



**Section 404/401 Joint Application
for Department of Army Permit**

**MIA – Great Miami Bridge Connector
PID 84756
Bikeway over Great Miami River**

Prepared for:
Ohio Department of Transportation
1930 West Broad Street
Columbus, Ohio 43223

Date:
February 2013

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APPLICATION FOR OHIO EPA SECTION 401 WATER QUALITY CERTIFICATION

Effective October 1, 1996
Revised August, 1998

This application must be completed whenever a proposed activity requires an individual Clean Water Act Section 401 Water Quality Certification (Section 401 certification) from Ohio EPA. A Section 401 certification from the State is required to obtain a federal Clean Water Act Section 404 permit from the U.S. Army Corps Engineers, or any other federal permits or licenses for projects that will result in a discharge of dredged or fill material to any waters of the State. To determine whether you need to submit this application to Ohio EPA, contact the U.S. Army Corps of Engineers District Office with jurisdiction over your project, or other federal agencies reviewing your application for a federal permit to discharge dredged or fill material to waters of the State, or an Ohio EPA Section 401 Coordinator at (614) 644-2001.

The Ohio EPA Section 401 Water Quality Certification Program is authorized by Section 401 of the Clean Water Act (33 U.S.C. 1251) and the Ohio Revised Code Section 6111.03(P). Ohio Administrative Code (OAC) Chapter 3745-32 outlines the application process and criteria for decision by the Director of Ohio EPA. In order for Ohio EPA to issue a Section 401 certification, the project must comply with Ohio's Water Quality Standards (OAC 3745-1) and not potentially result in an adverse long-term or short-term impact on water quality. Included in the Water Quality Standards is the Antidegradation Rule (OAC Rule 3745-1-05), effective October 1, 1996, revised October, 1997 and May, 1998. The Rule includes additional application requirements and public participation procedures. **Because there is a lowering of water quality associated with every project being reviewed for Section 401 certification, every Section 401 certification applicant must provide the information required in Part 10 (pages 3 and 4) of this application.** In addition, applications for projects that will result in discharges of dredged or fill material to wetlands must include a wetland delineation report approved by the Corps of Engineers, a wetland assessment with a proposed assignment of wetland category (ies), official documentation on evaluation of the wetland for threatened or endangered species, and appropriate avoidance, minimization, and mitigation as prescribed in OAC 3745-1-50 to 3745-1-54. Ohio EPA will evaluate the applicant's proposed wetland category assignment and make the final assignment.

Information provided with the application will be used to evaluate the project for certification and is a matter of public record. If the Director determines that the application lacks information necessary to determine whether the applicant has demonstrated the criteria set forth in OAC Rule 3745-32-05(A) and OAC Chapter 3745-1, Ohio EPA will inform the applicant in writing of the additional information that must be submitted. The application will not be accepted until the application is considered complete by the Section 401 Coordinator. An Ohio EPA Section 401 Coordinator will inform you in writing when your application is determined to be complete.

Please submit the following to "Section 401 Supervisor, Ohio EPA/DSW, P.O. Box 1049, Columbus, Ohio 43216-1049:

- Four (4) sets of the completed application form, including the location of the project (preferably on a USGS quadrangle) and 8-1/2 x 11" scaled plan drawings and sections.
- One (1) set of original scaled plan drawings and cross-sections (or good reproducible copies).

(See Application Primer for detailed instructions)

1. The federal permitting agency has determined this project: (check appropriate box and fill in blanks)

a. _____ requires an individual 404 permit/401 certification- Public Notice # (if known)

b. X requires a Section 401 certification to be authorized by Nationwide Permit # 14

c. _____ requires a modified 404 permit/401 certification for original Public Notice #

d. _____ requires a federal permit under _____ jurisdiction identified by # _____

e. _____ requires a modified federal permit under _____ jurisdiction identified by # _____

2. Application number (to be assigned by Ohio EPA):

3. Name and address of applicant:
Jerry Wray, Director
Ohio Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

Telephone number during business hours:
() (Residence)
(614) 644-0377 (Office)

3a. Signature of Applicant:

Date:

4. Name, address and title of authorized agent:
Adrienne Earley
Ohio Department of Transportation (WPU)
1980 West Broad Street
Columbus, Ohio 43223

Telephone number during business hours:
() (Residence)
(614) 446-2159 (Office)

4a. Statement of Authorization: I hereby designate and authorize the above-named agent to act in my behalf in the processing of this permit application, and to furnish, upon request, supplemental information in support of the application.

Signature of Applicant:

Date:

5. Location on land where activity exists or is proposed. Indicate coordinates of a fixed reference point at the impact site (if known) and the coordinate system and datum used.

Address:

Farrington Road/Peterson Road (Latitude: 40.105833, Longitude: -84.228889)

Street, Road, Route, and Coordinates, or other descriptive location

50200015080001	Miami	Staunton	Ohio	45373
Watershed	County	Township	City	State
				Zip Code

6. Is any portion of the activity for which authorization is sought complete? Yes No
If answer is "yes," give reasons, month and year activity was completed. Indicate the existing work on the drawings.

7. List all approvals or certifications and denials received from other federal, interstate, state or local agencies for any structures, construction, discharge or other activities described in this application.

<u>Issuing Agency</u>	<u>Type of Approval</u>	<u>Identification No.</u>	<u>Date of Application</u>	<u>Date of Approval</u>	<u>Date of Denial</u>
USFWS	Ecological MOA		9/30/10	12/1/10	
ODNR	Ecological MOA		9/30/10	11/8/10	
USFWS	Biological Opinion (Section 7)	31420-2011-F-0021	12/13/11	5/1/12	
ODOT	Cultural Resources – IOC	PID 84756	N/A	9/8/10	
ODOT	CE (NEPA Document)	PID 84756	N/A	7/10/2012	
FEMA	Flood Plain Permit	255	N/A	11/19/10	

8. **DESCRIPTION OF THE ACTIVITY (fill in information in the following four blocks - 8a, 8b, 8c & 9)**

8a. Activity: Describe the Overall Activity:

The proposed multi-use trail will extend north from the terminus of the MIA-Great Miami Bikeway Phase 2, will cross the Great Miami River on a new bridge, continue north through the wooded floodplain of the Great Miami River, then cut across an agricultural field to terminate at the new parking lot off Farrington Road/Peterson Road. Minor temporary and permanent impacts will result from the construction of the proposed bridge over the Great Miami River. The total length of the multi-use trail will be approximately 1900'. Additional details provided in Attachment A (Block 8A - Continued).

8b. Purpose: Describe the purpose, need and intended use of the activity:

The proposed project is intended to address a gap in the existing Great Miami River Recreation Trail System and provide improved bicycle/pedestrian access to area points of interest.

See Attachment A (Block 8B - Continued) for additional details.

8c. Discharge of dredged or fill material: Describe type, quantity of dredged material (in cubic yards), and quantity of fill material (in cubic yards).

Dredge materials:

Great Miami River (GMR): 1,665 cu. yds of clean non-erodible fill, removed upon completion of bridge construction activities.

Fill materials:

Temporary: GMR: 1,665 cu. yds; consisting of clean non-erodible fill for construction causeway.

Permanent: GMR: 70 cu. yd; consisting of 61 cu. yd of concrete and 9 cu. yd of RCP placed below the OHWM for the support structure within the GMR and protection of the support abutments on each bank of the GMR.

9. Waterbody and location of waterbody or upland where activity exists or is proposed, or location in relation to a stream, lake, wetland, wellhead or water intake (if known). Indicate the distance to, and the name of any receiving stream, if appropriate.

The proposed project will impact the main channel of the Great Miami River (GMR) approximately 1,000 ft south of the existing Peterson Road Bridge over the GMR. The adjacent upland areas will be impacted to complete the upland construction activities of the multiuse trail. The Great Miami River, a Traditional Navigable Water (TNW), that has OEPA use designations Exceptional Warmwater Habitat (EWH), Primary Contact Recreation (PCR), agricultural water supply (AWS), and industrial water supply (IWS). The Great Miami River discharges into the Ohio River at Ohio River Mile 291, approximately 113 miles downstream of the proposed project area.

10. To address the requirements of the Antidegradation Rule, your application must include a report evaluating the:

- o Preferred Design (your project) and Mitigative Techniques
- o Minimal Degradation Alternative(s) (scaled-down version(s) of your project) and Mitigative Techniques
- o Non-Degradation Alternative(s) (project resulting in avoidance of all waters of the state)

At a minimum, item a) below must be completed for the Preferred Design, the Minimal Degradation Alternative(s), and the Non-Degradation Alternative(s), followed by completion of item b) for each alternative, and so on, until all items have been discussed for each alternative (see Primer for specific instructions).

10a) Provide a detailed description of any construction work, fill or other structures to occur or to be placed in or near the surface water. Identify all substances to be discharged, including the cubic yardage of dredged or fill material to be discharged to the surface water.

10b) Describe the magnitude of the proposed lowering of water quality. Include the anticipated impact of the proposed lowering of water quality on aquatic life and wildlife, including threatened and endangered species (include written comments from Ohio Department of Natural Resources and U.S. Fish and Wildlife Service), important commercial or recreational sport fish species, other individual species, and the overall aquatic community structure and function. Include a Corps of Engineers approved wetland delineation.

- 10c) Include a discussion of the technical feasibility, cost effectiveness, and availability. In addition, the reliability of each alternative shall be addressed (including potential recurring operational and maintenance difficulties that could lead to increased surface water degradation.)
- 10d) For regional sewage collection and treatment facilities, include a discussion of the technical feasibility, cost effectiveness and availability, and long-range plans outlined in state or local water quality management planning documents and applicable facility planning documents.
- 10e) To the extent that information is available, list and describe any government and/or privately sponsored conservation projects that exist or may have been formed to specifically target improvement of water quality or enhancement of recreational opportunities on the affected water resource.
- 10f) Provide an outline of the costs of water pollution controls associated with the proposed activity. This may include the cost of best management practices to be used during construction and operation of the project.
- 10g) Describe any impacts on human health and the overall quality and value of the water resource.
- 10h) Describe and provide an estimate of the important social and economic benefits to be realized through this project. Include the number and types of jobs created and tax revenues generated and a brief discussion on the condition of the local economy.
- 10i) Describe and provide an estimate of the important social and economic benefits that may be lost as a result of this project. Include the effect on commercial and recreational use of the water resource, including effects of lower water quality on recreation, tourism, aesthetics, or other use and enjoyment by humans.
- 10j) Describe environmental benefits, including water quality, lost and gained as a result of this project. Include the effects on the aquatic life, wildlife, threatened or endangered species.
- 10k) Describe mitigation techniques proposed (except for the Non-Degradation Alternative):
 - o Describe proposed Wetland Mitigation (see **OAC 3745-1-54** and Primer)
 - o Describe proposed Stream, Lake, Pond Mitigation (see Primer)

11. Application is hereby made for a Section 401 Water Quality Certification. I certify that I am familiar with the information contained in this application and, to the best of my knowledge and belief, such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

Signature of Applicant

Date

Signature of Agent

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 3 has been filled out and signed.

**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
(33 CFR 325)**

**OMB APPROVAL NO. 0710-003
Expires: 31 August 2012**

Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no persons shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Maritime Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. . Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instruction) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
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(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME First – Jerry Middle - Last - Wray Company – Ohio Department of Transportation (ODOT) E-mail Address – Jerry.Wray@dot.state.oh.us	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) First – Adrienne Middle - Last – Earley Company – ODOT E-mail Address – Adrienne.Earley@dot.state.oh.us
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6. APPLICANT'S ADDRESS: Address - 1980 West Broad Street City - Columbus State - OH Zip-43223 Country - USA	9. AGENT'S ADDRESS: Address – 1980 West Broad Street City - Columbus State - OH Zip-43223 Country - USA
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7. APPLICANT'S PHONE NOS. W/AREA CODE Tim Hill a. Residence () b. Business (614)644-0377 c. Fax (614)728-7368	10. AGENT'S PHONE NOS. W/AREA CODE Adrienne Earley a. Residence () - b. Business (614)466-2159 c. Fax (614)728-7368
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STATEMENT OF AUTHORIZATION

11. I hereby authorize, Adrienne Earley to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT

12. PROJECT NAME OR TITLE (see instructions): MIA - Great Miami Bridge – Connector (PID 84756)	
13. NAME OF WATERBODY, IF KNOWN (if applicable) Great Miami River, HUC 05080001070080	14. PROJECT STREET ADDRESS (if applicable) Address – N/A
15. LOCATION OF PROJECT – Miami County, Ohio Latitude: 40.105833°N Longitude: -84.228889°W	City - StauntonTwp State - Ohio Zip - 45356

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)	
State Tax Parcel ID:	Municipality -
Section -	Township – Staunton Range -

17. DIRECTIONS TO THE SITE: See Attachment A – Directions to site from I-70 Columbus, Ohio

18. Nature of Activity (description of project, include all features)

The proposed multi-use trail will extend north from the terminus of the MIA-Great Miami Bikeway Phase 2, will cross the Great Miami River (GMR) on a new bridge, continue north through the wooded floodplain of the Great Miami River, then cut across an agricultural field to terminate at the new parking lot off Farrington Road/Peterson Road. The total length of the multi-use trail will be approximately 1900'. The proposed bridge will be a 2-span composite pre-cast I-beam structure with concrete deck and reinforced concrete semi-integral abutments and wall type pier. The proposed clear spans will each be 144'. The bridge will offer a pavement width of 14', face-to-face of balustrades. The permanent fill for the bridge embankments will be obtained from a borrow pit to be excavated east of the proposed bridge location.

Additional detailed information is provided in Block 8A of OEPA 401 WQC and Attachment A (OEPA 401 WQC, Block 8A – Continued).

19. Project Purpose (describe the reason or purpose of the project, see instructions)

The proposed project is intended to address a gap in the existing Great Miami River Recreation Trail System and provide improved bicycle/pedestrian access to area points of interest.

Additional details information is provided in Block 8B of OEPA 401 WQC and Attachment A (See OEPA 401 WQC, Block 8B – Continued).

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

To construct a bridge crossing over the Great Miami River to complete the connection of a large multi-use trail system within the Great Miami Riparian Corridor.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

Dredge materials:

Great Miami River (GMR): 1,665 cu. yds of clean non-erodible fill, removed upon completion of bridge construction activities.

Fill materials:

Temporary: GMR: 1,665 cu. yds; consisting of clean non-erodible fill for construction causeway.

Permanent: GMR: 70 cu. yd; consisting of 61 cu. yd of concrete and 9 cu. yd of RCP placed below the OHWM for the support structure within the GMR and protection of the support abutments on each bank of the GMR.

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres: GMR: 0.30 acres of temporary impact from the proposed construction causeway; 0.02 acres of permanent impact concrete footings and RCP.

Linear Feet: 116 linear ft of impact to GMR from the temporary construction causeway and permanent impact from concrete footings and RCP.

23. Description of Avoidance, Minimization, and Compensation (see instructions)

Originally the proposed project involved the multiuse trail to cross the GMR along adjacent roadways; thereby eliminating impacts to water resources in the vicinity of the project area. However, it was realized that the use of adjacent roadways could not meet the NEPA purpose and need of creating a safe route of travel along the GMR Trail by removing cyclist or pedestrian traffic from local roadways and therefore a standalone bridge for the multiuse trail would be necessary. The proposed crossing of the GMR will be completed by the construction of a bridge with minimal permanent impacts to the GMR. Although impacts could not be totally avoided, impacts were minimized to the maximum extent practicable, only requiring 0.02 acre permanent impacts for the construction of the in-stream support pier and placement of RCP below the OHWM. Stormwater BMPs will be used throughout construction. The proposed construction methods will require approximately 1,665 cu yds of temporary fill due to the need for a work pad and causeway within the GMR. Temporary fill will be removed upon completion of the bridge and only the necessary permanent fill will remain within the GMR. The project area will be re-vegetated to pre-construction conditions.

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses if Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list).

The Board of Commissioners of the Miami Park District
2645 E. St. Rt. 41
Troy, OH 45373

Miami Conservancy District
38 E. Monument Ave.
Dayton, OH 45402

26. List of Other Certifications or Approvals/Denials Received for other Federal, State or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
USFWS	Ecological MOA		9/30/10	12/1/10	
ODNR	Ecological MOA		9/30/10	11/8/10	
USFWS	Biological Opinion (Section 7)	31420-2011-F-0021	12/13/11	5/1/12	
ODOT	Cultural Resources – IOC	PID 84756	N/A	9/8/10	
ODOT	CE (NEPA Document)	PID 84756	N/A	7/10/2012	
FEMA	Flood Plain Permit	255	N/A	11/19/10	

27. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner with the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material Fact or makes false, fictitious or fraudulent statements or represents or makes or uses any false writing or document knowingly same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

ATTACHMENT A

Supplemental Information for the 401 and 404 application forms

SECTION 401 WQC - BLOCK 8A (CONTINUED)

PROJECT DESCRIPTION: MIAMI COUNTY DISTRICT – GREAT MIAMI CONNECTOR

The Miami County Park District, has proposed a project to connect two segments of Great Miami River Recreation Trail (the Trail). A recently completed segment of the Trail terminates south of the Great Miami River and is the south terminus of the proposed project. The Miami County Park District has recently completed a parking lot off Farrington Road/Peterson Road; this parking lot is the north terminus of the project area and is a staging area for a Trail segment recently completed north Farrington Road/Peterson Road.

The facility will be constructed to ODOT and AASHTO design standards for independent multi-use trails. The typical pavement section will offer 10' pavement and 3' graded shoulders.

Based on preliminary engineering, the proposed bridge will be a 2-span composite haunched steel welded plate girder structure with concrete deck and reinforced concrete semi-integral abutments and wall type pier. The proposed clear spans will each be 144'. The bridge will offer a pavement width of 14', face-to-face of balustrades. Permanent fill for the bridge embankments will be obtained from a borrow pit to be excavated east of the proposed bridge location.

Minor temporary and permanent impacts to the Great Miami River will occur during construction activities. These impacts consisting of clean non-erodible fill and associated culvert pipes to enable the construction of temporary causeway. The temporary construction causeway materials will be removed from the Great Miami River upon completion of construction activities associated with the bridge decking and support pier. Permanent impacts to the Great Miami River will consist of the placement of a minimal amount of concrete for a support pier and rock channel protection adjacent to support abutments on each bank.

SECTION 401 WQC - BLOCK 8B (CONTINUED)

PURPOSE: DESCRIBE THE PURPOSE, NEED AND INTENDED USE OF THE ACTIVITY:

One element that the proposed project will address is the gap in access between the Trail segment south of the Great Miami River, along CR 25A, and the Trail segment north of Farrington Road/Peterson Road. Currently, cyclists and pedestrians desiring to continue on the Trail must divert to CR 25A and Farrington Road in order to bridge the gap between these two segments of the Trail.

The second element that the proposed project will provide improved bicycle and pedestrian access to area points of interest, including the Great Miami River, a small waterfall on an unnamed tributary paralleling Farrington Road/Peterson Road, remnants of the Miami & Erie Canal, the Twin Arch Reserve Pond, the Eldean Road Covered Bridge, and the Twin Arch Stone Culvert.

SECTION 404 ENG FORM 4345 - Block 17

Directions from Columbus, Ohio to Miami County, Ohio to Great Miami Connector

1. Travel on west on I-70 from Columbus for approximately 65 miles to exit 33 (I-75 north towards Toledo)
2. Travel on I-75 north take exit 78 for approximately 17 miles to County Road 25A
3. Turn left (north) on to County Road 25A and continue for approximately 0.5 miles to the intersection of County Road 25A/West Peterson Road.
4. Turn right onto West Peterson Road, travel approximately 0.1 miles and turn right into the parking area/access point to the proposed stream crossing.
5. Park in the parking area and the proposed stream crossing is located approximately 1,100 feet south of the parking area.

ATTACHMENT B

Agency Coordination

ATTACHMENT B1

ODNR Ecological Coordination; October 8, 2010



Tricia
Bishop/Planning /D07/ODOT

11/16/2010 02:02 PM

To

cc

bcc

Subject Fw: 10-0389; ODOT MOA Dated September 30th, 2010

----- Forwarded by Megan Michael/Environmental/CEN/ODOT on 11/16/2010 01:52 PM -----



"Mitch , Brian"

<Brian.Mitch@dnr.state.oh.us>

11/08/2010 11:07 AM

cc

Subject

<tim.hill@dot.state.oh.us>

<Megan.Michael@dot.state.oh.us>,
<Mike.Pettegrew@dot.state.oh.us>

10-0389; ODOT MOA Dated September 30th, 2010



ODNR COMMENTS TO Timothy M. Hill, ODOT Office of Environmental Services, 1980 West Broad Street, Columbus, Ohio 43223

Project: The ODOT MOA Dated September 30th, 2010 includes projects with the following PIDs: 75647, 86486, 80695, 84044, 83520, 82086, 85151, 81574, 25236, 82924, 85078, 82420, 82921, 87928, 80704, 83100, 83858, 78166, 84756, 79451, 83324, 86657, 84824, 88169, 83544, 83380, 85896, 88640 and 85132. These projects will require bridge or culvert replacements and/or roadway alignments on essentially the existing alignments.

Location: The projects are located in multiple counties in ODOT Districts 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Fish and Wildlife: The ODNR, Division of Wildlife (DOW) has the following comments.

POR-14/225-25.43/10.26 (PID 81574): The Ohio Biodiversity Database (OBD) records show Structures 2652 and 2747 are within the Berlin Lake Wildlife Area. If the project is to impact wildlife area property, the DOW recommends ODOT contact the area manager at 1806 Bonner Road, Deerfield, OH 44411, telephone (330) 654-2392.

SUM 91-21.11 (PID 85078): The consultant who prepared the level 1 ecological survey report for this project provided the DOW with a GIS shapefile for review. Unfortunately, it was in the NAD83 Ohio North State Plane projection. We need it in the NAD83 South projection or the site appears in the incorrect location when we open it in our database. The review for this project was therefore performed on an incorrect location (Noble Co.) so the data that was provided back to the consultant and included in the report was also incorrect.

The DOW has reprocessed the project into the correct location, and performed another review. The shapefiles for the correct data are attached. The "data" file refers to rare species records. The "ib" file shows locations of Indiana bat records within a ten mile radius. There were no managed areas, scenic rivers or conservation sites within a one mile radius of the project corridor.

Records from the OBD show a great blue heron rookery near the project area. The DOW recommends all work stay at least 500 yards away from the rookery. If work must be done within 500 yards of the rookery, we recommend this work be avoided from March to May.

The OBD shows a record for the Indiana bat (*Myotis sodalis*) near the project area. Therefore, as indicated in the information provided, the DOW recommends trees within the project area are cleared only between September 15 and April 15, preferably September 30 and April 1.

MIA-Great Miami Bridge Connector (PID 84756): Due to the number of freshwater mussels found in the area as well as a history of mussels found in the Great Miami River, the DOW recommends a professional malacologist approved by the DOW conduct a mussel survey in the area of this project.

MIA-CR81-2.21 (PID 83324): Due to the fresh dead mussel shells found in the project area as well as records from the Ohio State University Database showing a history of mussels found in Greenville Creek, the DOW recommends a professional malacologist approved by the DOW conduct a mussel survey in the area of this project.

MOT-CR50-2.35 (PID 84824): Due to records from the Ohio State University Database showing a history of mussels found in the Great Miami River in West Carrollton, the DOW recommends a professional malacologist approved by the DOW conduct a mussel survey in the area of this project.

HEN-SR 108-16.10 (PID 86846): The Ohio Biodiversity Database (OBD) shows this project is within 1,500 feet of the Maumee State Scenic River.

MRG-TR 48W-0.66 (PID 83544): The OBD shows several other records for mussels in the Muskingum River at the mouth of Turkey Run besides the endangered Long Solid (*Fusconaia maculata maculata*) which is mentioned in the project documentation. They include the butterfly (*Ellipsaria lineolata*), state endangered, threehorn wartyback (*Obliquaria reflexa*), state threatened, Ohio pigtoe (*Pleurobema cordatum*), state endangered, fawnsfoot (*Truncilla donaciformis*), state threatened, purple wartyback (*Cyclonaias tuberculata*), state species of concern, and one fish, the Eastern sand darter (*Ammocrypta pellucida*), state species of concern. Although habitat for these species may not be present within the project area, downstream impacts are possible. BMPs should be used to prevent sedimentation from entering Turkey Run.

Boating and Navigation: The ODNR, Division of Watercraft has the following comments.

POR-14/225-25.43/10.26 (PID 81574): ODOT may want to consider developing foot path access for recreational paddlers where structures POR 225 1433 and POR 225 1426 cross the West Branch of the Mahoning River at SR225.

In general, the Division of Watercraft always wants to take advantage of access development opportunities for the paddlers and boaters of Ohio when they present themselves.

Scenic Rivers: The ODNR, Division of Watercraft, Scenic Rivers Section, has the following comments.

MIA-CR81-2.21 (PID 83324)

Bridge Replacement Conditions, Greenville Creek State Scenic River:

1. A sediment and erosion control plan shall be developed for the site and implemented before earthwork commences. Particular attention shall be given to any drainage ways, ditches and streams that could convey sediment laden water directly to the Greenville Creek State Scenic River. Properly installed (framed and entrenched) sediment fence shall be utilized around the work site perimeter and storm water inlets. Appropriately designed rock-check dams and other erosion controls shall be utilized in ditches and drainage ways. All controls shall be properly maintained until final site stabilization is achieved. All sediment and erosion controls shall be removed upon stabilization of the project area with vegetation. Straw bales shall not be permitted as a form of erosion control. All denuded areas, including ditches, culverts and river/stream banks, shall be permanently seeded and mulched (or fiber mat) immediately upon completion of earthwork or temporarily seeded and mulched (or fiber mat) within seven days if the area is to remain idle for more than thirty days. Access roads constructed on slopes shall be graveled to prevent erosion from surface runoff.
2. Idle equipment, petrochemicals and toxic/hazardous materials shall not be stored in the floodplain or near any drainage ways, ditches or streams that could convey such materials to the Greenville Creek State Scenic River. Petrochemicals and toxic/hazardous materials shall not be discharged into the Scenic River, its floodplain or any drainage ways, ditches or streams. Refueling of equipment shall not occur in the floodplain or near any drainage ways, ditches or streams. A spill containment and cleanup plan shall be generated prior to the start of the project.
3. Where feasible, for replacement structures or bridges on new alignments; no in-stream structural components will be permitted. All piers and abutments should be placed above the normal high water mark of the stream bank and should be placed as far back from the top of the bank as is possible. Columnar piers will be preferred over flat faced piers. Bridge approaches should be elevated on columnar piers so as to limit the placement of fill for embankments within the one-hundred year floodplain. This measure will allow for less restriction of flood flows. Every attempt shall be made to expand the structural opening to accommodate the one-hundred year flood flow.
4. For bridge replacement projects, all components of the existing structure (piers, abutments, etc.) shall be completely removed. Piers shall be removed down to the same elevation as the surrounding riverbed. Every effort shall be made to keep deck material and other debris out of the river during removal. Asphalt deck material shall be removed before any portion of the bridge is removed. If any material falls into the water, it shall be removed immediately. All debris, excess fill material and material excavated from the river bottom shall be disposed of at an approved upland site (above 100 year flood elevations). Disposal in wetlands, floodplains or within 1000 feet of the Greenville Creek State Scenic River is prohibited.
5. Rip- rap used shall be kept to the minimum amount needed to prevent scour and shall consist of clean rock only (free of any toxic or fine material). All fill material used as rip rap, work platforms or cofferdams shall be a minimum of three inches in diameter and be washed to remove fine particulate matter (clay, silt, sand and soil). Work platforms shall be kept to the absolute minimum size needed to facilitate in-stream work. In-stream work shall be conducted through the use of water diversions not requiring the placement of earthen fill (sheet piling, membrane dams, etc.) wherever possible. Any fill shall be completely removed from the streambed immediately upon completion of in-stream work. If feasible, the use of Aqua Barriers is recommended.
6. If dewatering is necessary to facilitate in-stream work or pier construction, all wastewater shall be pumped onto a vegetated area a sufficient distance from the Scenic River to allow for complete infiltration. No wastewater of any kind shall be discharged directly into the Scenic River or any other drainage ways, ditches or streams. All storm water drainage shall be directed onto a vegetated area to

allow for complete infiltration. If discharge to a vegetated area is not feasible, then wastewater shall be discharged into a sediment filter bag or into a temporary detention/retention pond with sufficient retention time to permit for the settling of all suspended solids.

7. All streambank vegetation shall be left undisturbed to the maximum extent possible. Areas where vegetation is removed shall be re-vegetated with native tree species. Any disturbed streambanks shall be returned to previously existing contours and elevations. A native tree species list will be provided by the (regional scenic river manager). Trees shall be one inch in diameter and balled/ burlap nursery stock. After a full growing season for the trees, any stakes and guide wires shall be removed and properly disposed of. Any trees that die during the first growing season shall be replaced. Cutting or clearing of any riparian vegetation within 1000 feet of the Scenic River beyond the existing right-of-way shall be prohibited, however vertical trimming is permitted where necessary. Care shall be taken not to girdle or scuff tree trunks or damage any standing trees.

8. If painting, sand or water blasting any portion of the bridge is necessary then appropriate aprons shall be utilized to provide for complete containment of all paint debris particles and other debris. Appropriate aprons shall be utilized to provide for complete containment of all paint and/or sealant over-spray. Any such debris shall be removed immediately from 1000 feet of the Greenville Creek State Scenic River and disposed of at an approved upland site (above 100 year flood elevations). Disposal in wetlands, floodplains or within 1000 feet of the State Scenic River is prohibited.

9. Tim Kwiatkowski, Assistant Scenic River Manager, shall be invited to a pre-construction meeting with the contractor present. The Regional Scenic River Manager shall be notified of the project start date and completion date, be allowed to conduct a final inspection before the project closes and receive a final plan set for review. Periodic inspections of the project shall take place to ensure Scenic River requirements are being met. The Scenic River Act, ORC 1547.82, requires the ODNR Director or his representative to approve any public project. Such approval shall be granted after a review of the final plan set by Scenic River staff.

Timothy J. Kwiatkowski, Assistant Scenic River Manager
Scenic Rivers Program
ODNR, Division of Watercraft
1407 Cleveland Road
Sandusky, Ohio. 44870
Phone: (419) 621-1302
Cell: (440) 949-9132
Fax: 419-625-4603
Email: tim.kwiatkowski@dnr.state.oh.us

10. Signs stating ("Greenville Creek State Scenic River") shall be provided and installed at both approaches of the new bridge. A sign stating "Covington-Gettysburg Road Bridge" shall be installed on the upstream side of the new bridge.

11. These conditions shall be included in the final project plan set and must be made available to all construction personnel throughout the duration of the project. This shall ensure that the contractors understand Scenic River requirements.

These are conditions for the bridge replacement PID 83324 MIA-CR81-02.21. A site visit is planned for November 19th 2010, where final recommendations will be made, prior to approval set forth by the ORC 1547.82

POR-303-5.69 (PID25236): Scenic Rivers would like to see some type of false fascia work or under decking that would prevent debris and other materials from falling into the river channel.

Steve Roloson had coordinated quite thoroughly with ODOT to develop the construction plans. Please change the contact information to:

Matthew Smith
NE Region Scenic River Manager
ODNR Div. of Watercraft
2010 Milton Blvd. C-1
P.O. Box 441
Newton Falls, Ohio 44444
Office: 330-872-0040
Cell: 440-225-5582
Fax: 330-872-1227
Matthew.smith@dnr.state.oh.us

ODNR appreciates the opportunity to provide these comments. Please contact Brian Mitch at (614) 265-6378 if you have questions about these comments or need additional information.

Brian Mitch, Environmental Review Manager
Ohio Department of Natural Resources
Environmental Services Section
2045 Morse Road, Building F-3
Columbus, Ohio 43229-6693
Office: (614) 265-6378
Fax: (614) 262-2197
brian.mitch@dnr.state.oh.us



ATTACHMENT B2

USFWS Ecological Coordination; December 1, 2010



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

December 1, 2010

Timothy M. Hill
Office of Environmental Services
Ohio Department of Transportation
P.O. Box 899
Columbus, OH 43216-0899

TAILS: 31420-2011-I-0057 (PID 86812)
31420-2011-I-0021 (PID 84756)
31420-2011-I-0024 (PID 84824)
31420-2011-I-0022 (PID 83324)
31420-2011-I-0101 (PID 80695)

Attn: Michael Pettegrew, Megan Michael

RE: **WIL-34-2.61/24.22 (PID 86812), MIA-Great Miami Bridge Connector (PID 84756),
MOT-CR50-2.35 (PID 84824), MIA-CR81-2.21 (PID 83324), LUC-IR475-3.15 (PID 80695)**

Dear Mr. Hill:

Below are additional comments on five projects recently submitted by the Ohio Department of Transportation (ODOT) requesting U.S. Fish & Wildlife Service (Service) concurrence on Endangered Species Act section 7(a)(2) effects determinations for federally listed mussel species.

WIL-34-2.61/24.22 (PID 86812)

This project proposes to resurface SR-34 from the Edon corporation limit to SR-576 and from SR-191 to the Henry County line in Williams County. Seven bridges will be crossed for this activity, including five bridges that will require additional rehabilitation (e.g., pier and abutment patching, deck work, and placement of rock channel protection (RCP)). The Ecological Survey Report (ESR) for this project indicates that three streams are present in the project area: St. Joseph River, Bear Creek, and Brush Creek. Although the Streams table in the ESR indicates that no impacts to these streams will occur, the project description suggests that in-channel work, below the ordinary high water mark (OHWM), will be conducted for at least three of the crossings (SFN 8601569, SFN 8601410, and SFN 8601380). ODOT has determined that this project *may affect but is not likely to adversely affect* the **white catspaw** (*Epioblasma obliquata perobliqua*), **clubshell** (*Pleurobema clava*), **northern riffleshell** (*Epioblasma torulosa rangiana*), **rabbitsfoot** (*Quadrula c. cylindrica*), and **rayed bean** (*Villosa fabalis*) mussels. Records for these species exist within the St. Joseph River and/or Bear Creek, but detailed project information has only been provided for the crossing on the St. Joseph River. Your letter indicates that suitable mussel habitat is present at the St. Joseph crossing site, but mussel sampling during ODOT's field survey was limited due to deep and turbid water. The Service requests additional information on the in-water work to be conducted below the OHWM for the crossings at the St. Joseph River and Bear Creek. Therefore, we cannot concur with your effects determination for these mussel species at this time.

Upon review of the additional information requested, the Service may request a detailed mussel survey in the St. Joseph River and/or Bear Creek. A survey, if warranted, should be designed and conducted in coordination with the Endangered Species Coordinator for this office and conducted by a surveyor holding valid Federal and State permits to survey for federally listed mussels in Ohio.

In addition, we request that the Service be kept apprised of the construction schedule for this project and that we be given the opportunity to conduct periodic site visits.

MIA-Great Miami Bridge Connector (PID 84756)

This project, included in ODOT's September 30, 2010 MOA submittal, proposes to construct a new bridge over the Great Miami River (GMR) on a multi-use trail in Miami County. Your letter and ESR indicate that 130' of impacts to the GMR are expected, and placement of a work pad in the GMR will be required for construction of the center bridge pier. ODOT has determined that this project *may affect but is not likely to adversely affect the rayed bean*. Your letter and ESR indicate that suitable habitat for the rayed bean was found within the project area and only shallow areas were surveyed using noodling and visual techniques. Considering the impacts to the river, we recommend that a detailed mussel survey be conducted. Any survey should be designed and conducted in coordination with the Endangered Species Coordinator for this office.

Based on the above information, we cannot concur with your effects determination for the rayed bean at this time.

MOT-CR50-2.35 (PID 84824)

This project, included in ODOT's September 30, 2010 MOA submittal, proposes to rehabilitate the existing bridge carrying Farmersville-West Carrollton Pike over the Great Miami River in Montgomery County. Your letter and ESR indicate that 80' of impacts to the GMR are expected, and placement of a work pad in the GMR will be required for construction access. ODOT has determined that this project *may affect but is not likely to adversely affect the rayed bean*.

We understand that ODNR Division of Wildlife has requested a detailed mussel survey at this project site. We support Division of Wildlife's recommendation and request that the survey be designed and conducted in coordination with the Endangered Species Coordinator for this office. A list of federally permitted mussel surveyors is enclosed.

Based on the above information, we cannot concur with your effects determination for the rayed bean at this time.

MIA-CR81-2.21 (PID 83324)

This project, included in ODOT's September 30, 2010 MOA submittal, proposes to replace the bridge over Greenville Creek (a tributary to the Stillwater River) along CR-81 in Miami County. Your letter and ESR indicate that 100' of impacts to Greenville Creek are expected during removal of the existing bridge and construction of the new structure. ODOT has determined that this project will have *no effect* on **snuffbox** (*Epioblasma triquetra*) or **rayed bean mussels**.

In an email dated November 15, 2010, Megan Michael (ODOT OES) provided additional information on potential habitat for mussels at the project site. We understand that ODOT field surveyed the site during summer 2010 and found several mussel species present, including two Ohio mussel species of concern, the creek heelsplitter (*Lasmigona compressa*) and elktoe (*Alasmidonta marginata*). Megan Michael's email also indicated that suitable mussel habitat was found under the bridge, but ODOT only sampled along one bank.

In an email dated November 22, 2010, Tricia Bishop (ODOT District 7) indicated that a full work pad, extending across the stream, will be needed during construction. We understand from that email that ODNR Scenic Rivers did not object to temporary access fill for construction. However, we understand that ODNR Division of Wildlife has requested a detailed mussel survey at this project site.

Based on the above information, we do not agree that a *no effect* determination for proposed federally listed mussels is appropriate. We support Division of Wildlife's recommendation and request that a survey be designed and conducted in coordination with the Endangered Species Coordinator for this office.

LUC-IR475-3.15 Deck Replacement (PID 80695)

This project, included in ODOT's September 30, 2010 MOA submittal, proposes to rehabilitate an 11-span steel beam structure along IR-475 over Manley Road, Swan Creek, and the Ohio Turnpike in Lucas County. Your letter and ESR indicate that 150' of impacts to Swan Creek are expected, but the nature of those impacts is not described. ODOT has determined that this project *may affect but is not likely to adversely affect* the **rayed bean**.

In an email dated November 15, 2010, Megan Michael provided additional information about a survey she conducted at the project site to assess habitat suitability for the rayed bean. At that time, several live mussels were seen siphoning under the bridge, but mussels could not be removed from the substrate due to the cold temperature of the water. However, a fresh dead rayed bean was found at the site.

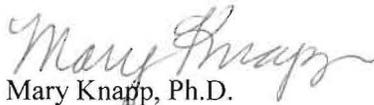
An email from Richard Perse (ODOT District 2), dated November 24, 2010, forwarded to our office by Megan Michael on November 30, 2010, indicated that the bridge piers will be widened by approximately 19 feet, and this work will likely require the construction of cofferdams. Additionally, this email states that the work is expected to impact the area between the normal water level and the OHWM. It is unclear at this time whether a work pad will be placed in the stream.

Based on the potential impacts to Swan Creek, a detailed mussel survey in the project area is warranted. The survey should be designed and conducted in coordination with the Endangered Species Coordinator for this office.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act, of 1973, as amended, and are consistent with the intent of the National Environmental Policy Act of 1969, and the U.S. Fish and Wildlife Service's Mitigation Policy. This concludes consultation on this action as required by section 7(a)(2) of the Endangered Species Act. Should, during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be reinitiated to assess whether the determinations are still valid.

If you have questions, or if we may be of further assistance in this matter, please contact Karen Hallberg at extension 23 in this office.

Sincerely,


Mary Knapp, Ph.D.
Field Supervisor

Enc.

cc: ODNR, DOW, SCEA Unit, Columbus, OH (*email only*)
Ohio Regulatory Transportation Office, Columbus, OH (*email only*)
OEPA, Columbus, OH (*email only*)

ATTACHMENT B3

USFWS Biological Opinion; Incidental Take Statement; May 1, 2012



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Columbus, Ohio 43230
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May 1, 2012

Laurie S. Leffler, Administrator
Federal Highway Administration
Ohio Division Office
200 N. High Street
Columbus, OH 43215

TAILS: 31420-2011-F-0021 (PID 84756)

FHWA RE: HDA-OH

RE: Biological Opinion on the MIA-Great Miami Bridge Connector Project (PID 84756)
on the Great Miami River in Miami County, Ohio

Dear Ms. Leffler:

This letter accompanies the U.S. Fish and Wildlife Service's (Service) enclosed Biological Opinion based on our review of the proposed construction of a multi-use trail and bridge across the Great Miami River (Ohio Department of Transportation (ODOT) Project MIA-Great Miami Bridge Connector, PID 84756)), and its effects on the endangered rayed bean mussel (*Villosa fabalis*) under section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.). The Federal Highway Administration's (FHWA) December 13, 2011 letter requesting formal consultation was received on December 14, 2011. We provided you with a January 12, 2012 letter notifying you that we had initiated formal consultation effective December 13, 2011. We submitted a draft Biological Opinion to you for review on April 19, 2012 and received your agency's and ODOT's final comments on May 1, 2012. Upon consideration of the comments, we have made the appropriate modifications and clarifications in the final document.

In this Opinion, the Service concludes that the proposed action is likely to adversely affect but is not likely to jeopardize the continued existence of the rayed bean. Additionally, the Service has previously concluded that the proposed action may affect but is not likely to adversely affect the Indiana bat (*Myotis sodalis*) or the snuffbox (*Epioblasma triquetra*), both federally endangered species. Because no critical habitat is designated for any of these species, none will be affected by the proposed action.

Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2) of the ESA, taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the ESA provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement (ITS). The ITS accompanying this Biological Opinion, pursuant to section 7(b)(4) of the ESA, exempts the incidental taking of two individual rayed bean mussels within the 2.47 acre area to be impacted (directly or indirectly) during the construction of the multi-use trail bridge over the Great Miami River, activity that is part of the Great Miami Bridge Connector project.