

# 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 3042 – 4, SR 231, 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.

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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(014)  
Code: 3042  
Parcel: 4 (Excess Land)

Sheet 1 of 1  
Fee Simple

A part of the Northwest Quarter of the Southeast Quarter of Section 2 in Township 7 South, Range 6 West, Spencer County, Indiana, and being a part of the land of Ralph E. and Norma Partridge (Record 145, Page 100) and State of Indiana (Record 196, Page 741) that is depicted as "EXCESS LAND" and lays **westerly of and adjacent to** the Limited Access Right-of-Way lines on the attached Right-of-Way Parcel Plat marked as Exhibit "B", described as follows:

Commencing at the southeast corner of the aforementioned Quarter-Quarter Section, said point being designated "2405" on said attached Plat; thence along the east line of said Quarter-Quarter, North 00 degrees 24 minutes 11 seconds East, a distance of Six (6) Rods (99 feet) to the southeast corner of Record 145, Page 100; thence North 89 degrees 35 minutes 49 seconds West, a distance of 212 feet to the southwest corner of Record 145, Page 100; thence along the west line of Record 145, Page 100, North 00 degrees 24 minutes 11 seconds East, a distance of 14.67 feet to the intersection with the line formed between the points designated "2010" and "2011" on said Plat and the POINT OF BEGINNING; thence continuing along said west line, North 00 degrees 24 minutes 11 seconds East, a distance of 197.33 feet to the northwest corner of Record 145, Page 100; thence along the north line of Record 145, Page 100, South 89 degrees 35 minutes 49 seconds East, a distance of 100.15 feet to the intersection with the line formed between the points designated "2010" and "2011" on said Plat; thence South 27 degrees 18 minutes 47 seconds West, a distance of 221.29 feet to the POINT OF BEGINNING; said described tract containing 0.227 Acres, more or less.

[This description is subject to any and all easements, rights of way, covenants, or restrictions; recorded or observable; including (but not limited to) the Limited Access Provision set forth per Inst. #02-632 (Record 196, Page 741) and the easement per Inst. #2006R-01154 (Book 216, Page 668)]



*This description was prepared for the Indiana Department of Transportation by Richard Paul Croix Hodges, Indiana RLS # 20400026, this 7<sup>th</sup> day of January, 2013.*

  
Richard Paul Croix Hodges, 1/07/2013

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.



\_\_\_\_\_  
**Anthony Green, Designee for  
Robert D. Wynkoop, Commissioner  
Indiana Department of Administration**

State of Indiana )  
County of Marion ) ss:

Before me, a Notary in and for said County and State, personally appeared Anthony Green, designee of the Commissioner, Indiana Department of Administration, and acknowledged execution of the foregoing Quitclaim Deed this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

Notary signature: \_\_\_\_\_

Notary name printed: \_\_\_\_\_

My commission expires: \_\_\_\_\_ I reside in \_\_\_\_\_ County

**Approved as to form and legality:**

\_\_\_\_\_  
Gregory F. Zoeller, Attorney General Date: \_\_\_\_\_

Send tax bills to: same address above

**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 D

<b>CATEGORICAL EXCLUSION LEVEL 1 FORM</b>	<b>Date:</b> May 21, 2012
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**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
 

 5/21/12  
 Date

PROJECT INFORMATION			
<b>Project Number, County, Route</b>	US 231, Spencer County, LA Code 3042, Parcel 4 - Excess Right of Way	<b>Des Number</b>	8461360
<b>Project Description</b>	<b>Liquidation of Excess Right of Way</b> – This includes the liquidation of State property classified as excess right of way.		
<b>Purpose and Need for Action:</b>	Excess Right of Way Liquidation: The purpose of this action is to liquidate the excess property that has been determined to be unnecessary. By selling the property, it eliminates the need for maintenance and allows the limitation of unnecessary land holdings.		
<b>Alternatives Considered:</b>	The do-nothing alternative was considered, but rejected since it would not meet the purpose and need of the projects.		
<b>Project Termini:</b>	n/a		
<b>Funding Source(s):</b>	<input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local	<b>Estimated Cost</b>	n/a
<b>Project Sponsor:</b>	INDOT	<b>Project Length</b>	n/a

Name and organization of CE Level 1 Preparer:: Kelly Cummins – INDOT, Vincennes District

<b>SCOPE OF THE PROPOSED ACTION</b>		
<b>Public Involvement</b>	No: <b>X</b>	Possible:
Comments:	No public controversy is expected.	
<b>Relocation of residences/businesses/etc.*</b>	No: <b>X</b>	Possible:
Comments:	No relocations will be necessary.	
<b>Right-of-way in acres (permanent and temporary)*</b>	No: <b>X</b>	Possible:
Comments:	Property will only be sold to willing buyers. Applicable Federal regulations will be followed.	
<b>Added through-traffic lanes – length*</b>	No: <b>X</b>	Possible:
Comments:	No through-lanes will be added.	
<b>Permanent alteration of local traffic pattern*</b>	No: <b>X</b>	Possible:
Comments:	There will be no alteration of local traffic patterns.	
<b>Facility on new location or realignment*</b>	No: <b>X</b>	Possible:
Comments:	There will be no new alignment or realignment of existing roads.	
<b>Disruption to public facilities/services (such as schools, emergency service)</b>	No: <b>X</b>	Possible:
Comments:	There will be no disruption to public service providers.	
<b>Involvement with existing bridge(s) (Include structure number(s))</b>	No: <b>X</b>	Possible:
Comments:	There are no bridges within the limits of the excess property.	

<b>INVOLVEMENT WITH RESOURCES</b>		
<b>Watercourses Impacted (linear feet)</b>	No: <b>X</b>	Possible:
Comments:	There will be no construction in waterways as part of this project	
<b>Other Surface Waters (such as ponds, lakes, reservoirs, in acres)</b>	No: <b>X</b>	Possible:
Comments:	There will be no construction in water bodies as part of this project.	
<b>Wetlands (acres)*</b>	No: <b>X</b>	Possible:
Comments:	There will be no adverse impacts to wetlands as part of this project.	
<b>Disturbance of Terrestrial Habitat (acres)</b>	No: <b>X</b>	Possible:
Comments:	There will be no construction which adversely affects habitat as part of this project.	

<b>INVOLVEMENT WITH RESOURCES</b>		
<b>Karst Features</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	There are no karst features present in this County nor is it part of the Karst MOU.	
<b>Threatened and Endangered Species Present/Impacted*</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	No endangered species will be impacted.	
<b>Impacts to Sole Source Aquifer*</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	There is no known Sole Source Aquifer located in the Vincennes District.	
<b>Flood Plains (note transverse or longitudinal impact)</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	The project will not alter flood elevations.	
<b>Farmland (acres)</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	This project is not of a type which will affect farmland.	
<b>Cultural Resources (Section 106)*</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	<p>The property has been determined to be of a nature which has no potential to adversely affect resources protected by Section 106 of the Historic Preservation Act. With regard to above-ground resources, no buildings are located on this parcel. Nonetheless, the State and National Register of Historic Places lists for Spencer County were checked by an INDOT- Cultural Resources Section (CRS) historian who meets the Secretary of the Interior’s Professional Qualification Standards per 36 CFR Part 61. No properties on these lists are located adjacent to the parcel. Additionally, the <i>Spencer County Interim Report</i> of the Indiana Historic Sites and Structures Inventory was referenced (2001; Ohio Township). The property recorded nearest this parcel is a farm with an I-house and several outbuildings on CR 350 N (Site #147-546-45015 on the map on page 93). It is rated “outstanding,” indicating it likely possesses the level of historical or architectural significance necessary to be National Register eligible. However, according to GIS mapping estimates, this property is located over 0.3 miles to the west of this parcel. Additionally, a heavily wooded parcel is located between the INDOT parcel to be sold and this farm, making the chance of visibility between the two very low. INDOT does not think that the sale of this parcel is an activity that has the potential to cause effects on any above-ground resources eligible for or listed in the National Register.</p> <p>This parcel was covered by the original archaeological survey in 1997. See Attachment 2 for SHPO Concurrence Letter.</p>	
<b>Section 4(f) and Section 6(f) Resources *</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	There are no Section 4(f) or 6(f) resources involved.	
<b>Air Quality Non-attainment Area</b>	No: <input checked="" type="checkbox"/>	Possible:
Comments:	This projects is exempt from air quality analysis in accordance with 40 CFR Part 93.126 Table 2. This project is not of air quality concern; therefore, it will have no significant impact on air quality.	
<b>Noise Analysis Required*</b>	No: <input checked="" type="checkbox"/>	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.	

<b>INVOLVEMENT WITH RESOURCES</b>		
<b>Community/Economic Impacts</b>	No: <b>X</b>	Possible:
Comments:	No negative impacts are anticipated for the established communities.	
<b>Environmental Justice</b>	No: <b>X</b>	Possible:
Comments:	Any property to be sold will be sold to willing buyers. No disproportionate adverse impacts to protected populations are expected.	
<b>Hazardous Materials</b>	No: <b>X</b>	Possible:
Comments:	The property to be sold has been assessed for hazardous materials, and no areas of concern were found. See Attachment 3 for Red Flag Investigation.	
<b>Permits</b>	No: <b>X</b>	Possible:
Comments:	Permits are not required for this project.	

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

<b>ENVIRONMENTAL COMMITMENTS:</b>
<p>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 INDOT Environmental Services (INDOT ES) shall also be notified. (Required)</p>

**Categorical Exclusion Level Thresholds**

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

\*These thresholds have changed from the March 2009 Manual.

<sup>1</sup>Permanent and/or temporary right of way.

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

<sup>3</sup>In accordance with INDOT’s Noise Policy.

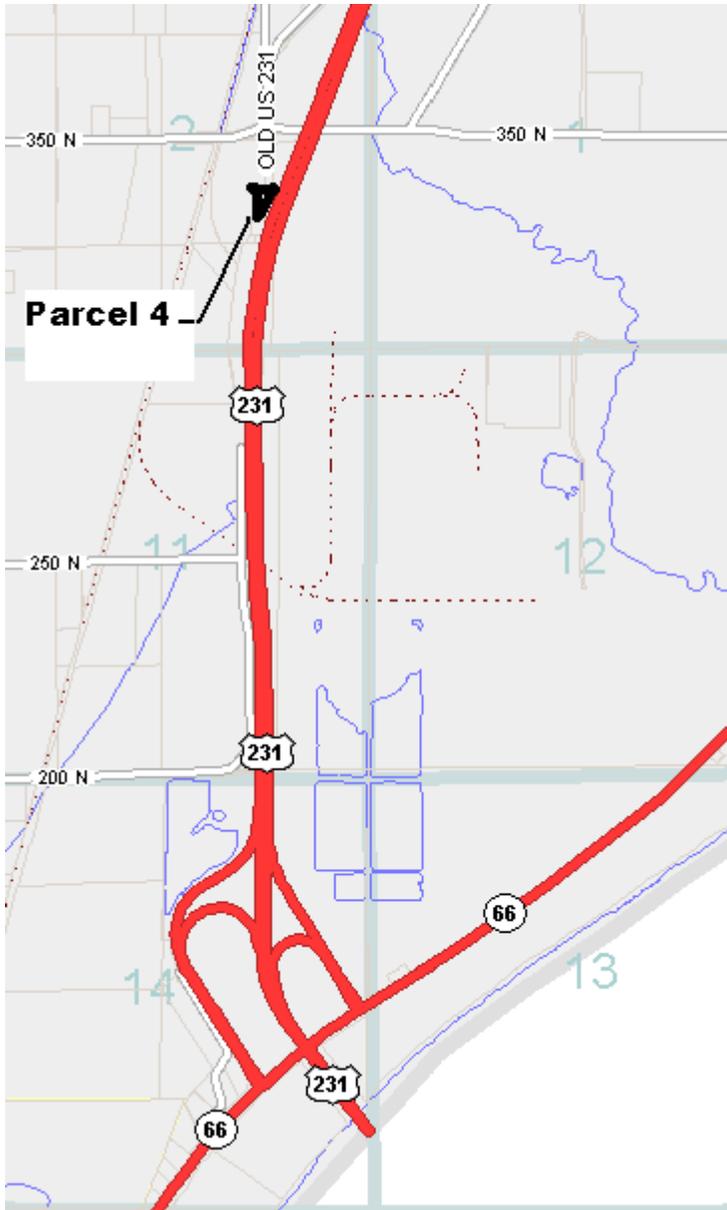
<sup>4</sup>If the project is considered Likely to Adversely Affect Threatened and/or Endangered Species, INDOT and the FHWA should be consulted to determine whether a higher class of document is warranted.

<sup>5</sup>Environmental Scoping Manager

<sup>6</sup>Environmental Services

# Attachment 1

## Location Map





Attachment 2  
SHPO Concurrence Letter

**CULTURAL RESOURCES SURVEYS FOR THE  
US 231 REALIGNMENT/RECONSTRUCTION  
SPENCER AND DUBOIS COUNTIES, INDIANA**

**Project Number NH-075-3()**

**INDOT DESCRIPTION NUMBERS 8461360, 926136A, 9161365,  
926136B, 926136C, & 936136D**

**Prepared for**

**THE CORRADINO GROUP  
FIRST TRUST CENTER, SUITE 300 NORTH  
200 SOUTH FIFTH STREET  
LOUISVILLE, KENTUCKY 40202**

**Prepared By**

**COMMONWEALTH CULTURAL RESOURCES GROUP, INC.  
2530 SPRING ARBOR ROAD  
JACKSON, MICHIGAN 49203-3602**

**James A. Robertson, Ph.D., Principal Investigator  
Kent C. Taylor, Archaeological Field Director  
Elaine H. Robinson, Architectural Historian**

**September 1997**

**Draft  
R-0265**

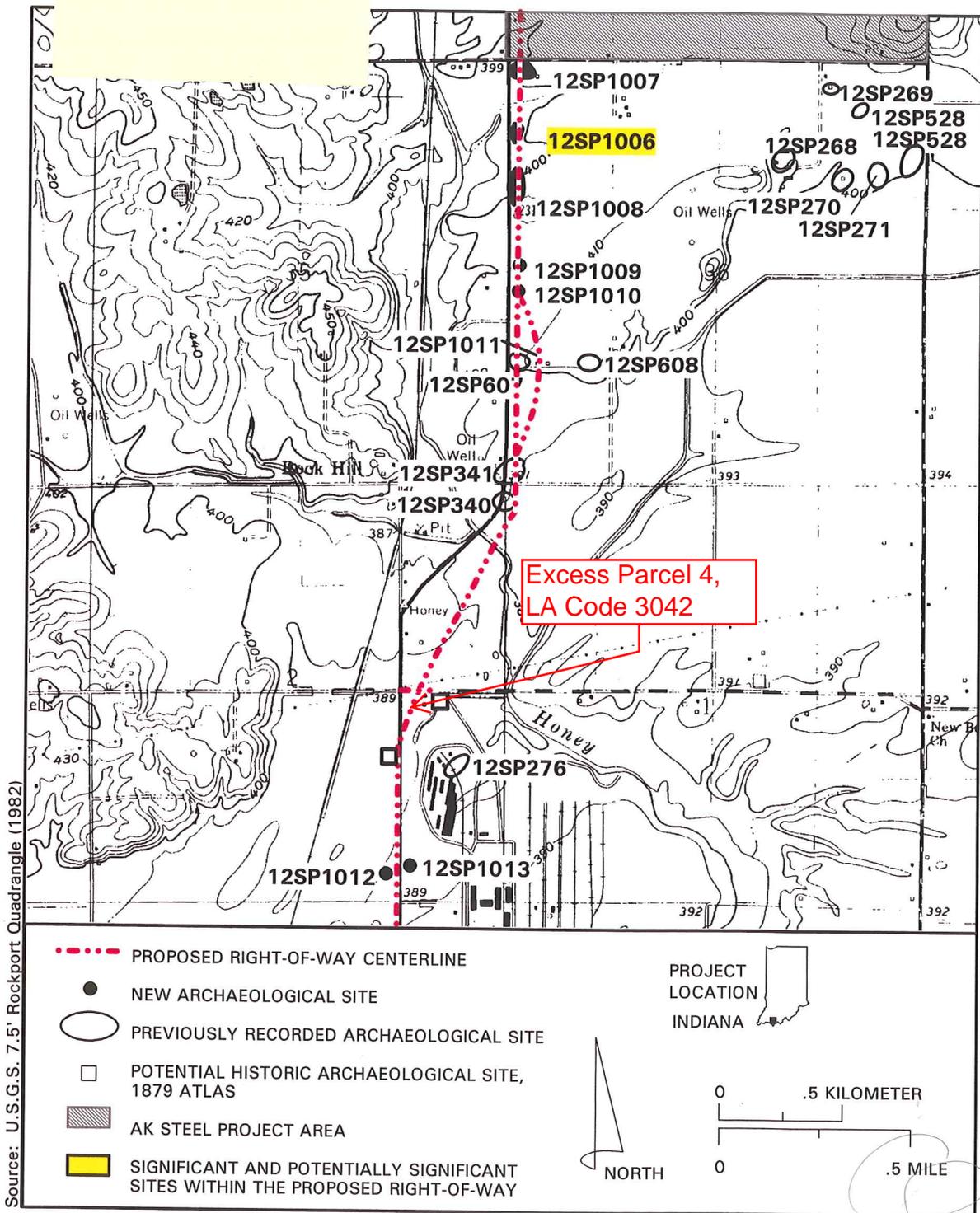
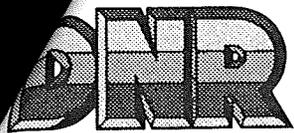


Figure 2b. Project Location and Archaeological Resources

no



INDIANA DEPARTMENT OF NATURAL RESOURCES

LARRY D. MACKLIN, DIRECTOR

Division of Historic Preservation  
and Archaeology  
402 W. Washington St., Room W274  
Indianapolis, Indiana 46204  
E-mail: dhpa\_at\_darlan@ima.isd.state.in.us  
(317) 232-1646  
(317)232-0693 FAX

February 2, 1998

This letter clears  
excess parcel 4,  
LA Code 3042

Ted Stone  
Technical Vice President  
The Corradino Group  
First Trust Centre, Suite 300 North  
200 South Fifth Street  
Louisville, Kentucky 40202

Dear Mr. Stone:

We have reviewed the archaeological reconnaissance report and architectural survey (Robertson, Taylor, and Robinson, 9/97) associated with the proposed realignment of US 231 in Spencer and Dubois Counties, Indiana [Project No. NH-075-3( )]. This review is being conducted pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and implementing regulations found at 36 C.F.R. Part 800.

The report is well written and acceptable, and based on the information provided, our comments relating to archaeological resources are as follow:

- 1) Current information indicates that sites 12-Sp-965, 968, 969, 972, 973, 994, 1005, and 1006 may contain undisturbed archaeological deposits that could yield significant information related to the prehistoric habitation of souther Indiana. As such, these sites are potentially eligible for inclusion in the National Register of Historic Places.

Given their potential significance, sites 12-Sp-965, 968, 969, 972, 973, 994, 1005, and 1006 must either be avoided by a margin of no less than 30 feet or, if avoidance is not feasible, subjected to archaeological testing to clearly determine if the sites are eligible for inclusion in the National Register. Prior to any additional investigation, a plan outlining the proposed testing methodology would have to be submitted to our office for review and comment. Please advise our office as to whether these sites will be avoided or further investigated.

- 2) Based on previous archaeological testing, site 12-Sp-917 has been determined to be eligible for inclusion in the National Register of Historic Places. As such, the site must either be avoided by all construction or subjected to archaeological data recovery to mitigate the impact of proposed development.



Our office has already reviewed, and accepted, a proposal for phase III data recovery of the eastern third and the **western third** of the site. Currently, it is our understanding that the proposed data recovery is intended to mitigate the impact the US 231 alignment and other nearby (AK Steel) construction. It is also our understanding that the central portion of the site would be undisturbed, and preserved in place. Please advise our office as to whether our understanding of the situation is accurate.

- 3) Currently, there is insufficient information to determine if site 12-Sp-1014/12-Du-637 is potentially eligible for inclusion in the National Register. If the site cannot be avoided by the proposed project, it should be subjected to a more intensive phase Ib survey in advance of construction. The intensive survey should utilize controlled surface collection and systematic probing to better define artifact concentrations, and the potential for buried deposits within the site. The results of the phase Ib survey should then be submitted to our office, along with any recommendations for additional investigation.
- 4) The remaining archaeological sites recorded by the phase Ia survey do not appear likely to meet the minimum criteria for inclusion in the National Register, and no additional investigation of those sites appears to be warranted.
- 5) Given that the reconnaissance report is acceptable as submitted, the archaeological site inventory forms should be finalized, and submitted to our office as soon as possible.

If you have any questions in regards to the archaeological aspects of this project, please feel free to contact Dr. Rick Jones or Jim Mohow at (317) 232-1646.

With respect to the architectural aspects of this project, our office has the following comments. The buildings and structures pictured in figures #61 and #64-81 are not listed in the National Register of Historic Places. Furthermore, in our opinion, based upon the documentation provided, the properties do not meet the criteria to be considered eligible for inclusion in the National Register.

However, in our opinion, the Little Pigeon Baptist Church and Cemetery complex is considered to be eligible for inclusion in the National Register of Historic Places due to its historical significance. The Little Pigeon Baptist Church and Cemetery complex is important for its connection with early settlement in Clay Township. Furthermore, the complex is notable for its association with the Lincoln family, prominent historical persons. Please refer to the enclosed map for your reference.

The Pinkston Farmstead is also considered to be eligible for inclusion in the National Register of Historic Places for its historical significance. It is particularly noteworthy for its affiliation with early African-American settlement in Southern Indiana. Please refer to the enclosed map for your reference.

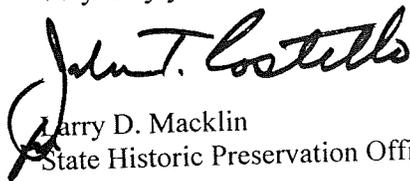
In addition, there is one additional resource which was not included in the survey. The Lincoln Boyhood National Memorial was listed in the National Register on October 15, 1966, and is within close proximity to the project area. Please refer to the enclosed map for your reference.

Ted Stone  
February 2, 1998  
Page 3

Because the three properties listed immediately above are listed in or considered to be eligible for inclusion in the National Register, it is our responsibility to determine the effect of the proposed project on these historic resources. Once more detailed plans are developed, please provide our office with schematic plans showing where all construction, demolition, changes in rights-of-way (show existing and proposed), and associated improvements will occur in relation to these properties.

Furthermore, as stated in our letter dated August 21, 1997, we will need schematic plans showing the proposed US 231 alignment in relation to the AK Steel development site. Once the above requested information has been received, the review process will continue. If you have any further questions regarding the materials above, please call Michelle M. Daleiden at (317) 232-1646. Again, thank you for your cooperation.

Very truly yours,



Jerry D. Macklin  
State Historic Preservation Officer

LDM:JAM:MMD:RSW:mmd

Enclosures (3)

# Attachment 3

## Red Flag Investigation



# INDIANA DEPARTMENT OF TRANSPORTATION

## *Driving Indiana's Economic Growth*

100 North Senate Avenue  
Room N642  
Indianapolis, Indiana 46204-2216 (317) 232-5348 FAX: (317) 233-4929

**Mitchell E. Daniels, Jr., Governor**  
**Michael B. Cline, Commissioner**

Date: 05/15/2012

To: Kelly Cummins  
Environmental/Scoping Engineer  
Vincennes District  
(812) 895-7315  
[kcummins@indot.in.gov](mailto:kcummins@indot.in.gov)

From: Kenneth L. Gill  
Hazardous Materials Unit  
Environmental Services  
Indiana Department of Transportation  
100 N Senate Avenue, Room N642  
Indianapolis, IN 46204

Re: RED FLAG INVESTIGATION  
LA Code 3042, Parcel 4  
Excess Parcel Disposal  
US 231, 0.20 Mile South of CR 350 N  
Spencer County, Indiana

### **NARRATIVE**

A 0.27 acre (as measured from aerial photography) parcel is slated for disposal as excess property. This parcel is a remnant left over from the construction of a new section of US 231. It is located on the west side of and adjacent to US 231 right of way. It is located 0.2 miles south of CR 350 N. The parcel is wooded and undeveloped. A Red Flag Investigation is required before the parcel can be disposed of. This is a rural agricultural area.

### **SUMMARY**

<b>Infrastructure</b>			
Indicate the number of items of concern found within ½ mile, including an explanation why each item within the ½ mile radius will/will not impact the project. If there are no items, please indicate N/A:			
Other road projects	N/A	Airports	N/A
Cemeteries	N/A	Hospitals	N/A
Railroads	1	Recreational Facilities	N/A
Religious Facilities	N/A	Schools	N/A
Trails	N/A	Pipelines	1
Managed Lands	N/A	Coal Generating Plant	1

Explanation:

Railroads: The Norfolk Southern Railroad is present 0.35 miles to the west of the parcel. The railroad is oriented generally north to south. The presence of the railroad is not expected to impact the parcel or the sale of the parcel.

Pipelines: One crude oil pipeline owned by Ashland Pipeline Company is present near the northern portion of Parcel # 4. This pipeline is oriented generally east to west. The presence of this pipeline is not expected to impact the parcel or the sale of the parcel; however, the exact location of the pipeline should be confirmed before the sale of the parcel.

Coal Generating Plant: To the east of Parcel 4 is a very large coal fired electrical generating plant. The southern border of this large plant is situated on the bank of the Ohio River. The presence of this plant is not expected to impact the sale of Parcel #4.

<b>Water Resources</b>			
Indicate the number of items of concern found within ½ mile, including an explanation why each item within the ½ mile radius will/will not impact the project. If there are no items, please indicate N/A:			
Canal Routes – Historic	N/A	Canal Structures – Historic	N/A
NWI Wetland Lines	N/A	Floodplain-DFIRM	1
NWI Wetland Polygons	7	NWI Wetland Points	N/A
Rivers & Streams	N/A	Lakes	N/A
IDEM 303d Listed Rivers and Streams	N/A	IDEM 303d Listed Lakes	N/A
Cave Entrance Density	N/A	Sinkhole Areas	N/A
Karst Springs	N/A	Sinking-Stream Basins	N/A

Explanation:

Floodplain-DFIRM: This is a lowland area that is part of the Ohio River DFIRM floodplain. Further consultation with Ecology and Permits should be conducted to see if the sale of the parcel will be affected.

NWI Wetland Polygons: There are seven wetlands indicated on the DNR water resources map layer. The largest of these is to the northwest of the parcel and is 6.5 acres, as measured from aerial photographs.

<b>Mining/Mineral Exploration</b>			
Indicate the number of items of concern found within ½ mile, including an explanation why each item within the ½ mile radius will/will not impact the project. If there are no items, please indicate N/A:			
Petroleum Wells	2	Petroleum Fields	2
Mines – Surface	N/A	Mines – Underground	N/A

Explanation:

Petroleum Fields and Wells: The Rock Hill and the Rock Hill North petroleum fields are present in the one half mile buffer; however, these do not extend into Parcel 4 and should not impact parcel 4 or the sale of Parcel 4. The two inactive wells to the northwest also should not impact Parcel 4 or the sale of Parcel 4.

## Ecological Information

From the Spencer County listing of the Indiana Natural Heritage Data Center, information on endangered, threatened, or rare (ETR) species and high quality natural communities:

- 3 aquatic species, 3 terrestrial species (3 vertebrate/0 invertebrate), 4 avian species, and 27 vascular plants from the state list
- 0 aquatic species, 2 terrestrial species (2 vertebrate/0 invertebrate), 1 avian species, and 0 vascular plants from the federal list
- 0 state and/or federal habitats listed

Research into the Indiana Heritage database revealed no state or Federal ETR species within a ½ mile radius of the subject parcel. If Early Coordination was completed prior to submission of the red flag for review and IDNR has commented, those comments can be included in place of the above process.

## Cultural Resources

This parcel was covered by the original archeological survey for the US 231 Realignment project (Robertson, Taylor & Robinson, 1977). No archeological sites were identified here, and the SHPO concurred in the archaeological report conclusions in a letter dated February 2, 1998. With regard to above-ground structures, no buildings are located on this parcel, and the INDOT Cultural Resources staff reviewed the parcel information and does not think that the sale of this parcel is an activity that has the potential to cause effects on any above-ground resources eligible for or listed in the National Register. No further action is required.

<b>Hazmat Concerns</b>			
Indicate the number of items of concern found within ½ mile, including an explanation why each item within the ½ mile radius will/will not impact the project. If there are no items, please indicate N/A:			
Brownfield Sites	N/A	Corrective Action Sites (RCRA)	N/A
State Cleanup Sites	N/A	Superfund Sites	N/A
Voluntary Remediation Program	N/A	Institutional Control Sites	N/A
Manufactured Gas Plant Sites	N/A	Industrial Waste Sites	N/A
Underground Storage Tanks (USTs)	N/A	Leaking Underground Storage Tanks (LUSTs)	N/A
Confined Feeding Operations	N/A	Septage Waste Sites	N/A
Construction Demolition Waste	N/A	Infectious/Medical Waste Sites	N/A
Lagoon/Surface Impoundments	N/A	Open Dump Sites	N/A
Restricted Waste Sites	N/A	Solid Waste Landfills	N/A
Tire Waste Sites	N/A	Waste Transfer Stations	N/A
Waste Treatment, Storage, and Disposal Sites (TSDs)	N/A	NPDES Facilities	1
NPDES Pipe Locations	N/A		

Explanation: One Discharge Pollution Discharge Elimination System (NPDES) permit is present in the one half mile buffer zone. This is merely a water discharge permit for the Spencer County Sand & Gravel Company. A NPDES permit requires periodic testing of the waters that are discharged. This discharge point presents no impact to the INDOT parcel. The location of this NPDES point is included on the Hazardous Materials Map at the end of this report.

## RECOMMENDATIONS

Include recommendations from each section. If there are no recommendations, please indicate N/A:

**INFRASTRUCTURE:** One crude oil pipeline owned by Ashland Pipeline Company is present near the northern portion of Parcel # 4. This pipeline is oriented generally east to west. The presence of this pipeline is not expected to impact the parcel or the sale of the parcel; however, the exact location of the pipeline should be confirmed before the sale of the parcel.

**WATER RESOURCES:** This is a lowland area that is part of the Ohio River DFIRM floodplain. Further consultation with Ecology and Permits should be conducted to see if the sale of the parcel will be affected.

**MINING/MINERAL EXPLORATION:** N/A

**ECOLOGICAL INFORMATION:** If Early Coordination was completed prior to submission of the red flag for review and IDNR has commented, those comments can be included in place of the above process.

**CULTURAL RESOURCES:** N/A

**HAZMAT CONCERNS:** N/A

No additional environmental studies are appropriate and no additional studies are recommended for Parcel 4.



Supervisory concurrence: Marlene Mathas, CHMM  
May 16, 2012

Prepared by:  
Kenneth Gill, LPG  
Project Manager  
INDOT Central Office, HazMat Section

### Graphics:

A map for each report section with a ½ mile radius buffer around all project area(s) showing all items identified as possible items of concern is attached. If there is not a section map included, please change the YES to N/A:

TOPOGRAPHIC MAP OF AREA W/ PARCEL & ONE HALF MILE BUFFER: YES

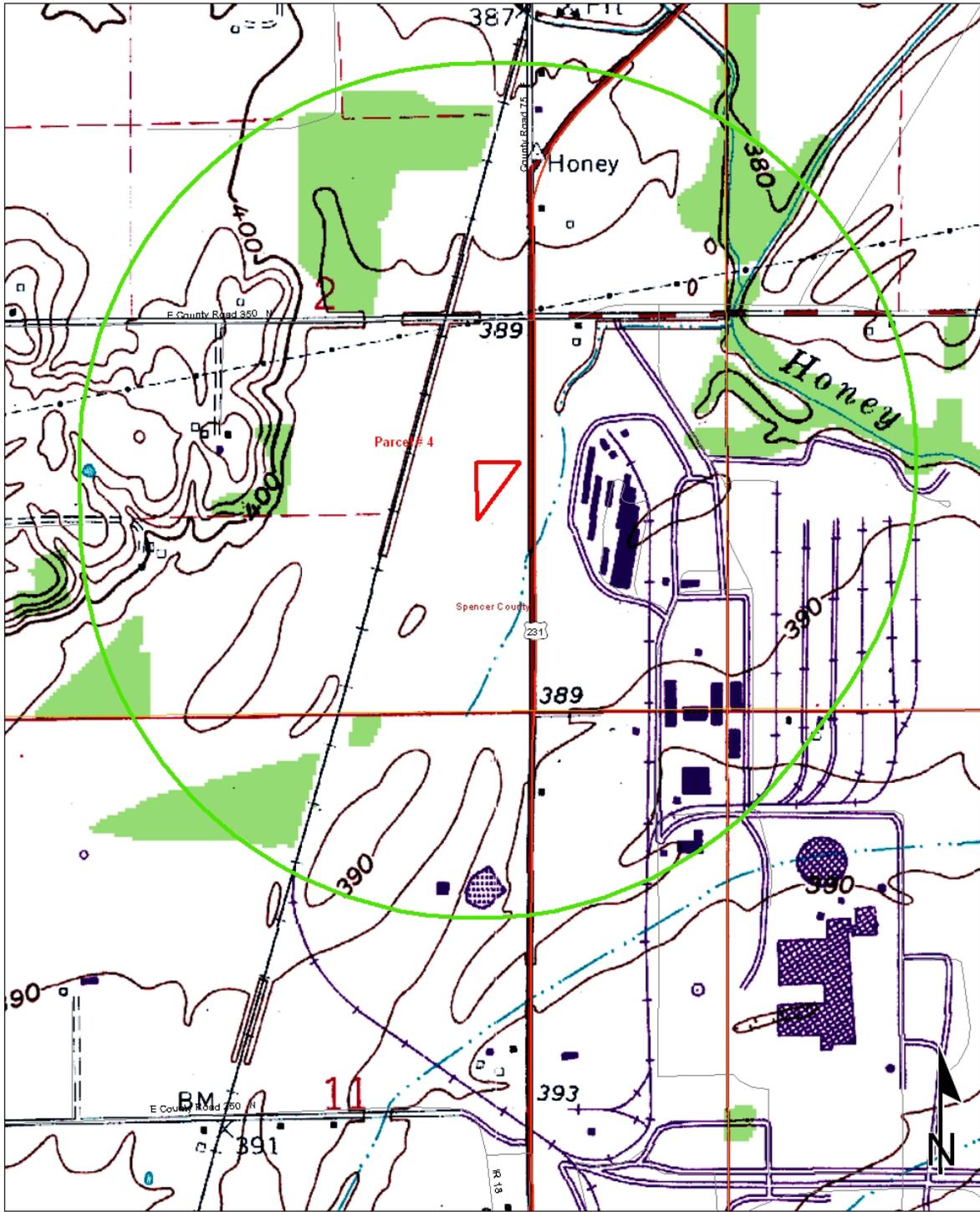
GENERAL SITE MAP SHOWING PROJECT AREA & INFRASTRUCTURE: YES

WATER RESOURCES: YES

MINING/MINERAL EXPLORATION ON AIR PHOTO: YES

HAZMAT CONCERNS: YES

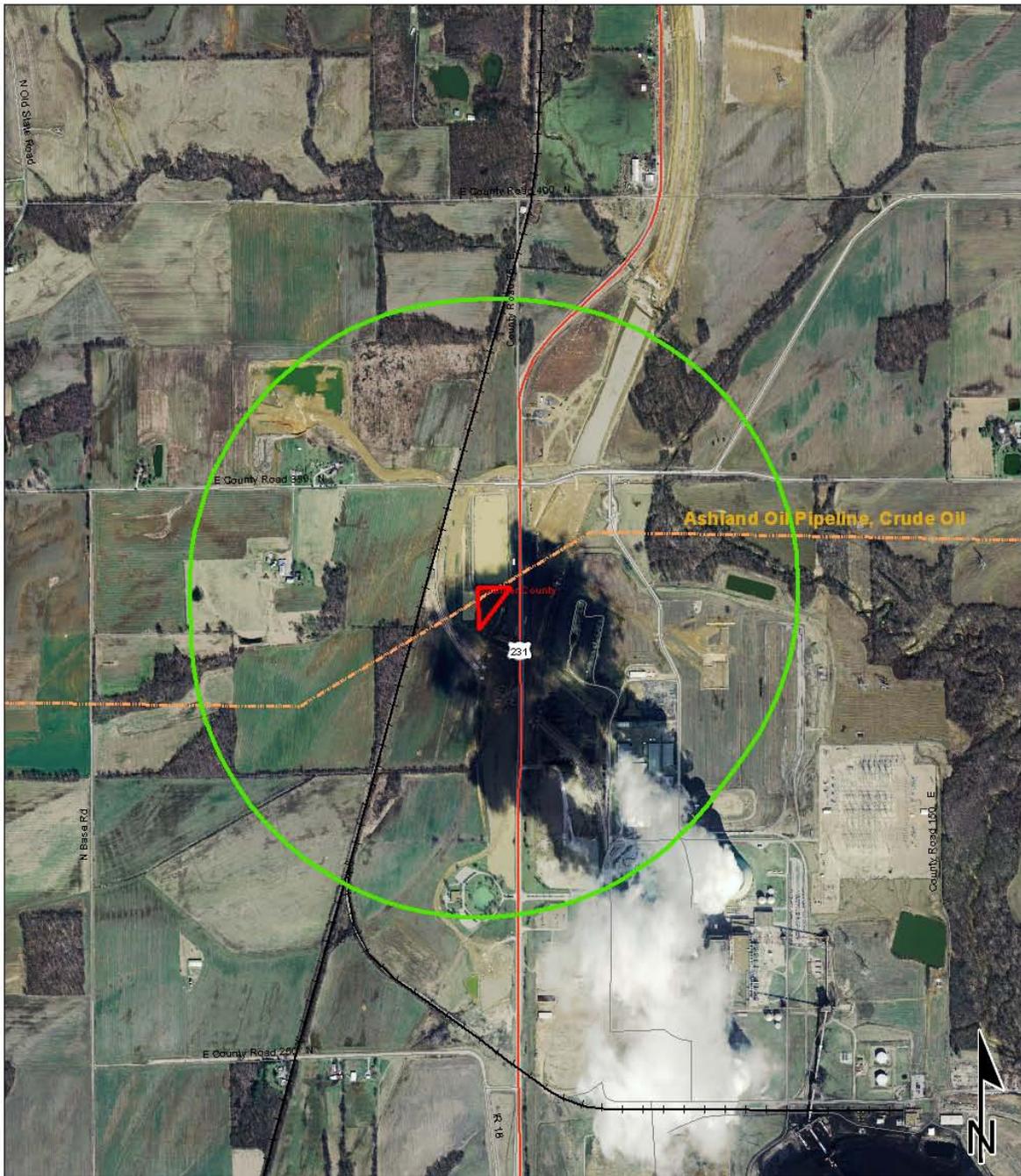
Red Flag Investigation - Topographic Map  
New US 231 0.2 Mile S of CR 350N  
LA Code 3042 Parcel 4  
Spencer County, Indiana



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

Sources:  
**Non Orthophotography Data** - Obtained from the State of Indiana Geographical Information Office Library  
**Orthophotography** - Obtained from Indiana Map Framework Data ([www.indianamap.org](http://www.indianamap.org))  
**Map Projection:** UTM Zone 16 N **Map Datum:** NAD83

Red Flag Investigation - Infrastructure Map  
 New US 231 0.20 Mile South of CR 350N  
 LA Code 3042 Parcel 4, Excess Parcel  
 Spencer County, Indiana



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

**Sources:**

**Non Orthophotography**

**Data** - Obtained from the State of Indiana Geographical Information Office Library

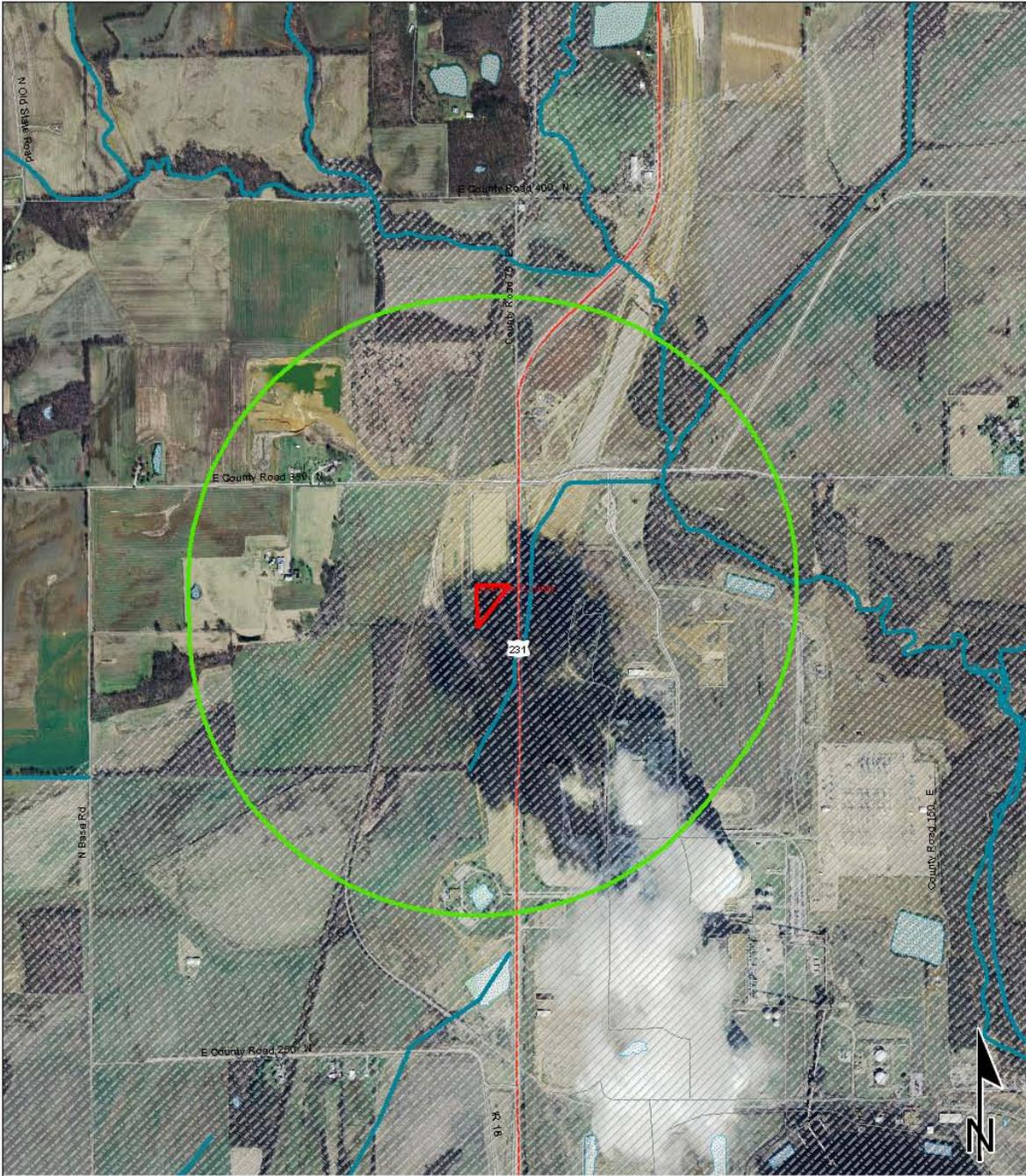
**Orthophotography** - Obtained from Indiana Map Framework Data ([www.indianamap.org](http://www.indianamap.org))

**Map Projection:** UTM Zone 16 N **Map Datum:** NAD83

**Infrastructure Legend**

	Religious Facility		Recreation Facility		Project Area
	Airport		Pipeline		Half Mile Radius
	Cemetaries		Railroad		Interstate
	Hospital		Trails		State Route
	School		Managed Lands		US Route
			County Boundary		Local Road

Red Flag Investigation - Water Resources Map  
 New US 231 0.20 Mile South of CR 350N  
 LA Code 3042 Parcel 4, Excess Parcel  
 Spencer County, Indiana



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

**Sources:**

**Non Orthophotography**

**Data** - Obtained from the State of Indiana Geographical Information Office Library

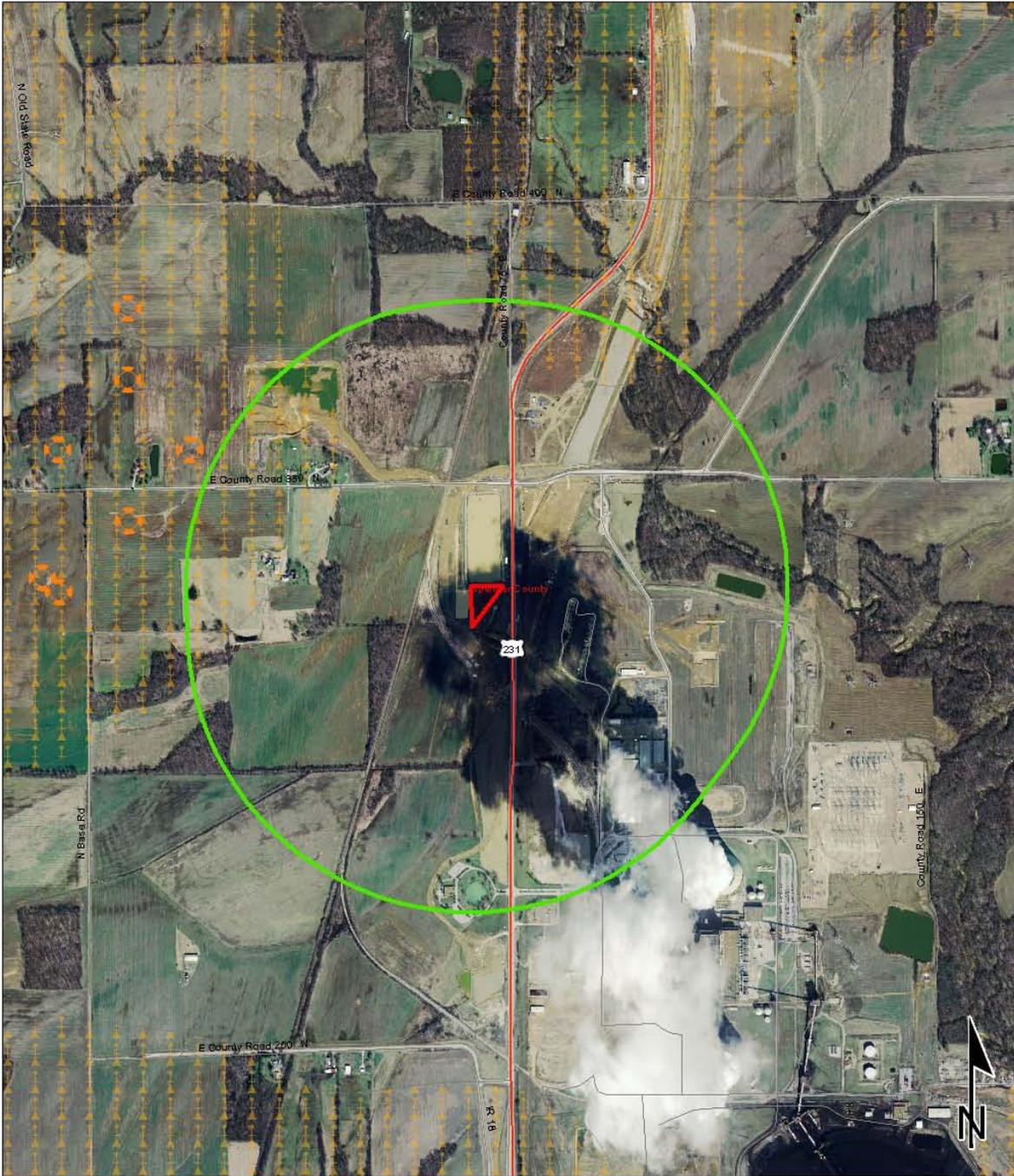
**Orthophotography** - Obtained from Indiana Map Framework Data ([www.indianamap.org](http://www.indianamap.org))

**Map Projection:** UTM Zone 16 N **Map Datum:** NAD83

**Water Resources Legend**

NWI - Point	Wetlands	Project Area
Karst Spring	Lake - Impaired	Half Mile Radius
Canal Structure - Historic	Lake	Interstate
NWI - Line	Floodplain - DFIRM	State Route
Stream - Impaired	Cave Entrance Density	US Route
River	Sinkhole Area	Local Road
Canal Route - Historic	Sinking-Stream Basin	County Boundary

Red Flag Investigation - Mines & Minerals Map  
 New US 231 0.20 Mile South of CR 350N  
 LA Code 3042 Parcel 4, Excess Parcel  
 Spencer County, Indiana



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

**Sources:**

**Non Orthophotography**

**Data** - Obtained from the State of Indiana Geographical Information Office Library

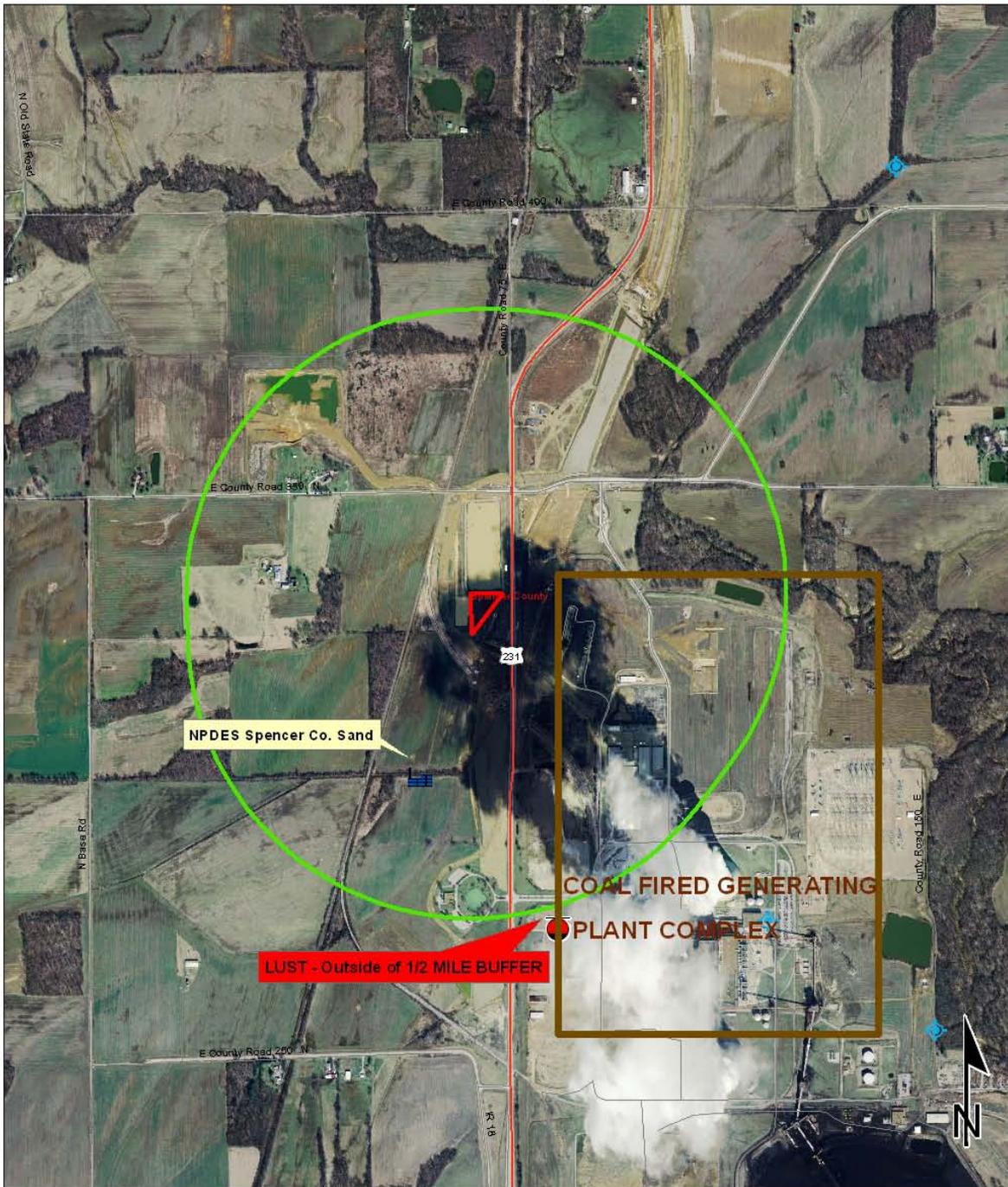
**Orthophotography** - Obtained from Indiana Map Framework Data ([www.indianamap.org](http://www.indianamap.org))

**Map Projection:** UTM Zone 16 N **Map Datum:** NAD83

**Mining/Mineral Exploration Legend**

-  Gas Well
-  Oil Well
-  Mine - Surface
-  Petroleum Field
-  County Boundary

Red Flag Investigation - Hazardous Materials Locations Map  
 New US 231 0.20 Mile South of CR 350N  
 LA Code 3042 Parcel 4, Excess Parcel  
 Spencer County, Indiana



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

**Sources:**

**Non Orthophotography**

**Data** - Obtained from the State of Indiana Geographical Information Office Library

**Orthophotography** - Obtained from Indiana Map Framework Data ([www.indianamap.org](http://www.indianamap.org))

**Map Projection:** UTM Zone 16 N **Map Datum:** NAD83

**HazMat Concerns Legend**

Brownfield	Open Dump Waste Site	Voluntary Remediation Program Superfund
Core Use Action Sites	Restricted Waste Site	303M Listed Rivers
Confined Feeding Operation	Debris Waste Site	303M Listed Lakes
Construction Demolition Site	Solid Waste Landfill	Int. National Controls
Leaking Underground Storage Tank	Spill Cleanup Site	County Boundary
Infectious/medical Waste Site	Tire Waste Site	Project Area
Lagoon	Waste Transfer Station	Rail/Mile Railroads
Manufactured Gas Plant	Waste Treatment Storage & Disposal	Interlake
NPDES Facilities	Underground Storage Tank	State Route
NPDES Pde Locations		US Route
		Local Road

**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: \_\_\_\_\_