

# FEDERAL HIGHWAY ADMINISTRATION

## INTERSTATE 64 PENINSULA STUDY

### SECTION 3

#### FROM EXIT 242 TO EXIT 234

#### YORK COUNTY, VIRGINIA

### RECORD OF DECISION

This document is the Federal Highway Administration's (FHWA) Record of Decision (ROD) for roadway improvements to Interstate 64 from approximately Exit 242 in the east to approximately Exit 234 in the west, a distance of approximately eight miles, entirely within York County, Virginia (referred herein as Section 3). This ROD is the decision document that concludes the National Environmental Policy Act (NEPA) process for Section 3 of the Interstate 64 Peninsula Study. This project is the third phase of Alternative 1, which was identified as the preferred alternative in the Final Environmental Impact Statement (FEIS) approved on November 26, 2013. Future phases of the project will all have separate decision documents issued by the FHWA.

#### DECISION

The alternative selected by the FHWA for Section 3 calls for the addition of one general purpose lane in each direction within the highway median without modifying the existing within the project limits. This alternative was selected because it will meet the Purpose and Need as identified in the FEIS, and it reduces environmental and property impacts as compared to constructing lanes to the outside of the existing lanes.

#### PHASED IMPLEMENTATION

The approximately 75-mile preferred alternative identified in the FEIS will be constructed in phases as funding is available and identified. Appendix L of the FEIS describes the phased implementation approach and it allows for two different types of phasing. The first type involves constructing individual lengths of roadway within the overall limits of the preferred alternative. An example of this type would be constructing an additional lane in each direction for the first eight miles, and then constructing the next eight miles of lanes as part of a separate project. The second type of phasing involves initially constructing less than the full number of lanes associated with the preferred alternative. For example, if the preferred alternative calls for constructing two additional lanes in each direction in a particular area, this type of phasing involves initially constructing only one lane in each direction.

Appendix L of the FEIS describes the steps that need to be followed, particularly updating the environmental analysis and identifying funding in the planning documents, prior to the FHWA issuing a ROD for an operationally independent section. The

Virginia Department of Transportation's (VDOT) letter dated June 15, 2016 updates the environmental analysis for a project to add one lane in each direction from approximately Exit 242 in the east to approximately Exit 234 in the west. The VDOT's letter also demonstrates that funding has been identified for the project and requests a ROD for the project.<sup>1</sup>

### **ROD Section I Background**

Alternative 1 selected by the FHWA calls for the addition of one general purpose lane in each direction within the highway median without modifying the one interchange (Exit 150 – Fort Eustis Boulevard) within the section. This proposed section is approximately six miles with the termini located west of Exit 255 (Jefferson Avenue/Route 143) in the east and east of Exit 247 (Yorktown Road/Route 238) in the west. The ROD for Section 1 was approved by FHWA on April 21, 2014 and the Section is currently under construction.

### **ROD Section II Background**

This proposed section is approximately seven miles with termini located east of Exit 247 (Yorktown Road/Route 238) in the east and west of Exit 242 (Marquis Parkway/State Highway 199) in the west. The ROD for Section 2 was approved by FHWA on June 8, 2015. The proposed section received Notice to Proceed (NTP) on February 17, 2016. Right-of-Way acquisition is scheduled to commence in September 2016.

### **ALTERNATIVES CONSIDERED**

The alternatives development process for the Environmental Impact Statement (EIS) began with the identification of the Purpose and Need determined by the FHWA and the VDOT as the lead agencies for NEPA, and the establishment of design criteria, which were then utilized in developing a reasonable range of alternatives. The goals of the alternatives development process were to develop solutions that would meet the Purpose and Need and design criteria while avoiding and minimizing impacts to the environment. The alternatives that were considered included the No Build Alternative, a Transportation Systems Management/Travel Demand Management Alternative, an analysis of future freight/light rail, and a range of highway alternatives. The alternatives that were retained for detailed analysis in the Draft Environmental Impact Statement included a No Build Alternative<sup>2</sup> and the following five highway build alternatives:

- Alternative 1A – adding general purpose lanes to the outside of the existing lanes;
- Alternative 1B – adding general purpose lanes in the median;

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<sup>1</sup> The project is funded for construction in the Hampton Roads Transportation Planning Organization's (TPO) Long Range Transportation Plan, and the subsequent phase of the project is funded in the TPO's Transportation Improvement Program.

<sup>2</sup> The No-Build Alternative is the environmentally preferable alternative in accordance with 40 CFR 1505.2(b). However, FHWA is not selecting the No-Build Alternative for this project because it would not address the purpose and need identified in the FEIS.

- Alternative 2A – adding lanes to the outside of the existing lanes and tolling all lanes;
- Alternative 2B – adding lanes to the median and tolling all lanes; and
- Alternative 3 – adding managed lanes to the median.

With the preferred alternative for the entire corridor having been identified in the FEIS, the VDOT developed an alignment for Section III.

## **PUBLIC AND AGENCY INVOLVEMENT**

**Public Review.** As noted above, the FEIS was approved by FHWA on November 26, 2013 and made available for public review and comment at several locations including libraries, government offices, and VDOT offices. The FHWA and the VDOT requested comments on the FEIS as well as the phased approach for implementing the preferred alternative. The Notice of Availability for the FEIS was published in the Federal Register on December 13, 2013, and comments on the document and the phased approach were due on January 27, 2014. Two public comments were received on the FEIS, and neither of them was substantive. No negative comments were received on the phased implementation approach. VDOT made the Request for a ROD publically available on June 15, 2016. The ROD Request was distributed through VDOT mailing lists and posted on VDOT websites and social media. Eighty-four (84) citizens commented on impacts related to noise and sound walls. Twenty six (26) commented on stormwater and sedimentation impacts. There were no other substantive environmental comments made at the public hearing.

Additional details on the post-construction stormwater management plan would be developed during the design stage of the project. Nevertheless, the plan would be developed in accordance with the most up-to-date federal and state regulations. Should the study advance to design, VDOT could develop the detailed designs necessary to inform a preliminary estimate on the number, type, and location of stormwater facilities proposed for the corridor.

VDOT has reached out to the majority of citizens who have contacted them, including the Queens Lake Community Association, with a message that environmental concerns, including noise impacts, will be studied comprehensively in connection with the final design phase. Every consideration will be given to the construction of noise barriers where such measures are warranted and meet Federal and VDOT criteria.

**Agency Review.** The FEIS was transmitted to 39 federal, state, and local agencies for review and comment. Comments were received from five agencies, and the VDOT fully and adequately addressed all of the substantive comments in their request for a ROD. In addition, Section 3 was discussed at a partnering meeting among several federal agencies including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency. None of the reviewing agencies entered any objections to the project, and there are no unresolved interagency disagreements. Based

on the agency coordination, there is a reasonable expectation that a Clean Water Act Section 404 permit will be obtained.

### **MONITORING OR ENFORCEMENT PROGRAM**

A formal monitoring program is not proposed. Rather, the FHWA will ensure that environmental commitments are accomplished by reviewing the NEPA reevaluation documents and the Environmental Certification/Commitments Checklist prior to construction, and by complying with the applicable provisions of 23 CFR 771.109(b). In addition, permit conditions and coordination with permitting agencies during design development, right-of-way acquisition, and construction will ensure consistency with applicable environmental laws and regulations.

### **MEASURES TO AVOID OR MINIMIZE ENVIRONMENTAL HARM**

All practicable means to avoid or minimize environmental harm at this stage of project development have been adopted.

#### **Property Acquisition** (Section III.A.3 of the FEIS)

Within the proposed section, the FEIS identified 59 residential parcels (27 structures) that could be impacted by the proposed section. These impacts are conservative and anticipated to change upon the development of detailed project design. All relocations and real property acquisition will be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Displaced property owners would be provided relocation assistance advisory services together with the assurance of the availability of decent, safe, and sanitary housing. Relocation resources would be made available to all displaced property owners without discrimination.

#### **Cultural Resources** (Section III.G of the FEIS)

On November 20, 2013, FHWA, DHR, the National Park Service, and VDOT executed a Section 106 Programmatic Agreement (PA) (see attached) regarding the I-64 Peninsula Study corridor. The PA acknowledges special conditions that must be taken to account for two resources associated with the Battle of Williamsburg: Redoubt 8 and Redoubt 9. The PA states that work around Redoubt 8 would be done in a manner that avoids diminishing the historic setting, feeling, design, materials, and workmanship of Redoubt 8. The PA also provides conditions that must -be taken into account for the Colonial Parkway. The conditions included in the PA would be followed in the planning, design, and construction of the proposed section. The PA sets forth a process whereby survey, assessment, and possible treatment of areas within the corridor would occur. VDOT is currently conducting an archaeological investigation of the land contained within the proposed section. DHR has concurred that any archaeological sites that may be present within the proposed section would be important chiefly for the information they contain. Therefore, no minimization measures are necessary for the battlefield.

Noise (Section III.D of the FEIS)

The FEIS and the Noise Technical Memorandum describe and depict potential feasible and reasonable barriers along the entire corridor, including the section encompassed by Section 3. The environmental analysis that was completed to support the Environmental Impact Statement (EIS) included a preliminary noise analysis that evaluated noise impacts along the entire project corridor, and identified potential locations where noise barriers were found to be both feasible and reasonable to construct based on the preliminary design of the project. A more detailed noise analysis review will be completed during final design of the project. The ROD Request is based on data found in the FEIS.

If a noise barrier is determined to be both feasible and reasonable during final design, the affected public will be given an opportunity to decide whether they are in favor of construction of the noise barrier. A ROD is required before VDOT can move to a detailed design phase.

Wetlands (Section III.E.1 of the FEIS)

The mitigation measures for wetland impacts would be identified during the permitting phase of the project. These measures would include avoidance and minimization efforts to the greatest extent practicable. Some measures which may be considered are: the use and appropriate placement of erosion and sediment control measures and best management practices; the use of upgraded erosion and sediment controls in environmentally sensitive areas; bridging or spanning of streams and wetlands; alignment shifts around specific systems; the use of cofferdams; steepening of slopes and the use of retaining walls on steeper slopes; properly countersunk culverts; stream relocation to improve skew angle and shorten culverts if new culverts are necessary; and ensuring groundwater recharge or wetland hydrology maintenance through the location of outfalls and infiltration trenches. In addition, the compensatory mitigation requirements for wetlands would be determined during the permitting phase. The current compensatory mitigation to impact ratios for non-tidal forested, scrub-shrub, and emergent wetlands are 2:1, 1.5:1, and 1:1, respectively. The typical compensatory mitigation to impact ratio for tidal emergent wetlands is 2:1. The approved assessment methodology to determine the required stream compensation would be completed as part of the compensatory mitigation plan. At the time of this ROD, the approved assessment methodology is the Unified Stream Methodology.

Water Quality (Section III.E.2 of the FEIS)

The project will include stormwater management plans designed specifically to address the on-site conditions. During construction, all appropriate erosion and sediment control measures will be employed in accordance with the VDOT's Road and Bridge Specifications and state and local regulations. Following construction, stormwater will be treated through improved stormwater management facilities. The potential for impacts to the Queens Creek would be minimized through strict adherence to the appropriate erosion and sediment control practices, which include best management practices such as silt fence, straw bales, check dams, sediment basins and other methods to capture potential sediment from exposed soils. In addition, the amount of clearing of existing

vegetation would be minimized to the greatest extent possible and areas of exposed soils would be stabilized as soon as possible to prevent additional erosion.

#### Hazardous Waste Sites (Section III.I. of the FEIS)

An old gas station, a former Virginia State Police station, and Camp Peary were identified in the FEIS as a Site of Potential Concern. The three properties are located adjacent to the proposed section and are not anticipated to be physically impacted by the proposed section.

Additionally, any additional hazardous materials discovered during construction of the project or during demolition of existing structures will be removed and disposed of in compliance with all applicable federal, state, and local regulations. All necessary remediation would be conducted in compliance with environmental laws and would be coordinated with the U.S. Environmental Protection Agency, the Virginia Department of Environmental Quality, and other federal or state agencies as necessary.

#### Measures During Construction (Section III.K. of the FEIS)

##### Air Quality

The temporary air quality impacts from construction consist primarily of emissions produced by heavy equipment and vehicle travel to and from the site. Earthmoving and ground-disturbing operations would also generate airborne dust. Construction emissions are short-term or temporary in nature. In order to mitigate these emissions, construction activities would be conducted in accordance with Section 107.16(b)(2) of the VDOT's Road and Bridge Specifications.

##### Noise

The following provisions are in place to minimize potential construction-related noise impacts:

- The VDOT may monitor construction-related noise. If construction noise levels exceed 80 decibels during noise sensitive activities, the Contractor shall take corrective action before proceeding with operations. The Contractor shall be responsible for costs associated with the abatement of construction noise and the delay of operations attributable to noncompliance with these requirements.
- The VDOT may prohibit or restrict certain work activities that produce objectionable noise so that they would not occur between 10:00 p.m. and 6:00 a.m. If other hours are established by local ordinance, the local ordinance shall govern.
- Equipment shall in no way be altered so as to result in noise levels that are greater than those produced by the original equipment.
- When feasible, the Contractor shall establish haul routes that direct his vehicles away from developed areas and ensure that noise from hauling operations is kept to a minimum.<sup>3</sup>

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<sup>3</sup> A discussion of the VDOT's construction noise policy can be viewed in Section 107.16(b)3 "Noise" of the VDOT's Road and Bridge Specifications.

These requirements would not be applicable if the noise produced by sources other than the Contractor's operation at the point of reception is greater than the noise from the Contractor's operation at the same point.

#### Waters of the United States and Water Quality

Strict adherence to erosion and sediment control measures and plans would be required throughout all construction practices. The erosion and sediment control plans would address potential issues resulting from ground disturbance, including erosion control, sediment control, stormwater management, dust control, and in-stream work at stream crossings. Best management practices which may be employed include silt fence, straw bales, check dams, sediment basins and other methods to capture potential sediment from exposed soils.

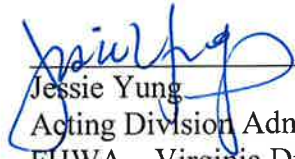
During construction, there is also the potential for nonpoint source pollutants to enter surface waters. To minimize this potential, best management practices for equipment, and materials operation and storage would be followed. The erosion and sediment control measures would also assist in minimizing any potential impacts to waters of the United States and water quality. In the event of accidental spills, the Contractor is required to immediately notify all appropriate local, state, and federal agencies and to take immediate action to contain and remove the contaminant. A Stormwater Pollution Prevention Plan will be prepared and the Virginia Stormwater Management Program Permit will be acquired from the Virginia Department of Conservation and Recreation. A Clean Water Act Section 404 permit will likely be required for impacts to waters of the United States. All permit conditions will be followed during construction. The project is likely to be implemented via a design-build contract, and the design-builder may be required to obtain the project permits.

#### **SECTION 4(f) FINDINGS**

The FEIS did not identify any use of Section 4(f) properties within the proposed section (Section III.H.). VDOT is currently conducting an archaeological investigation of the land contained within the proposed section. DHR has concurred that any archaeological sites that may be present within the proposed section would be important chiefly for the information they contain. Therefore, pursuant to 23 CFR 774.13(b), the archaeological sites would not be Section 4(f) resources.

**CONCLUSION**

The FHWA has considered the information contained in the FEIS as well as the updated environmental analysis as indicated in the ROD request and public comments for Section 3. The FHWA determines and finds that there are no significant impacts that were not considered in the FEIS. In addition, based on the above information, as well as the input received from other agencies and the public, the FHWA hereby selects the addition of one general purpose lane in each direction in the median for Section 3 of the Interstate 64 Peninsula Study.

  
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Jessie Yung  
Acting Division Administrator  
FHWA – Virginia Division

8-10-16  
Date