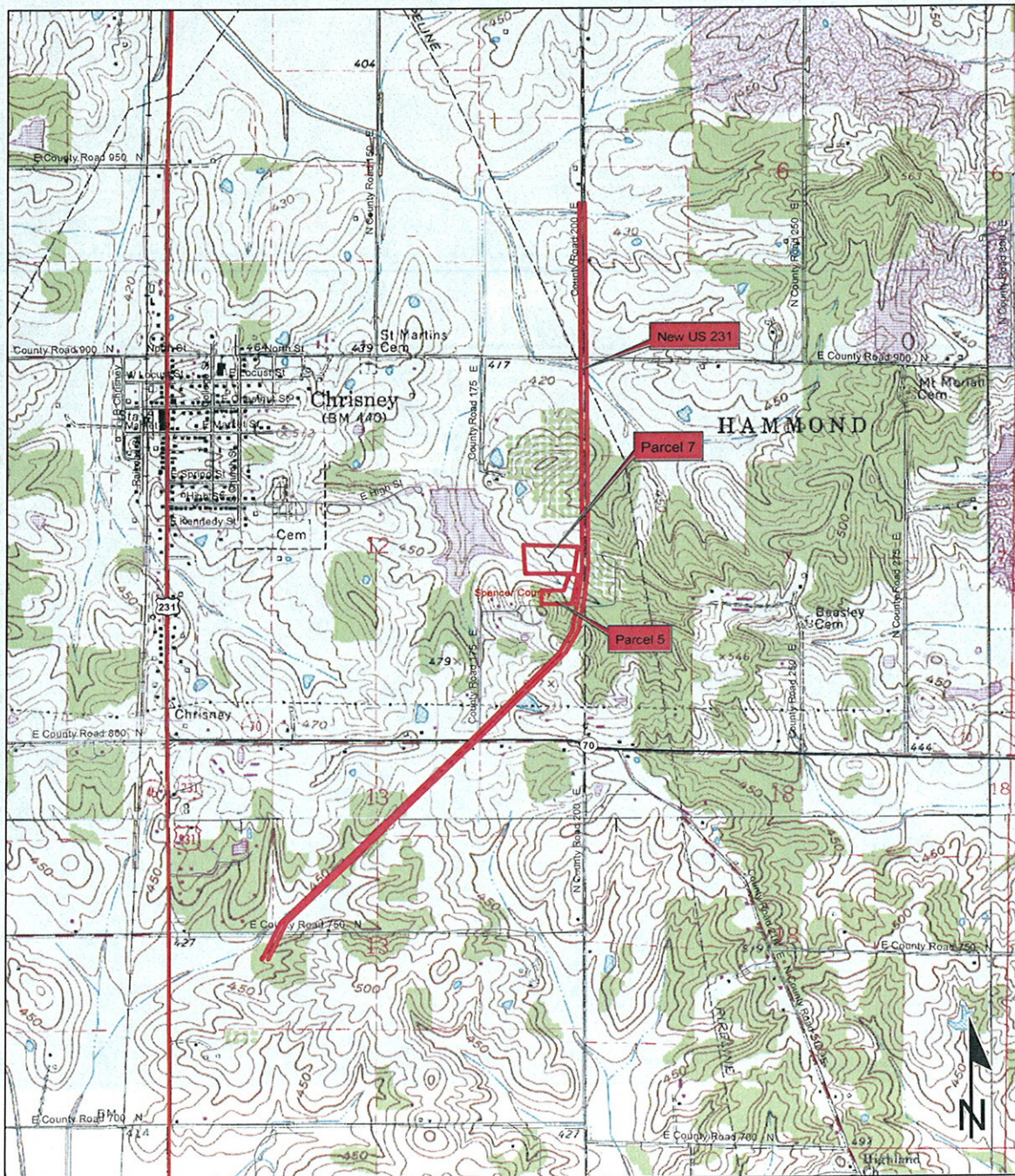
United States Department of Agriculture, Soil Conservation Service, Soil Survey, Spencer County.

United States Geological Survey, Topographic Maps, Chrisney & Rockport 7'5" Quadrangles.

United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory Map

APPENDIX 1

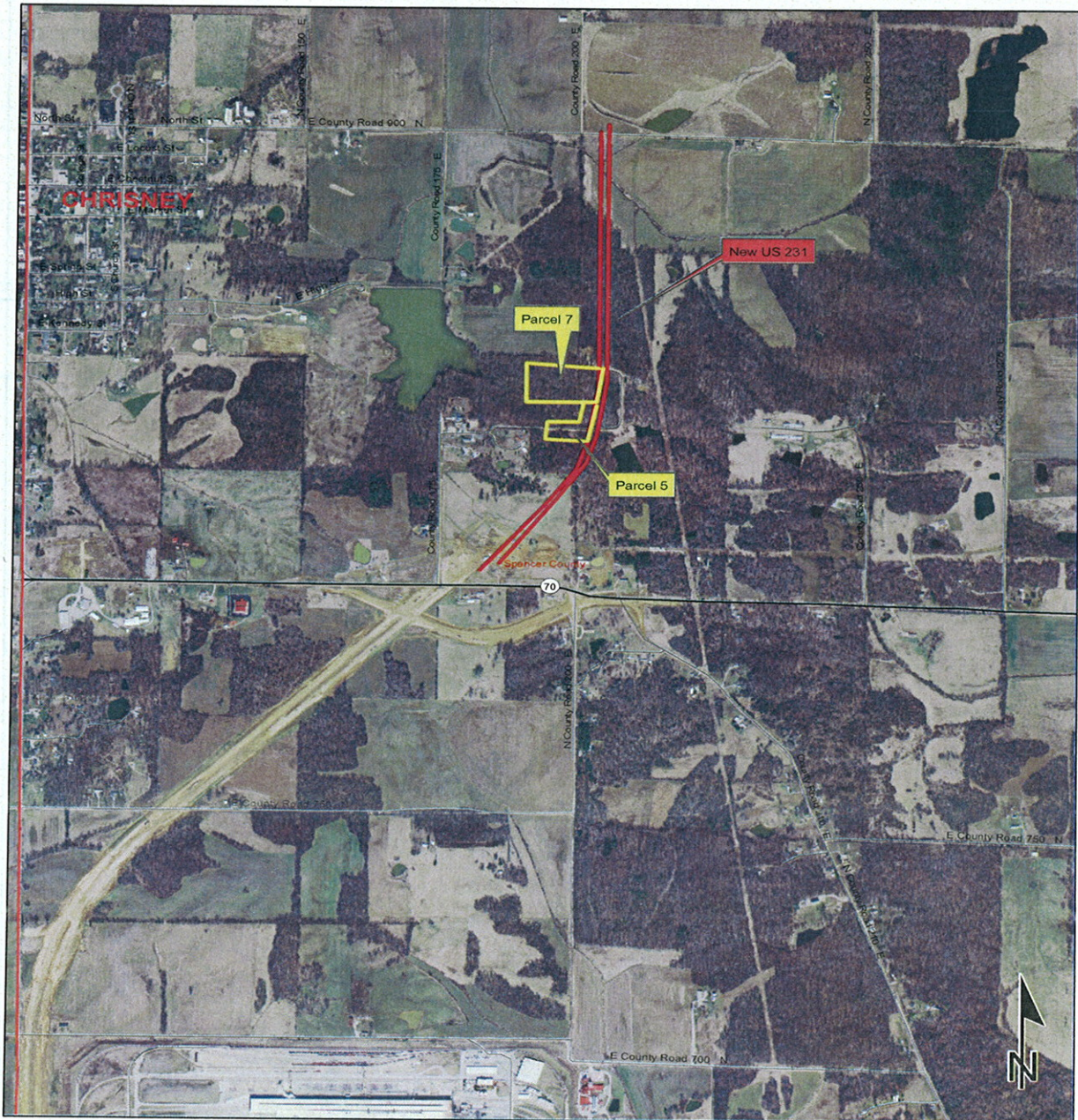
Site Topographical Map with Parcels 5&7, & New US 231



0.4 0.2 0 0.4 Miles

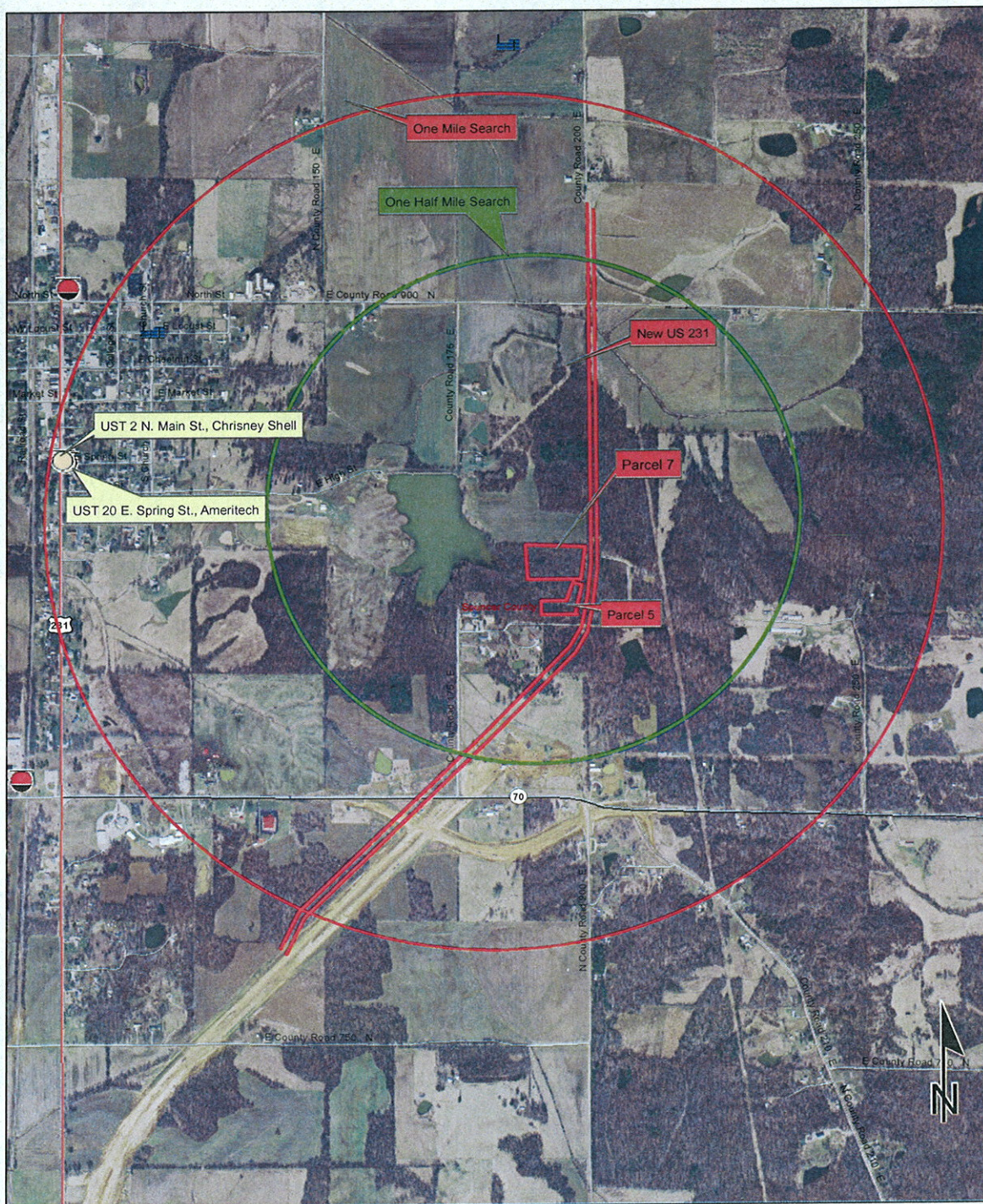
APPENDIX 2

AERIAL PHOTOGRAPHY, SITE BOUNDARIES, NEW SECTION US 231



APPENDIX 3

Appendix 3 w/ 1/2 Mile & 1.0 Mile Search, plus UST & LUST Locations

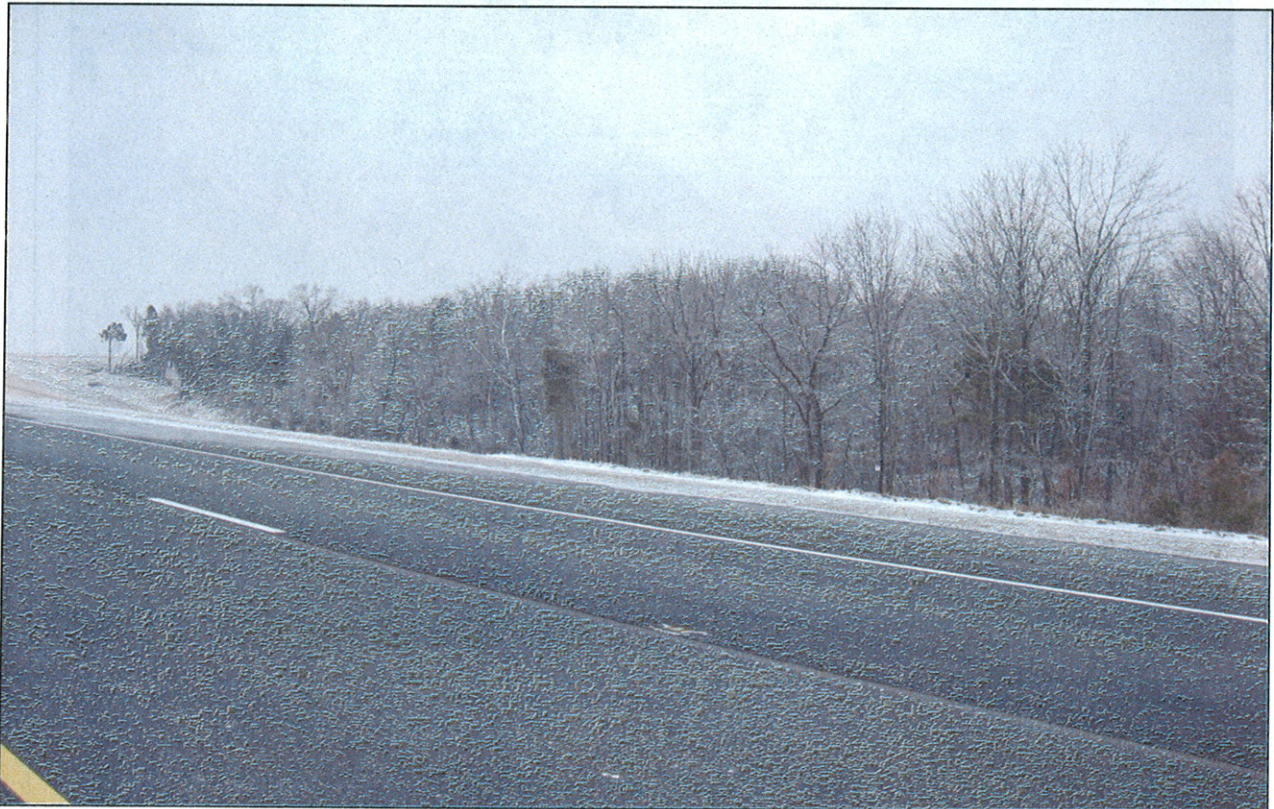


APPENDIX 4

SITE RECONNAISSANCE PHOTOGRAPHS



View to East, Agricultural Field that is adjacent to parcel 7. Parcel 7 is wooded field on left side of photograph.



View to Southwest. New US 231 in foreground, not yet open to public. Wooded area is east boundaries of Parcel 7 and 5. Parcel 7 is on right side of photo, Parcel 5 is more distant, to left side of photo.

APPENDIX 5

QUALIFICATIONS

Institute of Hazardous Materials Management



Certifies that

Kenneth B. McMullen

has successfully met all requirements of education,
experience and examination, and is hereby designated a

Certified Hazardous Materials Manager



August 2008
Certified

14768
Number

August 12, 2013
Expiration Date

John H. Frick
Executive Director

So long as this credential is renewed according to schedule and is not otherwise revoked.

EXHIBIT E

Hold Harmless Affidavit

STATE OF INDIANA)
)SS:
COUNTY OF _____)

AFFIDAVIT

Comes now the Affiant(s), _____, and swear and affirm to the following:.

- 1) That the above Affiant(s) shall **hold harmless and indemnify** the State of Indiana and its agent Indiana Department of Transportation and accept the property transfer through Quit Claim Deed without any Warrants and receive property As-Is.

SUBSCRIBED AND SWORN TO THIS _____ DAY OF _____,
20____.

Affiant's printed name

Affiant's signature

State of Indiana)
) SS:
County of _____)

Subscribed and sworn to before me a Notary Public this _____ day of _____,
20____.

Notary Public

A Resident of _____ County Indiana
My Commission expires: _____