

**RECORD OF DECISION  
FEDERAL HIGHWAY ADMINISTRATION**

**NHS CORRIDOR BETWEEN I-68 AND CORRIDOR H (US 220)**

**JULY 21, 2014**



## Record of Decision

This document is the Federal Highway Administration's (FHWA) Record of Decision (ROD) for the US 220 Tier One Final Environmental Impact Statement (FEIS). This ROD approves the Preferred Corridor as described in the FEIS dated April 2, 2014 and in Section 2.0 of this ROD. The Preferred Corridor is also shown in the appendix. As set forth in this ROD, the Preferred Corridor best serves the purpose and need for this project and minimizes environmental impacts. In addition, the Preferred Corridor is in the best overall public interest, in accordance with 23 U.S.C. 109(h). This ROD is based on the information presented in the FEIS and its associated administrative record and consideration of input received from the public and other agencies.

### 1.0 Proposed Action

The FHWA, the West Virginia Department of Transportation, Division of Highways (WVDOH), and the Maryland State Highway Administration (MDSHA) prepared a Tier One FEIS for the National Highway System (NHS) Corridor along US 220 between Interstate 68 (I-68) and Corridor H. This ROD documents the FHWA decision to carry Corridor B into more detailed Tier Two studies as the Preferred Corridor with the potential to use either the Corridor B terminus with I-68 or the Corridor D terminus with I-68 as the project's overall northern terminus. Advancing the northern spur of Corridor D as part of the Preferred Corridor's possible connection to I-68 will allow flexibility in developing a new I-68 interchange while providing opportunities to develop a full range of potential alignments in Tier Two that could avoid socioeconomic, natural, and cultural resources while minimizing the potential impacts of future transportation facilities. In accordance with the appropriate federal regulations (the *National Environmental Policy Act of 1969* (NEPA), the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU), *Section 4(f) of the Department of Transportation Act of 1966*, and the *Federal Aid Highway Act*), five alternative corridors and a no-build alternative were evaluated in the Tier One FEIS.

A Federal agency may publish a notice in the *Federal Register*, pursuant to 23 USC §139(l), indicating that one or more federal agencies have taken final action on permits, licenses, or approvals for a transportation project. If such notice is published, claims seeking judicial review of those federal agency actions will be barred unless such claims are filed within 150 days after

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the date of publication of the notice, or within such shorter time period as is specified in the Federal laws pursuant to which judicial review of the federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the Federal laws governing such claims will apply.

### **1.1 Cooperating and Participating Agencies**

Cooperating agencies included the United States Army Corps of Engineers (USACE), the United States Environmental Protection Agency (USEPA), the United States Fish and Wildlife Service (USFWS), and the United States Department of the Interior, National Park Service (NPS). Participating agencies included Allegany County Planning Commission, the Delaware Nation, Maryland Department of the Environment (MDE), Maryland Department of Natural Resources (MDNR), Maryland Department of Planning, Maryland Historical Trust (MHT), Region 8 Planning and Development Commission, West Virginia Department of Environmental Protection (WVDEP), West Virginia Division of Culture and History (WVDCH), West Virginia Division of Natural Resources (WVDNR), and the U.S. Route 50 Association.

### **1.2 Purpose and Need for the Project**

The purpose of the project is to develop an improved transportation corridor connecting I-68 in western Maryland and Corridor H in West Virginia. The study area is approximately 835 square miles and 40 miles in length. Located in Grant, Hardy, Hampshire, and Mineral counties in West Virginia, and Allegany County in Maryland, the project would terminate at the northern end of the region at I-68 with an interchange near the City of Cumberland. At the southern end, the project would terminate at Corridor H.

Project needs were developed through a collaborative process that included examination of past studies, a review of existing regional plans, consultation with citizens and local officials within the study area, consultation with the government agencies involved in the process, and an analysis of environmental and socioeconomic conditions. The following needs were identified:

- Current geometric deficiencies on US 220 and parallel roadways limit regional mobility;
- The study area has inadequate roadway capacity;
- Roadway sections within the area have safety deficiencies;
- Support is needed for economic development efforts in the area; and
- Additional system linkage is needed to complete the regional road network.

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The lack of multi-lane roadways, beyond I-68 and very small sections of US 220 and MD 53, is inadequate to accommodate future economic development and commerce. Although the major roads serving the area are well-maintained, they are primarily two-lane roads with grades as steep as 9 percent and deficient roadway geometry in some locations, limiting economic development. The high percentage of trucks on these two-lane roads, together with limited passing zones, also creates conflicts with automobile traffic.

Upgraded roadways resulting from this project will become part of the NHS. To some extent, this new corridor would parallel existing US 220 in western Maryland and the Potomac Highlands area of West Virginia.

### **1.3 Implementation Plan**

Based on the results of the environmental and engineering studies completed during Tier One, Corridor B, with the possibility of using the northern spur of Corridor D that connects to I-68, is being identified as the Preferred Corridor to be carried into Tier Two. The northern spur of Corridor D begins on US 220 just south of MD 53 and terminates at I-68. Both these termini will be carried into Tier Two to determine which would best meet the project's purpose and need, be the least environmentally damaging, and operate most efficiently. Advancing the northern spur of Corridor D as part of the Preferred Corridor's possible connection to I-68 will allow flexibility in developing a new I-68 interchange while providing additional opportunities for avoiding socioeconomic, natural, and cultural resources and minimizing the potential impacts of future alignments.

Although the project could result in a program of individual transportation improvements throughout the US 220 Preferred Corridor, with several projects having independent utility and serving different logical termini, the design criteria to be carried into Tier Two will be based on a four-lane, partially controlled roadway. The WVDOH and MDSHA will independently initiate Tier Two studies within their respective states. In West Virginia, a typical section will require a minimum of 136 feet, and in Maryland, a minimum of 140.5 feet will be required. With the addition of more right-of-way for construction cuts or fills, the roadway width and associated right-of-way could increase to approximately 300 feet.

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There are significant environmental resources within the Preferred Corridor that will require considerable stewardship, enhancement measures, and mitigation as the project progresses to Tier Two. The FHWA and both state transportation agencies have made a strong commitment to assure that the project will be developed in an environmentally sensitive manner and protect the region's environmental sources. Several alternatives will be developed and analyzed within the Preferred Corridor during Tier Two, including a system upgrade of existing roads and highways throughout the corridor, transportation systems management strategies, and potential new highway alignments. During Tier Two, the Tier One 4,000-foot corridor will be expanded, if necessary, to accommodate alternatives, avoid resources, and minimize impacts.

Environmental analyses will also be undertaken if breakout projects having logical termini and independent operational utility are identified. Breakout projects would be separate from the larger Tier Two effort and would require their own detailed engineering studies and environmental documents. Any projects identified by WVDOH or MDSHA will be included in their respective long-range transportation plans and state transportation improvement programs as necessary to meet state and federal requirements. Through the normal environmental planning and project development process, breakout projects would evaluate project alternatives, identify a preferred alternative, and be submitted for federal and state approval. Future environmental documentation could result in the development of EISs, Environmental Assessments, or Categorical Exclusion Evaluations. The appropriate environmental permits will also be developed.

## **2.0 Alternative Corridors Considered**

Alternative corridors were analyzed in two stages. In the first stage, as part of the North South Appalachia Corridor feasibility study, four generalized north-south corridors bisecting the Appalachian regions of Maryland, Pennsylvania, West Virginia, and Virginia were analyzed to determine how highway improvements could support economic development. The feasibility study concluded that the proposed NHS corridor, generally paralleling existing US 220, should be given a high priority for future highway upgrades and other transportation improvements.

Subsequent to the completion of the feasibility study, MDSHA and WVDOH entered into a Memorandum of Understanding (MOU) on May 21, 2004, to establish roles and responsibilities for investigating additional corridors, develop other alternatives, and prepare a Tier One EIS for

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a study area surrounding the US 220 corridor. Upon signing the MOU, the second stage of corridor development was initiated.

Corridors were developed, analyzed, and advanced based on their ability to meet the project's purpose and need; potential environmental impacts; and comments received by the public, resource agencies, and local elected, planning, and economic development officials. Five preliminary corridors in the study area were developed and evaluated. The five corridors were:

## **2.1 Corridor A**

The westernmost corridor originated at I-68 near Frostburg, MD, and extended southwest to Corridor H near Bismarck, WV. The corridor would traverse parts of Allegany, Mineral, and Grant counties. It could provide direct connections to MD 36, 55, and 135; WV 42, 46, and 93; and US 50. By doing so, it would provide increased transportation opportunities to the communities of Frostburg, Midland, Lonaconing, and Westernport in Maryland, and Piedmont, Elk Garden, and Mount Storm in West Virginia. Traveling south from I-68, to the West Virginia–Maryland state line, the corridor roughly paralleled existing MD 36 and Dans Mountain. After crossing the state line, the corridor was centered on CR 4 and WV 42 in Mineral County and to the east of WV 42 in Grant County. As with all of the corridors, it terminated at Corridor H.

Corridor A was not carried forward for detailed analysis because of the potential impact to Dans Mountain. Dans Mountain contains the largest amount of state-owned contiguous forest in western Maryland and was identified by the MDNR as having high habitat values associated with forest interior, wildlife corridors, and green infrastructure. Corridor A was also not carried forward because it would divert the least amount of traffic from US 220. A new highway alignment within Corridor A would still leave as much as 8,500 AADT, or approximately 42 percent of the expected traffic in the year 2025, on existing US 220. Corridor A was also not carried forward because it would likely have the least economic development benefits without other major public infrastructure improvements. With the fewest residential units and commercial facilities found in any of the corridors, the handful of communities located within the area of Corridor A would require substantial investment in land development, utility extensions, and water and sewer improvements to attract economic growth.

## **2.2 Corridor B**

The second corridor originated at I-68 near LaVale, MD, and extended southwest to Corridor H near Scherr, WV. The corridor would traverse parts of Allegany, Mineral, and Grant counties. Corridor B could provide direct connections to MD 53 and 135; WV 46, 93, and 972; and US 50 and 220. It would provide a major new transportation facility for the communities of LaVale, Cresaptown, and McCoole in Maryland, and Keyser and New Creek in West Virginia. Traveling south from I-68 to Keyser, the corridor was centered on existing US 220. Just south of Keyser, the corridor continued to be centered on US 220 and WV 972 and 93 to its termination at Corridor H.

Of the three corridors studied in detail, Corridor B would impact the second-most residential land (and noise sensitive areas); the most mixed-use, built up land; and the least commercial and industrial land. Impacts on community cohesion and environmental justice populations would also be expected. As in the case of Corridor D, too, Corridor B would impact 58 community facilities, significantly fewer than the 70 community facilities that would be impacted by Corridor C. Corridor B would also impact eight parks and recreation areas, the fewest such impacts among the three corridors.

In terms of the built-environment, Corridor B could have a considerable impact on residential neighborhoods in Cresaptown and Keyser. It would provide a new highway facility within the heavily traveled US 220 corridor through LaVale and Cresaptown and in Keyser farther south. Corridor B's effect on reducing traffic congestion and improving safety would be greater than the effect of Corridor C and equal to the effect of Corridor D. Because it is located in the study area's most densely developed commercial area, Corridor B supports existing economic development efforts better than they would be supported by Corridor C and as well as they would be supported by Corridor D. The area that Corridor B traverses has considerable municipal infrastructure in place. Therefore, Corridor B would support Smart Growth initiatives and related comprehensive planning efforts better than they would be supported by Corridor C, and as well as they would be supported by Corridor D.

In terms of cultural resources, Corridor B has the least land with archaeological potential (such as very high and high potential from the archaeological predictive model) and the fewest *National Register of Historic Places* (NRHP)-listed and NRHP-eligible resources. A potentially

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NRHP-eligible historic district, the US 220 Maryland Rural Historic District, spans the entire width of Corridor B. Two large, potentially eligible historic farmsteads are found in Corridor B: the Potomac State College Farm east of Keyser and the Quality Dairy Farm south of Keyser. Additional studies in Tier Two may reduce the farmsteads' boundaries or determine that the farmsteads are not eligible for the NRHP. Corridor B also has the fewest potential Section 4(f) resources (public parks and recreation facilities and NHRP-listed or -eligible properties/sites). During Tier Two, additional cultural resource studies will be performed to evaluate NRHP-eligibility and identify the boundaries of resources eligible for inclusion in the NRHP.

In terms of the natural environment, Corridor B has the least amount of wetland acreage, the fewest linear feet of streams, the least amount of terrestrial habitat, and the lowest potential to encounter any rare, threatened, or endangered (RTE) species. Although it also has less agricultural-related land than either Corridor C or Corridor D, Corridor B contains eight flood control dams and the second-highest amount of floodplain acreage. In terms of the natural environment, Corridor B would impact the eastern edge of Dans Mountain (a major ecosystem and recreational resource in the area) and the Pinto Marsh (a non-tidal wetland of special state concern). Dans Mountain is one of the largest contiguous tracts of forestland in the state of Maryland; a considerable amount of coordination with the USFWS, MDNR, and MDE will be necessary during Tier Two to analyze alternatives that could impact it.

Preliminary cost estimates indicate that alternatives developed within Corridor B could have lower costs than alternatives developed for Corridor C or Corridor D. Cost estimates could increase, however, within any corridor as the project progresses.

Three possible interchange locations exist for Corridor B at I-68. Option 1 parallels MD 53 between Cresaptown and LaVale and ties into I-68 west of Exit 39. The full interchange between Corridor B and I-68 would provide access between the two roadways in all directions. Option 2 parallels US 220 between Cresaptown and Cumberland and provides a partial interchange with I-68 between Exits 41 and 42. The partial interchange provides access from Corridor B to I-68 eastbound and from I-68 westbound. Construction of a full interchange will have substantial impacts and displacements, given the existing grades and terrain at this location. This option may also present weaving problems and signing overlaps. Option 3 requires the construction of both Option 1 and Option 2, with partial interchanges at each

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connection to I-68. The western interchange west of Exit 39 connects eastbound I-68 to Option 1 and Option 1 to westbound I-68 via ramps from Option 1.

The termini with Corridor H for any of the corridors could be signalized or unsignalized. Although Corridor H is access-controlled, the WVDOH has made allowances for intersection construction and traffic signalization at specific locations, where necessary. More study will be required during Tier Two to determine whether the potential US 220/Corridor H terminus would be a candidate for the construction of a signalized intersection.

### **2.3 Corridor C**

The third corridor originated at I-68 near Cumberland, MD, and extended southwest to Corridor H near Maysville, WV. The corridor would traverse parts of Allegany, Mineral, and Grant counties. It could provide direct connections to MD 51, WV 28 and 46, Mineral CR 9 and Grant CR 3, as well as US 50 and 220. It would provide improved transportation opportunities to the central part of Cumberland and its eastern side in Maryland, and the communities of Ridgely, Carpendale, Short Gap, the eastern side of Keyser, and Antioch in West Virginia. Paralleling the eastern face of Knobley Ridge, most of the corridor lies in West Virginia. It is centered on CR 9 in Mineral County and CR 3 in Grant County.

Of the three corridors studied in detail, Corridor C would impact the least residential land (and noise sensitive areas); the least mixed-use, built up land; and the most commercial and industrial land. It would also impact the greatest number of community facilities (70) and parks and recreation areas (10). Impacts on community cohesion and environmental justice populations would also be expected.

Although construction of a new transportation facility within Corridor C would help alleviate traffic congestion on US 220, Corridors B and D would divert more traffic from US 220. Corridor C would provide new access to the WV 28/WV Alternate 28 corridor and the WV 46 corridor east of Keyser. The Mineral County Comprehensive Plan (Mineral County Planning Commission 2011) has identified the WV 28/WV Alternate 28 corridor as a high- growth corridor for residential and business development. East of Keyser, the WV 46 corridor is the setting for older industrial development adjacent to the city limits and considerable residential development as the corridor extends toward Fort Ashby. Corridor C would also provide more access to

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businesses and residential areas east of Cumberland than would be provided by Corridor B or Corridor D.

In terms of cultural resources, Corridor C has the second-greatest amount of land with archaeological potential (such as very high and high potential from the archaeological predictive model) and the second-greatest number of NRHP-listed and NRHP-eligible resources. The Chesapeake and Ohio Canal National Historical Park, an NRHP-listed site, spans the entire width of Corridor C in the vicinity of its northern terminus. No environmentally sensitive manner to cross the park, which is also a Section 4(f) resource, has been identified through early coordination efforts with the NPS. In fact, the NPS has indicated that future alignments within Corridor C are incompatible with the park's general plan. Thus, it may be impossible to construct a new transportation facility of this nature within the park.

Property of the Chesapeake and Ohio Canal Company was placed under federal jurisdiction as early as 1938. Later, in 1953, Public Law 184 created a parkway between Cumberland and Washington, D.C., from land originally used for the canal, with the stipulation that none of the rights-of-way granted by the Secretary of the Interior would sever the landscape continuity from Great Falls (at Potomac, VA) to Cumberland. Subsequently, in 1971, Public Law 91-664 created the Chesapeake and Ohio Canal National Historical Park.

Several large, potentially NRHP-eligible farmsteads are located within Corridor C. Future highway designs could find these potential historic resources difficult to avoid. Additional cultural resource studies in Tier Two could determine that the farmsteads are not NRHP-eligible or that their boundaries are smaller than currently identified. Corridor C also has the second-greatest number of potential Section 4(f) resources (public parks and recreation facilities and NHRP-listed or -eligible properties/sites).

In terms of the natural environment, Corridor C has the greatest amount of wetland acreage, the second-greatest number of linear feet of streams, the second-greatest amount of terrestrial habitat, and the second-highest potential to encounter RTE species. Corridor C would also impact the Knobley Mountain aquifer, a principal source of current and future drinking water in the area. Corridor C contains four flood control dams (the fewest of the three corridors) and the least amount of floodplain acreage. It has the greatest amount of agricultural land among the

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corridors. Although the amount of agricultural land cover found in Corridor C is greater than the land cover in Corridor D, the amount of farmland soil is less than in Corridor D.

Preliminary cost estimates indicate that alternatives developed within Corridor C could have higher costs than alternatives developed for Corridor B or Corridor D. Cost estimates could increase, however, within any corridor as the project progresses.

Corridor C ties into I-68 at the interchange with US 220 (North), MD 144, and Naves Cross Road (Exits 46 and 47) east of Cumberland. A complex full interchange between Corridor C and I-68 could be constructed at that location while maintaining access from US 220 (North) and MD 144 to the new facility and I-68.

## **2.4 Corridor D**

The fourth corridor originated at I-68 near LaVale, MD, and extended south to Corridor H at Moorefield, WV. It would traverse parts of Allegany, Mineral, Hampshire, and Hardy counties. It could provide direct connections to MD 53 and 135, WV 46, CRs 9 and 11 (Mineral County), and US 50 and 220. It would provide an improved transportation corridor to Cumberland, Cresaptown, and McCoolle, MD. In West Virginia, it would service the communities of Keyser, New Creek, Old Fields, and Moorefield. For the most part, the corridor is centered on existing US 220.

Of the three corridors, Corridor D would impact the most residential land (and noise sensitive areas); the second-most mixed-use, built up land; and the most commercial and industrial land. Impacts on community cohesion and environmental justice populations would also be expected. As is also the case with Corridor B, Corridor D would impact 58 community facilities, fewer than the 70 community facilities that would be impacted by Corridor C. However, Corridor D would have the second-greatest number of impacts on parks and recreation areas.

In terms of the built-environment, Corridor D could have a considerable impact on residential neighborhoods in Cresaptown and Keyser. However, by providing a new highway facility within the heavily traveled US 220 corridor through LaVale and Cresaptown and in Keyser farther south, Corridor D would have a greater effect on reducing traffic congestion and improving safety than the effect of Corridor C and would be equal to the effect of Corridor B. Because it is

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located in the study area's most densely developed commercial area, Corridor D supports existing economic development efforts better than they would be supported by Corridor C and Corridor B. The area that Corridor D traverses in Allegany County is within a PFA, and the area it traverses near Keyser has all municipal infrastructure in place. Therefore, Corridor D would support Smart Growth initiatives and related comprehensive planning efforts better than they would be supported by Corridor C, and as well as they would be supported by Corridor B. It would also provide additional north-south access in Moorefield and support that area's economic development efforts.

In terms of cultural resources, Corridor D would impact the most land with archaeological potential (such as very high and high potential from the archaeological predictive model) and the most NRHP-listed and NRHP-eligible resources. Corridor D contains a dense cluster of historic resources at its southern terminus. This cluster of resources spans the entire width of the corridor. In addition to NRHP-listed and NRHP-eligible resources, several large, potentially historic farmsteads that could be difficult to avoid with specific highway designs are located within Corridor D. A potentially NRHP-eligible historic district, the US 220 Maryland Rural Historic District, spans the entire width of Corridor D. Additional cultural resource studies could determine that some resources are not NRHP-eligible or that the farmsteads' boundaries are smaller than currently identified. Corridor D contains the most potential Section 4(f) resources among the three corridors.

In terms of the natural environment, Corridor D has the second-greatest amount of wetland acreage, the greatest number of linear feet of streams, the greatest amount of terrestrial habitat, and the highest potential to encounter RTE species. Corridor D also contains six flood control dams and the greatest amount of floodplain acreage. It has the second-greatest amount of agricultural-related land and the greatest amount of farmland soil. As in the case of Corridor B, Corridor D would impact the eastern edge of Dans Mountain and the Pinto Marsh (a non-tidal wetland of special state concern). Additional engineering studies and the development of alternatives in Tier Two may be able to minimize the extent of these potential impacts. A considerable amount of coordination with the USFWS, MDNR, and MDE will be necessary during Tier Two to analyze alternatives that could impact Dans Mountain. The best options in this area are those that may avoid Dans Mountain altogether, but if Dans Mountain cannot be avoided, alternatives that minimize impacts and restrict them to edge areas of the resource may be advanced. Of course, mitigation will be proposed for any loss of forestland or function.

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Preliminary cost estimates indicate that alternatives developed within Corridor D could have lower costs than alternatives developed for Corridor C but higher costs than alternatives developed for Corridor B. Cost estimates could increase, however, within any corridor as the project progresses.

The same possible interchange locations exist at I-68 for Corridors B and D. Either of the northern spurs for Corridor B or D would function similarly and are considered to be interchangeable with each other.

## **2.5 Corridor E**

The final corridor originated at I-68 near Cumberland, MD, and extended southwest to Corridor H near Lahmansville, WV. It would traverse parts of Allegany, Mineral, and Grant counties. It could provide direct connections to MD 51, WV 28 and 46, Mineral CR 11, Grant CR 5, and US 50 and 220. It would provide an improved transportation facility for the eastern side of Cumberland and the West Virginia communities of Patterson Creek, Fort Ashby, Burlington, and Medley. The corridor parallels the Patterson Creek Valley for most of its length.

Corridor E was not carried into detailed analysis because it would have the greatest impact on all natural resources. The analysis of the potential environmental impacts of each corridor included in the FEIS showed that Corridor E consistently ranked at or near the bottom in terms of the number of impacts. Corridor E was also not carried forward because it would divert the second least amount of traffic from US 220. A new highway alignment within Corridor E would still leave as much as 6,300 ADT, or approximately 31 percent of the expected traffic in the year 2025, on existing US 220. Corridor E was also not carried forward because it would likely create the most public controversy. About 120 people attended the first public meetings and, although they were generally supportive of the project, potential impacts to the Patterson Creek Valley located within Corridor E were considered a major concern.

## **2.6 Crossover Corridors**

A recurring comment by some members of the public and resource agencies was that a combination of corridors would be an appropriate transportation solution for roadway deficiencies in the area and avoid certain environmental or socioeconomic features of the

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landscape. It was hoped that a combination corridor, or crossover corridor, could avoid important environmental features and have limited socioeconomic impacts, especially a crossover utilizing Corridor C, Corridor B, or Corridor D. Consideration was given to crossover corridors utilizing various combinations of Corridors C and D prior to FHWA's approval of the FEIS.

Four options for a conceptual corridor were developed with input from the resource agencies. In order to determine what effects might occur within these corridor options, a preliminary environmental screening, utilizing the same information collected for the development of the DEIS, was conducted. As detailed in the FEIS, the crossover corridors, however, were not shown to offer any improvement over the five original corridors and would likely increase both costs and the environmental consequences of the project. As a result, crossover corridors were dropped from further consideration.

## **2.7 Identification of a Preferred Corridor**

At the conclusion of the preliminary analysis, Corridors B, C, and D were judged to be the best corridors to carry forward. Each of the three corridors were carried into detailed analysis and evaluated for their potential environmental impact, including possible secondary and cumulative effects.

Based on the results of the detailed environmental and engineering studies, Corridor B, with the possibility of using the northern spur of Corridor D that connects to I-68 in Maryland, is being identified as the Preferred Corridor to be carried into Tier Two. The WVDOH and MDSHA plan to advance Tier Two studies separately. Any future studies will include an updated analysis of logical termini and independent utility. Advancing the northern spur of Corridor D as part of the Preferred Corridor's possible connection to I-68 will allow flexibility in developing a new I-68 interchange while providing opportunities to develop a full range of potential alignments in Tier Two that could avoid socioeconomic, natural, and cultural resources while minimizing the potential impacts of future transportation facilities. The results of those detailed analyses, coupled with comments from the public and resource/regulatory agencies, formed the basis for this selection.

### **3.0 Public and Agency Participation**

Public and agency scoping for the project began with a combination of meetings and field views held in early May 2006. Public meetings were held in Keyser on May 1, 2006, in Moorefield on May 2, 2006, and in Cumberland on May 10, 2006. About 120 people attended the public meetings. In conjunction with the public meetings, two separate agency field views were held.

A second round of public informational workshops was held a year later in May 2007. Meetings were again held in Moorefield, Keyser, and the Cumberland area. Excluding agency officials, over 260 people attended the meetings.

A final round of public meetings occurred in late summer and early autumn 2011 with a public workshop in Keyser on September 13, 2011, a formal public hearing in Cumberland on September 14, 2011, and a special community meeting in Short Gap, West Virginia, on October 5, 2011. Approximately 900 people attended these meetings to review the DEIS and offer comments on it. Citizen comments were submitted through comment cards, letters, email messages, and special web-based forms. There were 474 comments submitted during the DEIS review period.

Similar to the public involvement efforts, agency coordination has also been an ongoing process throughout the project. Formal requests for information have occurred throughout the project, and a coordination plan was prepared in accordance with SAFETEA-LU. Interagency meetings were held with the Maryland resource agencies and federal agencies with jurisdiction in Maryland on February 15, 2006; January 17, 2007; June 20, 2007; May 19, 2010; April 18, 2012; November 28, 2012, and December 3, 2013. A meeting was also held with the West Virginia agencies and federal agencies with jurisdiction in West Virginia on February 27, 2007.

Several briefings were held with public officials and planners throughout the course of the project. Meetings were held with the governing boards of the Allegany County Planning Commission, the Region 8 Planning and Development Council, the U.S. Route 50 Association, and the Greater Cumberland Committee to present updates on the project at key points. Meetings were also held with staff members of the Allegany County Office of Planning Services, the Mineral County Planning Commission, the Hardy County Planning Department, the Grant County Development Authority, the City of Cumberland, and the NPS.

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The FEIS was approved on April 2, 2014, and the review period began on April 10, 2014. Comments on the FEIS were due on May 19, 2014, but the comment period was extended to accommodate the resource agencies in Maryland. No comments on the FEIS were received from individual citizens. The following five agencies submitted comments: the USFWS (May 19, 2014), the USEPA (May 19, 2014), the MDP (April 24, 2014, and June 2, 2014), the WVDCH (May 14, 2014), and the County Commission of Mineral County (March 11, 2014). Copies of these comment letters are found in Appendix of this ROD. The comment letters and appropriate responses are summarized in Table 1:

**Table 1  
Comments on FEIS**

| Agency | No. | Comment  | Response   |
|--------|-----|--|--|
| USFWS  | 1.  | The USFWS concurs with the identification of Corridor B as the preferred corridor and that it is the least damaging corridor for listed species, wetlands, streams, and forested clearing.   | No response is necessary.  |
|        | 2.  | Since submitting previous comments on the project, white nose syndrome has been documented in West Virginia and is adversely impacting Indiana bats. Additionally, the northern long-eared bat is proposed for listing under the ESA and the little brown bat is being considered for listing. It is recommended that these species also be considered during future survey efforts. | All three species will be considered during future survey efforts and when developing project avoidance and minimization efforts.                  |
|        | 3.  | The USFWS recommends surveys within the preferred corridor and surrounding area to identify if caves or abandoned mine portals are located within the area and if they could support endangered and potentially listed mammals.  | Identification of caves and abandoned mining portals will be undertaken during Tier Two as part of the alternatives analysis phase of the project. |
|        | 4.  | The USFWS supports commitments in the FEIS to continue Section 7 coordination, to identify karst areas in the project area, and to develop strategies to avoid and minimize or mitigate impacts to animal species.   | No response is necessary.  |
|        | 5.  | The USFWS supports commitments in the FEIS to develop strategies to avoid and minimize or mitigate impacts to plant species. Surveys may be necessary for the endangered shale barren rock cress and threatened <i>Virginia spirea</i> . Although no occurrences of these species have been documented within the study area, modeled suitable habitat exists.                       | During Tier Two of the project, FHWA, WVDOH, and MDSHA will develop survey plans for these species in cooperation with the USFWS.                  |

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| Agency   | No. | Comment   | Response  |
|----------|-----|---|---|
|          | 6.  | The FEIS does not specifically address future Tier Two commitments regarding bald and golden eagles.  | During Tier Two, surveys will be conducted within the final corridor and surrounding area to determine if bald and golden eagles use the area. If populations are found, measures will be taken to avoid any potential adverse effects. |
|          | 7.  | In addition to bald and golden eagles, other protected migratory bird species may occur within the vicinity of the project area.  | During Tier Two, FHWA, WVDOH, and MDSHA will work with other federal and state resource agencies to identify and avoid habitats of Birds of Conservation Concern (BCC) species.   |
|          | 8.  | The USFWS supports Tier Two efforts to utilize the U.S. Geological Survey's Breeding Bird Survey and a list of representative list of birds to analyze the project's potential effects on avian species. The USFWS also recommends that transects and point counts be considered, as well.  | During Tier Two, FHWA, WVDOH, and MDSHA will work with the USFWS and other federal and state resource agencies to identify suitable avian survey protocols for the project.   |
|          | 9.  | The USFWS supports the commitments made in the FEIS to address potential impacts to aquatic resources.  | No response is necessary.   |
| USEPA    | 10. | The USEPA appreciates efforts to identify the critical commitments made in the FEIS that will be carried into Tier Two. Furthermore, the USEPA understands that unresolved issues will be addressed during Tier Two and subsequent NEPA documentation.  | No response is necessary.   |
|          | 11. | The USEPA supports FHWA's commitment to investigate meaningful alternatives and avoidance and minimization measures to reduce potential impacts to the Dans Mountain Wildlife Management Area. The USEPA expects continued coordination with resources agencies in developing the least environmentally damaging practicable alternative. | No response is necessary.   |
| MDP (#1) | 12. | Copies of the FEIS were forwarded to MDNR, MDE, MHT, and Allegany County for review and comment.  | No response is necessary.   |
| MDP (#2) | 13. | The Maryland Department of Transportation, Garret County, Allegany County, and the MDP found the project to be consistent with  | No response is necessary.   |

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| Agency | No. | Comment   | Response  |
|--------|-----|---|---|
|        |     | their plans, programs, and objectives.  |   |
|        | 14. | Garret County supports the project as an important regional transportation effort.  | No response is necessary.   |
|        | 15. | MDP strongly recommends that improving accessibility to Cumberland be a key factor in assessing and selecting interchange options at I-68.                            | Early in the Tier Two process, potential traffic and socioeconomic impacts for potential interchange options will be assessed. Additional interchange options beyond those analyzed in Tier Two will be developed in cooperation with local planners and the public. Providing access to the City of Cumberland in an efficient manner and limiting potential socioeconomic impacts will be two of the underlying principles for the development of additional interchange scenarios. |
|        | 16. | Any above ground or underground petroleum storage tanks must be installed and maintained in accordance with applicable state and federal laws and regulations.        | All applicable local, state, and federal laws and regulations concerning petroleum storage tanks will be followed.  |
|        | 17. | If the project involves demolition, above ground or underground petroleum storage tanks that may be on site must have any contents, tanks, and contamination removed. | All applicable local, state, and federal laws and regulations concerning petroleum storage tanks will be followed.  |
|        | 18. | Any solid waste generated from the project must be properly disposed of at a permitted solid waste acceptance site or recycled.                                       | All applicable local, state, and federal laws and regulations concerning solid waste will be followed.  |
|        | 19. | In Maryland, the Waste Diversion and Utilization Program should be contacted prior to construction and/or the generation or handling of any hazardous waste.          | All applicable local, state, and federal laws and regulations concerning hazardous wastes will be followed.   |
|        | 20. | Any contract specifying lead paint abatement must comply with Code of Maryland Regulations 26.16.01 – Accreditation and Training for Lead Paint Abatement Services.   | All applicable local, state, and federal laws and regulations concerning lead paint abatement will be followed.   |
|        | 21. | Construction, renovation and/or demolition of buildings and roadways must be in conformance with state regulations pertaining to Particulate Matter from              | All applicable local, state, and federal laws and regulations concerning air quality and particulate  |

| Agency                              | No. | Comment  | Response   |
|-------------------------------------|-----|--|--|
|                                     |     | Materials Handling and Construction.   | matter will be followed.   |
|                                     | 22. | It does not appear that the preferred alternative will impact Tier II High Quality Waters in Maryland. Future changes to alternatives will require re-screening for impacts. | No response is necessary.  |
|                                     | 23. | The MHT believes an intensive survey of cultural resources is necessary during Tier Two.   | Early in Tier Two, a Programmatic Agreement (PA) to detail the steps to be used for analyzing potential impacts to cultural resources.                                 |
|                                     | 24. | The State Clearinghouse must be kept informed if the approving authority cannot accommodate the preferred alternative.   | Coordination with the Maryland State Clearinghouse will continue during Tier Two.  |
|                                     | 25. | The project must comply with all applicable state and local laws and regulations.  | No response is necessary.  |
| WVDCH                               | 26. | The WVDCH is satisfied with the discussion of cultural resources in the FEIS and understands that further evaluations will occur as the project progresses during Tier Two.  | No response is necessary.  |
| County Commission of Mineral County | 27. | The County Commission urges WVDOH to move forward with Tier Two.   | Currently no funds are programmed in West Virginia to proceed with Tier Two, but the project will be considered as part of the state's long-range transportation plan. |

#### 4.0 Environmental and Cultural Resource Issues

The FHWA has determined that all studies and findings required for approval of the Preferred Corridor have been completed and are supported by the FEIS and the appropriate documentation in the project file. A summary of environmental and cultural issues as they pertain to specific project development regulations is discussed in the following information.

##### 4.1 NEPA Compliance

A Tier One FEIS was approved by the FHWA on April 2, 2014. The document was distributed by the WVDOH and MDSHA to the public and resource/regulatory agencies, utilizing both physical and electronic dissemination of the FEIS.

## 4.2 Endangered Species Act Section 7 Consultation

Coordination with state and federal agencies began in 2006 and has continued throughout the Tier One process. Coordination concerning rare, threatened, or endangered (RTE) species revealed records of known occurrences of RTE species within the project area.

### Federal Agency Coordination

During early coordination efforts, the USFWS noted the federally listed endangered Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) and the federally protected bald eagle (*Haliaeetus leucocephalus*) may be present throughout the study area. In a letter of October 31, 2011, the USFWS reiterated its concern regarding potential impacts on the Indiana bat, especially because white nose syndrome has been documented as occurring in important cave hibernacula within West Virginia.

The USFWS also listed 15 species of migratory birds that may occur within the study area, including the following: Perigrine falcon (*Falco peregrinus*), Upland Sandpiper (*Bartramia longicauda*), N. saw-whet owl (*Aegolius acadicus*), E. whip-poor-will (*Caprimulgus vociferous*), Loggerhead shrike (*Lanius ludovicianus*), Black-capped chickadee (*Parus atricapillus*), Wood thrush (*Hylocichla mustelina*), Golden-winger warbler (*Vermivora chrysoptera*), Prairie warbler (*Setophaga discolor*), Cerulean warbler (*Setophaga cerulea*), Worm-eating warbler (*Helminthos verivorum*), Louisiana waterthrush (*Parus motacilla*), Kentucky warbler (*Geothlypis formosus*), Canada warbler (*Cardellina canadensis*), and Henslow's sparrow (*Ammodramus henslowii*).

Because there had been early concern about the shale barren rock cress (*Arabis serotina*), the USFWS also indicated that it is unlikely the plant occurs within the study area. The shale barren rock cress only occurs in West Virginia and Virginia in very small populations.

In that same letter from 2011, the USFWS encouraged MDSHA and WVDOH to work with state and federal agencies to identify all brook trout streams that may be impacted by the project. To avoid and minimize impacts to important habitat, and to mitigate for any unavoidable wetlands impacts.

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On October 2, 2013, the USFWS proposed adding the northern long-eared bat (*Myotis septentrionalis*) to the list of species protected by the ESA. The species is likely to be listed in 2015. The project area is within the range of the northern long-eared bat.

State Agency Coordination

In a letter from the WVDNR (2007), the following organisms were documented as RTE species within the Preferred Corridor: nuttall waterweed (*Elodea nuttallii*), glaucous willow (*Salix discolor*), canby's mountain-lover (*Paxistima canbyi*), Allegheny woodrat (*Neotoma magister*), American harebell (*Campanula rotundifolia*), troublesome sedge (*Carex molesta*), Kates Mountain clover (*Trifolium virginicum*), jefferson salamander (*Ambystona jeffersonianum*), Franz's Cave amphipod (*Stygobromus franzi*), and Franz's Cave isopod (*Caecidotea franzi*).

During early coordination efforts, the MDNR noted that the American harebell (*Campanula rotundifolia*) was documented as the only Maryland RTE species within the Preferred Corridor. Upon later coordination, the MDNR noted its concern about potential impacts to the state and federally listed endangered Indiana bat. The conservation of forest interior dwelling species (FIDS) habitat is also strongly encouraged by MDNR. Land cover studies show considerable forest habitat throughout the project area.

MDNR also indicated that a two- to three-acre marshy pond (Pinto Marsh) is designated/regulated as a nontidal wetland of special state concern along with a 100-foot upland buffer. The sora (*Porzana Carolina*), a state rare listed bird, is known to have bred in Pinto Marsh. Also in this area, Pinto Mine supports the state-listed endangered Franz's Cave amphipod, Franz's Cave isopod, and the Eastern small-footed myotis (*Myotis leibii*). The cliffs on the north side of the railroad tracks in the Pinto area are known to support a population of the state-listed endangered cliff stonecrop (*Sedum glaucophyllum*).

Continuing Coordination

Coordination with state and federal agencies will continue in Tier Two, especially as it relates to RTE species and habitat. The development of alternatives in Tier Two may be able to avoid or minimize the extent of potential impacts on critical habitats and will be pursued as the project progresses into the next phase. Additional field activities, studies, coordination, and

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consultation during Tier Two will be necessary pursuant to Section 7 of the *Endangered Species Act of 1973* and the Nongame and *Endangered Species Conservation Act* (in Maryland).

Several specific highway alternatives will be developed and analyzed within the Preferred Corridor during Tier Two in an effort to avoid or minimize impacting the Dans Mountain Wildlife Management Area and other environmental resources. These will include a system upgrade of existing roads, transportation systems management strategies, and potential new highway alignments. If necessary to avoid Dans Mountain and other environmental, cultural, and socioeconomic resources, the 4,000-foot corridor studied during Tier One will be expanded in width during Tier Two to accommodate alternatives and avoid, or minimize impacts to, resources.

### **4.3 National Historic Preservation Act Section 106 Consultation**

The MHT and the WVDCH, the State Historic Preservation Officers (SHPO) for Maryland and West Virginia, respectively, were consulted throughout the Tier One process. Both agencies also served as participating agencies in the NEPA process. Field views with the MHT occurred on February 26, 2007, and the WVDCH on March 22 and 23, 2007.

Archaeological research undertaken during Tier One of the project included the development of pre-contact and historic period archaeological resource sensitivity maps. The Preferred Corridor would potentially impact the locations of approximately 38 previously recorded archaeological sites including pre-contact period lithic scatters; an Archaic and Woodland rockshelter; Early and Late Archaic, and Early and Late Woodland short-term resource procurement camps; Late Archaic and Middle Archaic short-term camps; and pre-contact period sites of unknown type as well as historic period artifact scatters; a nineteenth- and twentieth-century town; a late nineteenth- and twentieth-century church building debris, a nineteenth-century canal towage company; a mid-nineteenth- and early twentieth-century foundry, housing, lumberyard, millrace, and canal boat building and repair yard; a nineteenth- and twentieth-century cemetery; late nineteenth- and early twentieth-century field scatters; and an early twentieth century quarry/mine.

The Tier One investigations also identified historic properties in the built environment of that are eligible or potentially eligible for listing in the NRHP. There are no NRHP-listed resources within

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the Preferred Corridor or its extended study buffer. Four resources within the Preferred Corridor, however, have already been determined eligible for listing in the NRHP and could be impacted. In addition to the previously surveyed resources, 20 historic resources that have been identified as potentially eligible for listing in the NRHP could be impacted by the Preferred Corridor. Of the 20 potentially eligible historic resources that could be impacted by the Preferred Corridor, four are potential historic districts.

Additional cultural resource investigations will be necessary during Tier Two. The investigations will follow the procedures for Section 106 as outlined in 36 CFR 800.3 through 36 CFR 800.6 and the procedures of the West Virginia and Maryland SHPOs. The investigations will be advanced separately in Tier Two by WVDOH and MDSHA and include the identification and analysis of cultural resources, establishment of boundaries for NRHP-eligible resources, preliminary analysis of effects at the draft environmental document stage, full analysis of the effects of a preferred alternative, and resolution of adverse effects. If necessary, separate Programmatic Agreements (PA) will be developed in each state in consultation with FHWA, the respective state transportation agency, the SHPO with jurisdiction, and the Advisory Council on Historic Preservation, detailing the steps to be used for complying with Section 106 as part of the Tier Two approach.

#### **4.4 Section 4(f) Determination**

The proposed action has the potential to require the use of resources protected under Section 4(f) of the *Department of Transportation Act of 1966*. Section 4(f) requires that special efforts be made to protect publicly-owned public parks, recreation areas, wildlife and waterfowl refuges, and significant historic sites. A section 4(f) evaluation appropriate for a Tier One study is included in the FEIS. This ROD includes a preliminary Section 4(f) determination for the project as recommended in FHWA regulations for tiered studies. In accordance with these regulations, the Section 4(f) evaluation in the FEIS was intended to evaluate the potential impacts of the alternatives on Section 4(f) resources and ensure that opportunities to minimize harm to Section 4(f) resources in Tier Two are not precluded by decisions made in Tier One.

Within the Preferred Corridor, six potential Section 4(f) resources were identified: the Bowling Green Community Park, an unnamed log house with stone chimneys, the Lutten Bridge/Bosley Bridge, a second unnamed log house, the Claysville United Methodist Church, and the Dans

Mountain Wildlife Management Area. The log houses and Luten Bridge/Bosley Bridge are also Section 106 resources. Additional resources may be identified during Tier Two and a detailed Section 4(f) evaluation will be conducted during Tier Two on all identified Section 4(f) resources.

#### **4.5 Rivers and Harbors Act Section 10/Clean Water Act Sections 401, 402 and 404**

Potential wetlands were identified through the use of existing information and preliminary field investigations. Field investigations were conducted during August 2006 and September 2007. The natural resource agencies did not field view potential wetland resources but will do so during Tier Two. The Preferred Corridor would impact the least amount of wetlands of all three corridors. Up to 117 wetlands and 118.1 acres could be impacted. This is both the fewest number of wetlands and least amount of wetland acreage among all the alternative corridors that could be impacted. Potential impacts to wetlands within the Preferred Corridor would be considerably less in both number and acreage than any of the other corridors.

Field investigations also revealed numerous perennial and intermittent streams and a few ephemeral streams within the three corridors. During the September 2007 field investigation, samples along randomly selected points were collected to gain background data on study area streams and water quality. Data collected included information on each stream's physical parameters, adjacent land use, watershed characteristics, macroinvertebrates observed, pH, temperature, sample site location (latitude/longitude), and photograph(s). The Preferred Corridor had 20 sample sites, Corridor C had 22 sample sites, and Corridor D had 25 sample sites. On average, the stream sample locations were approximately 1.8 miles apart for Corridor B, approximately 2.0 miles apart for Corridor C, and approximately 1.8 miles apart for Corridor D. Corridor B may result in an impact to 150 perennial streams and 33 intermittent streams. The approximate length of stream impact associated with this corridor to perennial and intermittent watercourses is 246,322 feet and 53,917 feet, respectively. Of the potential streams that could be impacted by the Preferred Corridor, 19 streams (16 perennial and 3 intermittent) were sampled during field investigations.

MDSHA and WVDOH plan to advance Tier Two studies for the project separately within their respective states. In addition to the Tier Two studies, other state and federal permits/actions will be required for implementation of the project in both Maryland and West Virginia. These

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permits/actions would include coordination with the USACE and the U.S. Coast Guard (USCG) for a potential Potomac River crossing in Maryland, which could require a *Rivers and Harbors Act* (RHA) Section 10 permit from the USACE. Within the region, the Potomac River is a navigable waterway to its confluence with Wills Creek near Cumberland. As the proposed project evolved, however, the USCG determined that the project would not cross the Potomac River in a navigable location. Consequently, on April 20, 2007, the USCG informed the FHWA that a Coast Guard permit would not be required because the project would not cross a waterway where the USCG had jurisdiction for bridge administration.

The *Clean Water Act* (CWA) requires coordination with the USACE and state regulatory agencies in Maryland and West Virginia regarding authorization under Section 404 and 401 of the CWA of activities that would impact to waters of the United States (WOUS). In addition, a CWA Section 402 permit, better known as a National Pollutant Discharge Elimination System (NPDES) permit will be required from the respective state regulatory agencies in Maryland and West Virginia prior to the construction of any project identified during Tier Two studies.

In Maryland, a Joint (federal/state) Permit Application will be prepared and submitted by MDSHA to the respective federal and state regulatory agencies to meet the combined federal/state requirements for activities that impact WOUS in Maryland. The MDSHA must demonstrate that any proposed impacts to streams and wetlands are necessary and unavoidable and that all minimization measures have been fully exhausted. Avoidance and minimization measures could include the use of compressed medians, reduced safety grading widths, design alternatives, bridging floodplains and wetlands, free-span structures, and bottomless arch culverts, among other possibilities. In West Virginia, the WVDEP will have CWA Section 401 Water Quality Certification jurisdiction concerning this project.

On March 31, 2008, the USEPA and USACE issued revised regulations governing compensatory mitigation for authorized impacts on wetlands, streams, and other WOUS under CWA Section 404 (known as the 2008 Final Compensatory Mitigation Rule). These regulations are designed to improve the effectiveness of compensatory mitigation to replace lost aquatic resource functions and areas, expand public participation in compensatory mitigation decision making, and increase the efficiency and predictability of the mitigation project review process. Compensatory mitigation for aquatic resource impacts will be fully analyzed during Tier Two studies undertaken by MDSHA and WVDOH.

## **4.6 Air Quality**

In West Virginia, Mineral County, Grant County, Hampshire County, and Hardy County are in an air quality attainment status for O<sub>3</sub>, CO, PM<sub>2.5</sub> and PM<sub>10</sub> (the principal vehicular-related pollutants) and other pollutants, such as sulfur dioxide (SO<sub>2</sub>), lead, and air toxics. Allegany County, in Maryland, is also in an air quality attainment status for O<sub>3</sub>, CO, PM<sub>2.5</sub> and PM<sub>10</sub>, and other pollutants. Therefore, this project is exempt from project level hot-spot analysis for CO and PM<sub>2.5</sub>.

Mobile source air toxics (MSATs) are also emitted from highway vehicles. MSATs are a subset of air toxics defined by the CAA. Some MSATs are present in fuel and emitted when the fuel evaporates or passes through engines unburned. Others are emitted from the incomplete combustion of fuel, as secondary combustion, or from impurities in oil and gasoline. Additional MSATs could be emitted in the area as a result of traffic increases. The FHWA has indicated that a significant reduction in MSATs will occur by the year of 2020 as a result of national mobile source control programs, reformulated gasoline, low emission vehicle standards, and revised sulfur control standards. Additional analysis will be necessary during Tier Two, however, to determine if this is the case locally. Currently, the effect of the proposed project on MSAT reduction is unclear, but the level of potential MSAT emissions will be assessed qualitatively in Tier Two along with complete micro and regional scale analyses.

## **5.0 Mitigation**

Several alignment alternatives will be developed and analyzed within the Preferred Corridor during Tier Two, including a system upgrade of existing roads and highways throughout the corridor, transportation systems management strategies, and potential new highway alignments. If necessary to avoid environmental, cultural, and socioeconomic resources, the 4,000-foot corridor studied during Tier One will be expanded in width during Tier Two to accommodate alternatives and avoid, or minimize impacts to, resources. With the development of highway alignments or other types of transportation improvements in Tier Two, the appropriate resource agencies, local planners, and residents of the area can more easily assist in determining the appropriate avoidance, minimization, and mitigation strategies for each proposed alternative. The commitments in Table 2 will be fulfilled as the project advances.

**Table 2  
Mitigation Commitments**

| <b>Resource/Issue</b>           | <b>Tier Two Commitments</b>  |
|---------------------------------|--|
| <i>Purpose and Need</i>         | <ul style="list-style-type: none"> <li>• Re-evaluate transportation network, traffic, safety, growth and development initiatives/trends, local and regional plans, and land use.</li> <li>• Develop revised purpose and need statement.</li> </ul>   |
| <i>Alternatives Development</i> | <ul style="list-style-type: none"> <li>• Develop a full-range of alternatives.</li> <li>• Evaluate system upgrade throughout US 220 corridor; identify potential TSM improvements for existing roads.</li> <li>• Develop off-line alternatives.</li> <li>• Expand Preferred Corridor width to enable the development of Dans Mountain Wildlife Management Area and Mountain Ridge Legacy Area avoidance alternatives.</li> <li>• Identify and evaluate Section 4(f) avoidance/minimization alternatives.</li> </ul>  |
| <i>Socioeconomics</i>           | <ul style="list-style-type: none"> <li>• Complete additional qualitative evaluations of potential to impact socioeconomic resources.</li> <li>• Quantify residential and business displacements.</li> <li>• Analyze potential impacts on community cohesion.</li> <li>• Update community resources.</li> <li>• Continue coordination with local communities to identify socioeconomic resources/issues.</li> <li>• Identify potential impacts on travel patterns, public safety, and community vitality.</li> <li>• Begin preliminary coordination related to federal and state relocation requirements, policies, and programs.</li> <li>• Evaluate potential economic impacts on local communities.</li> <li>• Continue coordination with local planning officials.</li> </ul> |
| <i>Parks and Recreation</i>     | <ul style="list-style-type: none"> <li>• Conduct additional coordination with local/state officials; evaluate school playgrounds as potential recreational facilities; identify future public parks and recreation sites/areas.</li> <li>• Identify any Section 4(f) involvement.</li> <li>• Complete Section 4(f) Evaluation.</li> <li>• Discuss avoidance/minimization, including Dans Mountain and Mountain Ridge Rural Legacy Area.</li> <li>• Identify potential mitigation measures.</li> <li>• Identify wildlife corridors/passages from Dans Mountain to the Potomac.</li> <li>• Conduct a forest delineation.</li> <li>• Identify highest quality forest areas that could provide habitat for forest interior dwelling species (FIDS).</li> </ul>                       |
| <i>Environmental Justice</i>    | <ul style="list-style-type: none"> <li>• Identify/map specific clusters of environmental justice populations.</li> <li>• Develop community outreach program for environmental justice populations.</li> <li>• Analyze the potential for high/disproportionate impacts on environmental justice populations.</li> </ul>   |
| <i>Land Use and Land Cover</i>  | <ul style="list-style-type: none"> <li>• Refine land use analyses; reevaluate consistency with land use plans.</li> <li>• Evaluate how proposed alternatives could affect changes in land use.</li> <li>• Evaluate consistency with Maryland's PFA laws, policies, and regulations.</li> <li>• Coordinate with state and local jurisdictions to address positive transportation and land use strategies in support of planned development and Smart Growth policies.</li> <li>• Use the USGS Breeding Bird Survey and representative list of birds to analyze the effects on avian species.</li> </ul>   |
| <i>Cultural Resources</i>       | <ul style="list-style-type: none"> <li>• Continue Section 106 coordination.</li> <li>• Develop PA in consultation with the WVDOH, the MDSHA, the State Historic Preservation Offices (SHPOs), and the Advisory Council on Historic Preservation, detailing the steps to be used for complying with Section 106 as part of the Tier Two approach.</li> </ul>  |

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| Resource/Issue                        | Tier Two Commitments  |
|---------------------------------------|---|
|                                       | <ul style="list-style-type: none"> <li>• Conduct Phase I archaeological survey for pre-contact and historic period archaeological resources.</li> <li>• Determine eligibility for listing of archaeological sites in the NRHP.</li> <li>• Prepare eligibility report for listing of historic resources in the NRHP.</li> <li>• Coordinate with SHPO on effects determination.</li> <li>• Coordinate Section 106 process with NEPA compliance by notifying SHPO and/or Tribal Historic Preservation Officer, Indian tribes, and other consulting parties.</li> <li>• Prepare Memorandum of Agreement (MOA) addressing adverse effects on NRHP sites and NPS concerns.</li> <li>• Complete Section 4(f) Evaluation (see Parks and Recreation).</li> </ul> |
| <i>Aquatic Resources</i>              | <ul style="list-style-type: none"> <li>• Identify and delineate sensitive aquatic habitat; assess eastern slope of Dans Mountain and other areas for brook trout populations.</li> <li>• Identify watershed boundaries.</li> <li>• Identify impacts in each watershed.</li> <li>• Conduct more detailed analysis of potential impacts on water quality and study area wetlands, including ephemeral streams.</li> <li>• Develop strategies to avoid, minimize, or mitigate impacts on aquatic resources.</li> </ul>   |
| <i>Floodplains</i>                    | <ul style="list-style-type: none"> <li>• Identify natural and beneficial floodplain values.</li> <li>• Develop strategies to avoid, minimize, restore, and/or preserve floodplain values.</li> <li>• Conduct hydrology/hydraulic studies to determine potential effects on floodplains.</li> </ul>  |
| <i>Vegetation and Wildlife</i>        | <ul style="list-style-type: none"> <li>• Continue coordination with state and federal agencies concerning RTE species; conduct Section 7 coordination, if required.</li> <li>• Identify locations of RTE species and critical habitat, including Indiana bat, Northern Long-eared bat, and brook trout; evaluate potential impacts on RTE habitat.</li> <li>• Develop strategies to avoid, minimize, or mitigate impacts on RTE species, including development of potential wildlife corridors and passageways.</li> <li>• Develop specific Dans Mountain avoidance alternatives.</li> </ul>  |
| <i>Farmlands</i>                      | <ul style="list-style-type: none"> <li>• Identify internal operations of potentially impacted farms to avoid or minimize agricultural impacts.</li> <li>• Initiate and complete FPPA coordination requirements, including preparation of FPPA forms, where applicable.</li> </ul>   |
| <i>Soils and Geology</i>              | <ul style="list-style-type: none"> <li>• Identify unique geologic resources.</li> <li>• Identify any karst topography areas.</li> <li>• Identify high potential geologic hazard areas and highly erodible soils.</li> <li>• Conduct detailed analysis of the study area's geologic structures and soils.</li> <li>• Identify stormwater management and environmental site design locations.</li> </ul>  |
| <i>Potentially Contaminated Sites</i> | <ul style="list-style-type: none"> <li>• Conduct detailed review of state and federal hazardous waste site databases.</li> <li>• Identify underground storage tanks.</li> <li>• Conduct Phase I Environmental Assessment for alternatives.</li> <li>• Solid waste generated from the project will be disposed of at a permitted solid waste acceptance.</li> <li>• If contaminated soil is encountered, the MDE or WVDEP will be contacted.</li> </ul>  |
| <i>Traffic</i>                        | <ul style="list-style-type: none"> <li>• Collect new traffic data.</li> <li>• Update the traffic assignment model.</li> <li>• Update traffic projections on major roadways.</li> <li>• Develop opening day and future traffic projections for any new proposed transportation facilities.</li> </ul>  |
| <i>Air Quality</i>                    | <ul style="list-style-type: none"> <li>• Reevaluate air conformity attainment.</li> <li>• Conduct micro-scale analysis for CO at worst-case locations.</li> <li>• Reevaluate mobile source air toxics and PM 2.5; provide information on ages of any existing structures that will be disturbed or demolished.</li> </ul>   |

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| Resource/Issue                       | Tier Two Commitments  |
|--------------------------------------|---|
|                                      | <ul style="list-style-type: none"> <li>• Utilize BMPs to reduce particles from becoming airborne with construction.</li> <li>• Provide information on equipment that has potential for creating emissions.</li> <li>• If traffic volumes change, evaluate resulting change in emissions.</li> <li>• Evaluate emissions resulting from construction or newly installed equipment to confirm emissions do not exceed permitted levels.</li> <li>• Cutback asphalt will not be used during June, July and August.</li> <li>• Evaluate the cumulative impacts of emissions from other concurrent construction projects.</li> </ul>  |
| <i>Noise</i>                         | <ul style="list-style-type: none"> <li>• Identify noise receptors; develop noise level prediction model based on typical sections/future traffic volumes.</li> <li>• Conduct noise analyses, including evaluation of pre-construction, construction, and post-construction noise volumes.</li> <li>• Analyze/recommend abatement measures.</li> </ul>   |
| <i>Indirect Impacts</i>              | <ul style="list-style-type: none"> <li>• Refine potential impact area for indirect effects.</li> <li>• Identify potential land use changes and indirect impacts for non-growth areas within the study area.</li> <li>• Complete analyses on potential impacts related to Tier Two alternatives.</li> </ul>  |
| <i>Cumulative Impacts</i>            | <ul style="list-style-type: none"> <li>• Update identification of all reasonably foreseeable future actions within the study area.</li> <li>• Complete cumulative effects assessment per CEQ guidelines; will analyze magnitude and extent of potential cumulative effects within context of the appropriate resource, ecosystem, and human community.</li> <li>• Cumulative impact assessment will include past, present, and reasonably foreseeable Tier Two breakout projects.</li> <li>• Future cumulative impact assessment in the Tier Two environmental document will include impact information for other breakout projects within the Tier One US 220 corridor.</li> </ul>   |
| <i>Major Utilities</i>               | <ul style="list-style-type: none"> <li>• Coordinate with utility companies and municipal services providers.</li> <li>• Identify power plants, substations, major transmission lines, treatment plants, reservoirs and water intake areas, and cellular telephone towers; incorporate into project mapping.</li> </ul>  |
| <i>Energy</i>                        | <ul style="list-style-type: none"> <li>• Analyze effect of a new transportation facility on regional energy usage.</li> <li>• New construction will meet or exceed state requirements for energy efficiency.</li> </ul>   |
| <i>Construction</i>                  | <ul style="list-style-type: none"> <li>• Coordinate with emergency services providers, public transportation agencies, and school bus operators.</li> <li>• Develop mitigation plan.</li> <li>• Analyze potential highway construction waste areas.</li> </ul>  |
| <i>Public and Agency Involvement</i> | <ul style="list-style-type: none"> <li>• In cooperation with the resource agencies, identify key coordination milestones for the project; develop updated proactive and collaborative agency coordination plan; conduct resource-specific agency field views.</li> <li>• Provide regular resource coordination meetings to give project updates and to solicit discussion, analysis and development of aspects of the project.</li> <li>• Distribute project information through direct mailings and local libraries.</li> <li>• Conduct resource-specific agency field views.</li> <li>• Continue to present information to local, state, and federal agencies.</li> <li>• Conduct public meetings/hearings.</li> <li>• Provide updates on project breakouts and anticipated level of NEPA studies.</li> <li>• Continue coordination with and present information to the public and agencies for all levels of NEPA study, including CEEs.</li> <li>• Notify agencies early in Tier Two process, including breakout projects of Tier Two.</li> <li>• Share breakout CEEs, EAs, and EISs with agencies.</li> <li>• Address remaining agency comments provided on Tier One that were noted to be addressed in Tier Two.</li> </ul> |

*NHS Corridor Between I-68 and Corridor H (US 220)*

As project planning activities continue and interagency meetings are held to assist in providing further direction for the project. Additional issues to be resolved during Tier Two include the following:

Natural Resources – Coordination with state and federal agencies will continue in Tier Two. The federally listed endangered Indiana bat, the federally listed endangered Virginia big-eared bat, and the federally protected bald eagle may be present in the study area. The Northern long-eared bat may also be present in the area. This species, though not federally-protected at the time of this writing, is expected to be a federally-listed species by the time Tier Two commences. Habitat suitable for the federally listed endangered shale barrens rock cress may also be present, as may flora and fauna of state concern. The MDNR is especially concerned about potential impacts on the Dans Mountain Wildlife Management Area and habitat suitable for brook trout and FIDS. FIDS habitat is a relatively scarce landscape feature and is vulnerable to destruction as land is converted to agricultural or, more common in recent decades, urban uses. Fragmentation or reduction in size of large forest blocks needs to be minimized as part of the land development process.

The development of alternatives in Tier Two may avoid or minimize the extent of these potential impacts. Dans Mountain is one of the largest contiguous tracts of forestland in the state of Maryland; a considerable amount of coordination with the USFWS, MDNR, and MDE will be necessary during Tier Two to analyze alternatives that could impact it. The best options in this area are those that may avoid it altogether. However, if Dans Mountain cannot be avoided, alternatives that minimize impacts and restrict them to edge areas of the resource may be advanced. Mitigation will be proposed for any loss of forestland or function. Additional field activities, studies, coordination, and consultation during Tier Two will be necessary pursuant to *Section 7 of the Endangered Species Act of 1973* and the *Nongame and Endangered Species Conservation Act* (in Maryland) to address these concerns. Mitigation could include the development of protected wildlife corridors or passageways from Dans Mountain to the Potomac River.

Additional studies will be conducted during Tier Two in Mill Run, a brook trout stream located near Rawlings, Maryland. This and other streams on the eastern slope of Dans Mountains will be assessed for brook trout through aquatic sampling as the project progresses. The purpose of this sampling will be to more precisely identify the locations of brook trout populations as Tier

*NHS Corridor Between I-68 and Corridor H (US 220)*

Two alternatives are developed. The results of the sampling may lead to further studies of brook trout populations.

The Potomac River, a navigable waterway to the Cumberland area, is subject to Section 10 of the *Rivers and Harbors Act* and Section 404 of the *Clean Water Act*. Additional coordination will be necessary with the USACE and, possibly, the U.S. Coast Guard, as the project progresses into Tier Two.

On March 31, 2008, the USEPA and USACE issued revised regulations governing compensatory mitigation for authorized impacts on wetlands, streams, and other waters of the United States under Section 404 of the *Clean Water Act* (known as the 2008 Final Compensatory Mitigation Rule). These regulations are designed to improve the effectiveness of compensatory mitigation to replace lost aquatic resource functions and areas, expand public participation in compensatory mitigation decision making, and increase the efficiency and predictability of the mitigation project review process. The project is subject to these requirements.

Priority Funding Areas Act and Smart Growth – The *Priority Funding Areas Act* capitalizes allows capital expenditures in Maryland to focus on economic growth and development. This legislation directs state funds to Priority Funding Areas (PFAs), which consist of existing communities and places where infrastructure is in place and public investment can better support growth. Growth-related projects covered by the legislation include most State programs that encourage or support growth and development, including highways, sewer and water construction, economic development assistance, and State leases or construction of new office facilities. Beginning in October 1, 1998, the State of Maryland directed funding for projects that support growth should go to PFAs and receive priority over other projects. One of the major factors used in the development of the Tier One corridors was an analysis of how potential highway improvements within the corridors will support the PFAs in the future. As the project progresses into Tier Two, all potential highway improvements will be further evaluated in terms of how effective the improvements are in encouraging “smart growth” and continuing to support the economic goals of communities within PFAs.

Rural Legacy Program – The *Rural Legacy Program* was created in 1997 to protect large, contiguous tracts of cultural and natural resource lands within Maryland from the effects of

*NHS Corridor Between I-68 and Corridor H (US 220)*

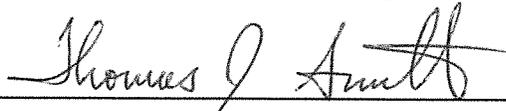
sprawl. Allegany County has designated over 31,000 acres as the Mountain Ridge Rural Legacy Area. Much of the rural legacy area in Allegany County is coterminous with Dans Mountain, but it also extends farther north to the state line of Pennsylvania. Situated within the ridge and valley physiographic province where it meets the Allegheny Front, the first rural legacy area in Allegany County includes large blocks of unbroken forest, pristine ecologically significant areas and historic sites, exemplary plant and wildlife habitat, an important migration corridor, and perhaps the most significant golden eagle flyway in the state. The area includes 10,163 acres of existing protected lands that may be further connected to form a greenway linking ridgetops in Maryland, West Virginia, and Pennsylvania with the Allegheny Plateau. Strategies for addressing the state and local requirements of the program will be developed in Tier Two. Local coordination efforts will continue in Tier Two to minimize impacts to these protected lands.

**6.0 Conclusion and Decision**

FHWA has determined that the Preferred Corridor best meets the transportation needs of the US 220 corridor and is in the best overall public interest. This decision is based on the FEIS and the entire project record. FHWA has considered all of the issues brought forward during the process and documented in the project record. In addition, FHWA has consulted with other federal and state agencies, as well as local jurisdictions in the corridor, during the development of this project to appropriately resolve the issues that have been presented. Public input has been considered through meetings with community groups, a public hearing, and public comments on the Draft EIS and the FEIS. Mitigation for unavoidable resource impacts have been incorporated into the project design, will be employed during construction, or will be implemented offsite. Thus, FHWA approves Corridor B with the potential to use either the Corridor B terminus with I-68 or the Corridor D spur from US 220 just south of MD 53 to I-68, as described in Section 2.0, as the Preferred Corridor to be carried into Tier Two.

July 21, 2014

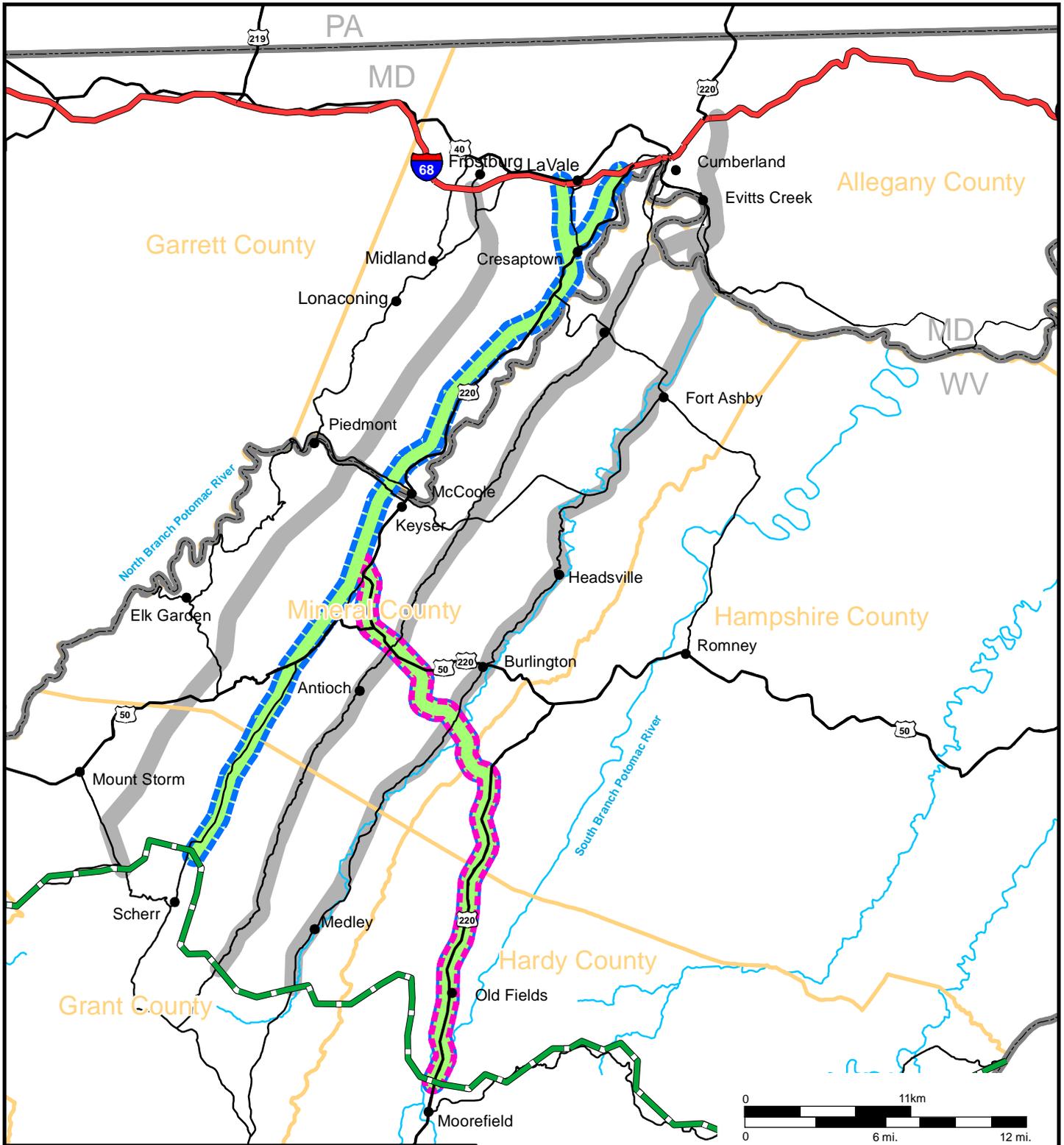
Date



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Thomas J. Smith, P.E., Division Administrator  
Federal Highway Administration – WV Division

## **APPENDIX**



**Legend**

- PREFERRED CORRIDOR (NEW ALIGNMENT)
- SEPARATE FUTURE PROJECT (SYSTEM UPGRADE)
- NOT RECOMMENDED TO CARRY FORWARD
- CORRIDOR H
- COUNTY LINE
- STATE LINE



WEST VIRGINIA DIVISION OF HIGHWAYS  
 MARYLAND STATE HIGHWAY ADMINISTRATION  
 NHS CORRIDOR BETWEEN I-68 AND CORRIDOR H  
 ALLEGANY COUNTY, MD  
 GRANT, HAMPSHIRE, HARDY, AND  
 MINERAL COUNTIES, WV

**PREFERRED CORRIDOR**

RECORD OF  
 DECISION





# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

West Virginia Field Office  
694 Beverly Pike  
Elkins, West Virginia 26241

May 19, 2014

Mr. Raymond Scites  
WV Dept. of Transportation  
Division of Highways  
1900 Kanawha Boulevard, East  
Building Five, Room A-317  
Charleston West Virginia 25305-0430

Re: U.S. Fish and Wildlife Service Comments on the U.S. 220 Tier One Environmental Impact Statement

Dear Mr. Scites:

The following are the U.S. Fish and Wildlife Service's comments on the April 2014 U.S. 220 Tier One Final Environmental Impact Statement (FEIS) prepared by the U.S. Department of Transportation: Federal Highway Administration, the West Virginia Division of Highways and the Maryland State Highway Administration (authors). These comments are provided pursuant to the Endangered Species Act (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Coordination Act (FWCA; 16 U.S.C. 742a *et seq.*), the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703-712), and the Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668-668c, as amended).

The U.S. Fish and Wildlife Service (Service) appreciates the efforts of the authors to work with resource and regulatory agencies to identify, evaluate, and avoid potential impacts of the proposed project on fish, wildlife and habitats. We understand that the assessment of project-related impacts on fish, wildlife and habitats in the Tier One phase has been necessarily cursory. Our comments are intended to provide information and guidance useful for the more detailed assessment that will be necessary during Tier Two.

The Service previously provided comments on this project on May 17, 2006, and July 11, 2007, and October 27, 2011. These comments are incorporated by reference, except as revised here. Since the previous comments were provided, a preferred corridor alignment for the U.S. 220 project has been chosen, Corridor B. The Service concurs with this preferred corridor as the FEIS demonstrates that this corridor alignment is the least damaging preferred corridor for listed

species, wetlands, streams, and forested clearing.

1  
cont.

**Federally Listed Species**

In our previous correspondence, the Service identified several federally listed species that may occur within the study area. These included the endangered Indiana bat (*Myotis sodalis*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), Virginia spiraea (*Spiraea virginiana*), and shale barren rock cress (*Arabis serotina*); and the threatened bald eagle (*Haliaeetus leucocephalus*). The latter has since been de-listed, but is still protected under the MBTA and the BGEPA.

Endangered and Proposed Bats – In previous correspondence, the Service noted concern for the project’s impacts on potentially-suitable Indiana bat summer foraging, roosting, and maternity habitats because the project will, regardless of which corridor ultimately is selected, impact thousands of acres of forested habitat.

Since our previous comments, white nose syndrome has been documented in some of our important cave hibernacula in West Virginia, and is adversely impacting Indiana bats. Therefore, our concern is heightened regarding potential impacts to this species. Additionally, due to white nose syndrome, on October 2, 2013, in the *Federal Register* (78 FR 61045 -61080) the Service proposed the northern long-eared bat (*Myotis septentrionalis*) for listing under the ESA. The Service is also considering the listing of the little brown bat (*Myotis lucifugus*). It is recommended that these species also be considered during future survey efforts and when developing project avoidance and minimization measures.

Additionally, because each of the above bat species hibernate in caves and abandoned mine portals during winter, and Virginia big-eared bats use caves or portals year-round, the Service will recommend surveys of the final corridor and surrounding area to identify whether such features occur in the action area. Caves used by these species are documented to the east, south and west of the study area, and the potential exists for other caves/portals in the action area to support either or both of these endangered and potentially listed mammals.

The FEIS notes that throughout the Tier Two process, the project commits to continue section 7 coordination regarding federally listed bats, will identify their locations, will identify any karst areas, and will develop strategies to avoid and minimize or mitigate impacts to species. The Service supports these efforts.

Listed Plants - In our previous correspondence, the Service indicated the potential occurrence of the endangered shale barren rock cress and the threatened Virginia spiraea within the study area based on habitat modeling. A review of our data indicates that no occurrences of these species have been documented within the study area, though modeled suitable habitat does exist.

The FEIS notes that efforts to continue section 7 coordination and strategies to locate and to avoid, minimize, and mitigate impacts to listed species will continue during the Tier Two process. The Service supports these efforts. Surveys for these species by qualified botanists may be necessary depending upon final corridor selection and the potential for project-related impacts

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in areas of potentially-suitable habitat. If any populations of these species are found, measures should be taken to avoid any potential adverse effects.

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cont.

Eagles - As mentioned above, the bald eagle was removed from the list of threatened and endangered species effective August 8, 2007. However, the Service is responsible for continued monitoring of this species to ensure that its population does not trend toward a level that would warrant re-listing. Bald eagles also continue to receive Federal protection under the MBTA and the BGEPA. Additionally, the project area is within the migration corridor for golden eagles (*Aquila chrysaetos*) which also receive federal protection under the MBTA and the BGEPA.

The FEIS does not specifically address future Tier Two commitments regarding eagles. The Service recommends that surveys for bald and golden eagles be conducted within the final corridor and the surrounding area. If any populations of these species are found, measures should be taken to avoid any potential adverse effects.

6

### **Migratory Birds**

The Service is also the primary Federal agency responsible for the protection and conservation of migratory birds and their habitats under the MBTA. In addition to bald and golden eagles, other migratory bird species may occur within the vicinity of the project. In our October 27, 2011, correspondence, the Service provided a list of migratory birds that may occur within the project study area. We encouraged the authors to work with Federal and State resource agencies to identify and avoid impacts to habitats important to Birds of Conservation Concern (BCC) species within the final corridor alignment.

7

In the FEIS, it is noted that the project will use the U.S. Geological Survey Breeding Bird Survey and a representative list of birds to analyze the project's effects on avian species. The Service supports these efforts and recommends that other surveys like transects and point counts be considered, as well.

8

### **Aquatic Resources**

In previous correspondence, the Service addressed concern for impacts to high quality streams that provide habitat for eastern brook trout (*Salvelinus fontinalis*). As a part of the May 12, 2009, Chesapeake Bay Restoration and Protection Executive Order 13508, Federal agencies have focused on achieving the most essential priorities for a healthy Chesapeake ecosystem. The Strategy specifically identifies brook trout as a priority species that is the basis for measureable outcomes for which both the State and Federal agencies will be held accountable.

Additionally, the Service addressed concern for impacts to wetlands and encouraged the authors to work with resource agencies to identify wetlands within the project area, avoid and minimize impacts to wetlands to the extent practicable, and mitigate for unavoidable impacts with a Compensatory Mitigation Plan.

In the FEIS, the following were listed as commitments during Tier Two:

- Identify watershed boundaries.

9

Mr. Raymond Scites  
May 19, 2014

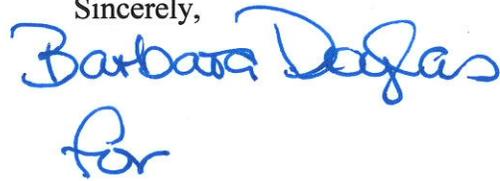
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- Identify impacts in each watershed.
- Conduct a detailed analysis of potential impacts on water quality, including wetlands and ephemeral streams.
- Develop strategies to avoid, minimize, or mitigate impacts on aquatic resources.

9  
cont.

The Service supports these commitments and looks forward to continuing cooperative efforts on this project. If you have further questions regarding this letter, please contact Ms. Liz Stout of my staff at (304) 636-6586, or at the letterhead address.

Sincerely,



John E. Schmidt  
Field Supervisor



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

MAY 19 2014

Jason Workman  
Director, Office of Program Development  
Federal Highway Administration-West Virginia  
Geary Plaza, Suite 200  
700 Washington St. E  
Charleston, West Virginia 25301

Jeanette Mar  
Del Mar Division  
Federal Highway Administration  
10 South Howard Street  
Baltimore, Maryland

Re: US 220, NHS Corridor between I-68 and Corridor H, Tier 1 Final Environmental Impact Statement; Maryland and West Virginia; CEQ # 20140109

Dear Mr. Workman and Ms. Mar:

In accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, and the Council on Environmental Quality regulations, 40 CFR Parts 1500-1508, the United States Environmental Protection Agency (EPA), has reviewed the Final Tier 1 Environmental Impact Statement (Tier 1 FEIS) for the above referenced project. The approximate 40 mile proposed highway project would involve connecting Interstate 68 (I-68) near Cumberland, Maryland and one of the proposed interchanges on Corridor H in West Virginia. The project is located in Grant, Hardy, Hampshire and Mineral Counties in West Virginia, and Allegany County in Maryland.

EPA agreed to be a cooperating agency on this project on June 14, 2006. As a cooperating agency EPA has provided numerous comments on this project, including on the preliminary Draft EIS in email on November 18, 2010, the Draft EIS in comment letter dated October 28, 2011, and additional letters dated January 2, 2013 and July 31, 2013. In EPA's October 28, 2011 letter, EPA rated each of the action alternative corridors evaluated in the Draft EIS as Environmental Objections ("EO") and the adequacy of the document as "2" (insufficient information).

The Tier 1 FEIS analyzes four alternatives, including the no build alternative, Corridor B, Corridor C, and Corridor D. The preferred alternative has been identified as Corridor B with either its connection to I-68 or the northern spur of Corridor D that connects to I-68 in Maryland. It is also noted that future upgrades and improvements to existing US 220 may occur and any of those upgrades and improvements will be advanced as separate projects with their own NEPA documentation. During Tier 2, several alternatives will be developed and analyzed within the preferred corridor, including a system upgrade of existing roads and highways throughout the corridor, transportation systems management strategies, and potential new highway alignments.

The Tier 1 FEIS includes several commitments on the detailed studies, additional public and agency coordination, and additional avoidance and minimization measures that will be included in Tier 2. These Tier 2 commitments are captured in Table P-1. EPA feels that the inclusion of the public and agency involvement commitments are critical to ensure that public and resource agency comments have or will be adequately addressed. EPA appreciates efforts taken to memorialize these critical commitments moving out of the Tier 1 phase. It is understood that unresolved comments and issues, some of which are detailed on pages P-13-17, will be addressed in subsequent NEPA documentation and upcoming Tier 2.

10

Of these commitments, FHWA proposes to, if necessary, to avoid environmental, cultural, and socioeconomic resources, expand the 4,000-foot corridor width being studied in Tier 1 for the Tier 2 process. This commitment may enable the development of Dans Mountain Wildlife Management Area (WMA) avoidance and minimization alternatives. EPA supports FHWA's commitment to investigate meaningful alternatives and avoidance and minimization measures to reduce potential adverse impact to the Dans Mountain WMA. We are hopeful that the proposed technique of expanding the corridor width will lead to the desired reduction of adverse impacts to the WMA. EPA fully anticipates being engaged with FHWA, Maryland State Highway Administration, and other federal, state and local resource agencies during alternatives development and during detailed reviews and discussions on avoidance and minimization. In the event that corridor expansion is unable to fulfill avoidance and minimization needs, EPA expects continued coordination with resource agencies and additional consideration of whether other measures or alternatives may achieve the least environmentally damaging practicable alternative.

11

EPA believes that with careful analysis and selection of alignment, environmental objections could be reduced. We recognize the complexity of the analysis needed and difficulty in balancing impacts to natural resources, farmland and communities for any build alternative. EPA emphasizes that seeking input of the interagency team, through continued interagency meeting and coordination, is an effective and necessary step to assist with assessment of resources while developing ideas for avoidance, to improve project outcome. EPA looks forward to the continued interagency involvement in the Tier 2 process and any subsequent NEPA study. We would appreciate the opportunity to discuss the comments provided here, at your convenience.

Thank you for allowing EPA with the opportunity to review and comment on the Tier One Final EIS for US 220. If you have questions regarding these comments, the contact for this project is Ms. Alaina McCurdy; she can be reached at (215) 814-2741.

Sincerely,



Jessica Martinsen  
Acting Associate Director  
Office of Environmental Programs

cc Ray Li, USFWS  
Mary Frazer, USACE Baltimore  
Sarah Workman, USACE Huntington  
Greg Golden, MD DNR  
Greg Bailey, WV Division of Highways  
Bill Carver, MD SHA  
Bruce Grey, MD SHA  
Elder Ghigiarelli, MDE



Maryland Department of Planning

Sustainable \_\_\_\_\_ Attainable

April 24, 2014

Mr. R.J. Scites, P.E.  
Director, Engineering  
West Virginia Department of Transportation  
Capitol Complex, Building 5, Room A-317  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

**STATE CLEARINGHOUSE REVIEW PROCESS**

**State Application Identifier:** MD20140423-0274

**Reply Due Date:** 05/19/2014

**Project Description:** Final Environmental Impact Statement (EIS): Tier One of the National Highway System Corridor (NHS) Between I-68 and Corridor H (US 220) Allegany County, MD, Grant, Hardy, Hampshire and Mineral Counties, West Virginia (Ref: MD20130627-0463)

**Project Location:** State(s) of Allegany and West Virginia

**Clearinghouse Contact:** Nasrin Rahman

Dear Mr. Scites:

Thank you for submitting your project for intergovernmental review. Your participation in the Maryland Intergovernmental Review and Coordination (MIRC) process helps to ensure that your project will be consistent with the plans, programs, and objectives of State agencies and local governments.

We have forwarded your project to the following agencies and/or jurisdictions for their review and comments: the Maryland Department(s) of Natural Resources, the Environment, Transportation, Allegany and Garrett Counties and the Maryland Department of Planning, including the Maryland Historical Trust. A composite review and recommendation letter will be sent to you by the reply due date. Your project has been assigned a unique State Application Identifier that you should use on all documents and correspondence.

12

Please be assured that we will expeditiously process your project. The issues resolved through the MIRC process enhance the opportunities for project funding and minimize delays during project implementation.

If you need assistance or have questions, contact the State Clearinghouse staff noted above at 410-767-4490 or through e-mail at nasrin.rahman@maryland.gov. Thank you for your cooperation with the MIRC process.

Sincerely,

*Linda C. Janey*  
Linda C. Janey, J.D., Assistant Secretary

**P.S. Great News!!** Your project may be eligible to be "FastTracked" through the State permitting processes. For more information, go to: <http://easy.maryland.gov/wordpress/fasttrack/>.

LCJ:NR  
cc: David Bodnar  
14-0274\_NRR.NEW2.doc



Martin O'Malley, Governor  
Anthony G. Brown, Lt. Governor

Richard Eberhart Hall, J.D., Secretary  
Amanda Stakem Conn, Esq., Deputy Secretary



Maryland Department of Planning

Sustainable \_\_\_\_\_ Attainable

June 2, 2014

Mr. R.J. Scites, P.E.  
Director, Engineering  
West Virginia Department of Transportation  
Capitol Complex, Building 5, Room A-317  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

**STATE CLEARINGHOUSE RECOMMENDATION**

**State Application Identifier:** MD20140423-0274

**Applicant:** West Virginia Department of Transportation

**Project Description:** Final Environmental Impact Statement (EIS): Tier One or the National Highway System Corridor (NHS) Between I-68 and Corridor H (US 220) Allegany County, MD, Grant, Hardy, Hampshire and Mineral Counties, West Virginia (Ref: MD20130627-0463)

**Project Location:** State(s) of Allegany and West Virginia

**Approving Authority:** U.S. Department of Transportation DOT/FHWA

**Recommendation:** Consistent with Qualifying Comment(s)

Dear Mr. Scites:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.01.04-.06, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation based upon comments received to date. This recommendation is valid for a period of three years from the date of this letter.

Review comments were requested from the Maryland Department(s) of Natural Resources, Transportation, the Environment; Allegany County, Garrett County; and the Maryland Department of Planning, including the Maryland Historical Trust. As of this date, the Maryland Department of Natural Resources has not submitted comments. **This recommendation is contingent upon the applicant considering and addressing any problems or conditions that may be identified by their review. Any comments received will be forwarded.**

The Maryland Department of Transportation; Garrett County, and Allegany County; and the Maryland Department of Planning found this project to be consistent with their plans, programs, and objectives.

13

The Maryland Department of Transportation, State Highway Administration(SHA) stated that, "SHA is the submitting agency and has no comments at this time."

Garrett County supports the US 220 project as an important regional transportation feature for Western Maryland. Specifically, this project supports the following recommendation found on page 6-18 of the 2008 Garrett County Comprehensive Plan: 'The County supports the regional effort to link the Pennsylvania Turnpike with Corridor H in West Virginia, via an improved or relocated US 220.'

14

Martin O'Malley, Governor  
Anthony G. Brown, Lt. Governor

Richard Eberhart Hall, AICP, Secretary  
Amanda Stakem Corn, Esq., Deputy Secretary

Our Department (MDP) appreciates that the draft FEIS addressed all of MDP's comments on the preliminary FEIS provided in August 2014. The information on the state's smart growth law and policies discussed in the document are adequate. While we support the recommendation on the preferred corridor, i.e., Corridor B with two options for connections to I-68 at the northern end, we strongly recommend that during the US 220 Tier Two NEPA project study, improving accessibility to Cumberland be a key factor for assessing and selecting interchange options at I-68. Both spur connections with I-68, i.e., one near LaVale and another close to Cumberland, would have potential environmental, displacement and traffic operational impacts. While we also recognize that the terrain conditions and traffic operation issues near Cumberland pose challenges to construction of an interchange at I-68, supporting economic development and smart growth in Cumberland, a regional growth center in the Western Maryland, should be a priority for the project to consider. We are looking forward to working with the project team and state, local and federal agencies to address smart growth and land use issues and policies in the Tier Two study.

15

The Maryland Department of Environment (MDE) and the Maryland Historical Trust found this project to be generally consistent with their plans, programs, and objectives, and included certain qualifying comments summarized below.

1. Any above ground or underground petroleum storage tanks, which may be utilized, must be installed and maintained in accordance with applicable State and federal laws and regulations. Underground storage tanks must be registered and the installation must be conducted and performed by a contractor certified to install underground storage tanks by the Land Management Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.

16

2. If the proposed project involves demolition – Any above ground or underground petroleum storage tanks that may be on site must have contents and tanks along with any contamination removed. Please contact the Oil Control Program at (410) 537-3442 for additional information.

17

3. Any solid waste including construction, demolition and land clearing debris, generated from the subject project, must be properly disposed of at a permitted solid waste acceptance facility, or recycled if possible. Contact the Solid Waste Program at (410) 537-3315 for additional information regarding solid waste activities and contact the Waste Diversion and Utilization Program at (410) 537-3314 for additional information regarding recycling activities.

18

4. The Waste Diversion and Utilization Program should be contacted directly at (410) 537-3314 by those facilities which generate or propose to generate or handle hazardous wastes to ensure these activities are being conducted in compliance with applicable State and federal laws and regulations. The Program should also be contacted prior to construction activities to ensure that the treatment, storage or disposal of hazardous wastes and low-level radioactive wastes at the facility will be conducted in compliance with applicable State and federal laws and regulations.

19

5. Any contract specifying "lead paint abatement" must comply with Code of Maryland Regulations (COMAR) 26.16.01 - Accreditation and Training for Lead Paint Abatement Services. If a property was built before 1950 and will be used as rental housing, then compliance with COMAR 26.16.02 - Reduction of Lead Risk in Housing; and Environment Article Title 6, Subtitle 8, is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.

20

6. Construction, renovation and/or demolition of buildings and roadways must be performed in conformance with State regulations pertaining to "Particulate Matter from Materials Handling and Construction" (COMAR 26.11.06.03D), requiring that during any construction and/or demolition work, reasonable precaution must be taken to prevent particulate matter, such as fugitive dust, from becoming airborne. 21

7. It does not appear that the Recommended Preferred Corridor (previously Corridor B) or the Recommended Separate Future Project (System Upgrade) (previously Corridor D) will impact Tier II High Quality Waters in Maryland. Any future changes to the alignment would need to be re-screened for impacts. 22

The Maryland Historical Trust (MHT) believes that the initial analysis of cultural resources presented in the US 220 Tier One FEIS will facilitate the intensive survey of cultural resources along the preferred corridor under Tier Two, and assist in the evaluation of transportation alternatives and potential breakout projects. MHT looks forward to continuing consultation with FHWA during the Tier Two process. 23

**Any statement of consideration given to the comments(s) should be submitted to the approving authority, with a copy to the State Clearinghouse.** The State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation. 24

Please remember, you must comply with all applicable state and local laws and regulations. If you need assistance or have questions, contact the State Clearinghouse staff person noted above at 410-767-4490 or through e-mail at nasrin.rahman@maryland.gov. **Also please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.** 25

Thank you for your cooperation with the MIRC process.

Sincerely,  
  
Linda C. Janey, J.D., Assistant Secretary

LCJ:NR

Enclosure(s)

cc: U.S. Department of Transportation (DOT/FHWA)

David Bodnar

Bruce M. Grey - SHA

Amanda Degen - MDE

Greg Golden - DNR

Melinda Gretsinger - MDOT

Roy Cool - ALLG

Deborah Carpenter - GRRT

David Cotton - MDPLW

Bihui Xu - MDPI-T

Beth Cole - MHT

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ENGINEERING  
DIVISION

*The Culture Center*  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0300  
**Randall Reid-Smith, Commissioner**

Phone 304.558.0220 • www.wvculture.org  
Fax 304.558.2779 • TDD 304.558.3562  
EEO/AA Employer

Mr. R.J. Scites, PE  
Director, Engineering Division  
WV DOH  
Building Five, Room 110  
Capitol Complex  
Charleston, WV 25305

RE: US Route 220 Project  
State Project U212-220-12.65 00  
Federal Project NCPD-0220(149)C  
FR#: 06-643-MULTI-10

Dear Mr. Scites:

We have reviewed the *US 220 Tier One Final Environmental Impact Statement*, which was submitted for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

As stated in our letter for the Preliminary Draft Tier One Environmental Impact Statement (DEIS), we are satisfied with the discussions regarding cultural resources. Also as stated in earlier correspondence, we understand that issues of concern regarding historic cultural resources will be further evaluated as the project progresses and that complete cultural resource surveys will be conducted once a final corridor has been selected. We look forward to continuing the consultation process and to reviewing additional documents as they become available.

26

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Lora A. Lamarre-DeMott, Senior Archaeologist, or Michael Kyne, Structural Historian, at (304) 558-0240.*

Sincerely,

Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/LLD/MLK



BEHIND THE SADDLE IS THE BIRTHPLACE OF NANCY HANKS,  
MOTHER OF ABRAHAM LINCOLN

DD prepare a reply  
for CC signature. CH  
Not funded yet but to be considered  
in Long Range Plan. SSB

# County Commission of Mineral County

150 Armstrong Street  
Keyser, West Virginia 26726

MICHAEL C. BLAND, COUNTY COORDINATOR  
PHONE: (304) 788-5921  
FAX: (304) 788-0768  
TDD: (304) 788-0568

THE COMMISSIONERS  
JANICE LARUE, PRESIDENT  
Piedmont, West Virginia  
RICHARD A. LECHLITER, DVM  
Ridgeley, West Virginia  
JERRY WHISNER  
New Creek, West Virginia

March 11, 2014

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MAR 24 2014  
ENGINEERING

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MAR 17 2014  
WV Dept. of Transportation  
Office of Secretariat

The Honorable Earl Ray Tomblin  
Governor, State of West Virginia  
West Virginia State Capitol Complex  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Re: North/South Corridor Project  
U.S. Route 220 Corridor

Dear Governor Tomblin:

On January 9, 2014, we met with the West Virginia Department of Transportation to discuss priority projects that we see as necessary to support growth in Mineral County. One of those projects was the North/South Corridor Project. Future improvements to the U.S. Route 220 Corridor are essential to realizing the full benefit of Corridor H and linking this route with northern transportation corridors.

We were advised at that meeting that the Department of Transportation was not planning to move forward with the Tier 2 Study. Although we appreciate and support the priority being given to complete the construction of Corridor H, we also recognize that the development of the North/South Corridor Project will take a long time involving many steps. Given the economic impact that this project will have, we believe that every opportunity should be taken to move forward.

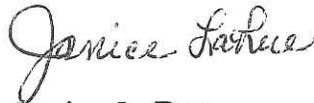
We would request that the decision not to move forward with the Tier 2 Study be re-evaluated based on the potential economic impact and every effort be made to continue planning for this project.

27

The Honorable Earl Ray Tomblin  
March 11, 2014  
Page 2 of 2

Thank you for your continued assistance and support of projects important to our County and the State.

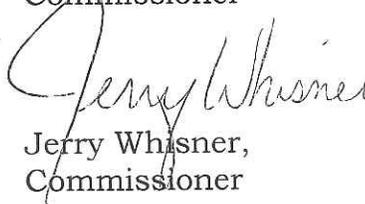
Sincerely,



Janice LaRue,  
President



Richard A. Lechliter,  
Commissioner



Jerry Whisner,  
Commissioner

JL-RAL-JW/rlb

cc: Senator Craig Blair  
Senator Donald Cookman  
Senator Dave Sypolt  
Senator Bob Williams  
Delegate Allen Evans  
Delegate Gary Howell  
Delegate Ruth Rowan  
Brenda Smith  
The Greater Cumberland Committee  
Paul A. Mattox, Jr., Secretary ✓  
Department of Transportation