

FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT

For

Indiana Project
Des. Number 1801933
Hively Avenue / Norfolk Southern Railroad Crossing Grade Separation
City of Elkhart, Elkhart County, Indiana

The approved Environmental Assessment (EA) was released for public involvement by the Federal Highway Administration (FHWA) on June 28, 2022. The public comment period was from June 30, 2022, to July 28, 2022, and an in-person public hearing was held on July 14, 2022. Eighty-two members of the public attended the meeting. Comments were received from twelve (12) members of the public related to truck routes and design issues, project funding, and construction related vibration. There were no substantive comments related to environmental resources or the analysis of project impacts on the built or natural environment.

Comments were also received from (3) agencies the US Environmental Protection Agency (USEPA), the Indiana Department of Environmental Management, and Indiana Department of Natural Resources, Division of Fish and Wildlife (IDNR). The agency comments provided no new substantive information requiring additional analysis, but the comments from USEPA did include several recommendations to be implemented during construction regarding protection of the St. Joseph Sole Source Aquifer, handling of contaminated soils and groundwater and construction related waste during construction, and protection of residential water wells. These recommendations are included as project commitments.

The Indiana Department of Transportation (INDOT) proposes to construct a grade separated crossing that will carry Hively Avenue over the Norfolk Southern Railroad, Main Street, and Hammond Avenue. The project will shift Hively Avenue south extending from its intersection with Monger Avenue and reconnecting at its existing alignment at the Hazel Street intersection. The project is in the City of Elkhart in Elkhart County, Indiana.

Below is a summary of the scope of the project, but a full project description is identified as the "Preferred Alternative" in the Environmental Assessment Document:

- Construction of an overpass carrying Hively Avenue over the railroad, Main Street, and Hammond Avenue including a bike / pedestrian path on the bridge
- Shift the alignment of Hively south between its intersection with Monger Avenue and Roosevelt Avenue
- Add new sidewalk or replace existing sidewalks from Bismark Avenue to Roosevelt Avenue and making sidewalk connections on Monger Avenue, Morton Avenue, Roosevelt Avenue and Main Street including upgrading all to meet the Americans with Disabilities Act (ADA) requirements
- Realign Hammond and Sterling Avenues at Hively Avenue to make it a true four-way intersection

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- Cul de sac Homer Avenue near Hively Avenue and close Main Street
- Realign Lowell Avenue to intersect with Sterling Avenue
- Extend Roosevelt Avenue to connect with Main Street
- Realign Eddy Street to intersect with the new Lowell Street location
- Realign Warren Street north of Hively Avenue
- Construct a multi-use trail on north side of Hively Avenue connecting to Hammond Avenue and the MapleHeart Trail
- Realign the MapleHeart Trail along Hammond Avenue and build a crosswalk connection to Sterling Avenue
- Install new drainage infrastructure, curb inlets, and roadside ditches
- Install new traffic signals at Hively and Roosevelt, Hively and Warren and Roosevelt and Main
- Reconstruct Warren Street and Hammond Avenue to accommodate truck turning radii
- Construct green space between the new Roosevelt Avenue, Hively Avenue, and Main Street area
- Replace a flag bus stop and include a sidewalk connection to the stop and improve the sidewalk connection to a second bus stop along Main Street

After the EA was released for the public hearing, there were minor changes to the maintenance of traffic (MOT) for the project. Originally there were to be three phases to the MOT, but a fourth phase was added.

The project requires 10.32 acres of permanent right of way including 6.23 acres of residential property, 3.72 acres of commercial property, and 0.37 acres of church, school, and utility property. The project also requires 0.88 acre of temporary right-of-way from residential, commercial, school, church and utility properties.

There will be no streams or wetlands impacted by the project. Total terrestrial habitat impacts include approximately 20.6 acres. This includes impacts to maintained lawns and a total of 6.57 acres of tree removal.

The project is within range of the federally endangered Indiana bat and the federally threatened Northern long-eared bat (NLEB). The project effect finding for these species is “May Affect, Not Likely to Adversely Affect”. On December 22, 2021, this finding was submitted to the USFWS via the Information for Planning and Consultation portal and the USFWS did not respond within the 14-day review period outlined in the *Range-wide Programmatic Informal Consultation for the Indiana bat and northern long-eared bat (NLEB)*, dated May 2016 (revised February 2018), between FHWA, Federal Railroad Administration (FRA). As a result, it can be concluded the USFWS concur with the finding and the appropriate avoidance and minimization measures were selected for the project.

There were no properties listed on or eligible for listing on the National Register of Historic Places within the area of potential effect for the project. The State Historic Preservation

Officer concurred with the “no historic properties affected” finding for the project on October 5, 2021.

There is one Section 4(f) resource within the project area, the publicly owned MapleHeart Trail. The project will result in a temporary occupancy of the trail because the use will be temporary, the scope of work is minor, there are no anticipated permanent adverse effects to the trail, and the trail will be fully restored. The official with jurisdiction over the trail, the City of Elkhart, agreed with this determination on April 5, 2022, and information was presented at the public hearing.

This project is in Elkhart County, which is currently a non-attainment area for 1-hour Ozone and 8-hour Ozone. The project’s design concept and scope are accurately reflected in both the Michiana Area Council of Governments 2045 Long Range Transportation Plan and 2022-2026 Transportation Improvement Plan, and both conform to the State Implementation Plan. Therefore, the conformity requirements of 40 CFR 93 have been met.

This project is considered a Type 1 project in terms of analyzing traffic noise impacts. Therefore, in accordance with 23 CFR 772 and the INDOT Traffic Noise Analysis Procedures (2017), this action required a formal noise analysis. Based on the studies completed, 14 impacted receptors will have noise impacts. However, according to the INDOT noise procedures, noise abatement is not feasible. Therefore, the project will not include noise abatement.

The project will result in the relocation of 21 residences and 6 businesses within an area that has been identified as including low-income and minority environmental justice (EJ) populations of concern. It was determined that the impacts associated with this project will have an adverse effect on minority and/or low-income populations of EJ concern in the area. However, the project has off-setting benefits for the EJ populations of concern that include:

- Allowing Hively to remain open during a large part of the construction reducing the stress on the community and businesses when compared to other alternatives that would have closed Hively Avenue impacting to traffic for the duration of construction
- Creating a safe vehicle / bike / pedestrian crossing of the railroad which does not currently exist
- Enhancing ADA connectivity throughout the project area
- Reducing EMS response times to the community on both sides of the railroad tracks
- Improving micro air quality near the railroad tracks by eliminating idling vehicles at the railroad crossing

In addition to the off-setting benefits of the project, the following mitigation measures will be included in the project to further reduce the adverse effect of the project on the EJ populations of concern:

- Creating dedicated green spaces including a pocket park in the project area
- Providing for wider sidewalks near the elementary school
- Improved ADA accessibility at the flag bus stop in the area
- Improved connectivity to MapleHeart Trail
- Reconfiguring the parking lot and improving access to the local minority owned supermarket
- Following the relocation program in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- Using the FHWA Temporary Waiver for Alternative Replacement Housing Payment as an alternate methodology for calculating replacement housing payment eligibility
- Support services for Section 8 tenants and for tenants who express interest in becoming homeowners

Based on the discussion above regarding the off-setting benefits of the project and the additional mitigation measures that are included in the project, FHWA determines the preferred alternative will not cause disproportionately high and adverse effects on minority or low-income populations in accordance with the provisions of Executive Order 12898 and FHWA Order 6640.23a. No further EJ analysis is required.

There are a total of 33 commitments were included in the Environmental Assessment: 26 firm commitments and an additional 7 commitments for further consideration. The commitments included below were subsequently added to address comments received during the public comment period, additional mitigation considered to mitigate impacts to EJ populations of concern, and additional hazardous materials investigations:

1. The acquisition and relocation program will be conducted in accordance with 49 CFR 24 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (Uniform Act). Relocation resources are available to all residents and businesses to be relocated by the project without discrimination. No person displaced by this project will be required to move from a displaced dwelling unless comparable replacement housing is available to that person. (INDOT ESD)
2. FHWA's Temporary Waiver for Alternate Replacement Housing Payment (RHP) procedures will be implemented for this project. (INDOT ESD)
3. All offers will be made in compliance with Indiana Code Title 32, Article 24 Eminent Domain. (INDOT ESD)
4. The INDOT Administrative Settlement process will be followed, and the Condemnation process will be followed if a mutual agreement cannot be met. Through the Administrative Settlement and Condemnation process, an owner may receive more than fair market value. (INDOT ESD)
5. When comparable replacement housing cannot be obtained based on fair market value, "Housing of Last Resort" provisions will be utilized by INDOT to secure a replacement dwelling that is decent, safe, and sanitary. Housing of last resort provisions are in place to provide additional and alternative assistance when

comparable replacement dwellings are not identified and available within the monetary limits of property owners or tenants. (INDOT ESD)

6. Percentage Points, Increased Interest Rates, and Closing Cost are provided within the Uniform Act and will be paid in accordance with 49 CFR 24. (INDOT ESD)

7. One Section 8 tenant will be issued a notice of intent to acquire so that the tenant may use their relocation benefits as soon as possible. (INDOT ESD)

8. Four tenants have expressed interest in becoming homeowners. These tenants will receive assistance in using their relocation benefits as a down payment on a home. (INDOT ESD)

9. Pile driving schedules will be coordinated with Monger Elementary School and will be prohibited during state required tests which happen twice a year. (INDOT ESD)

10. The City of Elkhart will monitor/adjust the new traffic signal to ensure queuing at the intersection is efficient for both the traveling public and the neighborhood. (INDOT ESD)

11. The turn radius will be evaluated at Warren, Sterling, and Yuma to ensure 105 feet trucks are accommodated. (INDOT ESD)

12. The construction contractor will develop and implement a Vibration Monitoring and Control Plan (VMCP). The VMCP should include anticipated vibration-producing activities, potentially impacted receptors and establish vibration limits as a proactive means to mitigate vibration damage claims. Residential and community-related properties that have the potential for vibration susceptibility, as identified in the VMCP, should be inspected prior to and after construction and monitored during construction. The pre-construction survey should document the condition of the structure and all existing cracks to determine whether any new cracks appeared during construction. With active monitoring of vibration on the construction site the work can be ceased until the excessive vibration is mitigated by the contractor using different construction techniques. (INDOT ESD)

13. Risk to foundation damage should be minimized. Contractors should choose staging areas based on what is identified in the VMCP. (INDOT ESD)

14. In accordance with the IDEM Uncontaminated Soil Policy, no reuse of excavated material and appropriate handling, removal, and disposal at approved non-hazardous waste landfill (or treatment facility) is required for excavated material of shallow soils (0-4 ft. bgs) at Phase II sites 23, 51, and 65 (SB 23-1, 51-1, 51-2, and 65-1), and subsurface soils (>4 ft. bgs) at site 51 (SB 51-2) (Phase II Figure 4-1). (INDOT SAM)

15. Any associated storm/groundwater or dewatering at Phase II sites 23, 51, and 65 should be implemented as shown on project plans and provisions. (EPA)

16. Contractors working on excavation should be made aware of the location of all hazardous material sites incase foul odors or oil sheens are encountered during construction. Contingency plans should be created to handle such situations should they be encountered. (EPA)

17. Any excavation taking place at Phase II sites 23, 51, and 65 (SB 23-1, 51-1, 51-2, and 65-1) areas will have the soil removed and properly disposed of and the soil will be replaced with clean fill material. (EPA)

18. Any excavation requiring to be filled is to be done so with clean fill per all applicable local and state requirements. This is especially true for areas identified to have contamination present (i.e., Arsenic). (EPA)
19. Contractors and engineers should be made aware that the area where work is to be performed overlies a federally recognized Sole Source Aquifer. Pile installation should be designed to limit potential for introduction (during installation) or migration (via preferential pathway if not adequately sealed around the piles) of any contaminants. (EPA)
20. Prevent creating new preferential pathways down to the aquifer, particularly where probable or known soil/groundwater contamination exists. (EPA)
21. Provide any relevant public inquiry regarding the environmental or aquifer impacts of this project to the EPA; note that review of additional Citizen Concerns would not necessarily “re-open” SSA review unless additional project information is presented which significantly changes EPA’s understanding of the project on which our recommendations/review were based. (EPA)
22. Contingency plans should be in place so that the project engineer and all relevant officials are made aware if contact with groundwater is made and take the proper dewatering steps that may be needed. Precautions should be taken when dewatering is conducted (e.g., to control any contaminants in the storm/groundwater prior to discharge). (EPA)
23. Pile installation should be designed to limit potential for introduction (during installation) or migration (via preferential pathway if not adequately sealed around the piles) of any contaminants. (EPA)
24. INDOT Geotechnical Services Division should be made aware of the Sole Source Aquifer Status of the area before approval of the pile construction plans/methods. (EPA)
25. It is important to incorporate the routine inspection of storm water management systems. (EPA)
26. Although this is not in a Well Head Protection of Source Water Protection Area, there are Private Wells present per this site (Water Well Viewer (arcgis.com)). Water wells from Water Well Viewer as of 10/05/2022 will be identified on the project plans. However, it will be the contractor’s responsibility to perform field checks to identify any known/unknown water well locations within the project boundary so that trucks/equipment don’t damage the wells and so that contractors are aware of the potential conduits for contamination to the aquifer. The purpose is also to inspect wells both inside of and near the project boundary (within 0.25 miles) before, during, and after demolition to be sure that no unintended disturbance was caused. (EPA)
27. Any wells in close proximity to the project will be either properly abandoned or protected to avoid disturbance or contamination. It is anticipated that three to six wells will be abandoned, based on the current proposed relocations. The exact number will be determined during the right-of-way acquisition phase of the project. (EPA)

28. Wetland areas should be avoided when staging for construction and should not be used for the temporary storage of any chemicals or fuels during the construction period. (EPA)
29. The contractor must avoid placing fueling, staging and wash-out areas within the eastern residential area whenever possible. (EPA)
30. Town officials and long-term maintenance contractors and engineers (City of Elkhart) should be made aware that conservative salting practice recommendations were a part of the projects SSA Review process. (EPA)
31. Demolition and/or construction waste is to be removed from the site in compliance with relevant federal, state, and local law (i.e., legal disposal). (EPA)
32. Adherence to the Material Handling and Spill Prevention Control, SPCC Plan under IDEM's Rule 5 Permit, and BMPs including secondary containment and routine inspections will be required. (EPA)
33. The SSA Review of this project is based on the given scope of work. Should amendments to scope of work be made that change the interpretation and recommendations made in the SSA review, please bring this to EPA's attention so that the review can be amended as needed. (EPA)

The FHWA has determined that this project, as identified in the Environmental Assessment and supplemental project information, will have no significant impact on the natural and human environment. This Finding of No Significant Impact (FONSI) is based on the environmental assessment, public hearing transcript, public and agency comments received. They have been independently evaluated by the FHWA and determined to adequately and accurately discuss the environmental issues and impacts of the project. These documents provide sufficient evidence and analysis for determining that significant impacts will not occur, and an environmental impact statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of these documents.

April 14, 2023

Date

for: Jermaine R. Hannon
Division Administrator