

The comments of John L. Smith
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Typos repaired 2/20/04

I respectfully request that this and all previous official statement that I have presented, written, spoken and or videoed to the Draft Environmental Impact Study, be included in the FEIS.

We were not given enough time to digest the content of the Final EIS and develop highly detailed responses, but Congress has had the foresight to recognize the value of citizen comments. Evaluation of INDOT and FHWA responses to citizen's comments as compared to the responses of federal agencies gives strong evidence that the study's administrators recognize the power of federal agencies, but lend little credibility to the thousands of comments of the 'governed citizenry'. Evidence throughout the process suggests that INDOT respects power, not truth and logic. It is my hope with final comment to the Tier 1 FEIS for I-69 that I might provide information that will be understood and respected by the FHWA or our court system, should that be necessary.

The phrase "No Substantive Comments" appears 37 times in the comments and response section of FEIS. The numbers of and scope of comments to the EIS have been reduced by orders of magnitude. This elimination of public and agency comments as "not substantive" is arbitrary and capricious. The deletion of these comments from the Final EIS is illegal. Congress has mandated public comment to the EIS. While the right to exclude some comments might be acceptable when only representative of a view presented by others, INDOT and by association FHWA have gone far beyond this.

By rendering "not substantive" the unique comments of citizens and agencies, this study is open to the challenge of "Cherry Picking", selectively addressing comments in a biased fashion and a failed study. The study on several occasions sites the comment of one employee of the Toyota Plant in Princeton, yet ignores the comments of scores of Hoosier experts in their fields of knowledge. Members of our organization have interviewed the top Japanese manager of the Toyota Plant. Our question: "I-69, what do you think?" his response, "I think, US 41 and I-70". This seems a reasonable response, since his factory currently is located on US 41. This is simply a small example of how "cherry picking" erodes the public trust and leads to poor decision-making.

Much like our nations balance of power, the comments of citizens adds important perspective to EIS studies. This is particularly true in the case of a study that involves critical examination by scores of degreed professionals from

one of the nations major Universities (Indiana University) as well as the comments of persons who live on and know the land. The comments of credentialed and professional citizen's would be worth hundreds of thousands of dollars if contracted. Likewise that the public funds that will be contracted in tier 2 to collect data, already provided for free by persons on the land and in business in the study area. Trusting and listening to the citizens can avoid costly mistakes.

In my life, I have seen two similar events: Marble Hill nuclear power plant and the Westinghouse PCB incinerator. In both cases state and federal officials ignored the Bloomington public comments. In both cases millions of dollars were wasted and years spent gaining approval. In both cases the facts as presented by citizen's commenting to the studies were prophetic. The projects though both officially approved, never reached completion. Removal of substantive comments to this FEIS will lead to a similar waste of time and money I would predict.

A large volume of comments and the bias of the study team are likely the reasons for this "arbitrary and capricious" deletion of comments of substantive value.

The FEIS for I-69 Evansville to Indianapolis is 3000+ pages, it weighs 32 pounds and requires a box 4' x 2' x 2'. It has likely reached this size due to the outpouring of public comments challenging every aspect of this project, that is locally and nationally labeled "A BOONDOGGLE". Reduction by omission of comments based on volume is not an acceptable reason for censorship of the public and agency comments. This too would be an illegal deletion of substantive comments.

I personally have submitted comments, have access to copies of public and agency comments and remember public comments from others that were presented with unquestionable merit and substance as well as some presented by individuals with sterling credentials. Many of those comments are uniquely not represented and addressed anywhere in the Final EIS. We challenge INDOT's right as an agency of the executive branch of Indiana, by virtue of appointment of the agency's commissioner, to censor-by-omission public and public agencies comments to the EIS. We believe no branch of government has the right to remove substantive comments from this FEIS based on the congressional mandated public comment procedures.

We here demand that all public and agency comments to the EIS are carried forward with the FEIS until this the challenge of "arbitrary and/or capricious" exclusion of public and agency comments can be legally resolved.

