

E1- 20327



Docket No. FD 35523
McMullen, Kenneth B.

to:

naveckyd

10/02/2013 07:59 AM

Cc:

"Riley, Michael D.", "Andrews, Chris"

Hide Details

From: "McMullen, Kenneth B." <KMCMULLEN@indot.IN.gov>

To: <naveckyd@stb.dot.gov>

Cc: "Riley, Michael D." <MDRiley@indot.IN.gov>, "Andrews, Chris"
<CANDREWS@indot.IN.gov>

History: This message has been replied to.

1 Attachment



review FD 35523 CSXT LIRC 9.25.13.pdf.lnk

Suspect Attachment

Mr. Navecky,

I was asked to provide comments on this document by INDOT. We have done so, please be advised we are not used to this form of review and so our comments are based on how documents that are written for us and FHWA are reviewed. I hope you find some of them helpful.

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" Real knowledge is to know the extent of one's ignorance."

Confucius

Summary of Comments on Microsoft Word - 20130820 Draft EA_18.docx

Page: 3

Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:43:03 AM

First use of words and introduction of acronym, change all instances of this after this point to Board's OEA

Page: 4

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 9:45:12 AM

This would be an "Adverse Effect" to a historic bridge according to Section 106.

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 9:44:08 AM

You also have impacts to Cultural Resources, i.e. the Flat Rock River Railroad Bridge. If you will be replacing the bridge, that will be a significant "Adverse Effect" to a historic bridge.

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 9:46:38 AM

It will be difficult to issue a Final EA by November 6, 2013. INDOT ES cannot issue formal approval the ES document until all requirements under Section 106 are met.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:15:27 AM

There are both environmental and historic impacts of the proposed transaction. This will require more documentation than has been provided, especially for Section 106.

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 1:32:30 PM

Again, INDOT ES cannot formally approve the ES, draft or final, until Section 106 is completed. In reading **40 CFR 1105.8**, there should be a Historic Report prepared for this ES.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:41:08 AM

Use OEA since this was already detailed earlier.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:18:28 AM

Section 106 is not complete, until it is complete the environmental portion is not complete nor final.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 1:34:24 PM

This US code has nothing to do with environmental rules. Change wording as to not confuse environmental rules with rules associated with Consolidation, merger, and acquisition of control. See 49 CFR 1105.7 and 1105.8

Page: 8

Author: togiffin Subject: Sticky Note Date: 9/25/2013 8:59:45 AM

Suggest possibly shortening the Executive Summary, some of the same information that is stated there is also stated in the sections following it. Makes it redundant for the reader and a long project to read and distill information from.

Page: 9

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 1:35:32 PM

Section 106 must be complete before INDOT ES approves the final ES document. This includes all mitigation measures and signed MOA if appropriate. Especially given that there will be replacement of the historic bridge, Flat Rock River Railroad Bridge.

Page: 11

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 11:31:22 AM

Need an appendix for Cultural Resources/Section 106. Include all maps, correspondence and information shared with SHPO and relevant information such a Historic Properties Report and an Archaeology Phase I report. See INDOT ES Categorical Exclusions Manual for guidance at: http://www.in.gov/indot/files/ES_2013CEManual.pdf

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:42:28 AM

Replace all instances of INDNR with IDNR.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:41:42 AM

This has been detailed already, change to "Board's OEA" instead of spelling it out.

Page: 20

Author: ToGiffin Subject: Highlight Date: 9/24/2013 3:02:06 PM

INDOT ES uses either "Firm" commitments or "For Consideration" commitments. The reader may interpret voluntary mitigation to imply that these mitigation measures are "voluntary" and may or may not be completed. Terminology and definition needs to be defined here, early in the document, so as not to confuse the reader.

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 10:39:46 AM

This statement is not true, replacing a historic bridge is significant and in terms of archaeology there is mention of several cemeteries in close proximity to the rails being replaced/rehabilitated. The presence of these cemeteries may require a "cemetery development plan" according to Indiana Law...IC 14-21-1-26.5

Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:52:19 AM

What about IDNR Division of Fish and Wildlife?

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 1:42:23 PM

What about assessing the cultural resources impacts. This sentence neglects to mention mitigation measures for Section 106 resources, i.e. Flat Rock River Railroad Bridge and various cemeteries along the route.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 1:45:18 PM

This does not take into account the impacts on Cultural Resources, per Section 106.

Also, further in the document in several instances it says OEA determined there is no significant impacts to noise or emergency vehicles. Although you have mitigation measures for these, it does not mean that there is no significant impact. Mitigation measures address the significant impacts.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 10:48:22 AM

This date seems unrealistic, since Section 106 is not complete and INDOT ES cannot put final approval on the document until it is complete. SHPO has 30 days to respond and when you include mitigation through a MOA, there is potential for addition days due to the review process for the MOA as well. INDOT ES has 10 business days to complete our review, which includes all documentation related to Section 106 and mitigation measures.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 1:47:36 PM

What are the Board's environmental rules? Section 106 not complete.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 10:56:12 AM

I looked up this code and cannot find any reference to NEPA, only to labor and commerce.

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Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 3:03:22 PM

Just because there are mitigation measures put in place does not mean there are no adverse effects/significant impacts. Mitigation measures are in place as a result of impacts.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 1:50:48 PM

This entire statement is confusing. Needs clarification. Also, again Section 106 needs to be completed before INDOT ES approves the final document.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 1:51:25 PM

Since this is considered a historic bridge by the IN SHPO, it is a significant impact (Adverse Effect) on a Cultural Resource.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:11:39 AM

According to documentation further along in the document, Cultural Resources, i.e. a historic bridge and cemeteries, will be impacted. This needs to be stated in the next sentence along with the other environmental concerns.

Author: togiffin Subject: Highlight Date: 9/24/2013 3:34:26 PM

There is no mention of mitigation measures in place for Cultural Resources. These need to be present before final approval of the EA document. Above you only mention noise and emergency vehicles. Water resources and biological resources should also be mentioned. Be sure to consult with IDNR Division of Fish and Wildlife. Also, again the replacement of the Flat Rock River Railroad Bridge is an Adverse Effect on a historic property. Mention this here as well.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 3:37:29 PM

Mitigation is a result of impacts. Again, voluntary mitigation maybe interpreted by the reader to mean may or may not occur. Also, OEA recommended mitigation measures seems to imply that they are only recommendations not "Firm" mitigation measures to be carried out. This is present throughout the document, reword as not to confuse the reader.

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Author: togiffin Subject: Highlight Date: 9/24/2013 2:17:34 PM

How this sentence reads is a bit confusing. Rephrase to indicate that these entities did not foresee any increases in rail shipping or industrial development base on their specific area's future needs.

Author: togiffin Subject: Highlight Date: 9/24/2013 3:39:03 PM

What does this statement about overhead trains have to do with generating employment opportunities? Clarify why this is so.

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Author: togiffin Subject: Highlight Date: 9/24/2013 2:22:46 PM

Use of this term should include more detail of what the BMP's are specific to each area that is to incorporate BMP's as mitigation. Do this through out the document.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 2:24:39 PM

What about permits specific to each state? IDNR, IDEM, US Army Corp, won't these entities require permits as well?

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:33:51 AM

Replacing the bridge is a Section 106 issue as well. It would also bring into place IDNR requirements for water resources.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:35:48 AM

Again IDNR would need to be notified of this. Include any documentation from IDNR in appropriate appendices.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:37:26 AM

Should be (IDNR) not (INDNR). Replace all instances of INDNR with IDNR.

Author: togiffin Subject: Highlight Date: 9/24/2013 2:37:56 PM

This is a requirement to obtain a permit, not a recommendation to be required to obtain a permit. Remove last sentence, or replace it with a statement such as "OEA concurs that Construction in a Floodway Permit is required."

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:37:44 AM

Replace all instances of INDNR with IDNR.

Author: togiffin Subject: Highlight Date: 9/24/2013 3:44:17 PM

Reword to clarify the mitigation measure wording as stated above.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:47:26 AM

This sentence as written seems at first to indicate an increase in wildlife. Can wording be changed around to indicate in the first few words, i.e. "increase in strikes to"?

Author: ToGiffin Subject: Highlight Date: 9/25/2013 8:15:37 AM

Impacts such as.....?

Author: ToGiffin Subject: Highlight Date: 9/25/2013 8:19:27 AM

Isn't the mussels stream disturbance a different time of year and a different "period"? Or separate issue from the Indiana bat?

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:54:56 AM

Noise impact. Is Pigeon Roost Memorial Park a 4(f) or 6(f) resource?

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 1:16:50 PM

I don't understand this paragraph.

Page: 33

Author: togiffin Subject: Sticky Note Date: 9/25/2013 8:28:43 AM

Clark County is a Non-attainment area for Fine Particle Standards (PM 2.5). Johnson and Marion counties are in an Attainment Area with a Maintenance Plan.

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Author: togiffin Subject: Sticky Note Date: 9/25/2013 8:44:26 AM

All of the noise section seems ok.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 1:34:43 PM

This analysis should be documented in detail in a separate appendix for Cultural Resources/Section 106.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 1:37:11 PM

This will be hard to obtain before the anticipated final approval of the EA document. Also, all correspondence and related documentation pertaining to Section 106 impacts, historic and archaeology, should be included in appendix as well.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 1:47:05 PM

Documentation from Indiana SHPO should be included, provide all details. Accordingly, SHPO will most likely need more detail of the proposed construction activities and the delineation of an area of potential effects.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 1:41:19 PM

This is Indiana State Law to notify SHPO when artifacts or human remains occur, not a recommended mitigation condition. See IC 14-21-1-26.5

Author: ToGiffin Subject: Sticky Note Date: 9/23/2013 1:44:01 PM

In reference to Kentucky SHPO, all of their requests are valid in order to complete Section 106. Again, not sure if this can be completed before the anticipated final approval date of December 2013

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Author: togiffin Subject: Sticky Note Date: 9/25/2013 8:49:56 AM

Possibly move the sections explaining the difference between voluntary and OEA recommended mitigation to earlier in the document for clarification.

Page: 40

Author: ToGiffin Subject: Highlight Date: 9/25/2013 8:50:52 AM

Again this may be difficult to accomplish since full Section 106 is not complete.

Author: ToGiffin Subject: Sticky Note Date: 9/25/2013 8:57:52 AM

Mitigation measures should be put in terms of "Firm" or "For consideration" according to INDOT ES CE Manual.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:20:58 AM

This should be done prior to initiating operational changes.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:25:21 AM

This should be coordinated with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:26:16 AM

This should be coordinated with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:27:43 AM

This should be coordinated with IDNR

Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:28:41 AM

This should be coordinated with IDNR

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 3:51:02 PM

This should be coordinated with IDNR. Also, give more detail as to what BMP's will be used.

Author: ToGiffin Subject: Comment on Text Date: 9/24/2013 8:30:01 AM

More here about Noise.

Author: togiffin Subject: Highlight Date: 9/24/2013 3:53:49 PM

You should also mention here to check for the archaeology sites indicated by IN SHPO in an attempt to avoid them.

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Author: ToGiffin Subject: Highlight Date: 9/20/2013 2:19:42 PM

What is this program? Please explain.

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Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 8:53:44 AM

IDNR should be included as well.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 1:32:57 PM

This was already detailed earlier in the document, use "Board's OEA"

Author: togiffin Subject: Highlight Date: 9/24/2013 2:33:48 PM

Insert "Recommended" before Mitigation Measures.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 8:59:30 AM

Is this possible?

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:02:06 AM

How is this supplemental? It is the exact same thing that is said in VM 5.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:03:14 AM

Depending on the scope of work, this could require NEPA review of its own.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:07:28 AM

IDNR, since full spelling appears earlier in document.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 3:57:12 PM

There may be more mitigation required by IDNR Fish and Wildlife. Be sure to check with that Division.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:25:20 AM

The final approval of funds cannot be approved until Section 106 is complete. Seems as the December 6, 2013 final approval date is not feasible. According to 16 U.S.C. 470(f): The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, ***prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.*** The head of any such Federal agency shall afford the

Advisory Council on Historic Preservation established under part B of this subchapter a reasonable opportunity to comment with regard to such undertaking.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:40:04 AM
Accidental discoveries should fall under Indiana Code: IC 14-21-1-26

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:39:06 AM
This was already detailed earlier, use OEA instead of spelling it all out.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 9:43:48 AM
The replacement of Flat Rock River Railroad Bridge is a significant impact.

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Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 10:12:04 AM
Include, Cultural Resources/Section 106

Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:13:04 AM
The replacement of Flat Rock River Railroad Bridge is a significant impact.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:14:02 AM
This may not be possible since Section 106 is not complete.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:19:01 AM
Removal of this bridge is a Section 106 issue.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:23:56 AM
This new construction will involve ground disturbance, may need to include this in the Section 106 documentation.

Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:25:01 AM
Section 106 issue, since this is considered a historic structure.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:25:55 AM
Indiana Permits?, IDNR, IDEM?

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:28:08 AM
check this

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Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 10:32:13 AM

What about Cultural Resources impacts to archaeology and historic structures? i.e. Flat Rock River Railroad Bridge and cemeteries.

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:30:51 AM
What does this mean?

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Author: ToGiffin Subject: Highlight Date: 9/24/2013 10:33:18 AM
4(f) and 6(f) impacts?

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Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 10:34:43 AM
4(f) and 6(f)?

Page: 113

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:38:07 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:38:20 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:38:33 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:38:58 AM
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Page: 114

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:39:12 AM
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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:39:26 AM
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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:39:40 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:40:15 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:40:27 AM
Replace all instances of INDNR with IDNR.

Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:40:46 AM

Replace all instances of INDNR with IDNR.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:41:14 AM

Replace all instances of INDNR with IDNR.

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Author: ToGiffin Subject: Highlight Date: 9/23/2013 11:41:27 AM

Replace all instances of INDNR with IDNR.

Page: 146

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 10:43:36 AM

This should all be completed before the final EA document is approved.

Page: 163

Author: ToGiffin Subject: Highlight Date: 9/24/2013 11:39:53 AM

This was already detailed earlier, use OEA instead of spelling it out.

Page: 165

Author: ToGiffin Subject: Sticky Note Date: 9/24/2013 10:47:49 AM

This needs to be completed before final approval of the EA not after.