

Appendix G: Public Comments

E.1



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573-835-2901 / Fax

March 28, 2005

Attn: Kathryn P. Harvey, P.E.
Improve I-70
P.O. Box 410482
Kansas City, Mo. 64141

RECEIVED
MAR 30 2005

Re: Improve I-70 Project

Dear Ms. Harvey;

We have obtained Improve I-70 Project Information from the City of New Florence. Regarding "Widening Improvements to Existing Corridor – Alternative 1(Preferred)" plan, we object to the routing of the north side (west bound) outer road and its affect on the 3.05 acre parcel adjoining the Best Inn Property.

In our Master Development Plan, we have slated this acreage for building a performance/ movie theater. The exact location of this Theater is precisely where your proposed outer road is to be routed. The Theater location proposed is to be directly behind Hardeys and the BP Gas Station, allowing parking spaces to be on the North side of the site. Furthermore, the Alternative #1 Preferred Plan has not provided an entrance for the remaining parcel of this acreage and renders this property unusable for its designated purpose. This severely affects the value and desirability of this property.

This letter is intended to register our protest to the proposed outer road and its effect on the referenced property and the adjoining properties. While we support the Improve I-70 project, we would like to seek an amicable solution to this problem. We request that an authorized representative of MoDOT contact us in this regard.

Sincerely,

Vipin B. Bhatt

E.2



COMMENT FORM

Section 7 Draft Environmental Impact Statement
(Route 19 to Lake St. Louis Boulevard)
Official Review Period: January 14 – March 28, 2005

Please provide your comments on the Draft Environmental Impact Statement for Section 7 in the space below. Send your comments to the address listed on the back of this form. You may also submit a comment via email to comments@ImproveI70.org. The deadline for submitting comments is March 28, 2005. For questions, call 1-800-590-0066.

We own property (928) acres east of proposed I-70 exit at Jonesburg.

How can you say that alternative 5A is going to take more agricultural ground than 5B. Our farm is a century farm and we want to keep it whole instead of chopping it up.

George + Phyllis Hoelcher

Improve I-70
P.O. Box 410482
Kansas City, MO 64141
1-800-590-0066
ImproveI70.org



-----Original Message-----

E.3

From: Eise, Joseph [mailto:Joseph.Eise@xspedius.com]

Sent: Monday, February 28, 2005 4:04 PM

To: ImproveI70

Subject: I-70 Exit 200

To whom it may concern,

We have reviewed the plan for exit 200, and would like to express our concerns.

Moving the exit further east and creating roundabout is in our estimation a bad idea. The area is growing and there are limitations to roundabouts. Plus it makes getting to Highway F more confusing, and thus detrimental to our family business.

Also, the plan does little to address the dangerous curve at exit 200.

Therefore, we would like request that this plan **not move forward until the Hwy F and dangerous curve issue is addressed**. We strongly believe the roundabouts plus moving the intersection to the east will make the Hwy F interchange more complex and negatively impact our business.

Thank you for the opportunity to express our concerns. Hopefully it will make a difference.

Joe & Jennifer Eise
1482 S. Lohman Rd.
Wright City, MO 63390
(636)745-7488

Appendix H: Agency Comment Letters

D.MDC.1



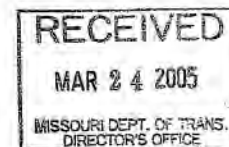
MISSOURI DEPARTMENT OF CONSERVATION

Headquarters

2901 West Truman Boulevard, P.O. Box 180, Jefferson City, Missouri 65102-0180
Telephone: 573/751-4115 ▲ Missouri Relay Center: 1-800-735-2866 (TDD)

JOHN D. HOSKINS, Director

March 22, 2005



Improve I-70 Document Comments
P.O. Box 410482
Kansas City, MO 64141

Mr. Kevin Keith, Chief Engineer
Missouri Department of Transportation
P.O. Box 270
Jefferson City, MO 65102

Mr. Don Neumann, Programs Engineer
Federal Highway Administration
209 Adams Street
Jefferson City, MO 65101

Regarding: I-70, 2nd Tier EIS Comment for SIU7

Gentlemen:

Gene Gardner has been representing this department and providing MDC comments on the I-70 project, but his transfer to our Wildlife Division leaves me temporarily coordinating.

We are in general agreement with the Environmental Impact Statement for Section of Independent Utility 7, and only wish to emphasize the importance of stream crossings. Bridge designs should carefully consider both water flow and sediment transport. In this area of ongoing development, it appears likely that peak events for both are likely to increase in coming years. It is important that proposed configurations do not confine water passage.

We appreciate the opportunity to review and comment.

Yours truly,

SHANNON CAVE
PUBLIC INVOLVEMENT COORDINATOR

COMMISSION

STEPHEN C. BRADFORD
Cape Girardeau

ANITA B. GORMAN
Kansas City

CYNTHIA METCALFE
St. Louis

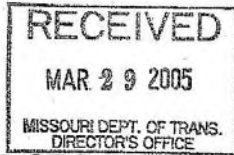
LOWELL MOHLER
Jefferson City



Matt Blunt, Governor • Doyle Childers, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov



MAR 24 2005

Mr. Don Neumann
 Programs Engineer
 Federal Highways Administration
 209 Adams Street
 Jefferson City, MO 65101

Mr. Kevin Keith ✓
 Chief Engineer
 Missouri Department of Transportation
 P.O. Box 270
 Jefferson City, MO 65102

Re: Draft Environmental Impact Statement, Interstate 70 Corridor, Montgomery,
 Warren and St. Charles Counties, Missouri, Second Tier, Section 7

Dear Messrs. Neumann and Keith:

Thank you for the opportunity to review and respond to the Draft Environmental Impact Statement (DEIS) for the Interstate 70 Second Tier study for Section 7. The department's comments on this DEIS are provided below.

Water Resources

D.DNR.1

The department recommends amendment of the discussion of the 303(d) list on page III-39. Elkhorn Creek is impaired not only by sediment and siltation, but is also impaired by organic material. In the Peruque-Piasa Watershed, Lake St. Louis is not the only impaired waterway near the study area. Four miles of Peruque Creek are also listed on the 303(d) list due to impairment from urban and rural non-point source pollution.

D.DNR.2

The existing outer road south of the Highway 19 interchange has two stream crossings, while the proposed outer road has five such crossings. New bridges associated with the widening of I-70 should be wide enough to allow flood flows to pass safely beneath the bridges. It should be noted that the term "regulatory floodway" used on page IV-24 is an artificially narrow term that does not reflect the entire storage area of the 100-year floodplain. If bridges can be constructed to cross most of the 100-year floodplain and all of the "floodway," whether mapped by the Federal Emergency Management Agency or not, then streams, floodplains and wetlands will all function more naturally.

Mr. Don Neumann
Mr. Kevin Keith
Page 2

- D.DNR.3 When I-70 is widened, there will be a need for both an increased number and increased length of stream crossings. Bridges are preferable over culverts to minimize impacts to aquatic resources. Bridges reduce the amount of stream channelization, are less likely to become clogged with debris, and allow for natural substrate and vegetation to remain in place. Where bridges are not feasible, culverts should be designed so they do not change the low-flow characteristics of the streams. When constructed to allow several inches of water to remain in the culvert, aquatic habitat characteristics are retained.

Culvert designs that allow the original substrate (natural bottom culverts) to remain intact are preferable. This can be accomplished by using arches instead of boxes.

- D.DNR.4 Geology
The Mineral Resources section on page III-29 begins by stating "Very few economically important mineral deposits are located in the study corridor." However, there are several limestone quarries within or near the study corridor. This limestone may have a significant economic value, particularly when construction on I-70 is underway.

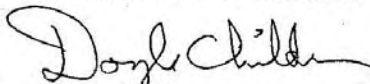
- D.DNR.5 Although no coal or other mines have been documented in the study area, it is possible that an undocumented mine may be discovered during further planning or construction. Therefore, the statement on page IV-23 that "the possibility of subsurface subsidence from mine collapse is non-existent" should be revised in the Final EIS.

- D.DNR.6 Historic Resources
Four historic properties were identified in the study area, including a historic landscape. MoDOT and their consultants have selected a preferred alternative that avoided adverse effects to all of these resources. The department commends MoDOT for their avoidance of these resources, and of those in other sections of the I-70 study corridor.

We appreciate the opportunity to provide comments on this transportation project. If you have any questions or need clarification, please contact me or Ms. Jane Beetem, phone number 573-522-2401. Her address for correspondence is Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102. Thank you.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES



Doyle Childers
Director

DC:jb

D.IGR.1

Matt Blunt
Governor



Michael N. Keathley
Commissioner

State of Missouri
OFFICE OF ADMINISTRATION
Intergovernmental Relations
Post Office Box 809
Jefferson City, 65102
573/751-0337

1/21/2005

Joseph A. Leindecker, P.E.
Project Manager
Jacobs Civil Inc.
501 North Broadway
St. Louis, MO 63102

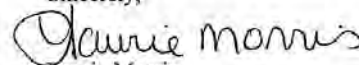
Dear Mr. Leindecker, P.E.:

Subject: 0501027
EA Assistance
Environmental Assessment

The Missouri Federal Assistance Clearinghouse, in cooperation with state and local agencies interested or possibly affected, has completed the review on the above project application.

None of the agencies involved in the review had comments or recommendations to offer at this time. This concludes the Clearinghouse's review.

A copy of this letter is to be attached to the application as evidence of compliance with the State Clearinghouse requirements.

Sincerely,

Laurie Morris
Administrative Assistant

cc: East-West Gateway RPC
Boonslick RPC



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

April 6, 2005



Missouri State Regulatory Office
(200402232)

Allen Masuda
Division Administrator
Federal Highway Administration
209 Adams Street
Jefferson City, Missouri 65101

Dear Mr. Masuda:

We have reviewed the Second Tier Draft Environmental Impact Statement for Section of Independent Utility (SIU) # 7 for the Interstate 70 Improvement Study and we offer the following comments:

- D.COE.1 1. In Chapter III, pages 35 and 36, reference is made to a Wetlands Technical Report. In Chapter IV, page 26, there is reference to a Waters of the U.S. and Preliminary Jurisdictional Wetland Determination Summary Report for the project that was prepared under separate cover. A Wetland Technical Report is also listed as available in the Table of Contents on page viii. As of this date we have not received the Waters of the U.S and Preliminary Jurisdictional Wetland Determination Summary Report for our review.
- D.COE.2 2. In Chapter II, page 8, under mainline alternatives, it is indicated that 5 through lanes and one auxiliary lane would be constructed in each direction from east of Wentzville Parkway to the U.S. 40/61 interchange. In Chapter II, page 44, regarding the existing weigh stations located east of Exit 203, it is indicated that 10 lanes would eventually be required at the subject location with the preferred alternative. As the EIS indicates that improvements to the existing facility are to include widening to six lanes in the rural areas (14 miles) and widening to 8 lanes in the urban areas (26 miles), please include/provide information for the variances referenced on pages 8 and 44 in Chapter II, or revise accordingly.
- D.COE.3 3. In Chapter IV, page 26, Table IV-11 indicates no wetlands for Alternative 4 and Table IV-12 indicates forested wetland impacts for Alternative 4. In Chapter IV, page 27, it is indicated that Alternative 4 has the greatest impact to palustrine forested wetlands, and in Chapter IV, page 84, it is estimated that approximately 80 acres of wetlands would be directly impacted along the SIU 7 corridor. As the information presented in the tables and text of Chapter IV regarding wetlands do not correspond, we recommend that the information be revised accordingly.

-2-

D.COE.4

4. On page 14 it is indicated that MoDOT will address impacts to streams, wetlands and other waters during the design process, and in Chapter IV, page 30, it is indicated that the Final EIS and the Wetland Technical Report will calculate stream impacts based on construction limits. We assume that the design phase will not occur until after the Final EIS has already been completed. If this is correct, please provide information on how and when this assessment would be presented to our office for our review and concurrence.

D.COE.5

5. In Chapter IV, page 45, it is indicated that MoDOT has developed a stream mitigation and enhancement plan for the major river crossings. We are in receipt of a conceptual wetland mitigation plan date November 2004, which mentions stream mitigation on page 8 of the document, however, as of this date we have not received a detailed compensatory mitigation plan for stream or wetland impacts for SIU 7.

If you have any questions concerning this matter, please feel free to write me or call Kenny Pointer at 573-634-2248 extension 104 (FAX 573-634-7960).

Sincerely,



Craig J. Litteken
State Program Manager
Missouri State Regulatory Office

Copies Furnished:

✓ Missouri Department of Transportation
Attn: Kevin Keith
P.O. Box 270
Jefferson City, MO 65102

HNTB Corporation
Attn: Ken Bechtel
1201 Walnut Street, Suite 700
Kansas City, MO 64106



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

24 MAR 2005



Mr. Don Neuman
Programs Engineer
Federal Highway Administration
206 Adams Street
Jefferson City, MO 65101

✓ Mr. Kevin Keith
Chief Engineer
Missouri Department of Transportation
P.O. Box 270
Jefferson City, MO 65102

Dear Mssrs. Neuman and Keith:

RE: Review of Draft Environmental Impact Statement for Interstate 70 Corridor Improvements, Section of Independent Utility #7, a 40-Mile Portion of the I-70 Corridor from just West of Route 19 (milepost 174) to Lake St. Louis Boulevard (milepost 214) Montgomery, Warren, St. Charles Counties, MO

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the above referenced DEIS. This DEIS was assigned a Council on Environmental Quality (CEQ file number 050007. Based upon our review, EPA has rated the DEIS as "LO" (Lack of Objections). EPA's rating definitions are attached to provide additional information on the meaning of this rating. EPA does, however, offer a couple of recommendations for assuring the decision-making value of this documentation.

D.EPA.1

Wetlands: Wetland impacts as identified in Table IV-11 (page IV-26) appear to be minimal (2.43 acres/0.99 hectares). However, on page IV-84, (section 3.f., "Wetlands & Waters of the U.S."), the DEIS states that "...it is estimated that approximately 80 acres (32 ha) of wetland *will be directly* impacted along the SIU 7 corridor." It is recommended that the FEIS convey this impact as "may indirectly, or cumulatively" impact, which would be commensurate with the section where this disclosure is made (Chapter IV, Section F.3.f., "Potential Secondary and Cumulative Impacts"). Also, measures that may be implemented to avoid or minimize this degree of indirect wetlands impacts should be presented.

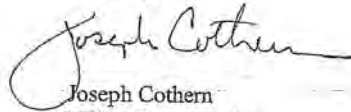


D.EPA.2

Schedule for Program Development: On page 10, (J. Outstanding Issues), the DEIS discusses the schedule for program development, and suggests that the project will be funded as money becomes available. It is important to be aware of that fact that the useful 'life' of an EIS is considered to be 5 years; after that time period, additional analysis and documentation may be required. This is discussed on the Council of Environmental Quality's (CEQ) website <http://ceq.eh.doe.gov/nepa/nepanet.htm>. Specifically, this issue is addressed within the "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations" (<http://ceq.eh.doe.gov/nepa/regs/40/30-40.HTM#32>). Alternately, you can contact this office for more information.

Thank you for the exemplary environmental stewardship that was applied in the study of this nationally important highway project. If you have any additional questions, please contact Stephen K. Smith at (913) 551-7656.

Sincerely,



Joseph Cothorn
NEPA Team Leader
Environmental Services Division

D.EWG.1



EAST-WEST GATEWAY
Council of Governments

Creating Solutions Across Jurisdictional Boundaries

May 12, 2005

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Mr. Don Neumann
Programs Coordinator
Federal Highway Administration
206 Adams Street
Jefferson City, MO 65101

Mr. Kevin Keith
Chief Engineer
Missouri Department of Transportation
P.O. Box 270
Jefferson City
MO 65102

Dear Mr. Neumann and Mr. Keith:

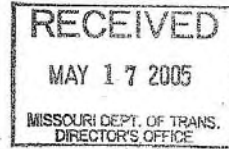
This refers to the I-70 Second Tier Draft Environmental Impact Statement (EIS) for SIU 7.

Members of the Council staff participated in the regional management team for the SIU 7 study and have reviewed the Draft EIS. The study findings are generally consistent with the Regional Investment Plan contained in our region's newly adopted Long Range Plan, Legacy 2030.

Sincerely,

Les Sterman
Executive Director

cc: Joe Leindecker, Jacobs Civil



Gateway Tower
One Memorial Drive, Suite 1600
St. Louis, MO 63102-2451

314-421-4220
618-274-2750
Fax 314-231-6120

webmaster@ewgateway.org
www.ewgateway.org



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
STATE REGULATORY PROGRAM OFFICE - MISSOURI
221 BOLIVAR STREET, SUITE 103
JEFFERSON CITY, MISSOURI 65101

REPLY TO
ATTENTION OF:

April 27, 2005

Missouri State Regulatory Office
(200402232)

Ms. Gayle Unruh
Wetland Coordinator
Missouri Department of Transportation
P.O. Box 270
Jefferson City, Missouri 65102

Dear Ms. Unruh:

This letter pertains to your application for a Department of the Army permit to widen and reconstruct approximately 40 miles of the existing Interstate 70 facility in Montgomery, Warren and St. Charles Counties. The proposed work activities include widening 14 miles to six travel lanes (three travel lanes in each direction), widening 26 miles to eight travel lanes (four lanes in each direction), frontage roads, reconstruction of 13 interchanges and relocation of the existing weigh stations and rest areas. We circulated a public notice describing your activity and received substantive comments. Those substantive comments are enclosed for your information.

The Corps of Engineers will make the final decision on your application, and we will not issue a permit if issuance would be contrary to the public interest. We will consider the enclosed comments and your response, if any, along with other relevant factors in our determination of the public interest. Finally, you may choose to take no action on the enclosed comments. In that case, we will decide whether to issue the requested permit based on the information in your application, on the public notice comments, on the Final Environmental Impact Statement (EIS), and on any other information we have developed about your activity from our own evaluation.

F.CO.E.1

Please provide our office with copies of the comments received from the public notice and public hearing for Section of Independent (SIU) # 7, which was held in Warrenton on March 2, 2005.

F.CO.E.2

It is our understanding that the stream and wetland delineation results will be included in the Final EIS for SIU # 7. As of this date we have not received a preliminary jurisdictional report on waters of the U.S. for SIU # 7 for our review. Please note that we will not be able to issue a permit until we have approved the jurisdictional report on waters of the U.S. for SIU # 7 and until the Final EIS has been approved.

F.CO.E.3

We recommend that drawings be included in the Final EIS that identify the proposed work activities and alignment which also include/identify impacts to waters of the U.S. Please note that if the project is modified after approval of the Final EIS, and the modification involves impacts to waters of the U.S. not outlined in the EIS, detailed documentation will need to be provided justifying the modification and addressing alternatives regarding avoidance and minimization of impacts to waters of the U.S.

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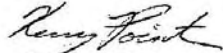
F.COE.4

Also, please note that we will not be able to issue a permit until we have received an acceptable detailed compensatory mitigation plan for the unavoidable impacts to waters of the U.S. (including streams, wetlands, and jurisdictional ponds).

If we issue the permit, it may contain conditions that are necessary to address specific environmental issues or other public interest concerns. Some of those issues may be included in the enclosed comments, and others may be minor issues which are not in the enclosed comments.

In summary, we are forwarding the enclosed comments for your information and you do not have to respond. If you wish to respond in any way for consideration in our final decision, we encourage you to do so. However, we intend to finish processing your application as soon as possible. If you do not reply within 15 days, we will assume you are declining this opportunity to respond. If you have any questions concerning this matter, please feel free to write or call me at 573-634-2248 x 104 (FAX 573-634-7960).

Sincerely,



Kenny Pointer
Regulatory Project Manager
Missouri State Regulatory Office

Enclosures

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch wo/enclosures
U.S. Fish and Wildlife Service,
Columbia, Missouri wo/enclosures
Missouri Department of Natural
Resources wo/enclosures
Missouri Department of Conservation
wo/enclosures

HNTB Corporation
Attn: Ken Bechtel
715 Kirk Drive
Kansas City, MO 64105-1310
w/enclosures

Kenny Pointer
U.S. Army Corps of Engineers
Missouri State Regulatory Office
221 Bolivar Street, Suite 103
Jefferson City, Missouri 65101

Dear Mr. Pointer:

We reviewed your Public Notice numbers 2004-02229 and 2004-02232, dated February 9, 2005, on applications from the Missouri Department of Transportation for individual Department of Army permits in accordance with '404 of the Clean Water Act (33 USC 1344). The applicant is requesting authorization to perform, 1) widening and reconstruction of approximately 18 miles of the existing I-70, Section of Independent Utility (SIU) four near Columbia; and 2) widening and reconstruction of approximately 40 miles of the existing I-70, Section of Independent Utility (SIU) 7 near St. Louis. The proposed projects would be located, 1) just east of, but not including, the Route BB interchange east through the city of Columbia, to just east of the Route Z interchange in Boone County; and 2) just west of Route 19 to Lake St. Louis Boulevard in Montgomery, Warrant and St. Charles counties, Missouri, respectively. Public Notice No. 2004-02229 indicates that the applicant's project purpose is to accommodate existing and future traffic volumes on I-70, improve existing I-70 design, accommodate all users of I-70, and to improve user safety.

The public notices indicate that an undetermined amount of fill material would be discharged into waters of the U.S. For the Columbia project, a total of 21,600 linear feet of stream, 2.2 acres of jurisdictional ponds and 8.3 acres of wetlands would be filled. For the St. Louis area project, a total of 46,710 linear feet of stream, 1.51 acres of jurisdictional ponds and 2.43 acres of wetlands would be filled.

The Environmental Protection Agency (EPA) is not opposed to the highway widening and reconstruction projects. However, due to the amount of wetland impacts and the significant loss of streams associated with these projects, we believe that serious efforts should be made to mitigate these water resource losses.

F.EPA.1

Geographically-based Mitigation

The National Environmental Policy Act (NEPA) documents, Interstate 70 Corridor Second Tier Environmental Impact Statement and Section 4(F) Evaluation, October 2004 and Interstate 70 Corridor Section of Independent Utility 7 Draft Improve I-70 Second Tier Environmental Impact Statement, December 2004, noted that earlier discussions on mitigation

CONCURRENCE:H:\WPIB-Old\taylor2\MoDOTI-70SIU4&7404.doc;3/28/05					
NAME	Taylor	Stockdale			
DIV/BRANCH	WWPD/WPIB	WWPD/WPIB			
SIGN					
DATE					

were held by federal and state natural resource agencies. The agencies identified the potential for three mitigation options: on-site (i.e., at one or several sites), off-site (i.e., wetlands bank), and off-system (i.e., sites identified by another agency for acquisition or on already existing agency property).

F.EPA.2

EPA generally supports the three geographic options for mitigation. Further, to help ensure the integrity of the watersheds affected by the projects, we support a watershed approach to determining the preferred mitigation area(s). For the Columbia area project, we recommend that such mitigation be focused on the same H.U.C. 8 watershed where the impacts are proposed to occur. For the St. Louis area project which involves more than one H.U.C. 8 watershed, mitigation should be apportioned to the respective H.U.C. 8. This approach will only partially support the idea of mitigation sited within the Loutre River valley (see page III-133 in "I 70 Corridor Second Tier EIS and Section 4(F) Evaluation"). Thus, other mitigation sites would be necessary.

Where it is determined not to be practicable to mitigate within the same H.U.C. 8 watershed, we recommend that mitigation be required in an area located within the same Ecological Drainage Unit (EDU) as denoted by the Missouri Resource Assessment Partnership (MoRAP). [Note: The use of these EDUs was adopted by the interagency Missouri Mitigation Coordination Team consisting of the U.S. Army Corps of Engineers, USDA-Natural Resources Conservation Service, U.S. EPA, and Missouri Departments of Transportation, Natural Resources, and Conservation.] We believe that such non-banked mitigation outside of the watershed of impacts should require a higher ratio (e.g., 2 mitigation units:1 impact unit).

Where banking is deemed appropriate, we recommend that the bank be required to be located within the same EDU as the project impacts and to contain sufficient credits of the same wetland or stream type. We do not support mitigation that is unrelated or outside of the appropriate EDU, unless appropriate mitigation ratio increases are required.

Ecologically-based Mitigation

F.EPA.3

Numerous individual impacts to a variety of wetland types, perennial and intermittent streams, and ponds were listed in the above mentioned NEPA documents. Although we support the option of consolidating mitigation, particularly for the purpose of ensuring better mitigation success, we believe that, where practicable, the various impacted waterbody types and water regimes should be targeted to better ensure in-kind mitigation. The Cowardin wetland classification system should help for designating types and water regimes. In the case of ponds, the mitigation focus should be more on replacing lost primary functions including floodwater storage, livestock watering, and recreation.

Because the methodology for mitigating impacts to streams is not well advanced in Missouri, we believe that a broad ecosystem approach be used. Within and out of channel

options for improving stream systems should be considered, as they can be very helpful in restoring stream functions such as water quality improvement, recreation, and provisions for fish and wildlife habitat. Examples include: full meander restoration on straightened reaches, daylighting of channels in urban areas, bank grading and stabilization, strategic in-channel placement of grade control structures, boulders and trees, and the establishment or restoration of riparian buffers. We believe significant opportunities exist for the Missouri Department of Transportation to mitigate the many miles of lost streams associated with the proposed projects.

F.EPA.4

Based on the information in the public notices, we recommend that the permits not be issued without clear wetland and stream mitigation plans in place. Such plans should generally follow available guidelines developed by the Corps. Our agency would be available to assist the Missouri Department of Transportation in any way possible to develop successful mitigation for the proposed projects.

We appreciate the opportunity to provide comments to your public notices. These comments have been prepared in accordance with our authority under the Clean Water Act as amended by the Water Quality Act of 1987. Please keep us informed of the status of this application. If you have any questions about the comments above, please contact Tom Taylor at (913) 551-7226.

Sincerely,

Margaret E. Stockdale
Chief
Watershed Planning and Implementation Branch

cc: Rick Hansen, U.S. Fish and Wildlife Service, Columbia, MO via e-mail
Gail Wilson, Missouri Department of Natural Resources, Jefferson City via e-mail
Brian Canady, Missouri Department of Conservation, Jefferson City via e-mail
Don Neumann, Federal Highway Administration, Jefferson City, MO via e-mail
Joe Cothorn, EPA, NEPA Team via e-mail

Pointer, James K NWK

From: Doyle Brown [Doyle.Brown@mdc.mo.gov]
Sent: Thursday, March 10, 2005 4:36 PM
To: Pointer, James K NWK
Cc: don.boos@dnr.mo.gov; rick_hansen@fws.gov; Sarah Oakes
Subject: Public Notice Permit No. 200402232 (I-70 Segment—Montgomery, Warren and St. Charles Counties)

APPLICANT: Missouri Department of Transportation
 Post Office 270
 Jefferson City, MO 65102

PROJECT LOCATION: Interstate 70, Section of Independent Utility (SIU) 7. SIU 7 is an approximate 40-mile-section of I-70 located in Montgomery, Warren and St. Charles Counties from just west of Route 19 (milepost 174) to Lake St. Louis Boulevard (milepost 214).

ACTIVITY : Widening and reconstruction of approximately 40 miles of the existing four-lane I-70 facility. The proposed work activities include widening 14 miles to six travel lanes (three lanes in each direction), widening 26 miles to eight travel lanes (four lanes in each direction), frontage roads, reconstruction of 13 interchanges and relocation of the existing rest areas and weigh stations. An undetermined amount of fill material (consisting of soil, rock and concrete) would be discharged into waters of the U.S., including streams, wetlands and jurisdictional ponds for the construction of the roadway embankments and culverts for the additional travel lanes, frontage roads and the reconstructed interchanges of the I-70 facility.

Stream crossings are to utilize reinforced concrete box (RCB) culverts or culvert extensions, and reinforced concrete pipes (RCP) or pipe extensions with the placement of riprap or concrete at culvert outlets. A total of 46,710 linear feet of stream, 1.51 acres of jurisdictional ponds and 2.43 acres of wetlands would be filled.

WETLANDS: An estimate of approximately 2.43 acres of wetlands would be filled (based on NWI mapping/Draft Environmental Impact Statement). The estimated impacts include 1.04 acres of emergent wetlands, 0.37 acres of scrub-shrub wetlands, and 1.02 acres of forested wetlands. Detailed delineations of wetlands and other waters of the U.S. are to be performed for the preferred alignment and the results are to be presented in the Final Environmental Impact Statement.

COMMENTS/RECOMMENDATIONS: The Missouri Department of Conservation has reviewed the information provided in the public notice and has the following comments and recommendations.

Impacts to Aquatic Resources (Wetlands and Streams)

- F.MDC.1 Care should be taken while excavating the sites that soil and other fill materials are not placed in the stream channel that is proposed to remain natural.
- F.MDC.2 Try to minimize disturbance to existing vegetation along the stream banks as the root systems help the stream banks remain stable. The practice of straightening and channelization of streams should be avoided where possible. Plan and design for adequate flood water conveyance (and wildlife passage) at all bridge and culvert crossings, where practical.
- F.MDC.3 A riparian corridor (woody vegetation) should remain where possible or be reestablished along both sides of the stream. Revegetation of disturbed areas, particularly in riparian areas, should be immediate to protect the aquatic resources and maintain water quality.
- F.MDC.4 Any rock or riprap placed on the stream banks for stabilization or in the stream channel at the pipe outfall should not be grouted (concrete spread on top of the rock).
- F.MDC.5 Minimize the use of heavy motorized equipment within the stream channel to avoid water contamination due to oils and fuel.

3/11/2005

- F.MDC.6 The stream bed level should be returned to its natural elevation to avoid head cutting upstream from the construction sites.
- F.MDC.7 Care in handling construction debris when above or adjacent to streams and wetlands will prevent the needless destruction of aquatic habitats. Develop BMPs to prevent falling debris during bridge renovations. Proper disposal of construction debris is encouraged.
- F.MDC.8 Proper BMP's should be installed and maintained throughout the project to reduce sediments entering the streams.
- F.MDC.9 Mitigation should always include avoidance and minimization prior to any compensatory mitigation for impacts to aquatic resources. The use of mitigation banks and payments to the Stream Stewardship Trust Fund may be appropriate for any unavoidable impacts to wetlands and streams.
- Impacts to Wildlife
- F.MDC.10 The I-70 corridor poses an issue for safe and adequate migration of wildlife, both aquatic and terrestrial. Plan and design for adequate flood water conveyance (and wildlife passage) at all bridge and culvert crossings, where practical.

Doyle F. Brown
Policy Coordinator
Missouri Department of Conservation
P.O. Box 180
2901 West Truman Blvd.
Jefferson City, MO 65109
(573) 522-4115 Ext 3355
Doyle.brown@mdc.mo.gov

Pointer, James K NWK

From: Don Boos [don.boos@dnr.mo.gov]
Sent: Thursday, March 10, 2005 3:54 PM
To: Pointer, James K NWK
Cc: doyle.brown@mdc.mo.gov; rick_hansen@fws.gov; Taylor.Thomas@epamail.epa.gov; Gail Wilson
Subject: RE: Public Notice Permit No. 200402232/CEK002328, MoDOT, Improvement to I-70, SIU 7

The Missouri Department of Natural Resources' Water Protection Program has reviewed Public Notice Permit No. PN04-02232/CEK002328 in which the applicant proposes to widen and reconstruct approximately 40 miles of the existing four-lane I-70 facility. The proposed work activities include widening 14 miles to six travel lanes (three lanes in each direction), widening 26 miles to eight travel lanes (four lanes in each direction), frontage roads, reconstruction of 13 interchanges and relocation of the existing rest areas and weigh stations. An undetermined amount of fill material (consisting of soil, rock and concrete) would be discharged into waters of the United States including streams, wetlands and jurisdictional ponds for the construction of the roadway embankments and culverts for the additional travel lanes, frontage roads and the reconstructed interchanges of the I-70 facility. Stream crossings are to utilize reinforced concrete box (RCB) culverts or culvert extensions, and reinforced concrete pipes (RCP) or pipe extensions with the placement of riprap or concrete at culvert outlets. Approximately 2.43 acres of wetlands, totaling 1.04 acres of emergent wetlands, 0.37 acre of scrub-shrub wetlands, and 1.02 acres of forested wetlands. Additionally, a total of 46,710 linear feet of stream and 1.51 acres of jurisdictional ponds would be filled.

The proposed project involves an approximate 40-mile section of I-70 located in Montgomery, Warren and St. Charles Counties from just west of Route 19 (milepost 174) to Lake St. Louis Boulevard (milepost 214).

We offer the following comments:

- F.DNR.1 1. Streams, their channel configurations and adjacent floodplains, including wetlands, ponds and riparian vegetation, are interrelated portions of a dynamic ecosystem that constitute a valuable natural resource. Disruption of these systems through filling, relocating, shortening, or changing the shape and vegetation of the stream channel may result in negative impacts on the stream's water quality and associated habitat value. The value of headwater streams, both ephemeral and intermittent, are being increasingly recognized as critical habitat for the breeding, brooding, feeding and other life functions of various aquatic and terrestrial species of wildlife. Channel modifications may cause cumulative impacts to watersheds, including bank instability, loss of aquatic habitat (pool and riffle complexes), bed degradation, and loss of riparian areas, prevention of fish passage and migration and channel incision is likely to occur downstream. Impacts should be avoided and minimized to the extent possible. As it stands, 8.8 miles of streams are slated to be filled/lost.
- F.DNR.2 2. Wetlands were once a significant component of Missouri's natural heritage, accounting for almost 11 percent of its surface area. Historical wetland losses in Missouri have been significant. This department and other federal and state agencies are directed to implement a policy of no net loss of wetlands in permitting and certification work and, therefore, the wetlands impact should be avoided or minimized if possible.
- F.DNR.3 3. After avoidance and minimization for the project, then impacts must be compensated for. Mitigation for the loss of aquatic stream resources is in conformance with the attached *State of Missouri*

3/10/2005

Aquatic Resources Mitigation Guidelines. The mitigation must be concurrent with the impacts and the mitigation area must be protected by a permanent conservation restriction. The conservation restriction covering this tract must reserve the area for aquatic habitat/wetland protection and wildlife purposes exclusively, and must be filed and recorded as a deed restriction on the property in perpetuity. An acceptable mitigation plan must be presented prior to the rendering of any decision regarding water quality certification.

- F.DNR.4 4. Any land disturbance activities disturbing one or more acres of total area for the entire project requires a storm water permit from the Water Protection Program for land disturbance activities. Note that this is one acre of area disturbed for the total project, not five acres of waters of the United States. In this regard, please contact the Water Protection Program at (573) 751-6825.
- F.DNR.5 5. Clearing of vegetation/trees should be the minimum necessary to accomplish the activity.
- F.DNR.6 6. Care should be taken to keep machinery out of the waterways as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste should not be stored below the ordinary high water mark (OHWM) at any time or in the adjacent floodway beyond normal working hours. All precautions should be taken to avoid the release of wastes or fuel to streams and other adjacent waters as a result of this operation. Petroleum products spilled into any water or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum should be reported as soon as possible to the Missouri Department of Natural Resources' 24-hour Environmental Emergency Response number at (573) 634-2436.
- F.DNR.7 7. The riparian areas, banks, etc., of the relocated stream channels should be reestablished to a stable condition to protect water quality as soon as possible. Seeding/planting of native vegetation, mulching and needed fertilization should be within three days of final contouring, or as soon as possible as seasonal timing permits. On-site inspections of these areas should be conducted by the permittee as necessary to ensure successful revegetation and stabilization, and to ensure that continued erosion and deposition of soil in waters of the state is not occurring from this project.
- F.DNR.8 8. Instream culverts should be sized and placed to maintain a depth of water at least as deep as the channel directly upstream of the crossing. Structures creating water velocities in excess of 2 feet per second during average annual discharge should be avoided. If preconstruction velocities exceed 2 feet per second, then structures should not increase existing velocities. There should be no drop between the downstream end of the culverts and the downstream water surface elevation.
- F.DNR.9 9. Stream crossings should be designed so that they do not create drops/dams or create other impediments to fish passage. The streambed gradient should not be altered during project construction.
- F.DNR.10 10. The streambed gradient should not be increased during project construction. If a gradient change is unavoidable, the channel modification may require the installation of grade control structures above and/or below the affected area, as well as on tributaries within the affected area, to minimize the movement of streambed materials caused by the modification.
- F.DNR.11 11. Best Management Practices (BMPs) should be used during project activities.

Thank you for the opportunity to comment on this proposed project. If you have any questions, please call Gail Wilson of the NPDES Permits and Engineering Section at (573) 526-1535.

GW:pc

3/10/2005

F.SF.1



Sac & Fox Nation of Missouri in Kansas & Nebraska

305 North Main St., Reserve, KS 66434
Phone: (785) 742-7471 Fax: (785) 742-3785

February 8, 2005

Kenny Pointer
U. S. Army Corps of Engineers
Missouri State Regulatory Office
221 Bolivar Street, Suite 103
Jefferson City MO 65101

Dear Mr. Pointer:

Thank you for your letter, which is in compliance with Section 106 of the National Historic Preservation Act, and Section 110.

The Sac and Fox Nation of Missouri in Kansas and Nebraska have an interest in this site in issues that result in inadvertent finds of human remains or funerary objects pertaining to:

Permit No. 200402232
Montgomery, Warren, and St. Charles Counties

There are two other bands of Sac and Fox that also need to be contacted, the Sac and Fox Nation of Oklahoma and the Sac and Fox of the Mississippi in Iowa.

Johnathan Buffalo, Sac and Fox of the Mississippi in Iowa
349 Meskwaki Rd.
Tama, IA 52339-9629

Sandra Massey, Sac and Fox Nation of Oklahoma
Rt. 2, Box 246
Stroud, OK 74079

If you have any questions, please contact me at the number or address above.

Sincerely,

Deanne Bahr
Sac and Fox Nation of Missouri in Kansas and Nebraska
NAGPRA Contact Representative

F.PBPN.1



Prairie Band Potawatomi Nation
Government Center

RECEIVED
MAY 10 2005
05 FEB 10 PM 2:21

February 7, 2005

**Kansas City District
US Army Corps of Engineers
700 Federal Building, 601 East 12th Street
Kansas City, Missouri 64106-2896**

Dear **Sir of Madam:**

I am writing to inform you that I am in receipt of your recent National Historic Preservation Act (NHPA), Section 106 and Section 110 correspondence.

After reviewing the contents of your recent mailing we would like to inform that we have no objections to the following project(s):

Project(s): Permit Nos. 200500428, 200500440, 200402229, and 200402232

At this time we are unaware of any historical cultural resources in the proposed development area. However, we do request to be immediately contacted if any inadvertent discoveries are uncovered at anytime throughout the various phases of the project.

Please feel free to call me at (785) 966-4007 or additional information can be faxed to (785) 966-4009. We look forward to working with you.

Respectfully,

Zach Pahmahmie
Tribal Chairman
NAGPRA Representative
Prairie Band Potawatomi Nation

ZP/vrs

F.ITO.1



Iowa Tribe of Oklahoma

R.R. 1, Box 721
Perkins, Oklahoma 74059
(405) 547-2402
Fax: (405) 547-5294

2/10/2005

US Army Corps of Engineers
Attn: Kenny Pointer
221 Bolivar St., Ste 103
Jefferson City, MO 65101

Re: Project 200402232

Dear Kenny Pointer,

We received the notification of the of your districts improvement program. I understand that some of the project is a previous improvement and you do not foresee any impact of Native American or Euro-American archaeological resources. Please keep the Iowa Tribe of Oklahoma informed if anything new is discovered.

The historical preservation of the Iowa Tribe of Oklahoma is very important. Many religious and cultural artifacts have been discovered. During excavation if anything is unearthed please give me a call at 405-547-2402 ext. 323 or e-mail me at etipton@iowanation.org.

Thank you for your cooperation in this matter.

Sincerely,

Erin C. Tipton
Historical Preservation
Iowa Tribe of Oklahoma

F.ESTO.1

**EASTERN SHAWNEE TRIBE
OF OKLAHOMA**

P.O. Box 350 · Seneca, MO 64865 · (918) 666-2435 · FAX (918) 666-2186

February 17, 2005

*Missouri State Regulatory Office
Attention: Mr. Kenny Pointer
221 Bolivar Street
Suite 103
Jefferson City 65101*

*RE: 220402232, Montgomery, Warren, and St. Charles
Counties, MO*

RE: 200402229, Boone County, MO

RE: 200500565, Harrison County, MO

RE: 200401552, Grundy County, MO

To Whom It May Concern:

Thank you for notice of the referenced project(s). The Eastern Shawnee Tribe of Oklahoma is currently unaware of any documentation directly linking Indian Religious Sites to the proposed construction. In the event any items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered during construction, the Eastern Shawnee Tribe request notification and further consultation.

The Eastern Shawnee Tribe has no objection to the proposed construction. However, if any human skeletal remains and/or any objects falling under NAGPRA are uncovered during construction, the construction should stop immediately, and the appropriate persons, including state and tribal NAGPRA representatives contacted.

Sincerely,

*Jo Ann Beckham
Administrative Assistant*

*Charles Enyart, Chief
Eastern Shawnee Tribe of Oklahoma*

Appendix K: Programmatic Agreement

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER, AND
THE MISSOURI DEPARTMENT OF TRANSPORTATION**

**Regarding the Interstate 70 Corridor,
Extending from Interstate 470 in Jackson County to
Lake St. Louis in St. Charles, Missouri,**

**Jackson, Lafayette, Saline, Cooper, Boone, Callaway,
Montgomery, Warren, and St. Charles Counties, Missouri**

Missouri Department of Transportation Job No. J4I1341B

Whereas, the Federal Highway Administration (FHWA) and the Missouri Department of Transportation (MoDOT) propose improving the Interstate 70 (I-70) Corridor in Missouri, between the metropolitan areas of Kansas City and St. Louis, to meet the current and future needs of the traveling public; and

Whereas, the First Tier Environmental Impact Statement (First Tier EIS) was completed, with a Record of Decision, in the fall of 2001 (as documented by *Interstate 70 Corridor, Kansas City to St. Louis, Missouri, Draft First Tier Environmental Impact Statement*, FHWA-MO-EIS-01-02-D, MoDOT Project No. J4I1341, 2001, and *Interstate 70 Corridor, Kansas City to St. Louis, Missouri, Final First Tier Environmental Impact Statement*, FHWA-MO-EIS-01-02-F, MoDOT Project No. J4I1341, 2001), and upon its completion, the Second Tier environmental decision-making process (Improve I-70, MoDOT Job No. J4I1341B) began immediately; and

Whereas, following preparation of the First Tier EIS, the FHWA, MoDOT, and the State Historic Preservation Office, Missouri Department of Natural Resources (MoDNR) executed a Memorandum of Understanding on April 3, 2003, addressing Interstate 70 and the question of its eligibility for listing on the National Register of Historic Places (NRHP) with three stipulations requiring: 1) the FHWA to identify the eligibility of the structure when the interstate is fifty years old or whenever the national task force has reached an opinion regarding eligibility of the interstate system; 2) the FHWA and MoDOT to proceed gathering information on the history and development of I-70; and 3) consultation between the three agencies and the Advisory Council on Historic Preservation (Council) should I-70 or any part thereof be determined eligible for the NRHP at a later date; and

Whereas, on March 10, 2005, after considering recommendations of the national task force and public comments, the Council released Federal agencies from Section 106 requirements of the National Historic Preservation Act (NHPA) to consider the effects of their undertakings on the U.S. Interstate Highway System, except for a limited number of individual, associated elements that are part of the system, and requires FHWA to identify interstate elements of national significance by June 30, 2006, and unless exempted by the terms of the exemption, non-significant elements are excluded from Section 106 requirements; and

Whereas, MoDOT and FHWA have been collecting data and documenting the history and development of Interstate 70 in Missouri that will have a role in the FHWA consideration, with other parties, of individual interstate elements in Missouri that have national significance, thereby enabling these resources, like other historic properties affected by proposed undertakings, to be appropriately identified and addressed; and

Whereas, the 200-mile long Improve I-70 corridor was broken into seven different Sections of Independent Utility (SIU) with corresponding project numbers, roughly divided as follows: SIU 1, I-470 at Independence to MO Rt. 131 at Odessa (MoDOT Job No. J4I1341D); SIU 2, MO. Rt. 131 at Odessa to MO. Rt. 5 at Boonville (MoDOT Job No. J4I1341E); SIU 3, MO. Rt. 5 at Boonville to MO Rt. BB west of Columbia (MoDOT Job No. J4I1341F); SIU 4, MO Rt. BB to MO Rt. ZZ east of Columbia (MoDOT Job No. J4I1341G); SIU 5, MO Rt. Z to U.S. Rt. 54 at Kingdom City (MoDOT Job No. J4I1341H); SIU 6, U.S. Rt. 54 at Kingdom City to MO Rt. 19 at New Florence (MoDOT Job No. J4I1341J); and SIU 7, MO Rt. 19 at New Florence to Lake St. Louis Boulevard in St. Charles County (MoDOT Job No. J4I1341K), with each SIU ranging in length from 14 to 64 miles; and

Whereas, the FHWA has determined that improvements to Interstate 70 may have effects upon properties included in or eligible for the NRHP, and has consulted with the Council, and the Missouri State Historic Preservation Office (SHPO), pursuant to 36 CFR 800, *Protection of Historic Properties*, implementing Section 106 of the NHPA; and Section 110 of the same act; and

Whereas, the Council has reviewed and commented on the draft agreement document and, in accordance with 36 CFR 800.14(b)(1)(ii) and 36 CFR 800.14(b)(4) regarding prototype programmatic agreements, the agreement shall become final without need for Council participation in consultation or Council signature, and therefore the Council has declined FHWA's invitation to participate in the execution of this Programmatic Agreement; and

Whereas, the MoDOT has participated in consultation and has been invited to be a signatory in this Programmatic Agreement; and

Whereas, cultural resources investigations have been conducted for the First Tier EIS, are in progress for the Second Tier environmental documents, and will continue in the distant future when the project design advances to the final design stage; the project is not presently programmed to proceed to the final design stage nor is project construction anticipated for numerous years; thus, the full impacts of this project and its effects to cultural resources cannot be specifically determined until the final design has been completed; and

Whereas, a long time period is expected to lapse following the approval of the separate environmental documents for each SIU (i.e., Finding of No Significant Impact and Record of Decision) and before project construction, historic properties and effects are expected to change over this period, and sufficient information about the undertaking and affected historic properties is not presently available, subsequent Section 106 review is anticipated; and

Whereas, the FHWA has held a number of public meetings regarding the proposed project and, as advised in 36 CFR 800.14(2)(i)-(ii), will continue to seek the involvement of other parties, including but not limited to, Indian tribes, representatives of local governments, and certain individuals and organizations with a demonstrated interest in the project who have a consultative role in the section 106 process, and shall further consider the views of the public.

Now therefore, the FHWA, the SHPO, and the MoDOT agree that the project shall be administered in accordance with 36 CFR 800 and the following stipulations to satisfy the FHWA's section 106 responsibilities for its undertakings that may affect historic properties in SIUs 1-7, Interstate 70.

Stipulations

The agency official, FHWA, through the assistance of its agent MoDOT, shall ensure that it complies with all relevant cultural resources regulations and legislation related to this project. The following measures shall be carried out and specific treatments for historic properties shall be developed in consultation with the appropriate consulting parties pursuant to 36 CFR 800.2:

- I. Concerning historic properties in each SIU of Interstate 70:
 - A. Pursuant to 36 CFR 800.2 (a)(4), the FHWA shall ensure that the appropriate consulting parties are identified and involved in findings and determinations made during the section 106 process.
 - B. The MoDOT will be responsible for identifying and evaluating all historic properties within each SIU's area of potential effects in consultation with SHPO and other consulting parties following the procedures set out in 36 CFR 800.4, including 36 CFR 800.4(a)(3).
 - C. MoDOT shall apply the criteria of adverse effects in accordance with 36 CFR 800.5 and, through coordination with FHWA, shall involve appropriate consulting parties to determine the effects of the project on historic properties following the guidance found in 36 CFR 800.4(d) and 36 CFR 800.5(a). If no historic properties are affected, the MoDOT shall notify all consulting parties in accordance with 36 CFR 800.4(d) and 36 CFR 800.5(b) and (c).
 - D. If the proposed project will have an adverse effect on any historic property, then the FHWA and MoDOT shall consult with the SHPO, Indian tribes, and other consulting parties to develop and evaluate alternatives or modifications to avoid, minimize, or mitigate adverse effects on historic properties in accordance with 36 CFR 800.6(a).
 - E. If historic properties cannot be avoided, the FHWA and MoDOT shall confer with the SHPO and other consulting parties as directed by 36 CFR 800.4(b)(1) to determine appropriate mitigation measures and levels of documentation employing professional

standards and guidelines, such as those published by the Secretary of the Interior (i.e. *Standards for the Treatment of Historic Properties* and *Professional Qualifications Standards*). For archaeological resources, the FHWA and MoDOT shall ensure that procedures to be used for the processing, analysis, and curation of collected materials are in accordance with the Advisory Council's Handbook *Treatment of Archeological Properties, Part III*, the *Secretary of Interior's Guidelines for Archeology and Historic Preservation*, and currently accepted standards for the analysis and curation of archaeological remains.

- F. The FHWA and MoDOT shall ensure that a determination, finding, or agreement is supported by sufficient documentation to enable any reviewing parties to understand its basis per 36 CFR 800.11(a).
 - G. The FHWA and MoDOT will complete the mitigation measures and allow the SHPO and other appropriate parties a thirty (30) day comment period. If the SHPO or other parties has comments, they shall be considered and satisfactorily addressed if possible, prior to the demolition of any historic property.
 - H. The FHWA and MoDOT shall provide copies of the mitigation documentation to the SHPO and appropriate interested parties and repositories.
- II. If previously undiscovered cultural resources are encountered during construction, construction activities in the immediate vicinity of the resource will cease until the FHWA, SHPO, and MoDOT can evaluate the resource, consult with other parties where appropriate, and, if necessary, mitigate impacts to the resource. Evaluation and mitigation will be carried out as expeditiously as possible and in accordance with 36 CFR 800.13(b).
- III. The FHWA recognizes that any human remains (other than from a crime scene) which may be discovered or excavated during archaeological investigations are located on state or private land, and are therefore subject to the immediate control, possession, custody and jurisdiction of the SHPO, pursuant to the Missouri Unmarked Human Burial Sites Act, sections 194.400–194.410, RSMo. The excavation of human remains will follow guidance obtained through consultation among FHWA, SHPO, and any appropriate Indian Tribe(s). The FHWA shall assure that the excavation and handling of any such human remains and associated or unassociated funerary objects, sacred objects or objects of cultural patrimony, are handled, excavated or processed in accordance with the SHPO's instructions pursuant to sections 194.400-194.410, RSMo, and pursuant to any provisions of the Native American Graves Protection and Repatriation Act applicable to such remains and artifacts found on non-federal lands.
- IV. Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories with Council participation if requested.
- V. Any party to this Programmatic Agreement may request that it be amended, whereupon the parties to this Agreement shall consult in accordance with 36 CFR 800.13 to consider such an

amendment. No amended agreement shall take effect until it has been executed by all parties.

VI. Any signatory to this Programmatic Agreement may terminate by providing thirty (30) days notice to the other parties, provided that the parties will consult during this 30-day period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FHWA will comply with 36 CFR 800.4 through 36 CFR 800.6 with regard to this project.

VII. Because of the likelihood that the final design phase of the project will not begin for several years, this umbrella Programmatic Agreement for Interstate 70 shall not expire until the project's construction is completed. Given the project's statewide length, but its limited funding, improvements for one SIU are certain to precede those for another, and because each SIU will involve different resources, additional agreement documents may be necessary. The completion of consultation for each subsequent phase of construction will follow the procedures in accordance with this PA and result in either a finding of "no historic properties affected," "no adverse effect," or execution of a Memorandum of Agreement addressing the specific SIU, affected historic properties, and stipulations regarding historic preservation treatments.

Execution and implementation of this Programmatic Agreement evidence that the FHWA has afforded the SHPO a reasonable opportunity to comment on its proposed improvements to Interstate 70 and that the FHWA has taken into account the effects of improvements to Interstate 70 on historic properties.

Federal Highway Administration:

By: Beggy J. Casey Date: 5/19/05

Missouri State Historic Preservation Officer:

By: Doyle Childers Date: 5/19/05

Missouri Department of Transportation:

By: Diana Heaton Date: 05/19/05