



5.17 Permits

The following Federal permits relating to terrestrial and aquatic resources relative to waters of the US will be required for any build alternative.

Agency	Permit
United States Army Corps of Engineers (USACE)	Section 404 Permit for the Discharge of dredged or fill material into waters of the US (e.g. streams and wetlands)

In its comment letter on the DEIS, the EPA pointed out that the Section 404(b)(1) Guidelines require, in the context of Section 404 permitting, the selection of the “least environmentally damaging practicable alternative” or “LEDPA.” In particular, the Section 404(b)(1) Guidelines require the selection of the practicable alternative that causes the least harm to the “aquatic environment,” which consists of wetlands and other jurisdictional waters of the United States, so long as the alternative does not have other significant adverse environmental consequences.

In response to this comment, the Federal Highway Administration (FHWA) and the Indiana Department of Transportation (INDOT) have outlined consideration of the Section 404(b)(1) Guidelines in selecting a preferred alternative. In particular, consideration was given to issues of practicability, aquatic environment impacts and other environmental impacts, in addition to meeting the other requirements of Section 404(b)(1). The Section 404 LEDPA Consistency Analysis for Preferred Alternative G-Es can be found in Appendix T of this document.

The following permits from the State of Indiana relating to terrestrial and aquatic resources will be required for any build alternative.

Agency	Permit
Indiana Department of Environmental Management (IDEM)	Section 401 Water Quality Certification IDEM Isolated Wetlands Regulatory Program
Indiana Department of Natural Resources (IDNR)	Permit Construction in a Floodway

The following agencies regulate a “permit by rule.” Though no actual permit is issued, proper correspondence and the incorporation of specific measures in design and construction are required prior to commencing construction activities.

Agency	Permit
IDEM	National Pollutant Discharge Elimination System (NPDES) Rule 5 Erosion Control
St. Joseph County Drainage Board	Notice Only
Marshall County Drainage Board	Notice Only

Each of the alternatives would require permits. The Section 404 permit and Section 401 WQC are authorized under the federal Clean Water Act (CWA), and the decisions are subject to the State of Indiana’s water quality standards under IAC Title 327 of the Water Pollution Control Board (WPCB). Also, IDNR will require permit approvals for floodway impacts under the State of Indiana’s Flood Control Act (IC 14-28-1) and Navigable Waterways Act (IC 14-29-1). Rule 5 (327 IAC 15-5), established under the NPDES, regulates sediment discharges from construction site erosion.

All necessary permits will be applied for and obtained prior to construction, and the terms and conditions of these permits will be adhered to during the construction and maintenance of this facility.