D. 114

INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

INTER-DEPARTMENT COMMUNICATION

Revised 1/1/92
Revised 1/10/92 (Changed IC 8-13-4-2(d) to IC 8-23-6-3(d)

TO: District Directors
Subdistrict Managers
District Operations Engineers
District Maintenance Engineers

FROM: Donald G. Scott DGS
Chief, Operations Support Division

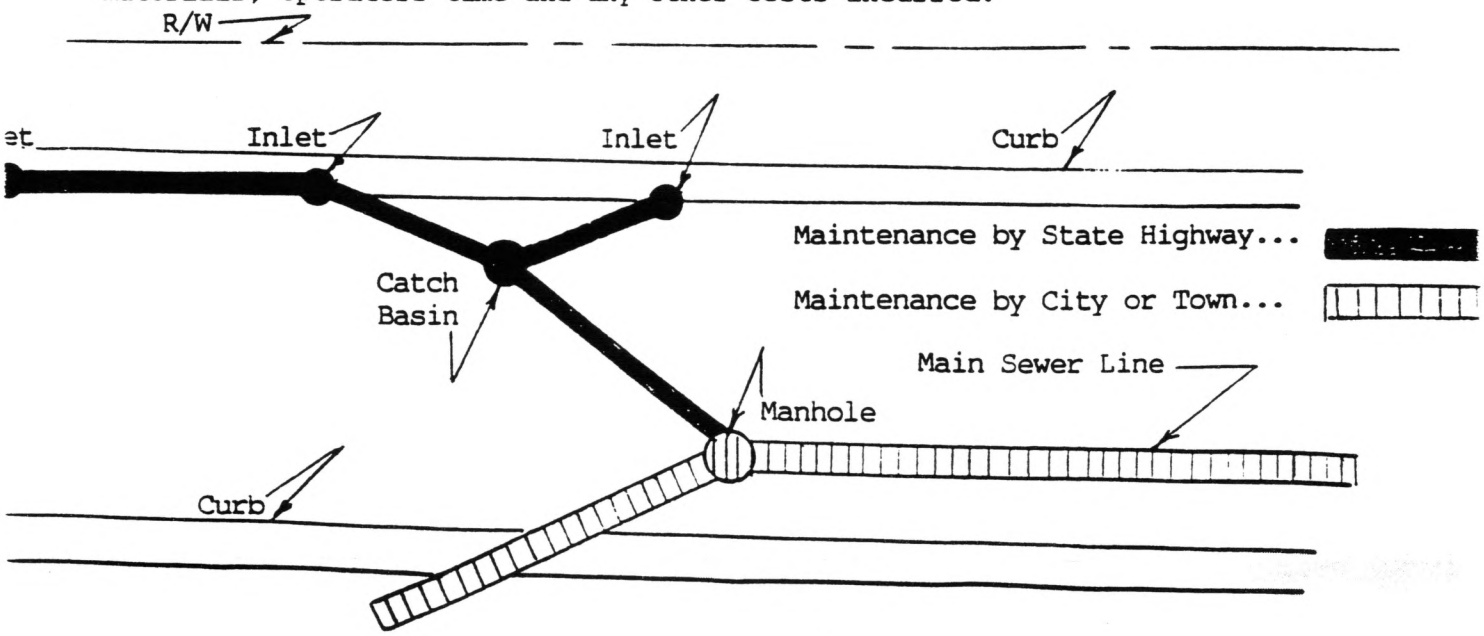
RE: Maintenance responsibilities for drainage in cities and towns

It has come to our attention that there is some confusion on the above referenced subject. See IC 8-23-6-3(d).

The following is the position of the Indiana Department of Transportation regarding storm drainage in cities and towns:

The Indiana Department of Transportation will be responsible for maintaining the inlets, catch basins, manholes and the connecting pipes between them, including the pipe to the main sewer line. The city or town will maintain the main storm sewer line, its manholes and/or other related appurtenances to the main sewer line.

When there is an obstruction in the main sewer line preventing adequate or timely drainage of the roadway a written request shall be sent to the chief officer of the city or town citing IC 8-23-6-3(d) notifying them of the potential or existing hazard so that they may clean or repair the obstruction. If the city or town does not respond in a timely manner, then the necessary work will be accomplished to remove the hazardous condition and the city or town will be billed the total cost of the repair. This cost shall include equipment time, materials, operators time and any other costs incurred.



DGS:MPM:pl
cc: Highway Support
John Jordan

OPERATING PROCEDURE #3
VEGETATION MANAGEMENT

POLICY : The Indiana Department of Transportation (INDOT) shall plan, develop and operate a comprehensive roadside management program that protects the roadway and right of way, provides reasonable safety, service and comfort to commercial and noncommercial travellers; protects the environment and is aesthetically pleasing.

The use of one or more compatible techniques such as mechanical,cultural or chemical should be used to attain this goal. Techniques should be cost efficient, effective, take into consideration adjacent land use and be reasonably straightforward to implement.In existing turf areas the objectives of a vegetation management program would be to improve competitiveness of the turf cover and to control localized weed infestations on a spot basis.

The use of alternative low maintenance vegetation types should be encouraged in areas suitable for their use. On both old and new roadsides regeneration of the natural vegetation should be encouraged on large cut and fill slopes and on rock overburden areas.

A safety clear zone should be maintained to reduce off the road collisions and to keep sight lines clear. Trees, shrubs and other tall growing vegetation that create hazards are removed and ground vegetation is mowed adjacent to the shoulder to provide emergency pull off and snow storage areas.

The main objectives of the vegetation management program are;

1. To maintain safety for the travelling public and INDOT personnel.

2. To achieve economy in roadside maintenance.

3. To control noxious weeds under terms of state weed laws.

4. To prevent drainage impairment.

5. To improve turf cover and aid in erosion control.

6. To promote healthy growth of desirable vegetation.

SECTION A - MOWING

1. POLICY: The Indiana Department of Transportation shall selectively mow roadside vegetation as a tool in the overall vegetation management plan. The guidelines contained herein are based upon consideration for motorist safety, adequate control of noxious growth, conservation of energy, efficient utilization of personnel and equipment, and the preservation of habitat for plants and wildlife.

2. IMPLEMENTATION: Roadside vegetation should be mowed in accordance with procedures presented herein.

A. Highways with greater than 40' width from the edge of the pavement to the right of way.

1. URBAN - Areas designated as urban shall be mowed full width on all cycles on the outside edge of pavement or paved shoulder to the full width limits. Medians shall be mowed full width. Full interchange mowing will be performed in urban areas and with the approval of the district manager.

2. RURAL - Areas designated as rural shall be mowed at least two cycles and not more than three cycles. At least one cycle shall be limited width and there will be no more than one full width cycle. Mowing on the limited width cycle will be from the edge of pavement or paved shoulder out to 15'. Full width mowing will be from the edge of pavement or paved shoulder to the full width limits. Full width limits in rural areas will be up to 30' from the back edge of the ditch. Fill slopes with a slope of greater than 3:1 will be mowed to 15' from the edge of pavement or paved shoulder. Intersecting cross roads and interchange ramps shall be mowed out to 15' from the edge of pavement or paved shoulder for safety reasons. Medians shall be mowed full width when medians are 60' or less or where medians have only one center ditch. Where medians are wider than 60' or where there is more than one center ditch the mowing width shall be 15' from the edge of pavement or paved shoulder.

B. Highways with 20' to 40' width from the edge of pavement to the right of way.

1. URBAN - Areas designated as urban shall be mowed full width on all cycles on the outside edge of pavement or paved shoulder to the full width limits. Medians shall be mowed full width when medians have only 60' or less or where medians have only one center ditch. Where medians are wider than 60' or where there is more than one center ditch the mowing width shall be 10' from the edge of the paved shoulder or pavement. Full interchange mowing will be performed in urban areas and with the approval of the district manager.

2. RURAL - Areas designated as rural shall be mowed at least two cycles and not more than three cycles. At least one cycle shall be limited width and there will be no more than one full width cycle. Mowing on the limited width cycle will be from the edge of pavement or paved shoulder out to 10'. Full width mowing will be from the edge of pavement or paved shoulder to the full width limits. Intersecting cross roads and interchange ramps shall be mowed out to 10' from the edge of pavement or paved shoulder for safety reasons. Medians shall be mowed full width when medians are 60' or less or where medians have only one center ditch. Where medians are wider than 60' or where there is more than one center ditch the mowing width shall be 10' from the edge of pavement or paved shoulder.

C. Highways with less than 20' width from the edge of pavement to the right of way.

1. Mowing shall be at least two cycles shall and not more than three cycles. At least one cycle shall be limited width and there will be no more than one full width cycle. Mowing on the limited width cycle will be out to 10' from the edge of pavement or paved shoulder. Full width mowing will be

from the edge of pavement or paved shoulder to the full width limits. Intersecting crossroads and interchange ramps shall be mowed out to 10' from the edge of pavement or paved shoulder for safety reasons.

3. GUIDELINES:

A. In addition to mowing on routes covered by this policy it may be necessary to use State Forces on roads covered by mowing contracts. Such mowing may include the following if directed by the District Manager:

1. Safety mowing at crossovers and in gore areas at interchanges in early spring or after completion of the final contracted mowing cycle. Crossovers should be cut approximately 20' in both directions.

2. A 5' strip along the edge of pavement or paved shoulder may be required to eliminate high weeds. These weeds may be controlled chemically.

B. The majority of our roadside turf is a fescue/bluegrass mix. If the first cycle is mowed too early these grasses will quickly generate a new seedhead rendering the mowing ineffective. If the first cycle is properly timed the grass will not generate a new seedhead and the mowed appearance will persist.

C. Slope steeper than 3:1 shall not be mowed with conventional tractor type mowers. It is important to note that it is always more hazardous to mow on a slope than on level ground. Site conditions at the time of mowing may warrant a delay in mowing on a slope until conditions improve.

D. Mowing of cycles two and three shall begin when the height of vegetation is approximately 18".

E. All tractor mowers shall be adjusted to cut at a height of 6" and shall be operated in a manner so as to prevent scalping, rutting, or other damage to the turf.

F. Mowing can also include undesirable vegetation in the clear zone, vegetation incompatible with adjacent land use or because control and eradication is required by law. Where conditions warrant it may be necessary to exceed the mowing limits specified in order to provide for adequate sight distance.

G. A minimum of 5' but no more than one mower width shall be mowed behind guardrail.

H. Areas planted with prairie grasses and forbs, seedlings, cooperative planting areas or other identified areas which support unique wildlife shall be marked and operations field personnel made aware of the locations. These roadside areas may be mowed only under specific guidelines established by the District Manager or designee.

SECTION B - HERBICIDE

POLICY: Herbicide application should include selective vegetation identification and control operations for specific roadside locations. Herbicide use practices must be considered only part of an effective vegetation management program. Vegetative growth should be controlled around and under guardrail, sign posts, attenuators, headwalls and other structures within the right of way limits to promote safety and improve the visibility of these structures to the travelling public.

GUIDELINES:

1. Only those chemicals properly labeled and registered with the office of the State Chemist will be used.

2. Do not spray where drift might damage off target crops, gardens, ornamental vegetation or desirable trees.

3. No herbicide activity should be started without first consulting either the herbicide coordinator or landscape supervisor.

4. Always read and understand the label before application and mix only what is to be used that day.

5. The amount of chemical stored at the subdistrict or unit site will be controlled by the landscape supervisor.

6. The District Landscape Supervisor will strive to maintain the minimum inventory deemed necessary. Subdistrict Managers and Unit Foreman will be made aware of the name and quantity of the materials brought onto their facilities.

7. The designated storage area at the district will be properly marked with signs so that it is easily identified. Access will be strictly limited to the area with the landscape supervisor controlling who will have keys.

8. The inventory will be updated every 30 days. This is to be done so that off site emergency personnel can be quickly advised of the type and quantity of material that is being stored.

9. The minimum personnel protection equipment required when using a spray handgun during application will be safety glasses and unlined rubber gloves.

10. No personnel protection equipment will be needed when operating a computerized system or one using fixed nozzles and solenoids. The window of the cab on the side being sprayed should be closed.

11. Accurate, up to date records of materials used, locations sprayed, and dates of application shall be maintained. Records will be considered up to date if applications made at the end of the month are recorded by the 15th of the next month. The finalized records will be maintained for a period of two years.

12. In areas that have been recently mowed allow 4-7 days before herbicide application.

13. Where adjacent property owners trim around structures and otherwise maintain such areas as part of their lawn, no application should be performed by the state.

HERBICIDE SUB ACTIVITIES

SUB-ACTIVITY #23 Guardrail and Sign - This sub-activity consists of controlling vegetation around and under guardrail, sign posts, attenuators, headwalls and other structures within the mowing limits so that these structures are visible and easily identifiable to the maintenance crews and the travelling public.

GUIDELINES

1. The treatment should cover an area of adequate size to permit mechanical mowing to overlap to eliminate the need for hand trimming only.

2. In years of unusual climatic conditions it may be necessary to perform mechanical treatment at the end of the season.

3. Do not spray on slopes where erosion could be a problem.

SUB-ACTIVITY #24 JOHNSON GRASS - This activity consists of controlling Johnson grass on the right of way to comply with the Indiana noxious weed control law.
SUB-ACTIVITY #25 SHOULDER WORK - This activity is generally performed in conjunction with chip and seal activities or before maintaining gravel shoulders.
SUB-ACTIVITY #26 THISTLE - This activity is done to control canada thistle on the right of way according to the Indiana noxious weed control law.

GUIDELINES

1. Canada thistle located in crown vetch should be sprayed in a manner to minimize off target application.

2. The application should be done before the bud breaks or soon after. If the application is made too late the plant will go to seed.

SUB-ACTIVITY #27 CATTAILS - This sub-activity is done to control cattails where it is necessary.

SUB- ACTIVITY #28 BRUSH CONTROL - This sub-activity is for controlling brush as outlined in the brush control section. The use of foliar or basil bark applications will be some of the methods to perform this sub-activity.

SUB-ACTIVITY #29 BROADLEAF WEEDS - This activity is used to control broadleaf weeds in turf areas where they have overpopulated the grass.

SUB-ACTIVITY #30 GROWTH INHIBITOR - This activity is used to suppress the growth of grass in areas where the sight distance needs to be maintained and/ or to prolong the start of the first mowing cycle.

GUIDELINES

1. The use of plant growth regulators may be used where it is desirable to maintain vegetation around the structure in order to prevent soil erosion.

2. Plant growth regulator should be combined with selective broadleaf or preemergent type herbicides in order to prevent undesirable weeds or grasses from reducing the effectiveness of the treatment.

3. The treatment should be made before the formation of the seedhead in the spring.

SUB-ACTIVITY #31 STORAGE YARDS - This activity is used to keep storage yards clear of unwanted vegetation. Long term residual herbicides should not be used in these areas.

SUB-ACTIVITY #32 CRACK SPRAYING - This activity is used to control weeds in cracks of barrier wall or paved areas.

SUB-ACTIVITY #33 MISCELLANEOUS - This activity is used for any application that does not fit under any other category.

SUB-ACTIVITY #34 RIPRAP - This activity is used for areas that are covered with riprap. Long term herbicides should not be used in these areas. A herbicide that is approved for use on ditch should be used.

SECTION C - BRUSH CONTROL

1. POLICY : The department shall maintain or control woody vegetation and trees within the right of way, to improve safety for the motorist while considering aesthetic benefits from this vegetation.

2. IMPLEMENTATION: Improved safety of the motoring public will be promoted by controlling woody vegetation and trees within certain minimum distances from the edges of the roadside as further set out in sections A-D below.

A. Highway with greater than 40' distance from the edge of pavement to the right of way line.

1.No tree form vegetation shall be permitted between the edge of pavement and a point 8' beyond the bottom of the ditch line on the backslope unless protected by guardrail. Volunteer trees within this area should not be allowed to reach a diameter of 4" at the ground line. This applies to both median and outside shoulders. Where road sections do not have the minimum 40' distance, refer to section 2(b).

2. Trees shall not be allowed to grow in any right of way area from which they could fall onto roadways or ramps.

3. No tree form woody vegetation located between, under or adjacent to bridges will be allowed to reach a height even with the bottom of the superstructure.

4. Trees and brush will not be allowed to grow into, or clog ditches or other drainage ways.

5. Shrub form woody vegetation shall not be permitted within 30' of the edge of pavement, unless included as a part of a formal landscape planting or protected by guardrail.

B. Highway with 10-40' distance from the edge of pavement to right of way line.

1. No woody vegetation shall be permitted from the edge of the pavement to within 8' of the bottom of the ditch line on the backslope. Shrub form woody vegetation may be permitted in this area if protected by guardrail. Distances on the backslopes may be less depending on width of right of way. Distances from the bottom of the ditch may also be reduced where backslopes are steeper than 2:1 and where height of slope prevents contact between vehicles and trees.

2. Woody vegetation may be permitted beyond 8' from the ditch bottom so long as it does not interfere with other highway operations.

3. No tree form woody vegetation located between, under or adjacent to bridges will be allowed to reach a height even with the bottom of the superstructure.

4. Trees and brush will not be allowed to grow into, or clog ditches or other drainage ways.

C. Highway with less than 10' distance from the edge of the pavement to the right of way line.

1. No woody vegetation shall be permitted between the edge of the pavement and the right of way line, except where backslopes exceed 2:1 and where height of slope prevents contact between vehicles and trees.

2. Vegetation behind guardrail should be controlled to the right of way line.

D. Priorities of work to be performed: Because of the quantity of work to be performed it is necessary to prioritize the work effort to provide for the orderly control of unwanted woody vegetation. In general the following should apply, with categories of work being completed before proceeding to the next. The exception will be the active control of small vegetation through the application of herbicides to prevent the need for expensive mechanical control at later dates.

1. Trees known to be hazards based on reports from law enforcement agencies or observed to be damaged by collision with a vehicle.

2. Trees in categories B & C above and located on the outside radii of curves.

3. Trees observed or reported to be deteriorating and of potential hazard to the public.

4. Trees on the cut slope within the safety zone.

5. Trees located in ditch bottoms where an errant vehicle might be directed along the ditch into an impact.

6. Trees behind guardrail and around bridges.

7. Trees growing into INDOT fences or other structures.

8. Small trees or brush in any location where it is not desired.

It may be generally desirable to schedule tree and brush work in conjunction with resurface work. Critical trees may be more readily removed if considered as a part of safety upgrading of the facility.

All wood generated as a result of this policy shall be disposed of per Operating Procedure 13 of the Field Operations Manual. The stumps of all woody vegetation removed under this procedure shall be treated with herbicide to prevent sprouting except for coniferous (evergreen) species.

There are several areas in the state where particular trees have unique historic value. There are also designated scenic routes controlled by the Department of Natural Resources(DNR). Before INDOT can do routine work on trees in these areas special coordination with local historical societies or the DNR must be done. We will work closely with other agencies to historic and scenic trees while maintaining the safety of the roadway.

NOTE: Prior to cutting trees where right of way lines are not clearly defined permission from the adjacent property owners must be obtained. Particular care must be given to trees which may be owned by adjacent property owners under retained timber rights. Refer to Operating Procedure 13 for disposal of wood. Form M-46 should be used as needed to document property owner consent. This section will not apply to any limited access right of way.

3. GUIDELINES

The following are to be used as general guidelines on INDOT responsibility for trimming and removal of trees adjacent to the roadways. These guidelines do not cover every situation. Individual unique situations should be referred to the district landscape supervisor.

A. INDOT will not normally maintain trees where property owners have retained timber rights. Where such trees are known to exist and where they are hazardous to persons using the highway, INDOT will advise the owner of their responsibility to remedy the situation. Where the owner fails to take action within a reasonable period of time, INDOT will remedy the situation in the least costly method available.

B. INDOT will not maintain, remove or trim trees inside incorporated municipalities which are located in grassy strips, between the edge of pavement and sidewalk except that trimming or removal may be done if:

a. A hazard exists that must be remedied and the city is unable to fulfill their obligation in a timely manner.

b. INDOT in the past assumed responsibility for tree care in a municipality and transfer of that responsibility to the municipality would cause a considerable hardship on it.

NOTE: Generally, incorporated municipalities have the responsibility for maintenance of trees to the corporate boundaries even though there are no curbs or sidewalks and INDOT mows the grass.

C. INDOT will not trim or remove trees for aesthetic reasons if the requesting party has not indicated a suspicion of potential damage to his property or to motorists using the roadway. (i.e. The requesting party indicates they don't like the shape of the tree, or it affects the scenic view, or the tree is messy.) INDOT will trim or remove trees when determined to be potential hazards to the roadway or to private property.

D. Unincorporated municipalities shall be treated the same as rural sections for the purpose of this procedure.

E. INDOT shall adhere to tree trimming and removal techniques which will result in the least possible chance of damage or hazard during the work period or in the future.

APPROVED: Donald W. Lucas 1/6/97
Donald W. Lucas — Date
Chief Engineer

A. D. 114

INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

INTER-DEPARTMENT COMMUNICATION

January 27, 1995

Memorandum 95- 02

TO: District Directors
District Operations Engineers
District Development Engineers
District Construction Engineers

FROM: Timothy D. Bertram, Chief
Division of Operations Support

RE: Legal Opinions of Maintenance Responsibility on City\County Roads Reconstructed by INDOT

Enclosed are two (2) legal opinions clarifying INDOT's responsibility on city\county roads that are reconstructed during an INDOT project.

Since the city\county road was never taken into the INDOT system no relinquishment is required. The city\county should be notified that construction has been completed and that they should resume maintenance for the road except that portion identified in the October 19, 1993 memo.

TDB/wer

CC: D. Pluckebaum\Deputy Chief Engineer
P. Klika\Design
S. Cecil\Pre-Engineering
J. Marks\Land Acquisition
J. Jordan\Legal

A. D. 114

INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

INTER-DEPARTMENT COMMUNICATION

January 17, 1995

MEMORANDUM

TO: William Rinard
Operations Support Division

FROM: Jack A. Riggs JAR
Attorney
Legal Division

RE: County Roads Reconstructed by INDOT

Pursuant to your request, I have reviewed whether INDOT has any continuing maintenance responsibilities for county roads reconstructed or relocated to facilitate an INDOT project. This memorandum does not relate to the separation structure, i.e. overpass or underpass, that was dealt with in a previous memorandum prepared in conjunction with Operations Support Division.

The starting point is that INDOT does not have to take a roadway into its system or obtain a right of entry to work on county or city right-of-way. Courts have consistently held that all public right-of-way is owned by the public and that the legislature has merely allocated the responsibility for maintenance. Thus where INDOT, in order to perform its maintenance duties, must go onto county or city right-of-way, no permission is required. An example of this could be where INDOT must go onto the county road to place or maintain a "Stop" sign at an intersection with a county road. Of course, INDOT has a duty to rebuild or reopen the county road after the completion of the INDOT project, but this does not give rise to any continuing maintenance responsibilities.

The fact that INDOT has reconstructed or relocated a county road does not move that road into the state system. I.C. 8-23-4-12 allows a transfer only when a written agreement is executed between the governmental entities.

Since the county road would not have been transferred to the state system, there are no particular formalities to asking a county to resume maintenance. A straightforward notice to that effect should suffice.

If you have questions or if additional detail is desired, please let me know. Thank you.

JAR/ap
jr950005

A. D. 114

INDIANA DEPARTMENT OF TRANSPORTATION

INDIANAPOLIS, INDIANA 46204-2249

INTER-DEPARTMENT COMMUNICATION

October 19, 1993

Memorandum

To: William Rinard
Maintenance Field Engineer
Operations Support Division

From: Jack A. Riggs
Attorney
Legal Division

Re: County Roads Crossing Interstates

Pursuant to our discussion of today the following is the agreed Final Draft of a Policy Statement:

Upon the satisfactory completion of a county road or city street crossing on the interstate system, the applicable city or county shall resume normal maintenance with the following exceptions:

1) INDOT shall be responsible for the structural maintenance of the separation structures.

2) INDOT will maintain generally from approach slab to approach slab, inclusive, except that snow and ice removal and striping will be performed by the local unit of government.

3) INDOT may perform additional maintenance within the state right-of-way when it is determined that such maintenance will improve the safety and condition of INDOT's mainline.

If any questions arise or if further modifications are necessary please let me know at 232-6734. Thank you.

49-68

INDIANA STATE HIGHWAY COMMISSION
INDIANAPOLIS, INDIANA
May 3, 1968

49-68

HO

File: General Letter #49-68

Re: Policy for Maintenance of County Road and City Street Separated Crossings on the Interstate System

TO ALL DIVISION HEADS, DEPARTMENT HEADS, DISTRICT ENGINEERS, ASSISTANT DISTRICT ENGINEERS, DISTRICT ADMINISTRATION MANAGERS AND SUB-DISTRICT SUPERINTENDENTS:

Following is a copy of Policy for Maintenance of County Road and City Street Separated Crossings on the Interstate System. This policy was initiated on August 30, 1963, and was handed to the District Engineers. This is the policy that is being followed at the present time, and will continue unless you are otherwise notified.

1. "Upon the satisfactory completion of a county road or city street crossing on the Interstate System, the county road or city street including all right-of-way lying outside the limited access control fence or lines, shall be relinquished and returned to the appropriate local unit of government for future maintenance, except the Indiana State Highway Commission shall retain and be responsible for the structural maintenance of the separation structures.

   The local unit of government will re-assume all maintenance, including snow and ice removal and cleaning of the bridge floor, approaches and all appurtenances upon being notified of such satisfactory completion by the Executive Director upon recommendation by the District Engineer.

2. Serious erosion problems or maintenance needs, resulting from our construction shall be satisfactorily repaired and corrected by the Indiana State Highway Commission before relinquishment and return to the local unit of government."

Very truly yours,

M. A. Newlin
Office Engr. of Maint.

W. C. Kramer
Chief, Div. of Maint.

F. L. Ashbaucher
Chief Engineer

M. L. Hayes
Executive Director

MLH:FLA:WCK:MAN:nss

POLICY LETTER HO - MN - 123

be paid by the department, subject to the approval of the governor.

(b) The department shall:

(1) maintain public roads and parking areas constructed on properties of the department of natural resources; and

(2) construct new roads on properties owned by the department of natural resources:

(A) upon the request of the department of natural resources;

(B) subject to the approval of the engineers of the department of natural resources as to the design and location of the new roads to preserve scenic values; and

(C) subject to the approval of the governor.

As added by P.L.18-1990, SEC.214. Amended by P.L.110-1993, SEC.1.

8-23-5-7 Roadside parks; connecting highways; construction and expenditures

Sec. 7. (a) As part of the state highway system, the department may lay out, construct, and maintain roadside parks and highways that connect a state highway with a state park, state forest reserve, state game preserve, or a state institution. A connecting highway constructed under this subsection shall be constructed in the same manner as a state highway.

(b) Before a roadside park or connecting highway described in subsection (a) may be constructed within the boundaries of a state institution, park, reserve or preserve, the board of trustees of the state institution, park, reserve, or preserve must adopt a resolution approving the construction.

(c) The department may cooperate with a county highway authority having jurisdiction over a county highway that connects a state park, state forest reserve, state game preserve, or state recreation area with a state highway. The department shall undertake construction and maintenance responsibilities under this subsection upon the request of the department of natural resources if the request is approved by the governor.

(d) Expenditures incurred by the department in carrying out this section shall be made from the motor vehicle highway account before distribution to local units of government. Before an expenditure may be made under this subsection, an appropriation authorizing the expenditure must be made. *As added by P.L.18-1990, SEC. 214.*

8-23-5-8 Vending machines; installation in rest areas; report to general assembly; conformity with state and federal law

Sec. 8. (a) The department may install vending machines for items including food, drink, candy, and first aid kits in rest areas on the interstate highway system.

(b) The department shall report to the general assembly through the legislative council the results of the installation.

(c) Installation of the vending machines must conform with federal and Indiana law. *As added by P.L.18-1990, SEC.214.*

Chapter 6. State Highways in Municipalities

Section	
8-23-6-1	Highway route selection; street maintenance and improvements; curbs and drainage structures
8-23-6-2	Drainage facilities; uses; costs
8-23-6-3	Exceptions to department maintenance; rights of way costs; restoration of tracks or pipes by owner; department maintenance of streets, curbs, sidewalks, grass and drainage facilities; traffic
8-23-6-4	Alternate routes; maintenance and improvements
8-23-6-5	Sidewalks, curbs, sewers, drains, traffic; maintenance by city or town; costs; maintenance or improvement by private entity
8-23-6-6	Highway openings, obstructions, digging; prohibition; tree removal from rights-of-way; permits; costs; bonds; violations

8-23-6-1 Highway route selection; street maintenance and improvements; curbs and drainage structures

Sec. 1. The department shall select the route of highways in the system of highways under its control through cities and towns, and may change the routes as the department determines most convenient for public travel. The department, to the extent of the funds available for the purpose, shall maintain and, as it determines necessary

and as the funds required are available, may construct and improve the roadway of the streets or a part of the streets to the width determined by the department. As part of the construction work, the department shall construct within the limits of a street the curbs and gutters, manholes, catch basins, and the necessary drainage structures and facilities. *As added by P.L.18-1990, SEC.215.*

8-23-6-2 Drainage facilities; uses; costs

Sec. 2. If the construction of a street necessitates the construction of adequate connecting facilities outside the limits of the street to provide for drainage of the street, the necessary mains, laterals, and connections shall be provided for in the plans, included as part of the construction cost, and paid out of the department's appropriation. However, if the drainage facilities outside the street are to be used for a purpose or purposes in addition to that of draining the street, a proportionate share of the cost of construction shall be paid by the beneficiaries of the drainage other than the department in a ratio of the amount of waste water attributable to the other users as compared with the total capacity of the drainage facilities. The department shall determine the ratio. The department need not proceed with construction until the time that an agreement with the municipality has been effected concerning the payment of costs for drainage use other than that which is required for state highway drainage. If the construction of a street in the state highway system within the boundaries of a city or town necessitates the construction of a bridge, overhead or subway structure, and sidewalks are required as a part of the structure, the sidewalks shall be provided for in the plans, included as part of the construction cost, and paid out of the department's funds. *As added by P.L.18-1990, SEC.215.*

8-23-6-3 Exceptions to department maintenance; rights of way costs; restoration of tracks or pipes by owner; department maintenance of streets, curbs, sidewalks, grass and drainage facilities; traffic

Sec. 3. (a) Whenever a street on the state highway system is located within the boundaries of a city or town and is occupied by the track or tracks of a street railway, interurban railway, or steam railroad, the department is not required to maintain, construct, or improve the part of the street between the track or tracks and for eighteen (18) inches on the outside of the outer rails. The department shall include as part of the construction cost and pay out of department funds any expenditures necessitated by the acquisition of sufficient rights-of-way to construct the street.

(b) If there are any tracks, pipes, or conduits in a street, the department may, after determining to construct or improve the street, require the owner to restore to good condition or renew the tracks, pipes, or conduits. The owner, within ninety (90) days after being notified to do so, shall restore or renew the tracks, pipes, or conduits. For tracks, the owner shall pave the part of the street between the rails of the tracks and eighteen (18) inches on the outside in conformity with plans approved by the department.

(c) If the construction work on tracks, pipes, or conduits involves work of a nature as to be impractical or impossible of performance as a separate unit, the department may by agreement with the owner perform the work for which the owner shall reimburse the department for the cost.

(d) Upon the completion of a street, the department shall maintain the roadway of the street, including the curbs and gutters, catch basins, and inlets within the limits of the street or highway that form integral parts of the street or highway. The city or town shall maintain the sidewalks, grass plats, and the connecting drainage facilities.

(e) Whenever the department has responsibility for maintenance of a street within a city or town, the department shall regulate traffic in accordance with IC 9-21 on the street and may remove any hazard to traffic. *As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.64.*

8-23-6-4 Alternate routes; maintenance and improvements

Sec. 4. Whenever:

(1) the department designates a business route or a special route as an alternate to a state highway;

(2) the route is laid out through a city or town; and

(3) no other state highway is routed over the business or alternate route;

the city or town is responsible for any improvements to or maintenance of the street. *As added by P.L.18-1990, SEC.215.*

8-23-6-5 Sidewalks, curbs, sewers, drains, traffic; maintenance by city or town; costs; maintenance or improvement by private entity

Sec. 5. This chapter does not annul, limit, or abridge the right of a city or town, either at its own expense or at the expense of property owners subject to assessment, to improve the sidewalks and curbs along a street forming the route of a state highway, to construct sewers and drains, or to construct or maintain a part of the roadway of the street not improved or maintained by the department. The city or town shall provide adequate drainage for the street except as otherwise provided in this chapter. Except as expressly provided in this chapter and subject to IC 9-21, this chapter does not limit the right of a city or town to regulate traffic over a street over which a highway is routed or to relieve the city or town of liability now imposed by law. The cost of improvement, except as otherwise provided in this chapter, shall be paid for out of the funds appropriated to the department. Whenever a person, firm, limited liability company, or corporation, other than a municipal corporation, is required or obligated by a law, ordinance, or contract to keep in repair or to maintain or to construct a street, any part of a street, or any railroad, interurban railroad, or street railroad crossing, or any structure or bridge thereon, this chapter does not relieve the person, firm, limited liability company, or corporation or the receiver thereof from the duty, obligation, or contract. *As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.65; P.L.8-1993, SEC.153.*

8-23-6-6 Highway openings, obstructions, digging; prohibition; tree removal from rights-of-way; permits; costs; bonds; violations

Sec. 6. (a) An opening may not be made in:

(1) a highway in the state highway system;

(2) the right-of-way of a state highway; or

(3) the roadway of a street of a city or town over which a state highway is routed and which the department is required to maintain;

and a structure or obstruction may not be placed in a highway or roadway of a state highway without the consent of the department. A highway or roadway may not be dug up for laying or placing a pipe, sewer, pole, wire, conduit, track, or railway or for any other purpose, and trees may not be removed from the right-of-way of a state highway without the written permit of the department, and then only in accordance with the rules of the department. The work shall be done under the supervision and to the satisfaction of the department, and the entire expense of restoring the highway or street in as good condition as before shall be paid by the person to whom the permit is given.

(b) The department may require, before the granting of a permit, that a sufficient bond be given, or cash deposit made, to insure the restoration of the highway or street. In granting a permit, the department may designate the place in the street, highway, or right-of-way thereof where the pipe, sewer, pole, wire, conduit, track, railway, or other device or thing may be constructed.

(c) A person who violates this section commits a Class C infraction. *As added by P.L.18-1990, SEC.215.*

Chapter 7. Real Property Transactions

Section	
8-23-7-1	Application of chapter
8-23-7-2	Acquisition of real property; purposes
8-23-7-3	Right-of-way; department transferance of fee simple title to railroad
8-23-7-4	Property description; filing
8-23-7-5	Real property acquisition; notice to owners
8-23-7-6	Prohibition against property changes
8-23-7-7	Condemnation proceedings or property purchase time limit; owner improvements