

PUBLIC NOTICE APPLICATION FOR PERMIT

**U.S. ARMY CORPS OF ENGINEERS
CHICAGO DISTRICT**

PUBLIC NOTICE/APPLICATION NUMBER: LRC-2016-00423

COMMENT PERIOD BEGINS: August 25, 2020

COMMENT PERIOD EXPIRES: September 24, 2020

JOINT PUBLIC NOTICE

U.S. Army Corps of Engineers
Indiana Department of Environmental Management

APPLICANT

NICTD – Northern Indiana Commuter Transportation District for the South Shore Line (SSL)
33 East U.S. Highway 12
Chesterton, Indiana 46304

PROPOSED ACTION AND PURPOSE

The Northern Indiana Commuter Transportation District (NICTD), in cooperation with the Federal Transit Administration (FTA), proposes the Double Track Northwest Indiana (DT-NWI) Project (herein referred to as the Project) for the South Shore Line (SSL) commuter service. The proposed 26.6 mile long Project is located between Gary (milepost 58.8) and Michigan City (milepost 32.2), Indiana spanning across Lake, Porter, and LaPorte Counties. The purpose of the proposed Project would be to expand the existing rail capacity, increase service, modernize infrastructure, reduce passenger travel times, and improve system reliability, mobility, and safety. The attached **Figure 1** Project Overview illustrates the location of the proposed wetlands and streams to be impacted by the proposed Project.

The proposed Project would discharge fill material resulting in 4.86 acres of permanent wetland impacts and 1.28 acres of temporary wetland impacts; in addition it would encapsulate 82 linear feet of streams.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and may be accessed at the proposed Project's website: <https://www.doubletrack-nwi.com>.

You are invited to provide your comments by September 24, 2020 on the proposed work, which will be considered in the decision to issue or deny a permit under Section 404 of the Clean Water Act (CWA) of 1972 (33 U.S.C. § 1344).

Comments should be sent to the Project Manager at Paul.M.Leffler@usace.army.mil

It should be noted that ALL comments received by this office will only be accepted with the full name and address, and email address, if available of the individual commenting, and must be received by the close of the public notice period. If emailing comments are not an option, please provide written comments:

U.S. Army Corps of Engineers
Chicago District, Regulatory Branch
Attn: **LRC-2016-00423**, Mr. Paul M. Leffler
231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604-1437

PROJECT DESCRIPTION

The proposed Project would include the construction of an adjacent second track with related signal, power, communications, bridge, track infrastructure, and station improvements. Improvements would include the addition of 1.8 miles of signal work at the far west and east ends of the Project, generally between milepost (MP) 58.8 and 58.1 and MP 33.3 and 32.2, and the construction of 16.1 miles of a new second mainline track and new overhead contact system between MP 58.1 in Gary and MP 33.3 in Michigan City. These MPs roughly correspond with Tennessee Street in Gary and Michigan Boulevard in Michigan City, respectively.

At the east end of the proposed Project, between MP 35.3 (Sheridan Avenue) and MP 33.3 (Michigan Boulevard) in Michigan City, the proposed Project would replace 1.9 miles of embedded, in-street track along 10th and 11th Streets with a segregated, double track.

Along 10th Street, the proposed Project would remove three at-grade road and rail crossings. The remaining open crossings would be upgraded with automatic warning devices consisting of flashers, gates, and bells.

The proposed Project would include four new bridges: over the CSX Transportation railroad tracks at MP 54.65 and Hobart Road at MP 54.62 in Gary; and over the Norfolk Southern railroad tracks at MP 47.41 and the main entrance road to ArcelorMittal at MP 47.32 in Burns Harbor to support the second mainline.

Two storage tracks for additional rush-hour trains, two high-level platforms, and additional parking would be constructed at the Gary/Miller Station. One new high-level and one existing low-level platform (to remain) and additional parking would be constructed at the Portage/Ogden Dunes Station. One new low-level platform and additional parking would be constructed at the Dune Park Station. Two new low-level platforms would be constructed at the Beverly Shores Station. The 11th Street (Michigan City) Station, located between Pine and Franklin Streets, would be improved and expanded with two high-level platforms and a new station building that includes a multi-level parking structure and a surface parking lot.

AVOIDANCE AND MINIMIZATION

Wetland and stream impacts have been minimized to the extent practicable through extensive collaboration between engineers and natural resource experts. However the Project is limited to the area next to the existing track so options for minimizing impacts further were limited. The Finding of No Significant Impact (FONSI) document's "Section 4.0 Alternatives Considered" may be accessed for reference at the Project's website: <https://www.doubletrack-nwi.com>.

MITIGATION

If a permit is issued for the proposed Project, the U.S. Army Corps of Engineers (USACE) will determine what is appropriate and practicable compensatory wetland mitigation in accordance with 33 CFR § 332. The amount of compensatory wetland mitigation shall be commensurate with the anticipated impacts of the proposed Project.

The impacted wetlands, located along the track corridor and culvert areas, are considered high-quality aquatic resources (HQAR). NICTD proposes that mitigation for permanent impacts to wetlands occur at a 3:1 ratio pending USACE approval. If approved, NICTD will provide 14.58 mitigation credits (3 x 4.86 acres) as compensation for the permanent wetland impacts. NICTD will utilize the Indiana Department of Natural Resources (IDNR), In Lieu Fee Indiana Stream and Wetland Mitigation Program. Temporary wetland impacts will be reseeded with an approved wetland high-quality seed mixture.

REGULATORY AUTHORITY

This Section 404 Individual Permit and Section 401 Water Quality Certification (WQC) Permit application will be reviewed by USACE according to the provisions in Section 404 of the CWA of 1972 and by the Indiana Department of Environmental Management (IDEM) pursuant to the Section 401 of the CWA of 1972 and Indiana's Water Quality Standards.

JURISDICTION

USACE has jurisdiction over all navigable Waters of the U.S. under the Rivers and Harbors Act of 1899. USACE also regulates the placement of dredge or fill materials into Waters of the U.S. under Section 404 of the CWA of 1972. In Indiana, two government agencies have jurisdiction over Waters of the State: IDEM and USACE. IDEM is responsible for maintaining, protecting, and improving the physical, chemical, and biological integrity of Indiana's waters.

EVALUATION FACTORS

The decision whether to issue a permit will be based on an evaluation of probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments.

All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality,

energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, if the proposed activity involves the discharge of dredged or fill material into Waters of the U.S., the evaluation of the impact on the public interest will include application of Section 404(b)(1) guidelines (40 CFR § 230) promulgated by the U.S. Environmental Protection Agency (EPA).

USACE is also soliciting comments from the public; federal, state, and local agencies; Indian tribes; and other interested parties in order to consider and evaluate the potential impacts of the proposed activity. Once this office completes a review of the comments received, it will be determined whether to issue, modify, condition, or deny a permit for this proposal.

To prepare this decision, comments are taken into consideration to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. A determination concerning the need for a public hearing will also be based on the comments received.

PRELIMINARY EVALUATION OF SELECTED FACTORS

WATER QUALITY

The applicant will apply to IDEM for a WQC, or waiver thereof, for the proposed activity in accordance with the State of Indiana Section 401 WQC. Certification or waiver indicates that IDEM believes the activity will not violate applicable water quality standards. The review by IDEM is conducted in accordance with the Indiana's water quality standards under 327 Indiana Administrative Code 2.

ENDANGERED AND THREATENED SPECIES

A Section 7 Evaluation of federally listed endangered or threatened species or critical habitat for any endangered or threatened species, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.) was submitted the U.S. Fish and Wildlife Service (USFWS) for review. USFWS found the proposed Project meets the substantive and procedural requirement of the Endangered Species Act because of NICTD's agreed upon adherence to implement the mitigation commitments defined in the FONSI.

HISTORIC PROPERTIES/CULTURAL RESOURCES

In compliance with Section 106 of the National Historic Preservation Act of 1966 and in accordance with the Criteria of Adverse Effect described in 36 CFR § 800.5, FTA determined that the proposed Project would have an adverse effect on 27 historic resources, resulting from physical demolition and permanent incorporation. The Indiana State Historic Preservation Office (SHPO) concurred with these determinations on August 15, 2017.

The adverse effect on historic properties will be mitigated through the stipulations and treatment measures outlined in the Memorandum of Agreement between FTA, SHPO, and NICTD. Based on the analysis of historic resources included in the EA as well as the consultation with SHPO, and the other Section 106 consulting parties, FTA finds, in accordance with 36 CFR § 800, that the Section 106

coordination and consultation requirements for the proposed Project have been fulfilled (Refer to Section 8.3 and Appendix F of the FONSI at the Project's website: <https://www.doubletrack-nwi.com>).

ENVIRONMENTAL ASSESSMENT

As a Federal Undertaking, the U.S. Department of Transportation (USDOT), FTA and NICTD prepared an EA and Section 4(f) Evaluation and in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. § 4332) and Section 4(f) of the USDOT of 1966 (49 U.S.C. § 303) for the DT-NWI Project dated September 18, 2017. FTA served as the lead federal agency under NEPA for the proposed Project. FTA issued the FONSI on November 1, 2018. NICTD will construct the proposed Project in accordance with the design features and mitigation measures presented in the EA, Section 4(f) Evaluation, and Section 106 findings.

PUBLIC HEARING

Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing. A request for a hearing may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

It should be noted that materials submitted as part of the permit application become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Chicago District, U.S. Army Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so no later than September 24, 2020. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

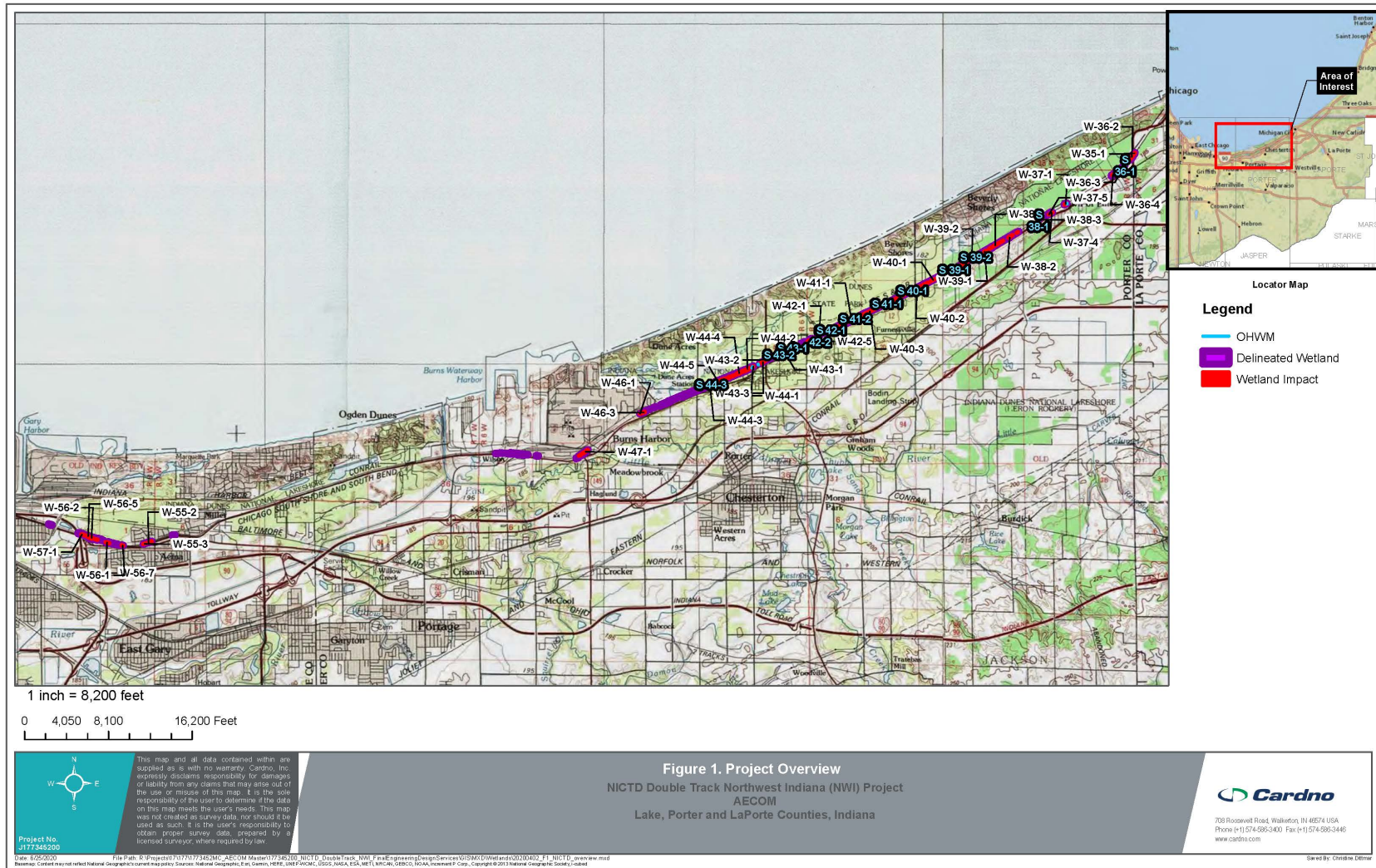
This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the proposed Project as described.

If you have any questions, please contact Mr. Paul M. Leffler of my staff by telephone at Paul.M.Leffler@usace.army.mil. **It should be noted that ALL comments received by this office will only be accepted with the full name and address of the individual commenting.** You can also visit our website at www.lrc.usace.mil/Missions/Regulatory/ for more information on our program.

ORIGINAL SIGNED

Paul M. Leffler
Team Leader, Indiana Section
Regulatory Branch

Figure 1. Project Overview



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Project No. J177345200

Figure 1. Project Overview
 NICTD Double Track Northwest Indiana (NWI) Project
 AECOM
 Lake, Porter and LaPorte Counties, Indiana

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