DNR Indiana Department of Natural Resources

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June 29, 2011

Janice Osadczuk
Engineering Services Team Leader
Federal Highway Administration—Indiana Division
Room 254—Federal Office Building
575 North Pennsylvania Street
Indianapolis, Indiana 46204

Federal Agency: Federal Highway Administration ("FHWA")

Re: June 1, 2011 Section 106 Consultation Meeting, Louisville-Southern Indiana Ohio River Bridges Project (DHPA No. 1774)

Dear Ms. Osadzuk:

Pursuant to Section 106 of the National Historic Preservation Act, as amended (16 U.S.C. § 470f) and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has reviewed the materials provided at the June 1, 2011 meeting and the meeting summary submitted with your cover letter dated June 13, 2011 and received on June 14, for the aforementioned project in Clark County, Indiana and Jefferson County, Kentucky.

Thank you for the informative meeting on June 1 and for the written materials.

We look forward to being consulted about FHWA's proposals for areas of potential effects (36 C.F.R. § 800.4[a][1]) for both above-ground properties and archaeological resources and about the identification (§ 800.4[a][2]-800.4[b]) and evaluation (§ 800.4[c]) of historic properties within those areas.

We note that, for illustrative purposes, two slides were included at the end of the sixth section of the PowerPoint presentation (page 21 in the June 1 handout) that showed both Outstanding-rated properties that previously had been identified in the Final Environmental Impact Statement ("FEIS") for this project and additional, Outstanding-rated Indiana properties that were identified in the recent; post-FEIS update of the Indiana Historic Sites and Structures Inventory ("IHSSI") for Clark County. We would offer the cautionary comment that an IHSSI rating of Outstanding does not mean that a property necessarily has been determined eligible for the National Register of Historic Places, either by a federal agency official and the Indiana SHPO in the course of a specific Section 106 review or formally by the Keeper of the National Register. On the other hand, a property that has been rated Notable (a lower rating than Outstanding) in an IHSSI survey occasionally is found to be individually eligible for the National Register upon closer examination.

We are not suggesting, however, that because the rating of any property within the National Register-listed Old Jeffersonville Historic District recently has been elevated to Outstanding or Notable, that particular property necessarily must be scrutinized intensively enough to determine whether it might now be individually eligible. Unless such a property might be affected by the project to a greater degree than, or in a different way from, the way the historic district as a whole might be affected (e.g., by being in the path of, or in very close proximity to, the project area), we think that it could be sufficient, for the purposes of 36 C.F.R. § 800.4(c), for FHWA and the Indiana SHPO to determine that the property is a resource that contributes to the significance of the historic district.

We note that the entirety of the Old Jeffersonville Historic District apparently had been included in the area of potential effects ("APE") for the Downtown bridge that was determined for the FEIS. We believe that there are situations where it is not necessary to include an entire historic district—or even an entire individual property—within an APE. The APE is "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or

use of historic properties, *if any such properties exist*" (36 C.F.R. § 800.16[d]; our emphasis). Because it is not necessary to know where historic properties are in order to determine the APE, we think it follows that the APE boundary should be based on where effects could occur, rather than where the outer limits of boundaries are for large historic properties (such as districts) that fall partly within the APE.

If you have questions about issues pertaining to buildings or structures, then please contact John Carr at (317) 233-1949 or jcarr@dnr.in.gov. Questions about archaeological matters should be directed to Dr. Rick Jones at (317) 233-0953 or rjones@dnr.in.gov. In all future correspondence regarding this project, please refer to DHPA No. 1774.

Very truly yours,

James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:JLC:jlc

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