

66-1142-GA-BIN

49

## Biological Survey Form

Variance #:	CY-E-501				Date:	08/06/08						
Team #	<input type="checkbox"/>	1	<input checked="" type="checkbox"/>	2	<input type="checkbox"/>	3						
Does this variance request fall within original biological survey corridor?						<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No			
Are any new wetlands and/or waterbodies affected by this variance? (if yes, sketch below in relation to the variance)						<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No			
<b>Memo:</b> CY-E-501. No wetlands, Waters of the US, Threatened and/or endangered species and their associated habitat, or sensitive biological features, were identified, at the contractor yard.												
Are there any known wetlands and/or waterbodies affected by the variance? (if yes, add to sketch above)						<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No			
Were any threatened or endangered species or their habitats found during survey? (if yes, list below)						<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No			
<b>Type</b>					<b>Habitat Observed</b>		<b>or Animal Observed</b>					
					<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
					<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
					<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
					<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

1. To be completed with every survey.
2. If new findings please fax to Jim or Charlie.
3. If no new findings file with Heather (cc Jim or Charlie)

RECEIVED-DOCKETING DIV  
 2008 AUG 18 AM 7:50  
 PUCO

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician TM Date Processed 8/18/2008



IN REPLY REFER TO:  
FWS/ES-TE

## United States Department of the Interior

**FISH AND WILDLIFE SERVICE**  
Bishop Henry Whipple Federal Building  
1 Federal Drive  
Fort Snelling, MN 55111-4056

APR 24 2008

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

Re: Request for concurrence on the findings presented in the Rockies Express (REX) East Project Biological Assessment

Dear Ms. Bose:

We have reviewed the subject document dated March 25, 2008, pursuant to section 7 of the Endangered Species Act of 1973 as amended. Our review was for the purpose of determining whether we concur with your determination of "not likely to adversely" for seven federally listed species.

We concur with a "not likely to adversely affect" finding for all species. However, we would like to make a few points of clarification. As you know, the consultation effort on this project has involved multiple conference calls and meetings with REX, their consultant (Natural Resource Group), and us, as well as, several coordination calls among your staff and us. Through these informal consultation discussions, REX made step-wise progress in incorporating conservation measures to minimize the likelihood of adverse effects occurring to listed species. Because of this step-wise process, important background information is not explicitly discussed in the Biological Assessment. The following comments are to provide this background and make our understanding of the conservation measures lucid.

First and foremost, as we have repeatedly stated in writing and verbally, the best approach to ensure adverse effects are avoided is to restrict tree removal to the inactive season. The conservation measures proposed by REX are, we believe, adequate and likely to minimize the chances of adverse effects occurring, but obviously not to the extent that seasonal tree-cutting restrictions would.

Second, the conservation measures for the Indiana bat target direct effects to individuals. We conclude that adverse indirect effects due to habitat manipulation are unlikely to occur. Based on the consultant's analysis of habitat availability pre and post-construction, we concur with their findings that the essential character of the suitable Indiana bat habitat will not be degraded following construction activities. That is, sufficient foraging, roosting, and travel habitat will remain available to Indiana bats within all known occupied areas. Hence, we do not believe there will be detectable indirect effects due to habitat loss or manipulation.

1000 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402



telephone (612) 347-6789  
facsimile (612) 347-6780  
www.NRGINC.com

January 4, 2007

Christie Stanifer, Environmental Coordinator  
Indiana Department of Natural Resources  
402 West Washington Street, Room W264  
Indianapolis, Indiana, 46204

Re: Rockies Express Pipeline Project  
Vermillion, Parke, Putnam, Hendricks, Morgan, Johnson, Shelby, Decatur, and  
Franklin Counties, Indiana

Dear Ms. Stanifer:

As discussed during a project introductory meeting on November 13, 2006, Rockies Express Pipeline LLP (Rockies Express) is proposing to construct a 42-inch-diameter natural gas pipeline from northeastern Colorado to Clarington, Ohio. The eastern segment of the proposed pipeline (REX-East) crosses Missouri, Illinois, Indiana and Ohio. Construction of the proposed project is anticipated to begin in the spring of 2008 and it is expected to be in service by winter 2008.

The Indiana portion of the project is approximately 164.0 miles in length and crosses Vermillion, Parke, Putnam, Hendricks, Morgan, Johnson, Shelby, Decatur, and Franklin Counties. Rockies Express obtained lists of threatened or endangered species occurring in these counties from the Indiana Department of Natural Resources (INDNR) Natural Heritage Inventory (NHI). Review of the NHI data along the project corridor revealed one state-listed terrestrial plant within one-half mile of the proposed project route and five state-listed terrestrial animal species within one mile of the proposed project route. Based on a two-mile buffer for aquatic resources, there are two qualifying aquatic listings near the proposed project route. Areas identified by NHI where the bobcat, upland sandpiper, and scarlet hawthorn were previously observed near the project are unlikely to provide suitable habitat within the project area. As such, Rockies Express has eliminated these species from further consideration due to the lack of suitable habitat within the project area located near the NHI occurrence. Details of this determination are provided in the following table, followed by a discussion of the remaining five species.

Rockies Express Pipeline-East Project State-listed Endangered and Threatened Species Potentially Occurring in the Proposed Project Area				
Species	Status	Milepost(s)	Basic Habitat Association	Eliminated from Further Consideration/Discussion
<b>Mammals</b>				
American Badger	E	311.5 383.4 392.9	Short grass grasslands, fields, and pastures. Sometimes seen along roads, fence rows, ditches, or crop fields.	No
Bobcat	E	371.5	Large territory encompassing varied habitats from lowland swamp to mountain forest. Avoids areas with intense human habitation and agriculture.	Yes, lack of suitable habitat in area of previous observation, last observed in 1984.

Ms. Christie Stanifer  
January 4, 2007  
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Rockies Express Pipeline-East Project State-listed Endangered and Threatened Species Potentially Occurring in the Proposed Project Area				
Species	Status	Milepost(s)	Basic Habitat Association	Eliminated from Further Consideration/Discussion
<b>Birds</b>				
Upland Sandpiper	E	311.5	Dry upland plains, short-grass fields, pastures and meadows.	Yes, lack of suitable habitat in area of previous observation, last observed in 1952
Loggerhead Shrike	E	257.0	Edge habitat in agricultural regions, nests along roads and hedgerows.	No
<b>Fish</b>				
Variagale Darter	E	379.7 379.9 390.0 390.9 393.1 395.4	Large river riffles with swift current and substrates composed of large cobbles and small boulders.	No
<b>Invertebrates</b>				
Cobblestone Tiger Beetle	E	393.3	Cobblestone islands and deltas in large rivers.	No
Rabbitsfoot	E	335.3 335.7	Clear streams with swift current flowing over gravel substrates	No
<b>Plants</b>				
Scarlet Hawthorn	T	356.7	Light woodland, sunny edges, light shade.	Yes, lack of suitable habitat in area of previous observation, last observed in 1912

### American Badger

NHI records for the American badger, a state-endangered mammal, were noted within one mile of the project area in Morgan and Franklin Counties near MP 311.5 in 1982, MP 383.4 in 1987, and MP 392.9 in 1987 (NHI Topo Map, pages 7 and 14). Badgers are grassland species, specifically favoring habitats with short grass, such as fields and pastures. The most obvious signs of badgers are their dens, which exhibit large holes that serve as entrances to burrows. The American badger resides in its burrow year-round. Badgers usually inhabit burrows solitarily, except during mating season between summer and early autumn. After mating, badgers remain sensitive to disturbance through gestation and the birth of young in late-March and April. Litters of one to five young remain with the mother as long as three months. Rockies Express currently seeks the input of the INDNR regarding locations of known dens. If it is determined that active dens are located within the project area, Rockies Express will consult with the INDNR to determine if additional field surveys for the American badger are necessary, and if so, will conduct surveys during the summer of 2007. If surveys identify individuals or active dens, Rockies Express will consult with the INDNR to discuss the need to develop conservation measures to avoid or minimize impacts on the species.

### Loggerhead Shrike

The loggerhead shrike, a state-endangered bird, was noted in NHI data within one mile of the project route in Parke County, near MP 257.0 (NHI Topo Map, page 2) in 1983. The loggerhead shrike is found in open grassy areas with scattered shrubs or small trees. This species utilizes edge habitat and nests along roads and in hedgerows or

Ms. Christie Stanifer  
January 4, 2007  
Page 3 of 4



fence rows in agricultural regions. Rockies Express currently seeks the input of the INDNR regarding locations of known nests. If it is determined that active nests or populations are located within the project area, Rockies Express will consult with the INDNR to determine if additional field surveys for the loggerhead shrike are necessary, and if so, will conduct surveys during the summer of 2007. If surveys identify individuals, Rockies Express will consult with the INDNR to discuss the need to develop conservation measures to avoid or minimize impacts on the species.

#### **Variegate Darter**

Based on NHI data, the variegate darter, a state-endangered fish, has been identified in NHI records from 1998, 1999, and 2000, within two miles of the project route in Franklin County. Records occur at multiple locations between MPs 379.7 and 395.4, where the variegate darter has the potential to occur in Big Cedar Creek, Whitewater River, Little Cedar Creek, and any connected crossings (NHI Topo Map, pages 13 through 15). The variegate darter is most abundant in large, clean stream riffles with swift currents and substrates composed of large cobbles and small boulders. Rockies Express is currently in the process of conducting field surveys of waterbody crossings in Indiana, including a preliminary assessment of suitable habitat for the variegate darter. Once the assessment of crossing locations is complete, Rockies Express will consult with the INDNR to determine if additional field surveys for the variegate darter are necessary, and if so, will conduct surveys during the summer of 2007. If surveys identify individuals, Rockies Express will consult with the INDNR to discuss the need to develop conservation measures to avoid or minimize impacts on the species.

#### **Cobblestone Tiger Beetle**

Based on NHI data, the state-endangered cobblestone tiger beetle was noted in 1987 in Franklin County, south of MP 393.3 and along the shores of the Whitewater River (NHI Topo Map, page 14). The cobblestone tiger beetle can be found along cobblestone island heads within major rivers where water currents are strong enough to periodically scour beaches and expose cobbles and larger stones along shorelines. Adults may also be found just above the cobblestones where vegetation is sparsely intermixed with stone. Rockies Express is currently in the process of conducting field surveys of waterbody crossings in Indiana, including a preliminary assessment of suitable habitat for the cobblestone tiger beetle. Once the assessment of crossing locations is complete, Rockies Express will consult with the INDNR to determine if additional field surveys for the cobblestone tiger beetle are necessary, and if so, will conduct surveys during the summer of 2007. If surveys identify individuals, Rockies Express will consult with the INDNR to discuss the need to develop conservation measures to avoid or minimize impacts on the species.

#### **Rabbitsfoot Mussel**

Based on NHI data, the rabbitsfoot, a state-endangered mussel, was noted in the Sugar Creek system in 1998, in Johnson County, and may occur in connected streams in the vicinity of MPs 335.3 and 335.7 (NHI Topo Map, page 10). The rabbitsfoot mussel is found in clear streams with swift current flowing over gravel substrates. Rockies Express is currently in the process of conducting field surveys of waterbody crossings in Indiana, including a preliminary assessment of suitable habitat for the rabbitsfoot mussel. Once the assessment of crossing locations is complete, Rockies Express will consult with the INDNR to determine if additional field surveys for the rabbitsfoot mussel

Ms. Christie Stanifer  
January 4, 2007  
Page 4 of 4



are necessary, and if so, will conduct surveys during the summer of 2007. If surveys identify individuals, Rockies Express will consult with the INDNR to discuss the need to develop conservation measures to avoid or minimize impacts on the species.

Rockies Express is also consulting with the U.S. Fish and Wildlife Service (FWS) to assess potential project impacts on federally listed threatened or endangered species and their habitat. Initial habitat assessments are being conducted this fall as part of the wetland and waterbody crossing assessments and the results of these assessments will help determine where field surveys for federally listed species may be necessary. Rockies Express will be coordinating with the FWS offices in each state to finalize species-specific survey plans for the spring and summer of 2007.

We look forward to discussing these and any other issues you may have during our meeting with the Indiana DNR on January 10<sup>th</sup>.

If you have any questions, please contact me at 612-359-5678 or by e-mail at [jrthommes@nrginc.com](mailto:jrthommes@nrginc.com).

Thank you for your assistance.

Sincerely,

Natural Resource Group, Inc.

A handwritten signature in black ink, appearing to read "Jeff Thommes", with a long horizontal line extending to the right.

Jeff Thommes  
Natural Resource Specialist

cc: Elizabeth Dolezal, NRG  
Bart Jensen, NRG  
Jim Thompson, Rockies Express Pipeline  
Charlie Bertram, Rockies Express Pipeline



# LOG

## LOG OF TELEPHONE CONVERSATION

CALL FROM WHOM: Catie Smith	PHONE NO.: 317-232-4080
COMPANY: Indiana DNR – Division of Fish and Wildlife	
NRG CONTACT: Carly Lapin	PHONE NO.: 612-215-6085
DATE: 7/25/2007	NRG OFFICE LOCATION: Minneapolis
RE: Status of state-listed species consultation	

### LOG OF CONVERSATION:

Carly called Catie to inquire about the status of the state-listed threatened and endangered species consultation with the Indiana DNR. Catie was not aware of the Rockies Express Project, and had only heard about it in passing. Carly quickly summarized the project for Catie and also summarized the consultation that had occurred between NRG and the Indiana DNR. Catie said that she was responsible for decisions regarding state-listed threatened and endangered species, but that she usually only worked on smaller projects. Carly offered to send Catie copies of all of the listed-species consultation that had occurred, and Catie agree that that would be a good idea. Carly would also send a copy of the Mussel Survey Report for Indiana and a set of aerial maps depicting the most recent route in Indiana. Carly told Catie that the outstanding species in the consultation are the American badger, loggerhead shrike, and cobblestone tiger beetle. Catie did not believe that it was likely that the badger or shrike would be adversely affected by the project, but wanted to review the materials before making an official decision. Catie agree to review the materials and respond.

**From:** Smith, Katie G  
**To:** Carly Lapin;  
**CC:** Buffington, Matt; Stanifer, Christie; Huffman, Hank;  
Swinford, Tom;  
**Subject:** RE: REX East Project Consultation Summary  
**Date:** Friday, July 27, 2007 2:43:26 PM  
**Attachments:**

---

Carly,

Thank you for quickly providing the materials I needed to assess the potential impacts of the Rockies Express pipeline project (REX-pipeline) on the American badger, loggerhead shrike, and cobblestone tiger beetle.

The American badger is no longer on the state endangered species list. However the badger is a species of special concern, and badger occurrences are still monitored in Indiana. Activities associated with the REX-pipeline are unlikely adversely impact this highly mobile animal. Active badgers use a different den almost every day, except when young are present. In the unlikely event that a badger den is encountered within the REX-pipeline workspace boundary, the den should be left undisturbed for one to two days while other site activities continue. This will encourage the badger to move to a different location. During cold periods badgers tend to use the same den for longer periods of time.

The loggerhead shrike is a state endangered species. This shrike inhabits shrub lands and open country with scattered trees. It is the most predatory of Indiana's song birds and is remarkable for its habit of impaling prey items (small insects, amphibians, reptiles, birds and mammals ) on thorns and barbed wire fences. Shrikes are found in greatest concentration in southwestern Indiana. They are often associated with large Amish Communities that provide more abundant fence row habitat adjacent to pastures and hayfields. Based on the 1998 Atlas of Breeding Birds in Indiana, it is unlikely that a nesting shrike would be encountered within the REX-pipeline workspace boundary.

The Division of Fish and Wildlife does not have statutory authority over insects. I consulted with the Division of Nature Preserves on the status of the Cobblestone tiger beetle. The Cobblestone tiger beetle is a state endangered insect and inhabits sandbar and beach habitat associated with rivers. Many rivers and streams have been impounded and altered causing tiger beetle habitat to



dwindled and cobblestone tiger beetles populations to declined. Cobblestone tiger beetles are known from the Whitewater River valley in Indiana, which includes portions of Franklin County. Sand beaches in the vicinity of wb-in-392-bbb REX-pipeline crossing appear to be suitable tiger beetle habitat. Underground crossing of the Whitewater River at that site would be protective of this important habitat.

I believe that this e-mail covers the covers the outstanding species and concludes the consultation. If you have any questions or concerns please do not hesitate to contact me.

Sincerely,  
Katie Smith

Catherine (Katie) Gremillion-Smith, Ph.D.  
Chief Wildlife Diversity Section  
Endangered Species Coordinator  
Indiana Division of Fish and Wildlife  
Room W-273 IGCS  
402 W. Washington Street  
Indianapolis, IN 46204  
317-232-8160

-----Original Message-----

**From:** Carly Lapin [mailto:cnlapin@nrginc.com]  
**Sent:** Friday, July 27, 2007 9:10 AM  
**To:** Smith, Katie G  
**Cc:** Carly Lapin  
**Subject:** FW: REX East Project Consultation Summary

Hello Katie,  
Here is all of the consultation that we have had with the Indiana DNR regarding state-listed species. I have included the NHI response that we received from Ron Hellmich (as well as the spreadsheets with the Indiana data on them) , the consultation letter sent in January, the response from Linnea Petercheff, various pieces of consultation regarding aquatic species, and a project overview map. Aerial maps of the project in Indiana should arrive at your office today.

Based on our original consultation letter and the mussel surveys that have already occurred, the species that remain outstanding for this project include the American badger, loggerhead shrike, and cobblestone tiger beetle.

I appreciate your cooperation with this project and look forward wrapping up consultation regarding state-listed species in Indiana.

Thank you,  
Carly



**Carly Lapin**  
[cnlapin@nrginc.com](mailto:cnlapin@nrginc.com)  
612.215.6085 Direct  
612.347.6780 Fax

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## Archeological Survey Form

Variance #: CY-E-501	Date: 8/6/08
Team # <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3	
Does this variance request fall within original cultural survey corridor?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there any known/documented eligible sites within the general vicinity of this variance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did you find any new sites within the general vicinity of this variance? (if yes, sketch area below)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Memo:</b> Area visually inspected and numerous soil cores were placed across property. All areas investigated had been previously disturbed as a result of industrial, landscaping and flood control activities. Additionally, it appears that, prior to development, the parcel was contained low, mucky and poorly drained soils; cultural deposits are typically not located in such soils. No cultural material noted.	
Findings: Significant Cultural Material?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

1. To be completed with every survey.
2. If new findings please fax to Jim or Charlie.
3. If no new findings file with Heather (cc Jim or Charlie)

## Archeological Survey Form

Variance #: CY-E-501	Date: 8/6/08
Team # <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3	
Does this variance request fall within original cultural survey corridor?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there any known/documented eligible sites within the general vicinity of this variance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did you find any new sites within the general vicinity of this variance? (if yes, sketch area below)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Memo:</b> Area visually inspected and numerous soil cores were placed across property. All areas investigated had been previously disturbed as a result of industrial, landscaping and flood control activities. Additionally, it appears that, prior to development, the parcel was contained low, mucky and poorly drained soils; cultural deposits are typically not located in such soils. No cultural material noted.	
Findings: Significant Cultural Material? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

1. To be completed with every survey.
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# **Rockies Express Pipeline**

June 3, 2008

Mr. Jim Glass  
Deputy State Historic Preservation Officer  
Division of Historic Preservation & Archaeology  
402 West Washington Street  
Room W274  
Indianapolis, Indiana 46204

RE: Letter of Agreement Governing Cultural Resources during the Construction of the  
Rockies Express Pipeline-East (REX-East) Project (DHPA#1562)

Dear Mr. Glass,

I am writing to you concerning the Rockies Express Pipeline-East (REX-East) Project planned through portions of Indiana. To date, Rockies Express Pipeline LLC (Rockies Express) has received several cultural resource clearances from your office regarding this project. Additional cultural resource clearance requests may be made of your office once construction commences due to unforeseen circumstances (i.e. landowner required minor reroutes, additional temporary extra work spaces, offsite surface disposal of drilling mud).

Rockies Express would like to enter into a Letter of Agreement with your office to streamline the review process during a major construction project while adhering to the regulatory requirements. As you are aware, all Rockies Express construction work is subject to environmental monitoring by the Federal Energy Regulatory Commission (FERC) or other approved monitors.

During construction, it may be necessary to make minor adjustments or realignments to facilities based on field conditions. The monitoring staff can approve, in the field, a majority of these minor adjustments or realignments, pending approval from your office. Examples of these variances include:

- a change of orientation of a work space or the addition of an extra work space (average size of work spaces is 50 x 100 feet);
- modifications to, or the addition of, a contractor staging area or pipe storage yard (average size is less than 10 acres);
- modification or relocation of a directional drill site along the previously approved route (average size is 200 x 200 feet);
- minor realignment of the pipeline corridor (corridor includes permanent and temporary construction right-of-way);
- use of a road (paved, improved, or dirt) for access to the pipeline or a facility.

Rockies Express proposes the execution of a formal "Letter of Agreement" between Rockies Express and the Indiana Department of Natural Resources which will allow both of our organizations to handle these types of modifications quickly and efficiently. The use of this



## ***Rockies Express Pipeline***

Letter of Agreement will ensure that the construction schedule is not delayed and that your office is not burdened with paperwork that will require a response by a certain deadline.

The terms of this agreement would not apply to any major reroutes of the pipeline corridor. Any major reroutes would be subject to a formal cultural resource assessment survey and report. Major reroutes would include those that affected new landowners, or deviated by more than 0.5 miles from the previously approved route.

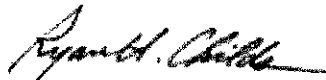
The proposed terms of the Letter of Agreement are as follows. When a modification is required, and the Area of Potential Effect (APE) is outside of that previously surveyed and approved by your office, the Rockies Express cultural resource consultants, will initiate a site review. The Indiana State Site Files will be examined to determine if any cultural resources have been identified within the new APE. A crew of professional archaeologists and architectural historians will be sent to the work site, as necessary, to evaluate the new APE and perform a Phase I cultural resource assessment survey of the new APE. If no cultural resources are identified within the new APE, Rockies Express may proceed with their construction immediately. The cultural resource consultants will submit a letter report to your office no later than seven working days following completion of the fieldwork. The letter report will describe the type of facility, the modifications to the facility, the survey methods used, and the results (negative) of the field survey. Rather than requesting clearance and asking that your office respond within 30 days, we would instead be informing you that the work had occurred, the results were negative, and that construction will be proceeding. In this way, Rockies Express can proceed with work under this Letter of Agreement and no response would be required from your office.

If an archaeological site or historical structure is located during the Phase I survey of the new APE, we would follow the standard procedure for reporting cultural resources. A letter report will be sent to your office complete with a map, survey log sheet and site file form. The letter would request concurrence with the Archaeologist / Historian's recommendations that the property is either eligible or ineligible for listing on the National Register of Historic Places.

If you agree with the content of this Letter of Agreement with Rockies Express for REX-East through Indiana, please sign below and return one of the originals in the enclosed envelope.

Thank you for your cooperation and assistance. Please do not hesitate to contact me by telephone at 307.760.5635 or by email at [ryan\\_childs@kindermorgan.com](mailto:ryan_childs@kindermorgan.com), or Jim Thompson at 614.866.7046 or by email at [jimt@caprock-llc.com](mailto:jimt@caprock-llc.com), should you have any questions.

Sincerely,



---

Ryan Childs  
Environmental Project Manager for Rockies Express Pipeline East Project

cc: Jim Thompson, REX East  
Seth Mitchell, REX East



I agree with and enter into this Letter of Agreement Governing Cultural Resources during the Construction of the Rockies Express Pipeline-East (REX-East) Project through Indiana.

\_\_\_\_\_  
Mr. Jim Glass  
Deputy State Historic Preservation Officer

\_\_\_\_\_  
Date



Indiana Department of Natural Resources

Mitchell E. Daniels, Jr., Governor  
Robert E. Carter, Jr., Director

Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739  
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.IN.gov



July 2, 2008

Ryan Childs  
Rockies Express Pipeline  
500 Dallas Street, Suite 100  
Houston, Texas 77002

Federal Agency: Federal Energy Regulatory Commission

Re: Request to enter into an agreement of additional project activities after the start of construction pertaining to the Rockies Express Pipeline LLC's installation of a 622 mile long natural gas pipeline through Illinois, Indiana, and Ohio (FERC Docket #PF06-30-000; DHPA#1562)

Dear Mr. Childs:

Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated June 3, 2008 and received on June 6, 2008, for the above indicated project in Vermillion, Parke, Putnam, Hendricks, Morgan, Johnson, Shelby, Decatur, and Franklin counties, Indiana.

Although we prefer that project activities be reviewed by our office prior to their clearance, even if cultural resources are not encountered during the archaeological and architectural investigations, we are willing to agree to the proposed agreement with the following conditions:

1. All areas will be archaeologically and architecturally investigated. Even if archaeological resources are not encountered during these investigations, a summary of the archaeological investigations will still be required. If any cultural resources are encountered, then a formal review will be necessary.
2. The archaeological investigations must be done in accordance with the "Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation" (48 F.R. 44716) and must be directly supervised in the field by an archaeologist meeting the "Secretary of the Interior's Professional Qualifications Standards."
3. If architectural resources not previously identified are present, information on those resources that may be potentially eligible for the National Register of Historic Places must be provided to our office for review.

We acknowledge the importance of the timeliness of this project and appreciate the levels of effort for identifying and evaluating cultural resources for this project. We look forward to continuing to work with you on this project. *A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at [www.achp.gov](http://www.achp.gov) for your reference.* If you have questions about archaeological issues please contact Cathy Draeger at (317) 234-3791. Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #1562.

Very truly yours,

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

JAG:CLD:old

cc: Kimberly Boss, Federal Energy Regulatory Commission  
Kari Krause, Natural Resource Group, Inc.  
emc: Ellen Saint Onge, Federal Energy Regulatory Commission





August 14, 2008

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1A  
Washington, DC 20426

RE: Docket Nos. CP07-208-000, 001  
Rockies Express Pipeline LLC, REX-East Project  
Request for Notice to Proceed – Shelbyville Contractor Yard

Ms. Bose:

On May 30, 2008, the Federal Energy Regulatory Commission (“FERC” or “Commission”), pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission’s regulations, issued Rockies Express Pipeline LLC (“Rockies Express”) a certificate of public convenience and necessity to construct and operate the REX-East project (“May 30 Order” or “Order”).<sup>1</sup> On June 2, 2008, Rockies Express, pursuant to Section 157.20(a) of the Commission’s Regulations, 18 C.F.R. § 157.20(a), notified the Commission that it accepted the Commission’s Order.

Rockies Express hereby requests authorization to commence construction at the Shelbyville Contractor Yard. As set forth in the attached data, environmental and biological clearances have been received at this contractor yard as well as concurrence by the SHPO. Rockies Express requests a Notice to Proceed at this discrete facility so that contractors may establish field offices and move their equipment onto the site to prepare for construction. **Rockies Express respectfully requests issuance of the Notice to Proceed for the proposed area by August 18, 2008.**

Rockies Express requests written authorization to commence construction at the following location:

TABLE 2.1-1		
Rockies Express Pipeline-East Project Location of Shelbyville Contractor Yard		
Contractor Yard	Location (legal description)	Approximate Acreage and Land Use
Shelbyville	Section 4, T12N, R7E, Shelby County, Indiana	About 21.1 acres of previously disturbed open area with buildings, paved parking and roads. Located south of Highway 44 and east of Interstate 74.

<sup>1</sup> Rockies Express Pipeline LLC, 123 FERC ¶ 61,234 (2008)

As support for its Notice to Proceed request, Rockies Express submits the following data with respect to the facilities for which authorization to commence construction is sought:

- Aerial photo map for the site;
- Supporting data for the site, including
  - Cultural resource information (privileged and confidential)
  - Biological information
  - Satisfaction of specific conditions
  - Landowner agreements.

Please direct any questions with respect to this request for authorization to proceed to Ryan Childs at (307) 760-5635.

Respectfully submitted,

/s/ Mona Tandon  
J. Curtis Moffatt  
Shippen Howe  
Mona Tandon  
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1050 Thomas Jefferson Street, N.W.  
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202-298-1800  
*Attorneys for*  
*Rockies Express Pipeline LLC*

Attachments

cc: Laura Turner  
John Peconom  
All Parties

**ROCKIES EXPRESS PIPELINE LLC  
DOCKET NO. CP07-208-000  
REQUEST FOR NOTICE TO PROCEED  
SHELBYVILLE CONTRACTOR YARD**

## **1.0 INTRODUCTION**

Rockies Express Pipeline LLC (Rockies Express) is requesting a Notice to Proceed from the Federal Energy Regulatory Commission (FERC) to commence certain construction activities associated with the Rockies Express Pipeline-East (REX-East) Project that have been authorized in this docket. Specifically and as more fully described herein, Rockies Express requests approval to proceed with the use of the Shelbyville Contractor Yard that will be used to mobilize construction crews and accommodate equipment and materials required for pipeline construction. Section 2.0 of this Notice to Proceed request shows the requested facilities in table and text format.

In summary, Rockies Express has completed cultural resources surveys of the requested contractor yards such that the FERC's obligation to comply with section 106 of the National Historic Preservation Act (NHPA) is demonstrated through concurrence with the results of the surveys by the appropriate State Historic Preservation Offices (SHPO). In addition, compliance with section 7 of the Endangered Species Act is demonstrated for the contractor yards through consultations and surveys with the appropriate U.S. Fish and Wildlife Service (FWS) field offices. Section 4.1.1 of this Notice to Proceed discusses section 7 compliance and section 4.1.3 of this Notice to Proceed discusses the status of cultural resources surveys and SHPO concurrence.

Rockies Express respectfully requests issuance of the Notice to Proceed for the proposed area by **August 18, 2008**.

## **2.0 DESCRIPTION OF FACILITIES**

The following table identifies the locations of yards included with this Notice to Proceed request, which were not previously presented in the Final Environmental Impact Statement (FEIS). Section 3.3 below discusses further the new Shelbyville Contractor Yard as well as requests approval of the area in writing, as required by Certificate Condition No. 5. A map clearly defining the area requested is included as Attachment A.

TABLE 2.1-1 Rockies Express Pipeline-East Project Location of Shelbyville Contractor Yard		
Contractor Yard	Location (legal description)	Approximate Acreage and Land Use
Shelbyville	Section 4, T12N, R7E, Shelby County, Indiana	About 21.1 acres of previously disturbed open area with buildings, paved parking and roads. Located south of Highway 44 and east of Interstate 74.

## **3.0 CERTIFICATE CONDITIONS**

Attachment B summarizes Rockies Express' compliance with each of the FERC's 147 Certificate Conditions for the REX-East Project, and it identifies where Rockies Express has addressed its compliance with each (i.e., in a prior filing or in this Request for Notice to

**Rockies Express Pipeline-East Project  
Request for Notice to Proceed with Shelbyville Contractor Yard**

Proceed). Note that Rockies Express filed its Initial Implementation Plan in compliance with Certificate Condition No. 6 on June 2, 2008.

Table 3-1 summarizes Rockies Express' responses to the Certificate Conditions that are applicable and specific to its Notice to Proceed request for the Shelbyville Contractor Yard.

TABLE 3-1 Rockies Express Pipeline-East Project Certificate Conditions Applicable to Shelbyville Contractor Yard	
No.	Condition Requirement (summarized)
1	Follow construction procedures and mitigation measures described in application, supplemental filings (including responses to staff data requests), and identified in the EIS, unless modification is requested and approved.
4	Authorized facility locations are shown in the EIS, as supplemented by filed alignment sheets. Modifications or site-specific clearances must be written and reference locations on alignment maps/sheets.
5	File alignment maps/sheets and aerial photographs at 1:6,000-scale identifying all route realignments or facility relocations, and areas that would be used or disturbed and have not been previously identified for approval.
6	Implementation Plan – Gantt chart
54	File locations by milepost of springs, seeps, and wells identified within 150 feet of construction work areas.
79	File CRP locations, agency correspondence, and mitigation measures to protect CRP lands.
82	File documentation of consultations with FWS to determine need for bald eagle surveys. If surveys are required, file survey reports along with FWS comments.
89	Complete bat surveys prior to construction and implement mitigation measures for 2008 surveys.
91	File specific mitigation measures in accordance with BA that apply within an identified habitat unit ID.
141	Defer construction and use of all facilities until cultural resources surveys and SHPO consultations have been completed.

### 3.1 Certificate Condition No. 1

Rockies Express does not require any modifications to the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the FEIS and the Certificate for the use of the Shelbyville Contractor Yard requested herein.

### 3.2 Certificate Condition No. 4

Rockies Express is providing herein as Attachment A a detailed map of the Shelbyville Contractor Yard requested herein at a scale not smaller than 1:6,000. The map is provided in USGS topographic format as well as in aerial photograph format.

### 3.3 Certificate Condition No. 5

Rockies Express has identified a new contractor yard required for construction, which was not previously identified in Rockies Express' application or supplements and the FEIS. In accordance with Certificate Condition No. 5, Rockies Express is requesting approval in writing by the Director of OEP before use of the area. Table 2.1-1 above lists the existing land use/cover type associated with the new area. Rockies Express hereby certifies that it has obtained documentation of landowner approval, which is included as Attachment C. Condemnation for the contractor yard included in this Notice to Proceed request will not be required. Further, information regarding state- and federally threatened or endangered species is discussed in section 4.1.1, and cultural resources compliance is discussed in section 4.1.3. Maps clearly defining the area requested are included as Attachment A.

**Rockies Express Pipeline-East Project**  
**Request for Notice to Proceed with Shelbyville Contractor Yard**

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**3.4 Certificate Condition No. 6**

Rockies Express filed its Initial Implementation Plan, items a. through f. in its acceptance of the Commission's Order. As required by item f. of Certificate Condition No. 6, Rockies Express is filing as Attachment D a Gantt chart showing the completion of all required surveys and reports; the mitigation training of on-site personnel; the start of construction; and the start and completion of restoration.

**3.5 Certificate Condition No. 54**

The construction work area associated with the Shelbyville Contractor Yard requested herein is not within 150 feet of any known springs, seeps, or wells.

**3.6 Certificate Condition No. 79**

Rockies Express has confirmed that no construction work area associated with the Shelbyville Contractor Yard requested herein will impact any Conservation Reserve Program lands.

**3.7 Certificate Condition 82**

Rockies Express has discussed its compliance with Certificate Condition No. 82 in its acceptance of the Commission's Order Issuing Certificate (filed on June 2, 2008). Through correspondence with the FWS and Indiana Department of Natural Resources (INDNR), Rockies Express has confirmed that the workspaces associated with the contractor yard requested herein will not impact any nesting bald eagles.

**3.8 Certificate Condition No. 89**

No construction work areas associated with the Shelbyville Contractor Yard requested herein will require Indiana bat surveys in 2008.

**3.9 Certificate Condition No. 91**

As no construction work areas associated with the Shelbyville Contractor Yard requested herein will require Indiana bat surveys, no specific mitigation measures in accordance with the Biological Assessment will be necessary.

**3.10 Certificate Condition No. 141**

Information regarding compliance with section 106 of the NHPA and the status of cultural resources surveys and SHPO correspondence is discussed in section 4.1.3 of this Notice to Proceed request.

**4.0 ENVIRONMENTAL CLEARANCES****4.1 Status of Required Permits and Authorizations**

Table 4.1-1 lists the status of permits applicable to the Shelbyville Contractor Yard included in this Notice to Proceed request. Permits or authorizations not listed are not required for or are exempt from the activities requested at the Shelbyville Contractor Yard.

**Rockies Express Pipeline-East Project  
Request for Notice to Proceed with Shelbyville Contractor Yard**

TABLE 4.1-1 Rockies Express Pipeline-East Project Status of Permits – Shelbyville Contractor Yard		
Agency/Permit	Date Application Submitted	Permit Receipt Date (or Anticipated)
<b>FEDERAL PERMITS</b>		
Certificate of Public Convenience and Necessity	4/30/2007	5/28/2008
Section 7 Consultations (All States)	Ongoing since February 2007	4/24/2008
<b>STATE PERMITS</b>		
<b>INDIANA</b>		
State Listed Species, Species of Concern Consultation	Ongoing since February 2007	7/27/2007 4/17/2008
Section 106 Clearance for Cultural Resources	Ongoing since February 2007	See table 4.1.3-1
Consultation to determine if proposed project would have any impact on receptors of cultural importance	Ongoing since February 2007	See table 4.1.3-1

#### 4.1.1 Status of Listed Species Surveys and Compliance with Section 7

Table 4.1.1-1 summarizes the status of state- and federally listed threatened or endangered species surveys at the requested Shelbyville Contractor Yard for the REX-East Project.

TABLE 4.1.1-1 Rockies Express Pipeline-East Project Status of Listed Species Surveys at Shelbyville Contractor Yard		
Contractor Yard	Federally Listed Species Clearance Received	State-Listed Species Clearance Received
Shelbyville	Yes	Yes

#### Status of Surveys and Consultations Under Section 7 of the Endangered Species Act

Rockies Express consulted with the FWS, Columbia, Missouri; Marion, Illinois; Bloomington, Indiana; and Reynoldsburg, Ohio Field Offices, regarding potential effects of the REX-East Project on federally listed threatened and endangered species. As noted in the FEIS, the Indiana bat, whooping crane, clubshell, fanshell, fat pocketbook, northern riffleshell, decurrent false aster, eastern prairie fringed orchid, prairie bush clover, and running buffalo clover were identified by the FWS as federally listed species potentially occurring within the project area. As further noted in the FEIS, three candidate species for federal listing, the Eastern massassauga, rayed bean, and spectaclecase, were also identified by the FWS as potentially occurring within the project area. The FWS concluded that REX-East Project would have *no effect* on 4 of the 10 federally listed threatened or endangered species (clubshell, decurrent false aster, eastern prairie fringed orchid, and prairie bush clover) and *may affect*, but *would not be likely to adversely affect* the remaining 6 federally listed threatened or endangered species (Indiana bat, whooping crane, fanshell, fat pocketbook, northern riffleshell, and running buffalo clover). The FWS also concluded that the REX-East Project *would not be likely to adversely affect* the Eastern massassauga, rayed bean, or spectaclecase.

Rockies Express consulted county lists of federally listed endangered, threatened, and candidate species maintained by the FWS and conducted a general habitat review of the Shelbyville Contractor Yard requested herein. No listed species other than those listed above had the potential to occur in the county where the requested yard is located. Furthermore, based on field surveys completed to evaluate potential habitat the Shelbyville Contractor Yard

**Rockies Express Pipeline-East Project  
Request for Notice to Proceed with Shelbyville Contractor Yard**

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requested herein does not provide suitable habitat for federally listed endangered, threatened, or candidate species.

As stipulated in the FWS's concurrence letter to the Commission, dated April 24, 2008, section 7 consultation for the REX-East Project has been concluded. Rockies Express' and the FWS' threatened and endangered species consultations and clearances are included as Attachment E.

**Status of State-listed Threatened and Endangered Species Surveys and Consultations**

Rockies Express has consulted with the INDNR regarding impacts on state-listed threatened and endangered species potentially affected by the project. As noted in the FEIS, these consultations resulted in the following state-listed species potentially affected by the project: bald eagle (IL, IN), variegate darter (IN), rabbitsfoot (IN), and snuffbox (IN).

Rockies Express conducted field surveys to evaluate potential habitat at the Shelbyville Contractor Yard. Based on this field survey, no suitable habitat exists for state-listed species.

Rockies Express concluded consultation for state-listed threatened and endangered species with the INDNR in an email dated July 27, 2008. Rockies Express' state agency threatened and endangered species consultations and clearances and field survey form are provided in Attachment E.

**4.1.2 Status of Remaining Wetland and Waterbody Surveys**

Rockies Express has verified that no wetlands or waterbodies will be affected by the Shelbyville Contractor Yard. Attachment E provides the field survey form.

**4.1.3 Status of Cultural Resource Surveys and Compliance with Section 106**

**Summary of Cultural Resource Surveys**

Rockies Express has completed cultural resource surveys of the Shelbyville Contractor Yard. No cultural resources were encountered during the field survey. Rockies Express has entered into a letter agreement with the Indiana Department of Natural Resources that allows Rockies Express to proceed with use of an area if no cultural resources are found. In accordance with Certificate Condition No. 141, Rockies Express is providing a copy of the applicable cultural resource survey field report and the signed letter agreement with Indiana as Attachment F.

**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT A**



**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT B**

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed *	Addressed In Current Request	NA
1	Follow construction procedures and mitigation measures described in application, supplemental filings (including responses to staff data requests), and identified in the EIS, unless modification is requested and approved.	X	X	
2	The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the REX-East Project.	X		
3	File affirmative statement that company personnel, EIs, and contractor personnel will be informed of EI's authority and have been trained on the environmental mitigation measures appropriate to their jobs.	X		
4	Authorized facility locations are shown in the EIS, as supplemented by filed alignment sheets. Modifications or site-specific clearances must be written and reference locations on alignment maps/sheets.	X	X	
5	File alignment maps/sheets and aerial photographs at 1:6,000-scale identifying all route realignments or facility relocations, and areas that would be used or disturbed and have not been previously identified for approval.		X	
6	File initial Implementation Plan.	X	X	
7	File updated weekly status reports prepared by the lead EI.	X		
8	Implement an environmental complaint resolution procedure to remain active for 3 years following construction.	X		
9	Receive written authorization from the Director of OEP before commencing service of the Project.	X		
10	File an affirmative statement that facilities have been constructed in compliance with all applicable conditions.	X		
11	Defer service from Duke Energy's planned transmission line until Ohio SHPO and FWS comments are filed and approval is obtained from Director of OEP.	X		
12	Where pipeline parallels PEPL's 300 and 400 lines, revise construction plans to overlap 15 feet of the existing PEPL permanent right-of-way.	X		
13	File revised construction plans to center pipeline within permanent right-of-way unless this decreases distance between pipeline and PEPL to less than 65 feet.	X		
14	File use and site-specific justification for size of each additional temporary workspace.			X
15	Do not exercise eminent domain authority to acquire additional workspace for topsoil storage.	X		
16	File revised Plan and Procedures to be consistent with tables 2.3-1 and 2.3-2 of the EIS.	X		
17	File site-specific justification for each additional workspace within 50 feet of a wetland or waterbody.			X
18	File bulk material disposal plan for excess rock, trees, brush, and other construction debris.	X		
19	File Hydrostatic Testing Plan.			X
20	Revise Procedures and alignment sheets for a 75-foot-wide construction right-of-way in wetlands; file site-specific justification for additional workspace.			X
21	File list of fluids used during micortunneling process.			X
22	File construction plan for locations where pipeline crosses or would be constructed along or with power line rights-of-way, and additional mitigation measures to prevent damage from fault currents and induced voltages.			X
23	File draft third-party environmental monitoring program; obtain proposals to provide monitoring services.	X		
24	Incorporate variation from MP 291.0 to MP 291.3 (McCarroll property) and file updated alignment sheets.			X
25	Incorporate variation from MP 300.5 to MP 301.0 (Rogers property) and file updated alignment sheets.			X

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed *	Addressed In Current Request	NA
26	Incorporate variation from MP 318.1 to MP 318.5 (Parker property) and file updated alignment sheets.			X
27	Incorporate variation from MP 370.0 to MP 370.6 (Alverson properties) and file updated alignment sheets.			X
28	Incorporate variation from MP 376.3 to MP 376.8 (Brattain property) and file update alignment sheets.			X
29	Incorporate variation from MP 380.4 to MP 380.6 (Yane property), and file updated alignment sheets and site-specific erosion and spill control measures to protect pond from contamination and siltation.			X
30	Incorporate variation from MP 383.1 to MP 384.0 (Morgan property) and file updated alignment sheets.			X
31	File site-specific construction plan for extended bore of Walnut Fork Creek and Pipe Creek Road.			X
32	Incorporate variation from MP 395.1 to MP 395.8 (White property) and file updated alignment sheets.			X
33	File documentation of easement agreements for variation from MP 401.5 to MP 402.4, or documentation of consultation with Schulte, Oetzel, and Stim of route variation that addresses their concerns. File revised alignment sheets, and a summary of environmental resources affected by revised route.			X
34	Incorporate variation from MP 405.1 to MP 405.9 (Minges and Schoenhart properties) and file updated alignment sheets.			X
35	Incorporate variation from MP 406.2 to MP 406.5 (Maus property) and file updated alignment sheets.			X
36	File documentation of easement agreements for variation from MP 417.8 to MP 418.4, or documentation of consultation with Storck-Stump and Hesford of route variation that addresses their concerns. File revised alignment sheets, and a summary of environmental resources affected by revised route.			X
37	Incorporate variation from MP 426.1 to MP 426.3 (Chase variation) and file updated alignment sheets.			X
38	Incorporate variation from MP 452.7 to MP 453.8 (Frye variation), file updated alignment sheets, and submit information to Village of Waynesville, Ohio Waste and Water Division of the Utilities Department, and other applicable agencies regarding construction in the WPA.			X
39	Incorporate variation from MP 458.1 to MP 458.9 (Mowrey and Jones properties) and file updated alignment sheets.			X
40	Incorporate variation from MP 459.8 to MP 460.0 (Rowe variation) and file updated alignment sheets.			X
41	Incorporate variation from MP 477.1 to MP 477.5 (Kile property) and file updated alignment sheets.			X
42	File documentation of easement agreements for variation from MP 521.9 to MP 523.3, or documentation of consultation with Scothorn and Petty of route variation that addresses their concerns. File revised alignment sheets, and a summary of environmental resources affected by revised route.			X
43	File revised alignment sheets of variation from MP 555.4 to MP 557.3 (Noll Route Variation).			X
44	File documentation of easement agreements for variation from MP 623.3 to MP 624.4, or documentation of consultation with Shaffer of route variation that addresses their concerns. File revised alignment sheets, and a summary of environmental resources affected by revised route.			X
45	Incorporate variation from MP 384.0 to MP 384.4 (Revised MP 384 Variation for residences, but starts at MP 384.0) and file updated alignment sheets.			X
46	Incorporate variation from MP 446.5 to MP 447.4 (FERC's Revised McCarty Variation), file updated alignment sheets, and provide landowner notification package to the newly affected landowner(s).			X

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed *	Addressed In Current Request	NA
47	File site-specific plan for oil or gas wells within the construction work area, both active and abandoned.			X
48	File plan for identification of karst features and mitigation for crossing features during construction.	X		
49	File contingency plan for HDDs in the karst areas.	X		
50	File Mining Subsidence Plan.	X		
51	File consultations with INDNR and ODNR regarding scour susceptibility of waterbodies crossed, and list of scour-prone areas.	X		
52	File High Water Contingency Plan for construction of Mississippi River crossing.			X
53	File Agricultural Wet Weather Contingency Plan.	X		
54	File locations by milepost of springs, seeps, and wells identified within 150 feet of construction work areas.		X	
55	File revised SPCC Plan to restrict refueling near wetlands and waterbodies, and private and municipal water supply wells.	X		
56	File site-specific spill plan to reduce spills/leaks from construction-related equipment at Hoosier Hills WPA.			X
57	File water quality testing plan for Hoosier Hills Regional Water District's existing wells; provide copies to Hoosier Hills.			X
58	Notify Hoosier Hills at least 48 hours prior to the start of construction between MPs 393 and 394.	X		
59	File agency consultations regarding construction in WPAs or other groundwater management areas crossed.	X		
60	File report identifying all water supply wells/systems damaged by construction and how repaired.			X
61	File documentation of consultation with organizations/individuals that withdraw potable water within 3 miles of Flatrock River (MP 362.7) and Somerset Creek (MP 553.2), and final consultations with City of Louisiana in Missouri.			X
62	File HDD geotechnical feasibility investigations, revised site-specific construction diagrams, and contingency plans for Embarras and Muskingum Rivers.			X
63	Cross all dry intermittent waterbodies using open-cut method and mitigation measures v(B)(2) through v(B)(4) of Procedures.	X		
64	File revised site-specific crossing plans showing restoration and mitigation measures for waterbodies listed in tables 4.3.5-1 and 4.6.2-1 of the EIS and applicable agency consultations.			X
65	File agency consultations prior to initiating alternative crossing method at Paint Creek or White River.			X
66	Successfully complete HDD or microtunneling of Little Miami River between MP 432.9 and MP 467.2.			X
67	Successfully complete HDD or microtunneling of Big Darby Creek between MP 494.1 and MP 533.9.			X
68	File site-specific plans that identify the source and discharge locations of hydrostatic test water for HDD of Little Miami River and Big Darby Creek.			X
69	Provide Hoosier Hills Regional Water District copy of hydrostatic test water analysis prior to Whitewater River discharge.			X
70	File site-specific blasting plans for each wetland with shallow bedrock prior to blasting.			X
71	File site-specific wetland restoration plan for Blackburn Island in consultation with COE, FWS, and MODNR.			X
72	Consult with COE, FWS, and appropriate agencies regarding forested wetlands and revise Wetland Mitigation Plan.			X
73	File consultations with COE, FWS, and appropriate agencies, and final Wetland Mitigation Plan.			X
74	No tree clearing between HDD drill entry site and HDD drill exit site.	X		

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed *	Addressed In Current Request	NA
75	Use onsite markers along permanent right-of-way to identify "no clearing" zones within vegetated riparian strips adjacent to waterbodies avoided during maintenance activities.	X		
76	File site-specific construction plan showing 75-foot right-of-way at classified forest from MP 331.9 and MP 332.2; justify any tree removal.			X
77	File Compensatory Mitigation Plan for classified forest areas in Indiana.			X
78	File Flood Control Permit from INDNR.			X
79	File CRP locations, agency correspondence, and mitigation measures to protect CRP lands.		X	
80	Use only certified weed-free straw or hay bales for sediment barriers or mulch during construction and revegetation of disturbed areas.	X		
81	File documentation of correspondence with Comprehensive Wildlife Conservation Strategy Coordinators for Missouri, Indiana, and Ohio.	X		
82	File documentation of consultations with FWS to determine need for bald eagle surveys. If surveys are required, file survey reports along with FWS comments.	X	X	
83	Comply with Conservation Guidelines.	X		
84	Develop construction schedules for Grassy Creek and the Upper Mississippi COA.			X
85	Comply with waterbody crossing time windows established by the ILDNR, INDNR, and OPSB.	X		
86	Use dry-ditch method at waterbodies considered fisheries of special concern and < 30 feet wide; request approval for wet crossing method.	X		
87	Implement measures for habitat unit IDs surveyed in 2007 and for which Indiana bats were identified but no nursery roost trees were identified.	X		
88	Implement measures for habitat unit IDs surveyed in 2007 and for which Indiana bats were identified and nursery roost trees were identified.	X		
89	Complete bat surveys prior to construction and implement mitigation measures for 2008 surveys.		X	
90	File updated list of areas to be surveyed for Indiana bats identifying the habitat unit IDs by milepost.	X		
91	File specific mitigation measures in accordance with BA that apply within an identified habitat unit ID.		X	
92	Do not burn trees, limbs, brush, and debris in the right-of-way within 500 feet of suitable habitat associated with each habitat unit ID.	X		
93	Do not use herbicides or pesticides for maintenance of the permanent right-of-way or adjacent forested areas.	X		X
94	If Mississippi River, Wabash River, Big Walnut Creek, or Big Darby Creek crossing fails, halt construction activities and file site-specific alternate waterbody crossing plans in consultation with FERC, COE, and FWS.			X
95	Do not begin alternative crossing of the Mississippi River, Wabash River, Big Walnut Creek, or Big Darby Creek until FERC consults with FWS and COE, and approval is received in writing.			X
96	Use dry-ditch crossing method at Sugar Creek (MP 484.3).			X
97	Limit specific construction activities within 300 feet of documented nursery roost trees and alternative roost trees identified.	X		
98	Have FWS-qualified biologist supervise tree clearing operations in Indiana bat habitat.	X		
99	Implement mitigation measures if whooping cranes are encountered in vicinity of construction work area.	X		
100	File mussel survey reports for Anderson Fork, East Fork Paint Creek, Little Walnut Creek, Tributary to Burley Run, Brush Creek, Buffalo Fork, Tributary to Crabapple Creek, and Cat Run in Ohio, documentation of consultation with FWS and ODNR, and conservation measures.			X

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed <sup>a</sup>	Addressed In Current Request	NA
101	Do not withdraw hydrostatic test water from Sugar Creek, the Scioto River, Deer Creek, and Big Darby Creek or their tributaries.	X		
102	If Scioto River, Deer Creek in Deer Creek State Park, or Big Darby Creek cross fails, halt construction and file site-specific alternate waterbody crossing plans in consultation with FERC, COE, and FWS.	X		
103	Do not begin alternative crossing of Scioto River, Deer Creek in Deer Creek State Park, or Big Darby Creek until FERC consults with FWS and COE, and approval is received in writing.	X		
104	File running buffalo clover survey reports and documentation of FWS consultation, and implement mitigation measures.	X		
105	Develop and implement 5-year post-construction monitoring program to evaluate crop productivity; file quarterly reports for 5 years following construction.	X		
106	Employ two Agricultural Inspectors for Spreads 1, 2, 3, 4, and 5.	X		
107	Hire local drain tile contractors to install/repair drain tiles damaged or rerouted due to construction activities.	X		
108	Identify and mark damaged tile lines, provide information to landowner and local Soil and Water Conservation District, and keep in company's landowner records.	X		
109	Bury pipeline 5 feet deep where crossing agricultural fields unless otherwise negotiated with landowners.	X		
110	File documentation that landowners with 3 feet of cover in agricultural fields were offered opportunity of 5 feet of cover.			X
111	File site-specific plans in consultation with affected landowners describing how horse and operation impacts would be avoided, minimized, or mitigated between MP 523 and MP 524, and at MP 460.			X
112	Reduce construction right-of-way to 75 feet through forested portion of Wilson Friendly Maple Farm.			X
113	Develop plan to maintain safe egress at the Chester Township Fire Station.			X
114	File site-specific residential plans and evidence of landowner concurrence if construction/fencing are located within 10 feet of residence.			X
115	Identify septic systems and provide Septic System Contingency Plan to property owners.	X		
116	File consultations with Federal Aviation Administration and the Ohio Department of Transportation Office of Aviation about any restrictions in the vicinity of the Fairfield County Airport.			X
117	Maintain access or file mitigation plan for boat ramp adjacent to HDD exit site of the Mississippi River crossing.			X
118	File plan for canoe portage at West Fork White River during construction.			X
119	Maintain public access to B&O trail and avoid tree cutting at the crossing location.			X
120	File consultations with Camp Woodsmoke regarding crossing schedule and additional safety mitigation.			X
121	File and provide to NPS site-specific plan for each tributary of the Little Miami River.			X
122	File consultations with NPS regarding need for mussel and fish spawning surveys at tributaries of Big Darby Creek crossed; file results of any required surveys.			X
123	File plan for construction and restoration of the Little Miami Scenic State Park, maintaining safe public access through construction area, and revegetating disturbed areas.			X
124	File site-specific crossing, mitigation, and restoration plan for Caesar Creek State Park and Wildlife Area, maintaining safe public access through construction area, and revegetating the disturbed areas.			X
125	File site-specific crossing (including the HDD crossing of Deer Creek Lake), mitigation, and restoration plan for Deer Creek State Park and Wildlife Area, and maintaining safe public access through construction area.			X

ATTACHMENT B				
Rockies Express Pipeline-East Project Certificate Conditions Applicability / Status				
No.	Condition Requirement (summarized)	Response Previously Filed <sup>a</sup>	Addressed In Current Request	NA
126	File site-specific crossing, mitigation, and restoration plan for pipeline construction activities in Perry State Forest and Blue Rock State Forest.			X
127	Work with White Oak Exotic Hunting Preserve to determine construction timing.			X
128	File plans for avoidance or mitigation at sites 23PI365 and 23PI294, and Missouri SHPO comments documentation.			X
129	Provide quarterly updates of consultations between Rockies Express, Missouri SHPO, Native American tribes, and landowner concerning human remains identified in Missouri.			X
130	Provide archaeological monitor between Missouri State Road AD and Salt River HDD exit point.			X
131	Provide archaeological monitor in vicinity of Montezuma Mound Group (11PK1245) from HDD exit point west to about MP 69.7.			X
132	File plans for crossing prehistoric mound sites 11PK89, 11PK1709 and 11PK1733, and Illinois SHPO comments.			X
133	Submit research plans to Indiana SHPO for additional testing in vicinity of 12FR125b, and file reports and SHPO comments.			X
134	Provide archaeological monitor in vicinity of former mound site 12SH12 from Van Pelt Ditch to County Road S 25 E.			X
135	Provide Indiana SHPO with project documents requested to evaluate historic properties, and file SHPO comments.			X
136	File treatment plan for Wabash & Erie Canal and Indiana SHPO comments.			X
137	File site-specific construction plan for horizontal bore of Whitewater Canal, developed with Indiana SHPO.			X
138	File assessment of project effects on Hunt-Forman Farm, treatment plan for the property, and Ohio SHPO comments.			X
139	Provide documentation/alignment sheets showing avoidance or Phase II testing of site 33FE293; file Phase II report and Ohio SHPO comments.			X
140	File plans for avoidance or mitigation and documentation of SHPO comments on plans for several sites.			X
141	Defer construction and use of all facilities until cultural resources surveys and SHPO consultations have been completed.		X	
142	File plan for Indianapolis, Indiana and Cincinnati-Hamilton, Ohio-Kentucky-Indiana nonattainment regions regarding monitoring compliance with Tier 2 and Tier 3 emissions, and emissions remain under General Conformity Thresholds.	X		
143	File updated site-specific plans for each HDD entry or exit site where noise mitigation is proposed.			X
144	File noise analysis for HDD sites not evaluated in the EIS.			X
145	Make all reasonable efforts to ensure predicted noise levels from compressor stations are not exceeded at nearby NSAs, and file noise surveys no later than 60 days after placing each station.			X
146	File survey results for Sny Levee District levee settlement monitoring every 6 months for 5 years after installation.	X		
<sup>a</sup> Response to Certificate Condition was previously provided with Rockies Express' Initial Implementation Plan and acceptance of the Order Issuing Certificate, filed with the Federal Energy Regulatory Commission in June 2008.				

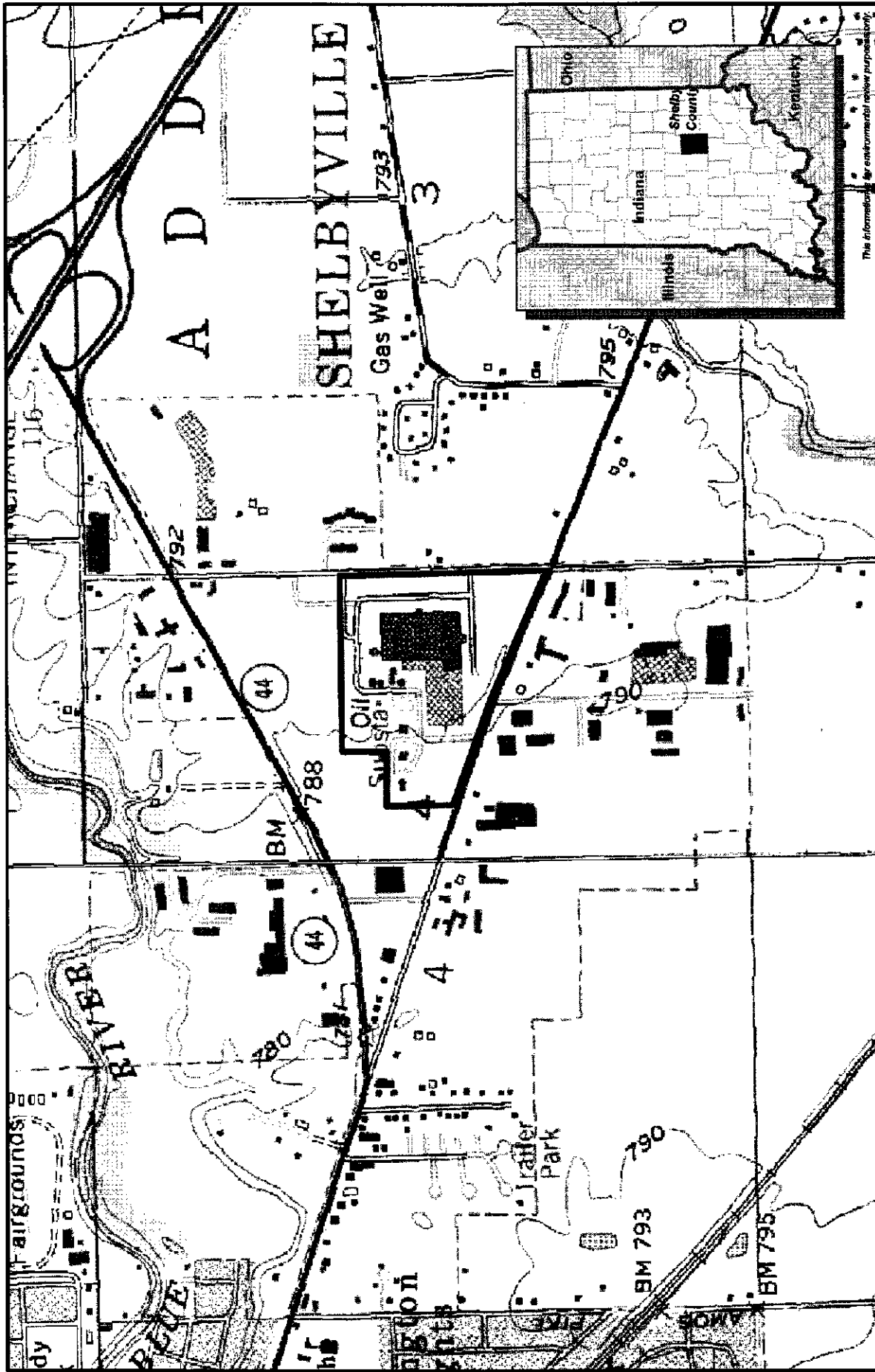
**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT C**



**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT D**

**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT E**

**ROCKIES EXPRESS PIPELINE-EAST PROJECT**  
**REQUEST FOR NOTICE TO PROCEED WITH SHELBYVILLE**  
**CONTRACTOR YARD**  
**ATTACHMENT F**



Site Boundary



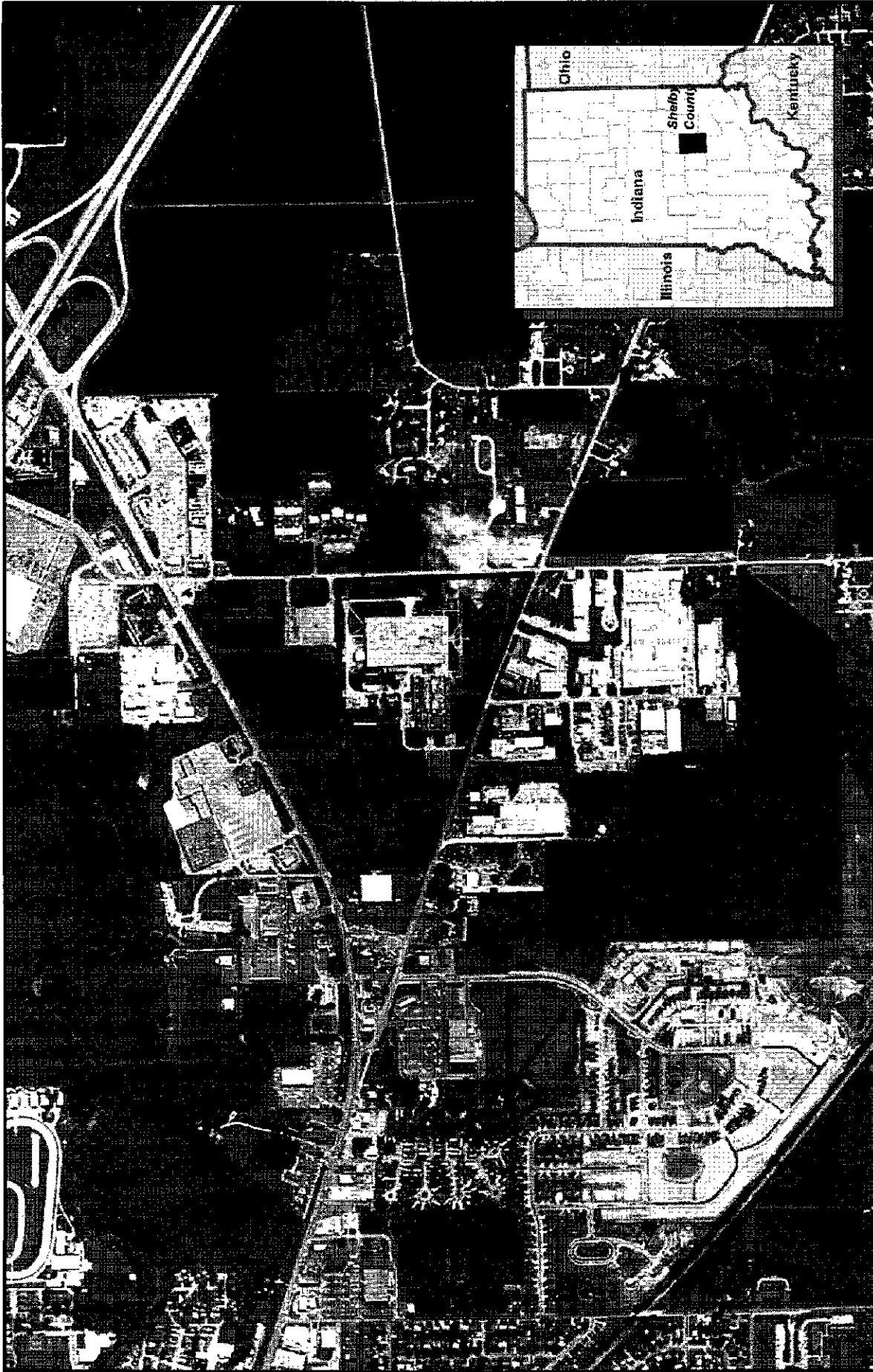
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# **Rockies Express Pipeline - East Project** **Shelbyville Contractor Yard** **Shelby County, Indiana**



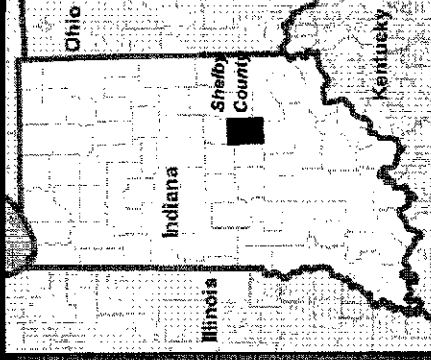
This information is for informational purposes only.



Site Boundary



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# Rockies Express Pipeline - East Project

## Shelbyville Contractor Yard

### Shelby County, Indiana



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## LEASE

**THIS LEASE**, entered into by and between partnership J.L. Wesley Enterprises Inc. a corporation (hereinafter referred to as "Lessor") and Sheehan Pipe Line Construction Co., an Oklahoma General Partnership (hereinafter referred to as "Lessee")

**WITNESSETH THAT** Lessee desires to lease the twenty (21.12) acres more or less of undeveloped property located as a part of the Southwest Quarter of Section 4, Township 12 North 7 East, East of the Second Principal Meridian in Addison Township, Shelby County Indiana. The legal description to said Real Estate is attached hereto as Exhibit "A" and incorporated herein. Said property is commonly referred to as 1 Progress Road Shelbyville, Indiana 46176 hereinafter "Premises" or "Leased Premises".. Lessee understands and acknowledges that it is subleasing said property from the Lessor. This lease is contingent on the property passing all FERC inspections and any and all local and state permitting any and all client requirements prior to occupation of the property by Lessee. This lease is contingent on being able to obtain permits to have Off Road/ On Road Diesel Fuel and Gasoline Storage on Site. If any of the above permits/permissions are not available this lease will become null and void and uncollectible by the Lessor against the Lessee. Lessee shall be released and relieved of all obligations hereunder.

Now, therefore, in consideration of the mutual promises and the rent provided herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **LEASED PREMISES.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Real Estate.
2. **LEASE PAYMENT and LEASE TERM.**  
The Lease Payment shall consist of:
  - (a) The sum of Sixty -Five Thousand Nine Hundred Fifty Dollars and no cents (\$65950.00) shall be paid on the first day of the lease by Lessee to Lessor in compensation for the Lessors obligations as set out in Number 3 of this Lease.
  - (b) The sum of Fifteen Thousand Dollars and no cents (\$15,000.00) shall be paid by Lessee to Lessor on the first day of the lease and a similar and equal sum shall be paid by Lessee to Lessor on the first day of each calendar month during this lease. Lessee hereby agrees to pay the first month and ½ rental in advance at signing of the lease. The sum of \$22,500 will be paid to Lessor by Lessee at the signing of this lease. Following this initial payment the monthly rental of \$15,000per month will be due and payable on the fist of the month to the Lessor.
  - (c) No security deposit shall be required of Lessee. This Lease shall be for a period of 6 months starting on the 16th day of June 2008. If this lease is extended by the written consent of both parties then the Lease will be construed as a month-to-month lease and Lessee shall pay the

sum of Fifteen Thousand Dollars each month (\$15,000.00) on the first day of each month during said lease term. If the Lease is mutually extended by both parties as set out above then all other provisions of this Lease shall remain in full force and effect. However Lessee must give Notice to the Lessor forty-five (45) days in advance of the termination of the lease, if Lessee desires to extend the term of this Lease.

3. **USE OF LEASED PREMISES/LESSOR'S OBLIGATIONS TO INSTALL IMPROVEMENTS.** Lessee shall use the Leased Premises for the business reasons as state herein. Said use shall include but not be limited to:
- a. Lessee shall not use the Leased Premises or maintain them in any manner constituting a violation of any ordinance, statute, regulation, or order of any governmental authority, nor shall Lessee maintain, permit or suffer any nuisance to occur or exist on the Leased Premises.
  - b. Lessor shall remove the dirt berm and grade site where berm is removed. Dirt berm is located directly south of the concrete pad.
  - c. The Leased Property shall be utilized to store equipment; vehicles, trailers, contained fuel and such items as shall be needed by the Lessee or any of its sub lessees. All contained fuel storage shall be in compliance with local, state, and federal laws. Containers shall have beneath them a sufficient catch basin, with a rain cover, to secondarily stored fuel.
  - d. Lessor shall provide two entrances to said parking area.

Within the time set forth in Paragraph 20 hereof, Lessor shall prepare the 21.2 acre more or less to be used as a staging area for the Lessee to use in the storage of equipment, trucks, vehicles, trailers for the installation of a nearby gas line. 21.2 acre lot will include removing I beam pillars from the concrete pad and removing all loose debris on said concrete pad. Lessor shall fill in all holes on the said concrete pad (excluding all truck docks) with a compactable aggregate stone appropriate and reasonable for this type of use.

4. **SURRENDER AND HOLDOVER**  
Upon the expiration or sooner termination of this Lease Agreement, Lessee shall surrender to Lessor the Leased Premises together with all the property affixed to the Leased Premises cleaned and in the same order and condition in which Lessee received them. At the termination of the lease a meeting will be held between representatives of Sheehan Pipeline Construction and J.L. Wesley Enterprises to specify on what improvements will be done to the lot and confirm that no fixtures will remain on site. If Lessee shall remain in possession of the Leased

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All parties' consent to the Shelby County Courts (Indiana) in deciding all issues and matters pertaining to this Lease. This Lease shall be construed in accordance with the Laws of the State of Indiana.

**15. Utilities and Building Maintenance**

Lessee shall be obligated to pay all utilities associated with the use of the Leased Premises. Lessee shall be responsible for cutting the grass and insuring their own personal property. Lessor is not responsible for providing insurance for Lessee's property.

**Utility Service.** The Premises does not currently have electric and/or internet service. If Lessee wishes to have electric internet service to the Premises, Lessee shall, at its sole cost and expense, obtain the installation of these services. Lessee shall be solely responsible to pay all amounts due to utility companies. Unless otherwise agreed to in writing by the Lessor, upon the termination of this Lease, Lessee, at its sole cost and expense, shall remove all structures, cables and related materials that were installed to provide electric service and internet service.

The Premises does not currently have water or sewer service. Lessee, at its sole cost and expense, shall obtain the installation of water service from Indian American Water Corp., and Lessee shall be solely responsible to pay all amounts due to the Indian American Water Corp. Upon the termination of this Lease, Lessee shall, with the cooperation of Lessor, arrange for the water service to be transferred in the name of Lessor.

Lessee will be using portable toilet facilities at the Premises, and Lessee agrees that no waste of any kind from the portable toilet facilities will be dumped, drained, or applied to the Premises in any fashion.

16. **Restoration of Real Estate.** Lessee shall be obligated but not limited to remove all contaminants on the property such as petroleum spills and to dispose of said contaminants in accordance with applicable law that were caused by the Lessee. All foreign debris such as trash, etc. will be properly disposed of and removed by Lessee.
17. **Insurance** Lessee shall be obligated to carry standard casualty and liability insurance on the real estate in an amount of no less than One million dollars (\$1,000,000.00) per person and Two Million (\$2,000,000.00) per occurrence. Said insurance shall list the Lessor as co-insured or protected party. The Lessee shall require any sub-lessee to name the Lessor as an additional insured.



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Premises with the consent of the Lessor, then the Lessee shall be considered the Lessee from month to month and subject to all the other applicable terms of this Lease. Lessee shall pay to Lessor the sum of Fifteen Thousand Dollars (\$15,000) per month during the month-to-month tenancy.

5. **ASSIGNMENTS AND SUBLETTING**

Lessee shall be allowed to sublease or transfer this Lease in whole or in part, or sublet the Leased Premises or any part thereof, or grant a license or concession in connection wherewith upon first obtaining the written permission of Lessor.

6. **ALTERATION OF LEASED PREMISES**

Lessee shall not cause or permit any alterations, additions or changes of or upon any part of the Leased Premises except as stated herein. Lessor shall not unreasonably withhold permission for alterations, additions, or changes to the leased premises in order to accomplish or accommodate the business plans of Lessee or its Sub Lessee. Any rock applied by Lessee to allow for work to be completed shall remain on the property and will not be removed by the Lessee.

7. **DAMAGE OR DESTRUCTION**

**a. Total Destruction**

In the event the Leased Premises are damaged or destroyed by fire, earthquake or any other casualty to such an extent as to render the same undesirable in whole or in substantial part, Lessee shall give Lessor immediate notice of the occurrence of any such casualty, and either Lessor or Lessee shall have the option to terminate this Lease unless Lessor, within thirty (30) days after receipt of such notice notifies Lessee of its election to repair or to restore the Leased Premises and if Lessee does not terminate this Lease, Lessor shall complete such repairs within sixty (60) days after such casualty and all rent due hereunder shall be abated during the period from the day following the casualty until completion of the repair or restoration in the same proportion as the Unleassable portion of the Leased Premises bears to the former rentable are thereof.

**b. Partial Destruction.**



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- a. The failure of Lessee to pay any installment of rent within five (5) days of the due date. The failure of Lessee to pay to perform or observe any other covenant, term, or condition of this Lease to be performed or observed by Lessee and if curable, the failure continues for fifteen (15) days after written notice and demand therefore is served upon the Lessee by Lessor.

11. **ADVANCES AND INTEREST.**

Upon the occurrence of any Event of Default, Lessor may if any default has not been cured, cure that default for the account and at the expense of the Lessee. All sums as to which Lessee is in default of payment shall bear interest at the rate of Eighteen (18%) until paid.

12. **ATTORNEY'S FEES.**

Each party shall pay its own legal costs and attorney's fees incurred in enforcing against any covenant, term or condition of this lease.

13. **GENERAL AGREEMENT OF PARTIES.**

- a. This Lease shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the parties. This provision, however, shall not be construed to permit the assignment of this Lease except as may be permitted hereby.
- b. When applicable, use of the singular form of any word shall mean or apply to the plural and the neuter form shall mean or apply to the feminine or masculine.
- c. The captions and article numbers appearing in this Lease are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of such provisions.
- d. No waiver by Lessor of any default by Lessee shall be effective unless in written, nor operate as a waiver of any other default or of the same default on a future occasion. Lessor's acceptance of rent shall not be deemed a waiver as to any preceding default. All notices to be given hereunder shall be deemed sufficiently given when in writing and (a) actually served on the party to be notified or (b) placed in an envelope directed to the party to be notified at the following addresses and deposited in the United States mail by certified or registered mail, postage prepaid:

- 1. If to Lessor at: 101 N. 400 E Greenfield, Indiana 46140
- 2. If to Lessee at: 2431 East 61 Street, Suite 700 Tulsa, Oklahoma 74136-1267

14. **Jurisdiction**

18. **Taxes and Assessments:** Lessee is not responsible for payment of real estate taxes and assessments associated with the real estate during the terms of the lease.
19. **Time Period for Installation of Eighteen Acre Lot and Improvements.** Lessor shall be allowed two weeks from the first day of the Lease to complete the four-acre lot and other obligations as outlined by paragraph three of this agreement. This time limit shall be reasonably extended by adverse weather conditions.
20. **No Liens.** Lessee will forthwith cause any mechanic's, materialsman's or Other liens which may be recorded, perfected or otherwise attach to all or any portion of the Real Estate or any portion thereof as a result Lessee's activities to be discharged or released of record or fully bonded by surety satisfactory to Lessor.
- a. **Quiet Enjoyment.** Upon Lessee paying the rent reserved hereunder and observing and performing all of the covenants, conditions, and provisions on the Lessee's part to be observed and performed hereunder, Lessor warrants that Lessee shall have peaceable and quiet possession of the Real Estate for the entire term hereof and any extension or renewal thereof, subject to all provisions of this Lease.
21. **Effect of Breach.**
- (A) **Lessee Default:** If default is made in the payment of rent when due, or if Lessee shall be in default or otherwise fail in the performance of any obligations of Lessee under the Lease, Lessor shall have the right to terminate this Lease by giving Lessee written notice or intention to terminate, setting forth the default or defaults. All of the Lessee's future rights and obligations hereunder shall cease and terminate without further notice fifteen (15) days after such written notice is given, unless prior to the expiration thereof Lessee shall have fully cured or has taken reasonable steps or actions to begin to cure the default or defaults (including failure to pay rent when due) to Lessor's satisfaction, which satisfaction shall not be unreasonably withheld. If the default or defaults are not so cured or reasonable steps to commence curing default or defaults have not begun within said 15-day period and this Lease is thereby terminated, Lessor may enter the Premises without notice or demand.

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(B) Lessor Default: If Lessor shall fail to perform any of the obligations of Lessor under this Lease and such obligations are ones which Lessee can perform or have performed, Lessee may notify Lessor in writing of its intention to do so, and if Lessor fails to perform such obligations within fifteen (15) days from the giving of such notice, Lessee may perform such obligations or have them performed and subtract the cost of doing so from the rent.

**22. Hazardous Materials.**

Lessor represents and warrants to Lessee that, as of the Commencement Date, Lessor believes the Premises to be free of and from all environmentally hazardous materials except those disclosed by Lessor and listed in the summary reports attached hereto and made part hereof. Lessor shall indemnify and hold Lessee harmless from any and all claims, damages, fines, judgments, penalties, cost, liabilities or losses, including any attorneys' fees relating or pertaining to any hazardous materials or conditions whether disclosed or undisclosed present on the Premises prior to Lessee's occupancy thereof. Lessor further represents and warrants that no conditions or materials present on the Premises are harmful to the Lessee's employees, or capable of interfering with the work that is intended to be performed by Lessee on the Premises.

The Lessee will not cause or permit any environmentally hazardous materials (excluding any fuel or petroleum products) to be used, stored, generated or disposed of on or in the Premises by Lessee, the Lessee's agents, employees, contractors or invitees, without obtaining the Lessors' prior written consent. If environmentally hazardous materials are used, stored generated or disposed of on or in the Premises or if the Premises become contaminated in any manner for which the Lessee is legally liable, the Lessee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, a decrease in the value of the Premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on the marketing of the space, and any and all sums paid for settlement of claims, attorneys fees, consultant and expert fees) arising during or after the Lease Term and arising as a result of such investigation of the site or any cleanup, removal or restoration mandated by a federal state or local agency or political subdivision. Without limitation of

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the foregoing, if Lessee's activities on the Premises results in such contamination, the Lessee will promptly, at its sole expense, take all necessary actions to return the Premises to the condition existing prior to the presence of any such environmentally hazardous materials on the Premises. The Lessee must first obtain the Lessors approval for any such remedial action.

**23. Estoppel Certificate.**

Lessee agrees to execute, acknowledge and deliver to and in favor of the Lessor or any proposed mortgagee or purchaser of the Premises, within twenty (20) days after receipt of written request by Lessor an estoppel certificate stating: (a) whether this Lease is in full force and effect; (b) whether this Lease has been modified or amended and , if so, identifying and describing any such modification or amendment; (c) the date to which rent and any other charge has been paid, and (d) whether Lessee knows of any default on the part Lessor or has any claim against Lessor and, if so, specifying the nature of such default or claim.

**24. Entry by Lessor.**

Lessor or Land Owners, with prior reasonable notice to Lessee, shall have the right to enter the Real Estate for the purpose of inspection and remedy of any pre-existing conditions with minimal interference to the Lessee.

**25. Severability**

If any term or provision of this Lease shall to any extent be invalid, void, illegal or unenforceable, such term or provision shall in no way affect, impair or invalidate any other provision hereof and all other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease on this 15<sup>th</sup> day of JUNE, 2008 and if this Lease is executed in counterparts, each shall be deemed an original.

**LESSOR**

**J. L. Wesley Enterprises, Inc**

Dated: 6-15-08

BY: [Signature]  
**Jack L. Wesley II Vice President**

**SUBSCRIBED AND SWORN** to before me, a Notary Public in and for said County and State, this 15 day of June, 2008

Notary Public: [Signature]  
Printed Name: Leah S messmore Son  
Commission Expires: 1-27-2016  
County of Residence: Hancock  
State Of: Indiana



**LESSEE**

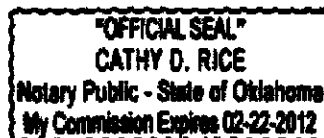
**Sheehan Pipe Line Construction Co.**

Dated: 6-18-08

BY: [Signature]  
**VP/CEO**

**SUBSCRIBED AND SWORN** to before me, a Notary Public in and for said County and State, this 18<sup>th</sup> day of June, 2008.

Notary Public: [Signature]  
Printed Name: Cathy D. Rice  
Commission Expires: 02-22-2012  
County of Residence: Jules  
State Of: Oklahoma



Rockies Express Pipeline-East Project  
Shelbyville Contractor Yard

ID	Task Name	Start	Finish	May	June	July	August	September	October	November	December	January	February
1	Surveys and Reports	Wed 8/6/08	Mon 8/11/08										
2	Cultural Resources	Wed 8/6/08	Wed 8/6/08				8/6						
3	Waterbody and Wetland	Wed 8/6/08	Mon 8/11/08				8/11						
4	Biological	Wed 8/6/08	Mon 8/11/08				8/11						
5	Training	Mon 8/18/08	Fri 8/22/08										
6	Construction	Mon 8/18/08	Fri 1/30/09										
7	Restoration	Fri 1/30/09	Fri 2/13/09										

Task	Milestone	External Tasks
Split	Summary	External Milestone
Progress	Project Summary	Deadline

Rockies Express Pipeline  
East Project - Shelbyville CY



Document Content(s)

attachment e_survey and crrspndc T&E.PDF.....	1-10
attachment f_Arch Survey Form.PDF.....	11-11
attachment f_survey form, LOA.PDF.....	12-16
Letter Contractor Yard.PDF.....	17-18
NTP with ShelbyvilleCY_August 2008.PDF.....	19-35
attachment a_maps.PDF.....	36-37
attachment c_ShelbyvilleINDYardLease.PDF.....	38-47
attachment d_Gantt for CY.PDF.....	48-48