



Chapter 1—Background

Since the Draft Environmental Impact Statement (DEIS), no substantive changes have been made to this chapter.

This chapter gives an overview of the tiered study process for the I-69, Evansville to Indianapolis project. This process has been conducted in two stages, known as Tier 1 and Tier 2. The project is currently in Tier 2. It also includes a discussion of the Tier 1 Re-evaluation which was prepared after Tier 2 studies were underway.

The Tier 1 study considered alternative corridors for completing I-69 between Evansville and Indianapolis. That study began in January 2000 with the publication of a Notice of Intent to Prepare an Environmental Impact Statement. The Tier 1 Draft Environmental Impact Statement (DEIS) was issued in November 2002. The Tier 1 Final Environmental Impact Statement (FEIS) was issued in December 2003. The Tier 1 study concluded with a Record of Decision (ROD) issued by Federal Highway Administration (FHWA) on March 24, 2004. The Tier 1 ROD selected “Alternative 3C” as the corridor for completing I-69 between Evansville and Indianapolis. The Tier 1 ROD also divided the approved corridor into six sections of independent utility for the purposes of the Tier 2 studies, and required preparation of a separate Tier 2 EIS for each of those sections.

On October 2, 2006, a group of individuals and non-governmental organizations filed a lawsuit in the United States District Court for the Southern District of Indiana, challenging the Tier 1 ROD (approved March 24, 2006) and the Revised Tier 1 Biological Opinion (BO) (submitted to FHWA August 24, 2006). The plaintiffs alleged a variety of violations under the National Environmental Policy Act (NEPA) and other environmental laws. On December 10, 2007, the district court issued a decision rejecting all of the plaintiffs' claims. *Hoosier Environmental Council, et al. v. U.S. Department of Transportation, et al.*, S.D. Ind., Civ. No. 1:06-cv-1442, December 10, 2006. Plaintiffs did not file an appeal; therefore, the District Court's decision is final. On April 17, 2007, FHWA issued a "Notice of Final Federal Agency Actions on Proposed Highway in Indiana," which established a 180-day period in which to seek judicial review of decisions made in Tier 1, including both the Tier 1 ROD and Revised Tier 1 BO. (*72 Fed. Reg.* 19228 – April 17, 2007). Because the district court's decision is final, and the time for other judicial challenges to the Tier 1 decisions expired on October 14, 2007, no further legal challenges can be brought against these Tier 1 decisions.

1.1 Introduction

1.1.1 National I-69 Corridor

In 1991 the Congress passed the Intermodal Surface Transportation Efficiency Act (ISTEA), which designated “Corridor 18” from Indianapolis, Indiana to Memphis, Tennessee, via Evansville, Indiana, as a high-priority corridor. This corridor was extended to the north and the south in the National Highway System Designation Act of 1995. It was further modified in 1998 by the Transportation Equity Act for the 21st Century (TEA-21), which extended the corridor to provide a continuous link from the Canadian border at Port Huron, Michigan to the Mexican

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border in the Lower Rio Grande Valley. In addition, TEA-21 designated Corridor 18 as “Interstate Route I-69.”

FHWA has established a process for conducting National Environmental Policy Act (NEPA) reviews and related environmental studies for projects in the I-69 corridor. This process was described in a notice published in the *Federal Register* on December 8, 2000, *Announcement of I-69 Status* (65 *Fed. Reg.* 77064). As stated in that notice, the I-69 corridor has been divided into 26 Sections of Independent Utility (SIUs). Each SIU is considered to be an independent project for purposes of NEPA review. The Evansville to Indianapolis section of I-69 is SIU #3 of the National I-69 project.

The *Announcement of I-69 Status* stated that the NEPA document for each SIU will consider “state and local needs . . . as well as the national legislative and administrative objectives for the movement of goods across the country.” The announcement also stated that FHWA intended to “partner with the state departments of transportation to facilitate the examination of alternatives and impacts within the proposed corridor, and to ensure consistency in addressing the national transportation objectives relative to transcontinental trade put forth by Congress.”

1.1.2 Evansville to Indianapolis Section of I-69

Proposals to complete an interstate highway from Evansville to Indianapolis have been considered, in various forms, since the earliest stages of planning of the Interstate system. There also have been various other proposals to provide a major highway to connect Evansville to other points in Indiana. The most recent of these efforts, prior to the tiered I-69 Evansville to Indianapolis study, was a proposal to construct an expressway known as the “Southwest Indiana Highway” from Evansville to Bloomington. A DEIS for the Evansville to Bloomington project was released in March 1996, but the process was never completed. For a full description of the previous studies, see the Tier 1 FEIS, Volume I, Section 1.1, *Previous Studies*.

The current tiered study began with the issuance of a Notice of Intent (NOI) in the *Federal Register* on January 5, 2000. The NOI announced that a Tier 1 EIS would be prepared for “the proposed extension of I-69 from Indianapolis to Evansville in Southwest Indiana (Corridor 18).” (65 *Fed. Reg.* 551). The NOI specified the termini as I-64 north of Evansville and I-465 in Indianapolis. It stated that “[t]he Tier 1 document will involve extensive environmental studies, as well as transportation studies, economic impact studies, and cost analysis. This document will provide the basis for FHWA to grant approval for a specific corridor.” The NOI also announced that the March 1996 DEIS for an Evansville to Bloomington highway was officially withdrawn.

As stated in the NOI, a tiered process is being used to conduct the environmental reviews required under NEPA and other laws for the I-69 Evansville to Indianapolis project. The following section describes the use of the tiered process for this project.



1.2 Study Process

This document is a Tier 2 EIS. The alternatives considered in this Tier 2 EIS are located within a corridor approved in the Tier 1 Record of Decision (ROD). The Tier 1 ROD (p. 8) also stated, “[h]owever, the flexibility will exist to consider alternatives outside the selected corridor to avoid significant impacts within the selected corridor. The issue of whether to consider alternatives outside the selected corridor will be determined in consultation with resource agencies in Tier 2.”

1.2.1 Overview of Tiering Process

The NEPA documents for this study are being prepared pursuant to the National Environmental Policy Act (NEPA) and the NEPA regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Part 1500-1508) and by FHWA (23 CFR Part 771). The CEQ and FHWA regulations allow NEPA studies for large, complex projects to be carried out in a two-staged, “tiered” process. In the first tier, the “big picture” issues are addressed, while taking into account the full range of impacts. After the “big picture” issues are resolved in Tier 1, the focus shifts in Tier 2 NEPA studies to issues associated with a more exact determination of impacts and the avoidance and mitigation of adverse impacts. The difference in focus is one of degree. When exact data were needed to resolve the first tier issues, these data were collected and analyzed.

The Evansville to Indianapolis section of I-69 is indeed large and characterized by several complex issues, as the following facts suggest:

- The Study Area in Tier 1 included 26 counties—over one quarter of the State of Indiana. Within this Study Area, there are major cities, midsize cities, small towns, and rural communities.
- The project serves numerous goals across a broad geographic area. The diversity of this project’s goals was reflected in the large number of performance measures used in Tier 1. As was shown in the Tier 1 EIS (See Chapter 3, *Alternatives*), alternatives varied in the degree to which they met the project’s Purpose and Need because of this diversity of goals.
- The Tier 1 alternatives all shared common termini (Evansville and Indianapolis), but were spread across a broad geographic area. In between these termini, the alternatives considered in the Tier 1 EIS served a different combination of individual communities: Vincennes, Petersburg, Washington, Bloomington, Terre Haute, Bedford, Spencer, Martinsville, and others.
- This project is part of a national transportation corridor that Congress has designated as Interstate 69. For that reason, the Tier 1 EIS focused on the evaluation of alternatives that involved the completion of an interstate highway.

To accommodate the large, complex scope of this project, FHWA and the Indiana Department of Transportation (INDOT) decided to use a “tiered” environmental process. The Tier 1 EIS and Tier 1 ROD resolved the following issues: (1) whether or not to complete I-69 in Southwestern Indiana, and if so, (2) which corridor should I-69 use.



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FHWA and INDOT determined that a “corridor,” rather than a specific alignment, would be determined in the Tier 1 process. This determination grew out of consultations with resource agencies that began before the commencement of the Tier 1 study. On May 18, 1999, INDOT and FHWA held a meeting in Indianapolis with resource agencies—including U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), Indiana Department of Environmental Management (IDEM), and Indiana Department of Natural Resources (IDNR). This meeting was held to discuss whether the Evansville to Indianapolis study should be a conventional or tiered EIS. As a result of this meeting and subsequent consultations, it was determined that the NEPA document for this study should be a tiered, rather than a conventional, EIS. Further, if a build alternative were to be selected in Tier 1, it would be for a corridor, rather than an alignment. Subsequent Tier 2 studies would determine the exact alignment within the selected corridor.

Consultations continued among FHWA, INDOT, and resource agencies to identify the level of detail required to differentiate among alternatives and select a corridor in Tier 1. These consultations included two general meetings with resource agencies (on February 3, 2000, and June 5, 2001). In addition, many one-on-one meetings with individual agencies were held throughout the study. These are documented in detail in the Tier 1 FEIS Chapter 11.4, *Agency Review and Coordination*, and Tier 1 FEIS Appendix Y, *Agency Coordination Materials*.

As a result of these extensive consultations, appropriate overall methodologies were determined for Tier 1. In addition, the appropriate level of detail for analysis of specific resources in Tier 1 also was determined. **Table 1-1** compares the methodologies used in Tier 1 with those being used in Tier 2 studies. **Table 1-2** compares the level of analysis for impacts to resources in Tier 1, as compared with the level of analysis that is being undertaken in these Tier 2 studies. A more detailed comparison of the Tier 1 and Tier 2 analysis of resource impacts is found in Section 5.1.2, *Overview of Tier 2 Methodology*.



Table 1-1: Overall Methodologies for Tier 1 and Tier 2 Studies

	Tier 1 Activities	Tier 2 Activities
Public Outreach	Obtain input across wide geographic area (26 counties). Address entire Indianapolis-to-Evansville corridor.	Focus on those impacted in and near selected corridor. Separate outreach activities for each section. Use Community Advisory Committees in each section. Closer coordination with MPOs and local units of government.
Resource Agency Coordination	Coordination at key decision points. Based upon GIS-level impacts, some of which are field-verified.	Continued coordination. Use more detailed impact data, based upon specific alignments. Data are field-verified.
Purpose and Need	Consider national, state and regional needs. Based on comprehensive needs analysis in 26-county Study Area.	Focus on local needs specific to individual sections. Local needs will pertain to one or more Tier 1 goals.
Alternatives Development	Consider a broad range of corridors over large geographic area.	Consider alternative alignments within selected corridor. Alternatives include access details, interchange locations, interchange types, and grade separations.
Cost Development	Costs given in Year 2000 dollars. Costs based upon typical sections and terrain type.	Costs given in Year 2010 dollars. Costs based upon preliminary design of highway, frontage roads, bridges, interchanges, and mitigation.
Mitigation	Agency coordination for mitigation began after INDOT recommended preferred alternative (January 2003). Impacts based upon GIS analysis. In some cases, GIS analysis field-verified.	Agency coordination for mitigation began at commencement of Tier 2 studies (March 2004). Mitigation based upon detailed impact information that is field-verified.
NEPA Decision	Select Preferred Corridor (approximately 2,000 feet wide)	Select actual location of I-69 (footprint).

Table 1-2: Environmental Analysis for Tier 1 and Tier 2

Environmental Resource	Tier 1 Activities	Tier 2 Activities
Wetlands	Identify wetlands using NWI maps.	Identify wetlands through field surveys. Delineate wetlands for preferred alternative using Corps procedures.
Historic/Archaeology	Conduct research using Interim Reports with limited survey and records check with GIS analysis, and site visits.	Make final determination of eligibility and boundaries through additional field work and research. Resolve any adverse effects.
Threatened & Endangered Species	Identify species in Study Area for all alternatives. Prepare Biological Assessment and obtain Biological Opinion for Preferred Alternative.	Conduct additional field studies pursuant to Tier 1 BO. Prepare Tier 2 BA for each Tier 2 Section. Obtain Tier 2 BO for each Section.
Farmland	Identify farmland, including prime farmland.	Map and delineate farmland, including prime farmland. Complete NRCS forms.



Table 1-2: Environmental Analysis for Tier 1 and Tier 2

Environmental Resource	Tier 1 Activities	Tier 2 Activities
Land Use	Use GIS layers to identify land uses. Field verify land use shown on aerials. Review local land use plans for consistency.	Use GIS layers to identify land uses. Field verify land use shown on aerials. Review local land use plans for consistency. Consult with local officials responsible for land use planning.
Water Quality and Floodplains	Use GIS layers to identify water bodies, floodplains, and water quality.	Conduct field survey to evaluate biodiversity and water quality, as appropriate.
Air Quality	Conduct comparative analysis of alternative air quality impacts; demonstrate conformity with applicable air quality plans.	Conduct microscale (“hot spot”) analysis as appropriate. Update conformity analysis and/or findings, as appropriate.
Economic Impacts	Identify impacts within region using REMI model.	Assess impacts on local basis. Consult with local officials and business leaders.
Social Impacts	Use aerials and field surveys to estimate relocations. Identify other social impacts.	Conduct Community Impact Assessments. Refine relocation impacts.
Cumulative Impacts	Determine existing land use trends and forecast future trends for key resources. Identify other major projects.	Consult local officials and determine local development trends. Identify key resources separately for each Tier 2 section.
Noise	Estimate noise impact contour lines; identify potential noise mitigation areas.	Use noise model to identify noise-impacted receivers; identify likely noise barrier locations.
Visual	Evaluate view of and from the roadway; identify key scenic areas.	Refine assessment of visual impacts by field surveys; develop context-sensitive designs.
Karst	Identify areas with high density of sensitive karst features, using best available mapping.	Conduct field surveys to locate karst features; conduct dye tracings and other actions required under INDOT Karst MOA.
Construction	Describe potential construction impacts.	Analyze site-specific impacts.

1.2.2 Tier 1 EIS and ROD

The following sections summarize the major milestones in selecting a corridor in Tier 1. These sections summarize the major findings in the Tier 1 DEIS, Tier 1 FEIS, and Tier 1 ROD.

1.2.2.1 Tier 1 DEIS

The DEIS for Tier 1 was published on July 31, 2002. Three public hearings were held on the DEIS. These were held in Terre Haute on August 19, in Bloomington on August 20, and in Evansville on August 21. The formal comment period on the DEIS extended until November 7. During this comment period, over 21,000 comments were received on the DEIS.

The Tier 1 DEIS carried five basic alternatives forward for detailed analysis. Four of these five alternatives included two or three potential connections to Indianapolis, or options, at their northern end. Including these options, there were a total of 12 distinct alternatives considered in



the Tier 1 DEIS. These 12 alternatives were: 1, 2A, 2B, 2C, 3A, 3B, 3C, 4A, 4B, 4C, 5A, and 5B. **Figure 1-1** (p. 1-17) shows these 12 alternatives, along with the 26-county Study Area.

Of these 12 alternatives, five (2C, 3B, 3C, 4B, and 4C) were shown as “preferred” alternatives in the Tier 1 DEIS. These alternatives were generally higher performers that, at the time the Tier 1 DEIS was issued, were not considered to be fatally flawed from an environmental perspective. Generally, these alternatives scored relatively high on most of the project goals, including the core goals.

Alternatives 3A, 5A, and 5B were not preferred for environmental reasons, even though they were among the better performers in terms of achieving the project’s goals. These three alternatives had such serious environmental impacts that they presented obstacles to selection as a preferred alternative, particularly in light of the availability of other alternatives with similar or better performance that avoided these highly sensitive resources. Alternative 3A would have traversed the Beanblossom Bottoms Nature Preserve, a high quality natural area northwest of Bloomington. Alternatives 5A and 5B would have bisected the Tincher Special Area of the Hoosier National Forest west of Bedford. Tincher is a unique ecosystem with a high likelihood of being designated a habitat of “global significance.” Moreover, Alternatives 5A and 5B would have passed over Blue Springs Cavern, a privately owned cave that is a unique karst resource. In the process of coordinating with federal and state resource agencies, Tincher Special Area and Beanblossom Bottoms were identified as particularly important among the ecosystems in the state. Accordingly, FHWA and INDOT identified Alternatives 3A, 5A, and 5B as non-preferred alternatives in the Tier 1 DEIS.

Alternatives 1, 2A, 2B, and 4A were identified as non-preferred in the Tier 1 DEIS. They all had poor overall performance in terms of meeting the project’s Purpose and Need. Generally, these alternatives were rated low or medium compared to the other alternatives on most of the project goals, including the core goals. Many interest groups favored Alternative 1 because its level of impacts to the natural environment¹ was significantly lower than other build alternatives. While Alternative 1 would have had relatively low impacts on the natural environment, it had much lower performance than any other alternative in terms of satisfying the goals of the project. Alternative 1 was the only build alternative with low performance on all project goals, including the three core goals.

1.2.2.2 Tier 1 FEIS

In the Tier 1 DEIS, alternatives were rated as “non-preferred” for one of two reasons. First, some had such serious impacts on sensitive environmental resources that they presented virtually insurmountable obstacles to selection as a preferred alternative, particularly in light of the availability of other alternatives with similar or better performance that avoid these highly

¹ Alternative 1 tended to have greater socioeconomic impacts than other alternatives. It had more estimated business relocations (70 – 131) than any other build alternative. It also potentially impacted more hazardous materials sites (17 – 30) than any build alternative other than 2C.



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sensitive resources. Many comments received on the Tier 1 DEIS, including comments received from USEPA, USFWS, and IDNR, confirmed these recommendations in the DEIS.

In addition to the alternatives that were non-preferred for environmental reasons, four other alternatives were non-preferred in the Tier 1 DEIS because of their inability to satisfy the goals of the project. These were Alternatives 1, 2A, 2B, and 4A. All were very poor performers, in terms of satisfying the project goals, particularly the core goals. Therefore, the Tier 1 FEIS determined that the single preferred alternative should be selected from among those identified in the Tier DEIS as preferred alternatives. Section 6.4.2 of the Tier 1 FEIS details the selection of Alternative 3C as the single preferred alternative. The bullet points below summarize the process that led to the selection of Alternative 3C.

- **Alternative 3B** was modified twice shortly before the Tier 1 DEIS was published to avoid impacts to significant resources. In its comment letter on the DEIS, USFWS stated its view that Alternative 3B was “environmentally unacceptable.” This was due to its impacts upon the Garrison Chapel Valley, a high quality karst ecosystem. Other resource agencies provided similar comments. Upon reviewing these comments and re-examining the corridor for Alternative 3B, INDOT and FHWA concluded that it was not possible to further modify Alternative 3B to address these objections. Since there were other alternatives that did well on satisfying project goals and did not have these major environmental impacts, Alternative 3B was eliminated from consideration.
- **Alternative 4C** generally had high performance on project goals, including two core goals. However, its environmental impacts were high for some key resources. These included wetlands (the most acres impacted of any Tier 1 DEIS preferred alternative), floodplains (it crossed the second-highest number of acres of *any* alternative), stream crossings (it crossed the second-highest number, as well as the highest number of perennial streams), and farmland (it impacted the highest number of acres of any alternative). Based primarily on these considerations, and that other alternatives offered similar or higher performance without this level of impacts, Alternative 4C was eliminated from consideration.
- **Alternative 4B** had significantly lower performance than the other four Tier 1 DEIS preferred alternatives. However, Alternative 4B’s lower performance was not offset by lower impacts. Some key impacts included that it would impact 90 acres of wetlands, it would take the second-highest number of farmland acres (5,160) of any alternative, and (as shown by Year 2000 Census data, which became available after publishing the DEIS) it has a higher potential than the other preferred alternatives to encourage sprawl (in Western Morgan County and eastern Owen County). Taken together, these factors led to the elimination of Alternative 4B.
- **Alternative 2C** was a moderately high performer, but it was the second-lowest performer of the Tier 1 DEIS preferred alternatives. Alternative 2C’s Evansville to Indianapolis travel time savings of 21 minutes was the lowest of any Tier 1 DEIS preferred alternative. It was 6 to 9 minutes lower than the other preferred alternatives. The cost of Alternative 2C was similar to that of Alternative 3C. The midrange of their costs was approximately \$120 million apart, and their cost ranges overlapped. However, Alternative 3C had notably higher



performance than Alternative 2C. In addition, Alternative 2C had significant impacts, including the second-highest impacts on wetlands of any Tier 1 DEIS preferred alternative (80 – 105 acres). This is significant, given the emphasis placed by review agencies (especially USEPA) on minimizing water quality impacts. It also had the highest floodplain impacts of any alternative (1,550 – 1,640 acres). This also could have negative implications for avoiding water quality impacts. Taken together, these factors led to the elimination of Alternative 2C.

- **Alternative 3C** was selected as the single preferred alternative. Key performance indicators for this alternative included that a) it was one of only two alternatives to perform higher on all three core goals and b) it performed highest on all three economic development goals. It also performed well in minimizing key environmental impacts. It had the lowest wetlands impacts (75 acres) of any Tier 1 DEIS preferred alternative. Based on this information, FHWA and INDOT concluded that its selection would be consistent with the determination of the Least Environmentally Damaging Practicable Alternative (LEDPA) requirement under the Section 404(b)(1) Guidelines. It had the lowest farmland impacts (4,470 acres) of any Tier 1 DEIS preferred alternative. It also had the third-lowest number of floodplain acres crossed (830 acres) of all Tier 1 DEIS alternatives. In weighing all these factors, INDOT and FHWA determined that Alternative 3C best satisfied the project purposes while having an acceptable level of impacts.

At the request of USACE, the Tier 1 FEIS included an analysis showing that the selection of Alternative 3C is consistent with permitting requirements under Section 404(b)(1) of the Clean Water Act. At USACE's request, the ROD included a clarification that USACE has not formally made or concurred in this determination of consistency. Only USACE is able to make a LEDPA determination. This determination is made at the time that a permit is issued.

The Tier 1 FEIS also specified that the preferred corridor would be divided into six sections for Tier 2 NEPA studies. **Figure 1-2** (p. 1-18) is a map that shows these six Tier 2 sections. They are designated as follows:

- Section 1 begins on I-164 at the Blue Bell Road-Warrenton Road overpass immediately south of the present-day junction of I-164, State Road (SR) 57, and I-64. It continues to approximately one-half mile north of SR 64 west of Oakland City. It is approximately 13 miles in length.
- Section 2 begins approximately one-half mile north of SR 64 near Oakland City. It continues to US 50 east of Washington. It is approximately 28.6 miles in length.
- Section 3 begins at US 50 east of Washington. It continues to US 231 near Scotland. It is approximately 25.3 miles in length.
- Section 4 begins at US 231 near Scotland. It continues to SR 37 south of Bloomington. It is approximately 26.6 miles in length.



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- Section 5 begins on SR 37 south of Bloomington. It continues along existing SR 37 to SR 39 near Martinsville. It is approximately 22.3 miles in length.
- Section 6 begins on SR 37 near Martinsville. It continues along existing SR 37 to near I-465 in Indianapolis, where it runs west of existing SR 37 to reach I-465. It is approximately 25.9 miles in length.

1.2.2.3 Tier 1 ROD

FHWA issued the Tier 1 ROD on March 24, 2004. In the Tier 1 ROD, FHWA approved the selection of the corridor designated in the Tier 1 FEIS for Alternative 3C as the corridor for I-69 between Evansville and Indianapolis. It also approved the Tier 1 FEIS's designation of six sections for Tier 2 studies, which enabled Tier 2 NEPA studies to begin in each of these six sections.

The key decisions in the Tier 1 ROD are as follows. More detail is provided in Section 2.0 (*Decision*) of the ROD:

- FHWA approved the selection of a build alternative for I-69 between Evansville and Indianapolis.
- FHWA approved the location of the selected corridor as depicted in Volume III of the Tier 1 FEIS, *Environmental Atlas*.
- FHWA noted that decisions regarding the number and location of interchanges and grade separations would be made in Tier 2 studies, and were not being made in this ROD.
- FHWA approved the use of federal funds for property acquisition for the project to the extent that such acquisitions meet the conditions for a hardship or protective acquisition.
- FHWA approved the selection of the SR 37 variation of the selected corridor near Indianapolis and eliminated the variation along Mann Road shown in the Tier 1 DEIS.
- FHWA approved and directed the implementation of mitigation measures listed in Chapter 7, *Mitigation*, of the Tier 1 FEIS.

The Tier 1 ROD also documented that appropriate coordination with all appropriate federal and state agencies regarding regulatory requirements occurred. This documentation is found in Section 6, *Regulatory Requirements*, of the Tier 1 ROD. These requirements included:

- **Section 106 Consultation (National Historic Preservation Act).** On January 30, 2004, FHWA submitted to the Advisory Council on Historic Preservation (ACHP) all requirements as stated in 36 CFR 800.11(f). The Tier 1 FEIS also included (Appendix P) an executed Memorandum of Agreement that identified the mitigation measures and other actions that will be further examined during the Section 106 consultation in Tier 2.



- **Air Quality Conformity Findings (Clean Air Act).** Within the Tier 1 Study Area, Marion and Vanderburgh counties were the only areas subject to air quality conformity requirements at the time of the approval of the ROD. The Metropolitan Planning Organizations (MPOs) in both regions completed air quality modeling for the selected alternative and made conformity findings that were approved by FHWA and the Federal Transit Administration (FTA) in January 2004.
- **Section 404 (Clean Water Act).** At the request of USACE, the Tier 1 FEIS included an analysis showing that the selection of Alternative 3C is consistent with permitting requirements under Section 404(b)(1) of the Clean Water Act. At USACE's request, the ROD included a clarification that USACE has not formally made or concurred in this determination of consistency. During Tier 2, FHWA and INDOT will continue to coordinate closely with USACE and other applicable agencies regarding permitting. Section 404 permits will be obtained for each Tier 2 section prior to construction on that section. Section 404 permit decisions for the Section 4 project have not yet been made and will not be made until after a Section 404 permit application is filed with the USACE.
- **Section 7 (Endangered Species Act).** In July 2003 FHWA and INDOT submitted a Biological Assessment (BA) to USFWS that examined the impacts of Alternative 3C on three species—the Indiana bat, bald eagle, and eastern fanshell mussel. Based on the BA, USFWS concurred that the project is not likely to adversely affect the mussel. On December 3, 2004, USFWS issued a Biological Opinion (BO) stating that Alternative 3C is not likely to jeopardize the continued existence of the bald eagle or Indiana bat. The Tier 1 ROD stated that during Tier 2, additional Section 7 consultation will be conducted, concurrent with the NEPA process.
- **Section 4(f).** All corridors considered as alternatives in the Tier 1 FEIS have the potential to result in the use of Section 4(f) resources. All alternatives were developed with the intent to avoid these resources where possible, or to minimize impacts. Based on the information then available, all corridors appeared to be substantially equal in their potential for harm to Section 4(f) resources. The Tier 1 ROD concluded that in these circumstances, Section 4(f) does not limit the choice of alternatives.

Although no comment period is required on an FEIS under FHWA regulations, FHWA and INDOT established a 47-day review period for comments to be submitted on the Tier 1 FEIS. This period ended on February 2, 2004. Comments postmarked by February 2 were considered to be timely. In addition, comments received following the end of the comment period, but prior to the issuance of the ROD, also were considered. Approximately 500 comments were received. The comments received were summarized in Section 7.2 of the ROD. Information in FHWA's files provides more detailed responses to these comments. In addition to responding to comments, FHWA prepared eight technical memoranda for its files that address several of these comments in detail.



1.2.3 Tier 1 Re-evaluation

Major federal transportation legislation enacted in August 2005 (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [SAFETEA-LU]) provided significant new flexibility to state transportation departments to commingle toll funding with traditional highway funding sources. Shortly after the enactment of SAFETEA-LU, INDOT decided to consider whether toll funding could significantly accelerate the construction of this project. INDOT and FHWA discussed the steps necessary to consider tolling as a funding option in Tier 2 studies. They determined that a Re-evaluation of the Tier 1 FEIS would be needed to determine whether consideration of toll funding would cause any additional significant impacts at the Tier 1 level of analysis that would require completion of a Tier 1 Supplemental EIS. Whether or not a Supplemental EIS were found to be required, an Amended Tier 1 ROD would have to be issued to allow consideration of tolling in Tier 2 studies.

Tier 1 Re-evaluation Status

On November 9, 2006, Indiana's Governor Mitch Daniels announced that the I-69 Evansville to Indianapolis project would be developed as a non-tolled interstate. The Governor also announced that construction of this project would begin as soon as possible at the southern end of the project, and will proceed from south to north. In a letter to FHWA Indiana Division Administrator Robert Tally, dated November 22, 2006, INDOT Commissioner Thomas Sharp notified FHWA that INDOT intends to "proceed with the ongoing Tier 2 studies for I-69 in accordance with the original Tier 1 Record of Decision..." The November 22 letter also stated that all of the Tier 2 studies would examine alternatives for completing I-69 as a non-tolled project, and that tolling is no longer being considered as a financing option in these studies. Finally, INDOT stated that it would not ask FHWA to finalize the Tier 1 Re-evaluation issued in June 2006, nor would it ask FHWA to issue an Amended Tier 1 ROD approving the consideration of tolling in Tier 2 studies.

In a letter dated December 1, 2006, FHWA agreed that with INDOT's withdrawal of the toll financing proposal, a revised Tier 1 ROD would not be necessary and that the Tier 2 studies could proceed as appropriate. FHWA completed a review of comments submitted on the Re-evaluation and, in a letter dated February 12, 2007, addressed issues raised in those comments as appropriate. FHWA also noted that it found "no changes in the proposed action that would result in significant environmental impacts that were not adequately evaluated in the Tier 1 Environmental Impact Statement (EIS); and any new information or circumstances relevant to the environmental concerns and bearings on the proposed action or its impacts would not result in significant environmental impacts not adequately evaluated in the Tier 1 EIS." (Correspondence referenced above is provided in **Appendix C Agency Coordination Correspondence**.)

1.3 Project Location and Description

As approved in the Tier 1 ROD, the corridor is generally 2,000-feet wide. The Section 4 portion of the corridor widens to about 5,400 feet along the Greene-Monroe County Line from just north of CR 1260E/CR 190S (Hobbieville Road) in Greene County to just north of Carter Road in Monroe County. There are also two locations in Monroe County where the Section 4 portion of the corridor narrows to about 1,200 feet. These are near Evans Lane and in the vicinity of Rockport Road and Lodge Road.

The Section 4 corridor begins at US 231 in Greene County and ends at SR 37 in Monroe County. The total length of the Section 4 corridor is approximately 26.6 miles. A map of the Section 4 corridor is included as **Figure 1-3** (p. 1-19).

The south Section 4 corridor terminus at US 231 is about two miles northwest of the northwest corner of Crane Naval Surface Warfare Center (NSWC) and just north of the existing US 231 intersection with SR 45/SR 58. An interchange is proposed at US 231. This proposed interchange is being analyzed as part of the Tier 2 study in Section 3.



Figure 1-4: Typical Pasture in Greene County

Immediately east of US 231 the Section 4 corridor proceeds in an easterly direction across Doans Creek and CR 200E. Just east of CR 215E, the corridor turns to the northeast where it crosses the Dowden Branch and the headwaters of Bogard Creek, south of Taylor Ridge. At Taylor Ridge, the corridor turns east near Taylor Ridge Road (CR 475E) about two miles southwest of the unincorporated community of Koleen. East of US 231 and the adjacent Doans Creek floodplain, the elevation of the corridor rises along gentle to moderate

slopes. Land use is primarily farmland (row crops and pasture) with interspersed woodlots and some larger forest tracts. A typical pasture in Greene County is shown in **Figure 1-4** (p. 1-13).

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The Section 4 corridor continues east from Taylor Ridge across Black Ankle Creek, Dry Branch, and Plummer Creek. Just east of Plummer Creek and CR 360S/CR 880E (Mineral-Koleen Road), the corridor turns to the northeast crossing SR 45, the Mitchell Branch, and SR 54. The crossing of SR 45 is about three and one-half miles south/southwest of the unincorporated community of Cincinnati and four miles north of the north entrance (Bloomington Gate) to Crane NSWC. The SR 54 crossing is about one mile south of the unincorporated



Figure 1-5: Typical Forested Hillside Near Koleen in Greene County

community of Hobbieville and three miles south/southeast of Cincinnati. Potential interchanges at both SR 45 and SR 54 were identified during the Tier 1 study. Extensive forested tracts (see **Figure 1-5**, p. 1-14) dominate the land use along this part of the corridor with some rural residences along SR 45 and SR 54 and periodic farmland (hay fields and pasture) between these two state highways. Clifty Hills Subdivision is located along the north edge of the corridor in the vicinity of Mineral-Koleen Road and CR 920E/CR 975E (Old Clifty Road). The terrain is rugged with steep to very steep slopes. Black Ankle Creek has a wide, emergent wetland-dominated floodplain while Dry Branch, Plummer Creek and several intermittent drainageways trend south to north across the corridor in deep, narrow valleys.

At SR 54, the Section 4 corridor's terrain continues to gain elevation as the corridor turns northeast across Indian Creek (See **Figure 1-6**, p. 1-14) before turning north along the Greene County/Monroe County Line. Indian Creek has a wide floodplain at this location, which is its southernmost corridor crossing. Some karst features are located along this part of the corridor. The corridor continues north along the county line where it makes a second crossing of Indian Creek before turning east into Monroe County in the vicinity of Timber Trace Subdivision (Greene County) and Breeden Road (Monroe County). Just east of the county line, the corridor makes a third crossing of Indian Creek. The crossing of Breeden Road is about one and one-half miles south of the unincorporated community of Stanford. Land use in this part of the corridor is a mix of farmland (predominantly hay fields and pasture with some row crops), rural residences,

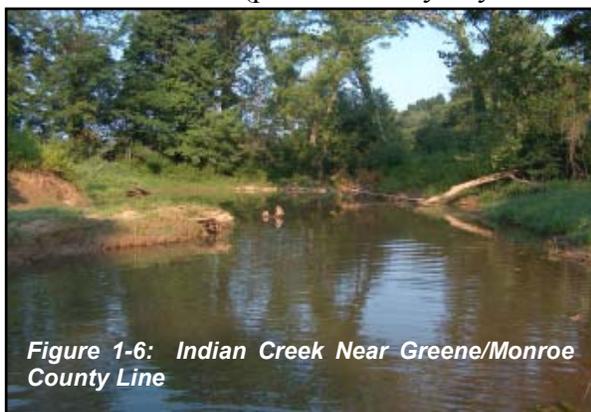


Figure 1-6: Indian Creek Near Greene/Monroe County Line

woodlots and large forest tracts, especially in the northern part of the corridor along the county line. Whippoorwill Estates is located near the center of the corridor along CR 35N (Carmichael Road). This part of the Section 4 corridor widens to approximately one mile in width in the vicinity of Carter Road. The terrain has moderate to steep slopes. A potential interchange that will connect the highway with SR 45 within Greene County in the vicinity of CR 150N (Carter Road) is studied in this DEIS.



The Section 4 corridor continues generally east into Monroe County. Near Rockport Road, the corridor turns northeast and continues to SR 37. The north terminus of the Section 4 corridor at SR 37 is about one-half mile north of Victor Pike and two miles southwest of the City of Bloomington (Monroe County Seat). This part of the corridor narrows at two locations (near Evans Lane and in the vicinity of Rockport Road and Lodge Road) in order to avoid significant karst features identified in the Tier 1 study. Land use is primarily forest and rural residential. Farmer's Field Subdivision and Rolling Glen Subdivision are located along Bolin Lane near the north end of the corridor. Some hay fields and pasture occur throughout this part of the corridor, especially between Tramway Road and SR 37. A light industrial area is located along SR 37 near Victor Pike just south of the corridor. Active and abandoned limestone quarries and associated limestone storage/waste areas occur within and adjacent to the corridor in the vicinity of Tramway Road. There are variable terrain types ranging from gentle to steep slopes with several intermittent drainageways, some of which are located in narrow valleys. The highest elevation within the Section 4 corridor is located at Harmony Road. Many karst features are located throughout this part of the corridor. An interchange is proposed at SR 37. The SR 37 interchange is located at the point where Tier 2 Section 4 connects to Tier 2 Section 5. The SR 37 interchange is analyzed as part of the Tier 2 study for Section 4.



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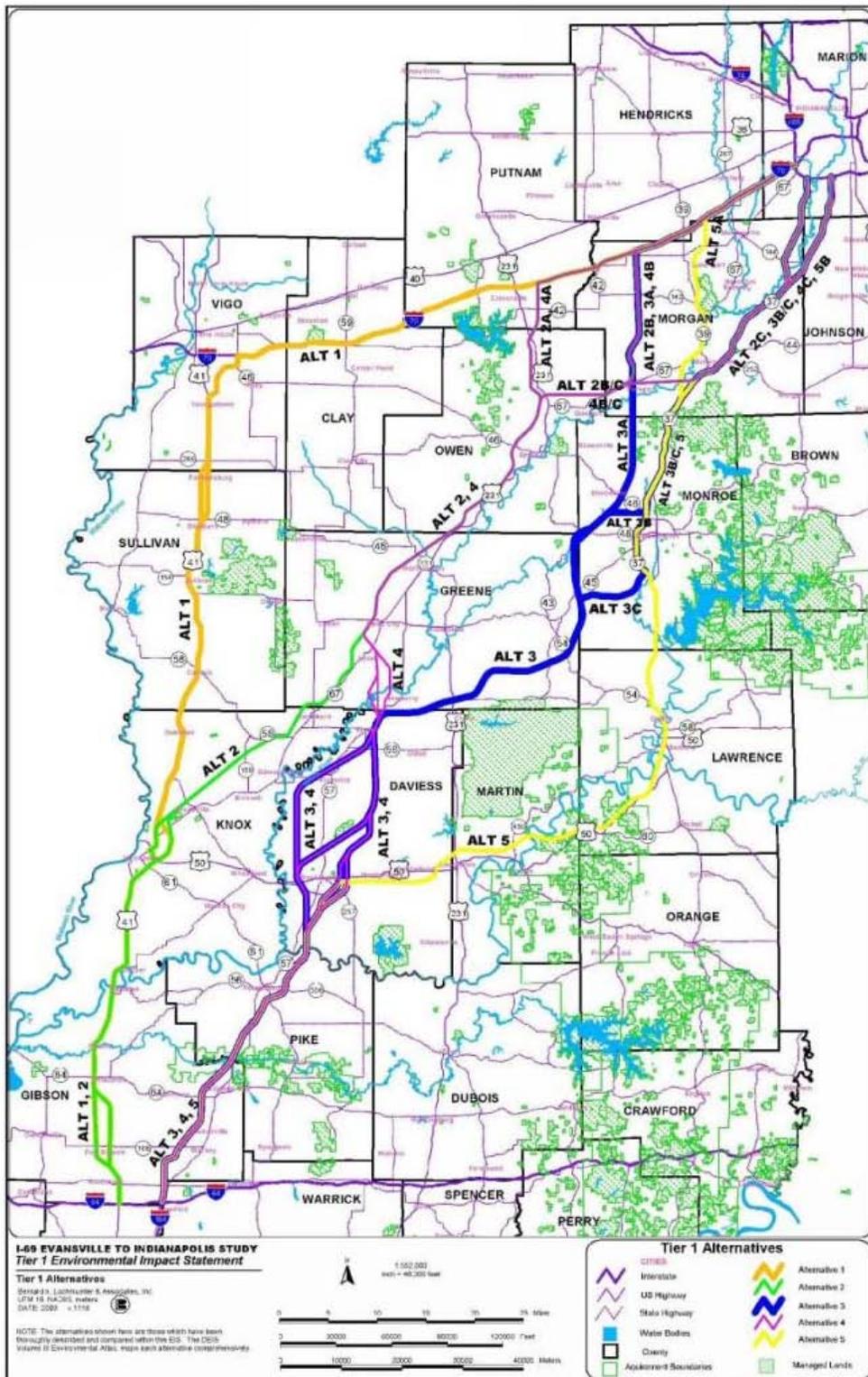


FIGURE 1-1: Tier 1 FEIS Alternatives

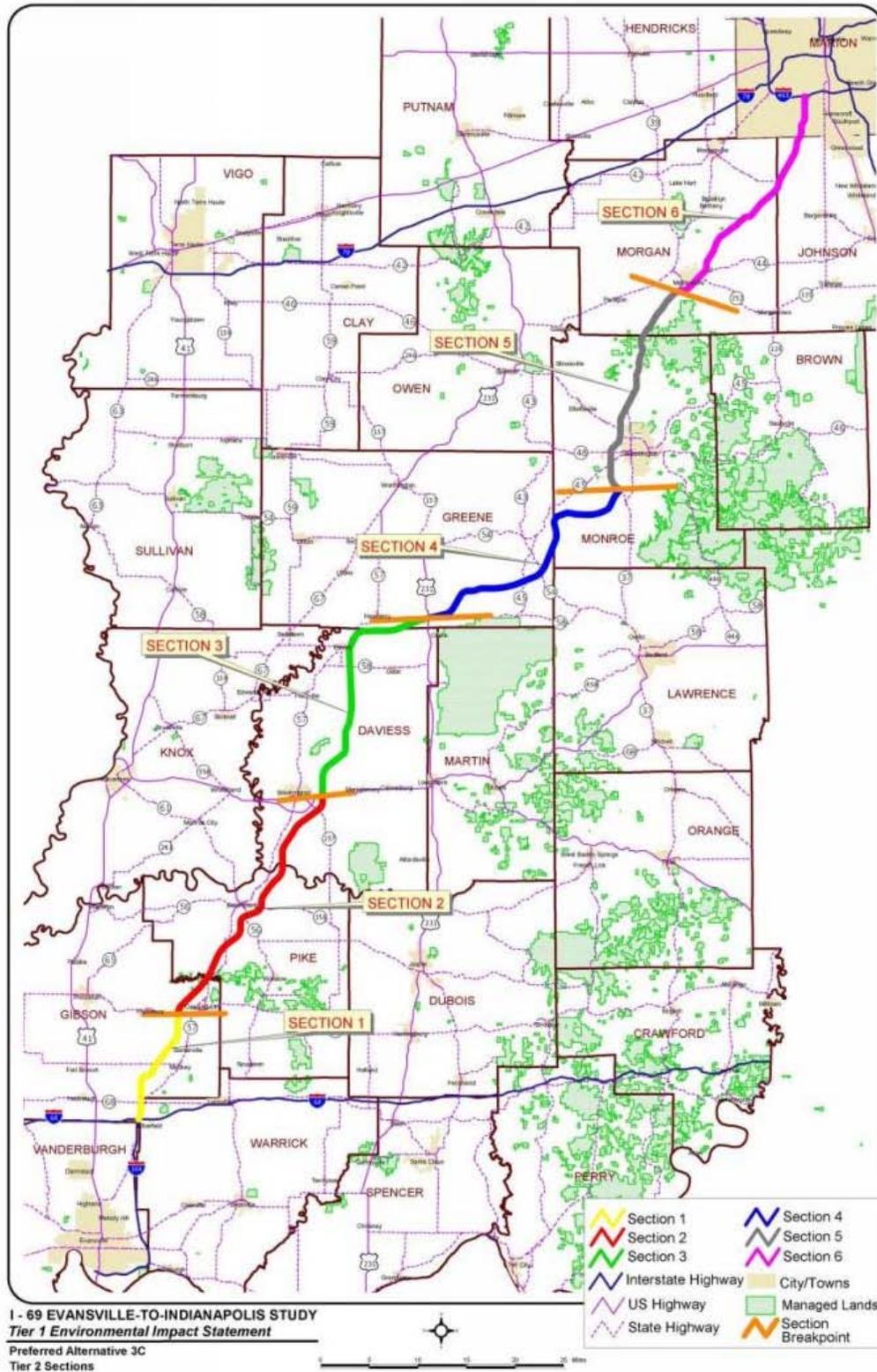


FIGURE 1-2: Preferred Alternative 3C Showing Tier 2 Sections

Chapter 1 – Background

Section 1.3 – Project Location and Description



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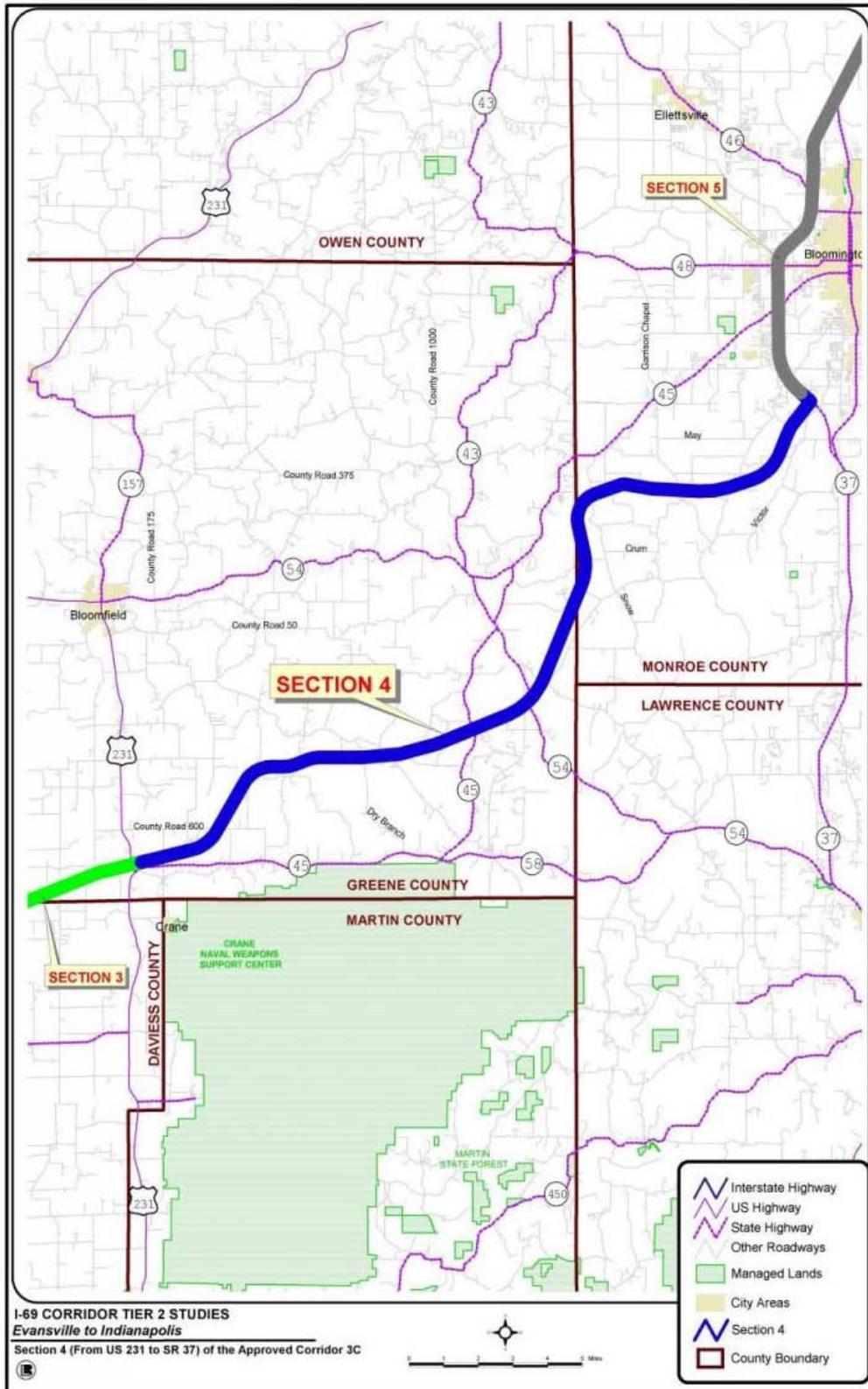


FIGURE 1-3: Tier 2 Section 4



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