



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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OFFICE OF THE
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November 26, 2007

Bradley D. Keazer
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Federal Highway Administration
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Edgar T. Hurle
Director of Intermodal and Environmental Planning
Bureau of Policy and Planning
Connecticut Department of Transportation
P.O. Box 317546
Newington, CT 06131-7546

RE: Route 82/85/11 Corridor Salem, Montville, East Lyme and Waterford, Connecticut
Final Environmental Impact Statement, CEQ # 20070458

Dear Mr. Keazer and Mr. Hurle:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, EPA New England has reviewed the Connecticut Department of Transportation (ConnDOT) and Federal Highway Administration's (FHWA's) Final Environmental Impact Statement (FEIS) for the Route 82/85/11 Corridor project in Salem, Waterford, East Lyme, and Montville, Connecticut.

The FEIS describes upgrade alternatives, and full build and partial build expressway alternatives, as well as transit options. The upgrade alternatives include options for widening existing Routes 82 and 85, as well as transportation system management (TSM) measures to improve operation of the existing roads. The expressway alternatives all involve either two lane or four lane expressways built in a largely undeveloped corridor south of Route 82 and west of Route 85. The partial build alternative is a combination of an expressway and widening of existing Route 85.

The FEIS identifies a preferred alternative, E₍₄₎m-V3. This alternative is a full-build option built as a four-lane limited access roadway that follows an alignment from the I-95 / I-395 interchange in East Lyme to the existing terminus of Route 11 in Salem at Route 82. The length of this alignment would be approximately 8.5 miles. In addition, approximately 3 miles of I-95 would be reconstructed in order to allow safe traffic

movement at the interchange of Route 11, I-95 and I-395.

We carefully reviewed the FEIS and evaluated the additional and clarifying information included in the document. The FEIS incorporates the results of separate studies conducted after publication of the 1999 DEIS, including the community sensitive upgrade report, the impact minimization report, and the biological survey. Also, the FEIS contains a more thorough description of the preferred alternative. We found this information helpful in more fully understanding the proposed project and its potential impacts.

The additional information in the FEIS addressed several of the concerns EPA raised since publication of the DEIS. It did not, however, resolve a number of those concerns, including several of the principal issues first identified in our initial comment letter on the DEIS in May 1999 and reiterated in numerous meetings and correspondence since then. Those issues are the evaluation of alternatives and selection of the preferred alternative; the significance of impacts upon the aquatic ecosystem; and compensatory mitigation. EPA's past letters regarding these issues, listed in the attachment, fully explain our concerns and are incorporated here by reference.

We commend ConnDOT and FHWA for their efforts to include the biological survey information provided in the FEIS, either directly or by reference to the Biological Survey reports. The information generated by these surveys confirms EPA's original beliefs about the significance of the environmental resources present in the study corridor, and the potential harm to those resources posed by the project. We also note that the FEIS acknowledges that additional environmental surveys will be required before state certification under Clean Water Act Section 401 can be completed or a Clean Water Act Section 404 permit can be issued. These additional surveys have been deferred by ConnDOT until later in the design process, thus postponing the permitting process.

The issue of compensatory mitigation is one all agencies have agreed is of paramount importance, and has been the primary focus of numerous executive level and staff meetings as well as correspondence for the past eight years. Our expectation was that the FEIS would contain a mitigation plan based on the framework the agencies developed and agreed to over a year ago. However, the FEIS does not contain the mitigation plan, and instead provides only a generic discussion of the mitigation framework we agreed to previously. We continue to believe that the FEIS should have provided the mitigation plan at a level of detail that allows reviewers to fully understand whether and to what extent it will be effective in addressing the project's impacts.

The attachment to this letter provides a summary of previous EPA correspondence on the project and comments based on our review of the FEIS regarding alternatives, mitigation, indirect and cumulative effects, air and water quality, and wildlife survey information.

We appreciate the opportunity my staff had to participate in numerous workgroup meetings over the past few years and to raise many of the concerns detailed in this letter. We reiterate our commitment to work with ConnDOT and FHWA to review new

information as it is developed, and to address outstanding issues as the 404 process advances for the project. Please feel free to contact me or Timothy Timmermann at 617-918-1025 if you wish to discuss these comments further.

Sincerely,


Robert W. Varney
Regional Administrator

Enclosure

cc:

Gina McCarthy, Commissioner, CT DEP
Robert Desista, US Army Corps of Engineers
Michael Bartlett, US Fish and Wildlife Service

Additional Detailed Comments
Route 82/85/11 Corridor Salem, Montville, East Lyme and Waterford, Connecticut
Final Environmental Impact Statement

The comments below are generally based on our review of the FEIS and how it addresses EPA's comments on the DEIS and our September, 2005 comments on the re-evaluation of the DEIS.

Proposed roadway alignment - E4m-V3

While the E(4)m alignment has been adequately described in the FEIS, the impacts associated with E(4)m remain less than fully described. Generally, direct impacts have been quantified, but indirect, secondary and cumulative impacts assessments remain incomplete. Also, we note that direct wetland impacts associated with the E(4)m alternative are described in Section 3 page 56 as 6.8 acres whereas elsewhere in the FEIS (e.g., in the Comparison Matrix, page ES-15), the direct impacts are described as 16.6 acres.

Impacts of Proposed Interchanges

Previous comments from EPA noted that information concerning the location, design, and environmental impacts associated with the proposed highway interchanges were not adequately addressed in the DEIS. The FEIS describes the preferred alternatives for the interchanges at I-95 and Route 161. However, a complete alternatives analysis of interchange locations and designs is not presented. Instead, general descriptions of some, but not all of the alternatives considered are provided. In the cases of both interchanges, the selected configurations may result in greater environmental impact than other practicable alternatives. The resources potentially impacted by the proposed interchanges exhibit important functions and values, including seasonal pools, Class A coldwater fisheries, and other unique and important habitats, including state listed species habitat.

CAPS Modeling

The FEIS generally describes the use of the CAPS model, and references the previously issued CAPS study report. The serious concerns about the limitations of the CAPS analysis and the misapplication of the results of the CAPS analysis as noted in our previous correspondence remain.

Practicability of Upgrade Alternatives

EPA's comments on the Reevaluation noted that "[t]he 2002 report produced by EPA's contractor, Weston Solutions, Inc., and its subcontractor, Transportation Planning and Design, Inc., that further evaluated the practicability of the upgrade alternatives for the Route 11 Project, as well as ConnDOT and FHWA comments about the report, have not been made available to the public for review and consideration." Nor does the FEIS discuss it.

Indirect and Cumulative Impacts

Although the analysis of indirect and cumulative impacts is an improvement over that in the 1999 DEIS because it presents more demographic and economic information, it continues to be based on assumptions that are not well-supported in the document. The FEIS concludes that residential development will not be induced by the preferred alternative, and that induced commercial and industrial development will consume just 70 acres of land. Yet other information in the document suggests that induced development might be much more significant than predicted. Potential changes in commuting patterns should have been analyzed in the FEIS, and may well have resulted in different conclusions about induced residential development. Further, it is impossible to determine whether 70 acres of induced commercial and industrial development is a reasonable estimate or not. We note that the environmental impacts of development of these 70 acres is likely to be larger than estimated in the FEIS, since indirect impacts on wetlands from upland development are not included.

Finally, in the section on cumulative impacts, it is surprising that the I-95 corridor project is not included in the list of future projects. Given that ConnDOT already has commenced planning the I-95 project, it can be considered reasonably foreseeable and should have been assessed. Also missing is any information on development and expansion of the Mohegan Sun casino in Montville, one of the four corridor towns. The Mohegan Sun has had a significant impact on development in southeastern Connecticut, along with the Foxwoods casino in Ledyard, and should have been included in the analysis.

Transportation Conformity

The FEIS satisfactorily addresses EPA's previous comments on transportation conformity.

Mitigation for Emissions from Diesel Construction Equipment

We are pleased that the FEIS identifies mitigation for fugitive dust; highway and non-road vehicle compliance with state and federal exhaust emission controls and safety; and compliance with Connecticut's anti-idling regulations. [Section 5 -- Page 243-244.] In addition, given the public health concerns about diesel exhaust from heavy duty diesel trucks and other heavy duty construction equipment, EPA supports Connecticut's requirements that construction equipment be retrofitted with diesel retrofit technologies¹ or use clean fuels during construction.

¹ Retrofit technologies may include EPA verified emission control technologies and fuels and CARB-verified emission control technologies--see <http://www.epa.gov/otaq/retrofit/verif-list.htm>.

Water Resources and Water Quality

EPA's comments on the DEIS and subsequent comments on the re-evaluation of the DEIS identified the use and adverse effects of road salt as an emerging and increasingly important water quality issue that should be more fully discussed. Consistent with those comments, we offer our assistance to work with ConnDOT and FHWA to develop a plan to characterize baseline conditions before construction and to monitor conditions following construction to demonstrate how the project would avoid impacts and be consistent with applicable water quality standards. EPA also offers technical assistance to help ConnDOT/FHWA to develop operational strategies to minimize the effects of water quality degradation from storm water runoff and roadway deicing activity. Please contact Doug Heath at 617-918-1585 to discuss how EPA can participate in these efforts.

In addition, the FEIS indicates that, even with proposed mitigation measures in place, storm water runoff from the proposed roadway will result in the exceedence of instream water quality criteria and state water quality standards during many storm events. We reiterate our previous comments that additional mitigation and treatment measures beyond the best management practices identified in the FEIS may be necessary to avoid adverse water quality impacts and assure compliance with state water quality standards.

List of Previous EPA Correspondence Incorporated by Reference (as noted in cover letter):

April 7, 1999: Statement of the U.S. EPA at Public Hearing.

May 21, 1999: letter to Colonel Pratt (Corps of Engineers), Donald West (FHWA), and Edgar Hurle (ConnDOT) re comments on DEIS and section 404 public notice.

April 20, 2001: letter to Colonel Osterndorf (Corps) re comments on upgrade alternatives.

November 8, 2001: letter to Colonel Osterndorf (Corps) re LEDPA determination.

November 13, 2002: letter to Edgar Hurle (ConnDOT) re Wildlife/Habitat Block Impacts and Compensatory Mitigation.

January 2003: letter to Edgar Hurle (ConnDOT) transmitting EPA contractor (Traffic Planning and Design, Inc.) report on DEIS traffic analysis.

July 24, 2003: letter to Bradley Keazer (FHWA) re induced growth impacts analysis.

March 4, 2005: comments to ConnDOT, FHWA, and Corps re proposed mitigation framework.

March 14, 2005: comments to Corps re proposed mitigation framework.

May 10, 2005: comments to ConnDOT, FHWA, and Corps re proposed mitigation framework.

September 21, 2005: email to Bradley Keazer (FHWA) re recommendation on DEIS re-evaluation.

January 5, 2006: comments to ConnDOT, FHWA, and Corps re proposed mitigation framework.

February 8, 2006: comments to ConnDOT, FHWA, and Corps re proposed mitigation framework.

October 18, 2006: email to Robert Turner (FHWA) re: administrative FEIS.