

FEDERAL HIGHWAY ADMINISTRATION
REVISED FINDING OF NO SIGNIFICANT IMPACT
FOR

ROUTE: I-95 HOT Lanes Project Revised Environmental Assessment

LOCATION: Stafford County, Prince William County, City of Fredericksburg, Virginia

STATE PROJECT: 0095-969-739; UPC 110527

FEDERAL PROJECT: NHPP-000S (345)

The Federal Highway Administration has determined that the project will have no significant impact on the environment. This Revised Finding of No Significant Impact is based on the approved Revised Environmental Assessment which has been independently evaluated by the Federal Highway Administration and determined to adequately and accurately discuss the need, environmental issues, and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

3/19/18

Date

John Simkins

for: FHWA Division Administrator

Rationale for the Finding of No Significant Impact
I-95 HOT Lanes Project Revised Environmental Assessment
State Project Number: 0095-969-739; UPC 110527

We have reviewed the Virginia Department of Transportation's (VDOT) February 5th, 2018 letter requesting a Finding of No Significant Impact, which includes the Revised Environmental Assessment (REA) and the transcript from the Location and Design Public Hearing. The REA is attached to the Revised Finding of No Significant Impact and is hereby incorporated by reference into this rationale supporting the Revised FONSI.

VDOT and FHWA studied the environmental consequences of improvements to I-95 through the City of Fredericksburg and the Counties of Spotsylvania, Stafford, Prince William, and Fairfax in the 2011 EA. Following the issuance of the FONSI in 2011, VDOT completed conversion of the HOV lanes to Express Lanes from Dumfries to the Capital Beltway. In 2014, VDOT completed construction of the second portion of Express Lanes approved with the 2011 FONSI, extending from Dumfries to near VA 610/ Garrisonville Road (Exit 143) in Stafford County. The section of I-95 under evaluation in the REA includes the I-95 / Russell Road Interchange (Exit 148), where enhanced Express Lane access is proposed. The study area also includes the next area of planned Express Lane expansion, as approved with the 2011 FONSI, extending approximately ten miles from near the I-95 / VA 610 Interchange at Garrisonville Road (Exit 143) to near the I-95 / US 17 Interchange at Warrenton Road (Exit 133). The above improvements will be referred to as the Build Alternative throughout this document.

I-95 serves movements of people and freight along the entire eastern seaboard, but it also serves as a regional route for commuters to the Washington, DC metropolitan area and a local route for traffic in the urbanized areas of the City of Fredericksburg and southeastern Fairfax County. The existing high-traffic volumes are due in part to the increased population growth in the study corridor. In 2016, the general purpose (GP) lane daily traffic volumes in the Fredericksburg Extension Study Area ranged from approximately 59,200 north of VA 610 / Garrisonville Road (Exit 143) to approximately 62,300 north of Route 8900 / Centreport Parkway (Exit 136). Express Lane volumes north of VA 610 / Garrisonville Road ranged from approximately 6,100 Vehicles per Day (VPD) in the northbound direction to approximately 9,300 VPD in the southbound direction in 2016.

The 2011 EA indicated that approximately 38 percent of the Fredericksburg region's workforce commutes northward, using I-95 as their primary commuting route. Broken down by jurisdiction, 50 percent of Stafford County's workforce, 28 percent of Spotsylvania County's workforce, and 19 percent of Fredericksburg's workforce commute northward. Average travel time along the I-95 corridor is increasing, and the variability of travel time is increasing as well. Forecasts compiled by the Fredericksburg Area Metropolitan Planning Organization (FAMPO) show continuing population growth in the George Washington Regional Commission (GWRC) region, with a doubling by the year 2035 from the current 315,000 to 600,000 residents; the majority of growth

projected in the areas immediately adjacent to and surrounding I-95 in Stafford and Spotsylvania Counties and the City of Fredericksburg. The Fredericksburg Extension Project proposes to reduce daily congestion and accommodate travel demands more efficiently, provide higher reliability of travel times, and expand travel choices.

Environmental Impacts

The environmental impacts for the Build Alternative that involves improvements along the existing corridor were described in the approved Environmental Assessment (EA). The Revised EA was transmitted to numerous federal and state environmental resource agencies and was made available for public review prior to and at the Public Hearing. Substantive comments were addressed in the FONSI request. No comments were received from the environmental resource agencies or any member of the public that suggested that the project would have a significant environmental impact.

The following is a summary of the project's environmental impacts:

Land Use

The most prominent land use within 1,000 feet on either side of I-95 between Exits 133 and 143 is roadway right-of-way, followed by residential, agricultural, commercial, industrial, federal, and planned development. Growth in the Washington, DC metropolitan region and the Fredericksburg metropolitan area has resulted in substantial residential and commercial development in Northern Virginia, including Prince William and Stafford Counties. Locality plans from the National Capital Region Transportation Planning Board (NCRTPB), the Fredericksburg Area Metropolitan Planning Organization (FAMPO), Prince William County, and Stafford County all indicate the need for transportation improvements to ease commuter traffic issues. The NCRTPB approved an amendment to add the I-95 Express Lanes Extension Study to the Fiscal Year 2017-2022 Transportation Improvement Plan (TIP) (MWCOG, 2017), FAMPO included a project to extend the Express Lanes from near VA 610 / Garrisonville Road (Exit 143) to Exit 126 in its 2040 Long Range Transportation Plan, and the Stafford County Comprehensive Plan recommended reducing traffic congestion on I-95 by extending the Express Lanes from Garrisonville Road to Exit 126 (Stafford County, 2016). Therefore, the project is consistent with current and planned local land use. Since the roadway improvements will be along the existing corridor the land uses in the project study area will generally remain consistent with the existing land use pattern, with or without the project.

The U.S. Department of Agriculture, Natural Resource Conservation Service, advised that there were some prime farmland or farmland of statewide important soils adjacent to the I-95 corridor. Approximately 60 percent and 38 percent of the prime and statewide important farmland soils identified in the study area occur in the existing right-of-way, respectively. Approximately 22.2 acres of prime farmland and 19.1 acres of important farmland exist within the right-of-way. An estimated 37.8 acres from 51 parcels would be converted to transportation right-of-way. Of the 37.8 acres, 12.5 acres would consist of

agricultural land use. Although these soils feature the physical and chemical characteristics important for food and crop production, they are located in an area designated for transportation use, eliminating their potential use for agriculture. Although prime farmland and farmland of statewide importance occur within the study area, there would be no impacts to Prime, Unique, or Important Farmland from the Build Alternative.

FHWA finds that the impacts to land use are not significant.

Social

Community Facilities/Services. Community facilities that have been identified within the 1,000 feet on either side of the I-95 study area include cemeteries, fire stations, healthcare, libraries, police stations, post offices, places of worship, schools/universities, publicly-owned parks, and outdoor recreational facilities, including bike paths and recreational trails. No community facilities are within the Prince William County portion of the study area. One cemetery, one fire station, two parks, six health care facilities, six places of worship, five schools/universities, the East Coast Greenway (ECG) bike trail and recreational trails at Smith Lake Park are within the study area. The ECG bike trail is temporarily designated as along Route 1 while a permanent trail is sought. No community facilities are within the Limits of Disturbance (LOD) of the Build Alternative. The Build Alternative would be constructed primarily within existing I-95 right-of-way. No community facilities are located where new right-of-way would be acquired.

Neighborhood and Community Cohesion. It is anticipated that no residential or commercial displacements would occur under the Build Alternative. In the long term, traffic patterns would change with the addition of two Express Lanes and new access points. All current I-95 interchanges in the LOD would be maintained, ensuring continued community access to I-95. No major disruption to community cohesion would occur. Construction of the Build Alternative would occur primarily in the median of I-95, limiting the potential for disrupting travel or commuting patterns through detours. However, limited disruptions may occur during construction where the new lanes would tie into I-95. Maintenance of traffic would be determined during the design phase of the project. These effects would be temporary and not result in substantial impacts to community cohesion.

FHWA finds that the social impacts are not significant.

Environmental Justice

This project has been developed in accordance with Title VI of the Civil Rights Act of 1964 as amended, and Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.

Public Participation. On March 21 and March 22, 2017, VDOT held Public Information Meetings (PIM) to introduce the study to the public, share available information, and gather public input for consideration during study development. The PIMs took place at local high schools accessible by transit to the local community, and were held in an open house format with display boards depicting general information, including a study overview, the study purpose and need, the study area, and the study schedule. A combined Location and Design Public Hearing was held for the I-95 Express Lanes Fredericksburg Extension project on September 25, 2017, between 6:00 p.m. and 8:00 p.m., at Stafford High School in Stafford County. Prior to and following the meeting, the Revised EA was made available for review on VDOT web sites and at the VDOT Fredericksburg District Office.

Seventy-three (73) citizens signed in at the Location and Design Public Hearing. There were thirteen (13) written and five (5) oral comments received during and after the meeting. In addition, two (2) emails were received following the Location and Design Public Hearing. The content of the REA, as well as the comments received during the public comment period, does not change the conclusion that the project would cause no significant impact.

Environmental Justice Impacts. In light of Executive Order 12898, a review of the potential disproportionate effects of the Build Alternative was conducted. There are no minority and low income populations along the corridor that would suffer disproportionately high and adverse effects from the project.

Eleven of the 12 Census block groups within the study area meet the minority or ethnic Hispanic thresholds for a minority population. Only Census block group 9801.00 BG 1 on Marine Corps Base Quantico, which has no residents, is not a minority population. Under the Build Alternative, both beneficial and adverse impacts would occur to minority populations residing along I-95 in the study area. The Build Alternative would add capacity to the I-95 corridor in the study area and provide new access points to the managed lanes system. Making improvements to the median of an existing interstate facility reduces impacts to minority or low-income populations than otherwise could occur. Anticipated new right-of-way would be acquired in Census block groups that meet the established threshold for minority populations on either side of I-95 through the study area. However, because the Build Alternative is not anticipated to require acquisition of complete parcels, the impact would not be high and adverse. Potentially affected parcels that may be owned by minority persons would not be known until the right-of-way acquisition phase if the Build Alternative was implemented.

Any relocations would be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987.

FHWA finds that the Build Alternative would not have disproportionately high and adverse effects on minority and low income populations, and finds that the impacts would not be significant.

Historic Properties

Context

The field inventory area for the project encompassed a 100-foot buffer beyond the existing right-of-way along the study area. The architecture and archaeological historic properties in the field inventory area were identified in surveys conducted for earlier projects by VDOT and additional surveys conducted for this project to update or supplement previous findings.

The study area contains one architectural historic property, the Aquia Church. The study area also includes the Chancellorsville Battlefield. The American Battlefield Protection Program defines the property within the battlefield boundaries using three separate criteria: the study area, the core area, and the Potential National Register Boundaries (PotNR). Only the study area of the Chancellorsville Battlefield extends into the inventory area, the PotNR does not. The study area for the project contains two potentially eligible archaeological properties, sites 44ST0909 and 44ST0622. Site 44ST0622 is a 19th or 20th century domestic site. Site 44ST0622 was earlier determined potentially eligible in consultation with the State Historic Preservation Officer (SHPO), but field and archival research conducted for this study revealed that the site had been mapped incorrectly in the SHPO's database and the Virginia Cultural Resource Inventory System. Furthermore, the site is not located within the inventory corridor.

Impacts

The Area of Potential Effects (APE) for this project was previously surveyed for the HOT Lanes Project, VDOT Project No.: 0095-966-109, P101; UPC: 70850; VDHR File No.: 2007-0006. The SHPO agreed with the VDOT's recommendation that the 2011 FONSI-selected alternative would have no effect on historic resources.

Finding

Based on the alignment found in the REA, the project would have no adverse effect on historic resources. The proposed design does not diminish any of the aspects of integrity for the Chancellorsville Battlefield (088-5180) nor the Aquia Church (089-0008) that contribute to the eligibility of the historic resources to the NRHP. Furthermore, the inclusion of a flyover within the planning-level LOD at Russell Road would avoid any impacts to archaeological site 44ST0909 that would otherwise have been impacted by providing access to Russell Road from the median of I-95. DHR concurred that the Build Alternative for the project as proposed will have no adverse effect on historic properties,

provided the protection measures described in VDOT's November 29, 2017 letter to DHR are implemented during construction at Site 44ST0909.

FHWA finds that impacts to historic resources are not significant.

Section 4(f)

Section 4(f) facilities were identified within 1,000 feet on either side of I-95 between Exit 133 and Exit 148. Publicly owned parks and recreation facilities in the study area include Chichester Park, Stafford High School, Anthony Burns Elementary School, and Smith Lake Park. Historic properties identified in the study area include Aquia Church, Chancellorsville Battlefield, and an early woodland camp site. Eight properties protected under Section 4(f), (four recreation facilities and four historic resources) are located in the study area. None of the Section 4(f) properties in the study area would be physically impacted by the Build Alternative. Two Section 4(f) properties are sufficiently close to the Build Alternative alignment to be considered for noise impact: Chichester Park and Anthony Burns Elementary School. The predicted noise levels at both properties are within 3 decibels of the No-Build sound level. Therefore, the Build Alternative would not result in any Section 4(f) use.

Right of Way / Relocation

Most of the project would be constructed within existing VDOT right-of-way, and is not anticipated to require acquisition of complete properties. An estimated 37.8 acres from 51 parcels would be converted to right-of-way. The 37.8 acres would consist of agricultural (12.5 acres), commercial (15.4 acres), industrial (5.2 acres), and residential (4.7 acres) land. There is at least one mobile home park located within the study area. While 51 partial acquisitions have been identified, it is anticipated that there would be no total acquisitions. Because most Build Alternative construction would occur in existing transportation right-of-way, these impacts would be generally limited to slivers of land bordering I-95. Therefore, the Build Alternative would not change the overall existing and planned land use pattern in the study area or Prince William and Stafford Counties.

The acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Relocation resources are available to all residential and business relocatees without discrimination.

FHWA finds that the right-of-way and relocation impacts are not significant.

Air Quality

The project would not cause or contribute to a violation of national ambient air quality standards (NAAQS). Worst-case modeling was conducted for three intersections and three interchanges (worst-case locations). These intersections and interchanges meet the applicable NAAQS for Carbon Monoxide (CO); therefore, other intersections and

interchanges included in the Study Area also would be expected to meet the NAAQS. All Mobile Source Air Toxics (MSAT)-pollutant emissions are expected to significantly decline in the Opening and Design years when compared to Existing year. The opening year and Design-year analysis for the Build Alternative also showed that the project is expected to reduce MSAT emissions when compared to the respective No-Build Alternative with benzene, ethylbenzene and Particulate Matter (PM).

On October 18, 2017, the Transportation Planning Board (TPB) approved a resolution for the VDOT and Maryland Department of Transportation (MDOT) amendment to the 2016 Constrained Long Range Plan (CLRP), and the analysis demonstrates adherence to all mobile source emissions budgets for ground level ozone precursors Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x). On December 19, 2017, the FHWA's District of Columbia Division received EPA's concurrence letter regarding the review of the 1997 8-Hour Ozone, 2008 8-hour Ozone. The Environmental Protection Agency (EPA) provided technical documentation that supports the conformity finding of the region's 2016 CLRP Amendment. FHWA finds that the analytical results provided by the TPB to demonstrate conformity are consistent with EPA's Transportation Conformity Rule (40 CFR Part 93), as amended. FHWA finds that the VDOT and Maryland Department of Transportation (MDOT) 2016 CLRP Amendment conforms to the region's State Implementation Plans, and that the conformity determination has been performed in accordance with the requirements specified in the Transportation Conformity Rule (40 CFR Part 93), as amended.

Emissions may be produced in the construction of this project from heavy equipment and vehicle travel to and from the site, as well as fugitive sources. Construction emissions are short term or temporary in nature. In order to mitigate these emissions, all construction activities are to be performed in accordance with VDOT Road and Bridge Specifications and DEQ air pollution regulations.

FHWA finds that the air quality impacts are not significant.

Noise

Context

Noise impacts were studied within 500 feet of either side of edge-of-pavement where improvements were proposed for the Build Alternative. In general, values of the traffic-only Leq were the same as or very similar to the measured total Leqs at each of the measurement sites, which is an indication that roadway traffic is the dominant source of noise in spite of the presence of other sporadic and occasional noise events due to human related activity. Other sources of noise in the existing environment included aircraft overflights, lawn equipment, biogenic sounds (birds and insects), wind in the trees, and other human-related activity. There is a total of 151 existing condition noise impacts. Existing noise barriers in the corridor provide traffic noise attenuation of at least five decibels (5 dBA) for two residences on Beauregard Drive (CNE UU); one residence on Ravenwood Drive (CNE TT); and 92 residences on Stafford Glen Court, Tanglewood Lane, Whitsons Run, Fallsway Lane, Fairfield Court, and Ryan Way (CNE NN).

Intensity

Residential and recreational impacts are predicted to occur under the Build Alternative. Predicted 2042 Build Alternative exterior Leq's average about 1 to 1.5 decibels higher than the existing levels. This increase is primarily due to the roadway improvements allowing slightly higher traffic volumes in the loudest-hour periods, and projected increases in heavy truck traffic. Overall, residential and recreational impacts are predicted to occur under the Build Alternative. A total of 190 impacted receptors are predicted for the Build Alternative, comprised of 153 residential dwelling units (Category B), and 37 receptors representing one school's recreational areas and six other recreational receptors (Category C). No commercial (exterior, Category E) receptors and no institutional (interior, Category D) receptors are predicted to be impacted under the Build Alternative.

Mitigation

To mitigate the noise impacts, a total of 1.2 miles of barriers have been preliminarily identified as being feasible and reasonable. These noise barriers would benefit 56 of the 190 impacted receptors, as well as 47 non-impacted receptors, at an estimated cost of \$6.8 million. Two additional noise barriers that are found to be feasible and reasonable have already been approved and designed between VA 630 / Courthouse Road (Exit 140) and VA 610 / Garrisonville Road (Exit 143) as part of a separate project. Details of those barriers are taken from the noise abatement design report for the *I-95 Express Lanes Project, Segments I-III*.

Following the release of the preliminary Noise Analysis Technical Report and Revised Environmental Assessment in August 2017, the noise analysis was updated. Previously, only one barrier system was found to be warranted, feasible, and reasonable (Barrier PP). After the updated noise analysis, there are three.

- Barrier UU2, which was originally considered feasible but not reasonable, is now considered both feasible and reasonable.
- Barrier QQ, which was originally considered feasible but not reasonable, is now considered not feasible.
- Barrier OO, which was originally considered feasible but not reasonable, is now considered both feasible and reasonable.

FHWA finds that the noise impacts are not significant.

Water Quality & Aquatic Resources

Non-tidal streams were identified in the study area using the National Hydrography Dataset (NHD) from the US Geological Survey. The majority of the inventory corridor lies within the Atlantic Slope watershed of the Lower Potomac River watershed (HUC 02070011) with the southern end of the study area occurring within the Lower Rappahannock River watershed (HUC 02080104). The study area crosses the following sub-watersheds:

- Chopawamsic Creek (HUC 020700110105)

- Lower Aquia Creek (HUC 020700110203)
- Accokeek Creek (HUC 020700110204)
- Potomac Creek – Beaverdam Creek (HUC 020700110206)
- Rappahannock River – Hazel Run (HUC 020801040102)

Most stream channels within the VDOT right-of-way and developed areas showed signs of historic alteration, including ditching or straightening, as well as areas of rip-rap. Streams in the study area, located outside of the VDOT right-of-way in undeveloped areas, were found to be relatively undisturbed while others appeared to be historically altered, but have since naturalized. Many of the streams identified are fragmented in nature, with upstream and downstream connections via culvert. All streams were found to have a significant nexus to offsite navigable waters and are therefore considered jurisdictional under the Clean Water Act (CWA). In heavily developed areas or within the VDOT right-of-way, the nexus may be due to jurisdictional flow through underground pipes/culverts that discharge to the surface offsite. There are 24 streams/rivers or stream/river segments in, or downstream of, the inventory corridor that are designated “impaired waters” under Section 303(d) of the CWA. Only Falls Run, which is impaired for aquatic life, is within the inventory corridor. Benthic-macroinvertebrate surveys conducted along the stream indicate that the stream’s health is compromised as the benthic survey scores resulting from the surveys are below the impairment threshold.

Approximately 1,090 feet of Falls Run would be impacted by the Build Alternative. Falls Run intersects the planning-level Limits of Disturbance (LOD) of the Build Alternative at its southern end, between US 17 (Exit 133) and VA 652 / Truslow Road. In sum, approximately 8,520 linear feet of streams (out of a total of about 42,130 linear feet in the inventory corridor) would be impacted by the Build Alternative. The majority of potential stream impacts are associated with mainline improvements. The remaining potential stream impacts are located at interchange gore areas. However, the Build Alternative would not have significant adverse impacts on streams and water quality, as any impacts would occur in locations already impacted by the existing roadway. In order to minimize impacts to Waters of the US, the narrower, closed typical section would be applied in the southern portion of the Build Alternative, where the majority of wetlands and streams within the study area are located. Further efforts to minimize impacts would be explored in later stages of design and permitting, and would be coordinated with the appropriate regulatory agencies.

The study area includes approximately 78.7 acres of 100-year floodplain. The Build Alternative would impact approximately 20.6 acres of 100-year floodplains out of the 78.7 acres. However, the Build Alternative would not have significant adverse impacts on natural and beneficial floodplain values, as any impacts would occur over floodplains already impacted by the existing roadway. Efforts to minimize floodplain encroachment would be considered during design to avoid or minimize impacts on natural and beneficial floodplain values. Individual impacts to any one floodplain would be relatively small in size and severity. Most floodplain encroachments from the Build Alternative would be from the perpendicular crossing of floodplains, not from longitudinal

encroachments. Perpendicular crossings would result in less floodplain fill, maximizing floodwater conveyance and storage compared to longitudinal encroachments. Roadway design would focus on avoiding and minimizing floodplain encroachment to ensure that the design is consistent with EO 11998, FHWA policy as set forth in 23 CFR 650, and VDOT criteria.

FHWA finds that the impacts to water quality and aquatic resources are not significant.

Wetlands and Waters of the U.S.

Waters of the U.S. are defined by US Army Corps of Engineers (COE) and EPA regulations, and are described generically in EPA's 404 (b) (1) Guidelines as rivers, streams, ponds, and special aquatic sites, (*e.g.*, sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs, and riffle and pool complexes).

Jurisdictional wetland determinations were made for the project area using the COE Wetlands Delineation Manual, 1987. Classifications follow the U.S. Fish and Wildlife Service's classification system "Classification of Wetlands and Deepwater Habitats of the United States" (Cowardin et al., 1979). This project will require the acquisition of a Section 404 permit of the Clean Water Act of 1973 from the Army Corps of Engineers (Corps), a VWP3 and an LOP-1 permit. In accordance with Executive Order 11990, Protection of Wetlands, all practical measures to minimize harm to wetlands will be implemented as part of the project. As described in the REA, the project would impact approximately 4 acres of wetlands and would require 1576 feet of stream mitigation. All applicable permits will be acquired prior to construction.

A total of 15.2 acres of wetlands have been identified in the inventory corridor. All wetlands identified in the inventory corridor are palustrine wetlands, which are freshwater wetlands with salinities below 0.5 parts-per-thousand and maximum water depths of 6.6 feet. Most of the palustrine wetlands identified are Palustrine Forested wetlands (75 percent), followed by Palustrine Emergent wetlands (17 percent). Approximately 50 percent of the wetlands are located in the median of I-95, within the existing right-of-way. The wetlands within the field inventory area are concentrated within the southern half of the corridor.

Of the 15.5 acres of non-tidal wetland in the inventory corridor, 3.2 acres of wetlands would be impacted by the Build Alternative. Direct impacts from grading, conversion of vegetation type, and hydrologic isolation would result in loss of wetland functions within the immediate footprint of the impact. Wetlands impacts would occur predominantly in the median, in the southern portion of the study area, between VA 630 / Courthouse Road and VA 627 / Enon Road. In order to minimize impacts to wetlands, the narrower, closed typical section would be applied in the southern portion of the Build Alternative. Further efforts to minimize impacts would be explored in later stages of design and permitting, and would be coordinated with the appropriate regulatory agencies.

FHWA finds that the impacts to wetlands and waters of the U.S. are not significant.

Wildlife

Wildlife in the study area includes species adapted to rural habitats, such as rabbits, whitetail deer, eastern grey squirrels, red fox, and a number of common bird species. Minor amounts of forest, grass, and shrub habitat areas would be cleared and minor amounts of stream bottom would be disturbed. Upon completion of the necessary earthwork, all disturbed areas that are not paved will be re-vegetated using appropriate grass seed mixes in accordance with VDOT's plans and specifications. No state natural area preserves are located in the project vicinity.

Impacts to aquatic wildlife could include the elimination of stream habitat within the limits of construction and potential impacts from sediment deposition due to stormwater runoff from the construction area. Stream losses will be compensated through mitigation measures to be developed in consultation with the permitting agencies. Such mitigation measures would also include habitat enhancement measures, thereby offsetting habitat losses resulting from the project. Additionally, temporary and permanent stormwater management and erosion and sediment controls will be implemented as part of the project, which should also minimize damages to aquatic habitats. Therefore, no substantive impacts to wildlife habitat and species are expected.

Terrestrial lands with natural cover, including forests, account for approximately 233.4 acres of the inventory corridor, and are concentrated in the southern section. Vegetation identified during the field survey indicates that the inventory corridor is dominated by a mix of hardwood tree species with an understory containing shrub, herbaceous, and vine vegetation. The forests in the study area, which are typical of Oak-Hickory Forest or Oak-Hickory Woodlands and Savannas Associations, could provide habitat for many of the typical terrestrial urban wildlife species inhabiting this region, including mammals, reptiles, and birds. Habitat adjacent to the highway has been fragmented by residential, commercial, industrial, and government and military land uses. Habitat fragmentation in these developed areas has resulted in low-quality edge habitat. The interstate poses a barrier to crossings by terrestrial species due to vehicle strikes and the presence of fence lines that bound the interstate, preventing wildlife from entering the facility. The edge habitat along the interstate in the right-of-way, in interchange loops, and the area in the median, are poor habitat for wildlife due to access restrictions posed by travel lanes and soundwalls. The wildlife species most capable of adapting to habitat fragmentation due to dense urban and suburban development include, but are not limited to: rabbits (*Sylvilagus floridanus malurus*), whitetail deer (*Odocoileus virginianus*), eastern gray squirrels (*Sciurus carolinensis carolinensis*), red fox (*Vulpes vulpes*), raccoon (*Procyon lotor lotor*), striped skunk (*Mephitis mephitis*), and many common non-migratory bird species. Fish species recorded in area streams have included the American eel (*Anguilla rostrate*), common carp (*Cyprinus carpio*), and white sucker (*Catostomus commersonii*). Game fish species observed include the white perch (*Morone americana*), striped bass (*Morone saxatilis*), and largemouth bass (*Micropterus salmoides*). There is no Essential Fish Habitat (EFH) in the study area. Existing fish habitat within the study area is fragmented due to the presence of culverts, bridges, and other structures.

The majority of the planning-level LOD occurs in the existing right-of-way resulting in no increased width to the I-95 roadway that acts as a barrier preventing wildlife movement. The road width would be increased in five limited areas; however, increasing the width of the roadway corridor in these areas would not likely exacerbate the problems posed to wildlife movement, as the existing interstate facility currently prevents terrestrial wildlife from crossing the travel lanes. Approximately 82.6 acres of terrestrial habitat would be converted to transportation use in the planning-level LOD. These forested areas occur mainly in the median of the divided interstate and in lesser amounts along the outside edges of the existing lanes to accommodate proposed ramps and Storm Water Management (SWM) facilities. Vegetation cleared in the median of the divided lanes would not appreciatively contribute to fragmentation of forest resources as these areas are currently separated from contiguous forested areas by the existing travel lanes. Vegetation cleared along the outside edges of the current travel lanes would be removed in small strips. Fragmentation would not occur in these areas, as the cleared right-of-way would simply be expanded into the forested areas. Forested land would not be newly separated from contiguous forests. The bridges in the planning-level LOD may provide habitat for bats, as well as migratory birds protected under the Migratory Bird Treaty Act. The VDGIF institutes a time-of-year restriction for certain activities for listed species of birds occurring between March 15 and August 15 of each year. If nests of birds protected under the Migratory Bird Treaty Act are located in the planning-level LOD, appropriate coordination would occur with state and federal agencies prior to construction. Disturbance, destruction, and removal of active nests would be avoided during the nesting season.

FHWA finds that the impacts to wildlife populations are not significant.

Threatened and Endangered Species

As a result of the offsite and field analysis performed, potential habitat was verified in the study area for the following listed species

- Dwarf Wedgemussel (*Alasmidonta heterodon*) FE¹,
- Harperella (*Ptilimnium nodosum*) FE
- Small Whorled Pogonia (*Isotria medeoloides*) FT²
- Yellow Lance (*Elliptio lanceolata*) Proposed FT
- Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*) FT,
- Brook Floater (*Alasmidonta varicosa*) SE³
- Green Floater (*Lasmigona subviridis*) ST⁴

No critical habitat has been designated by U.S. Fish and Wildlife Service (FWS) in the study area. Suitable foraging and summer roosting habitat for the NLEB is present throughout the study area. For the purposes of this study, all forested areas were

¹ FE= Federally endangered

² FT= Federally threatened

³ SE= State endangered

⁴ ST= State threatened

considered a potential summer roosting habitat. The suitable habitat for the NLEB totals 605.8 acres. Potential small whorled pogonia (SWP) habitat was identified in the study area within forested areas along the NB and SB lanes of I-95, as well as the median. The suitable habitat for the Small Whorled Pogonia totals 66.1 acres.

Potential habitat for mussels was found in various perennial streams in the study area. These streams include Aquia Creek, Chopawamsic Creek, Austin Run, and Potomac Creek, as well as unnamed perennial streams. Potential habitat for harperella is present in four perennial stream channels in the study area, including Aquia Creek, Chopawamsic Creek, Austin Run, and one unnamed perennial stream.

Much of the habitat within the inventory corridor has been fragmented by residential, commercial, industrial, and government and military land uses along the highway. Of the 605.8 acres of potential NELB summer roosting habitat identified in the inventory corridor, approximately 177.0 acres occurs in the planning-level LOD. Potential habitat was observed in forested areas located in the median of the divided lanes. Potential habitat was also observed where the planning-level LOD extends outside of the current right-of-way near the Warrenton Road and Courthouse Road interchanges.

Forest clearing along the edge of the existing right-of-way would result in minimal reduction in forested cover and quality of forested habitat. Clearing of forested habitat within interchanges and smaller fragmented forested areas within the median would result in the removal of sub-optimal habitat that has a low potential for roosting and generally does not provide suitable commuting and foraging corridors for bats. Larger tracts of contiguous forest within the median provide suitable summer roosting habitat and foraging in areas. However, the areas are still fragmented from the surrounding landscape by a three-lane, heavily trafficked highway. Clearing of these forested areas would not result in the removal of optimal habitat for NLEB. No confirmed maternity roosts or hibernacula are located within a two-mile radius of the study area, further limiting the potential effects on the species.

The USFWS published a final 4(d) Rule that defines prohibitions for purposeful and incidental take of NLEB. A December 2016 range-wide programmatic agreement between USFWS and FHWA, Federal Railroad Administration, and Federal Transit Administration for the Indiana Bat and NLEB can be utilized for these species in lieu of formal Section 7 consultation, if the project adheres to the scope and criteria of the range-wide Biological Assessment (BA). The Intra-Service Programmatic Biological Opinion (BO) on the final 4(d) Rule for the NLEB may be used for projects affecting the NLEB. Steps identified in the final 4(d) rule to complete the Section 7 process prior to construction will be taken by VDOT.

Of the 66.1 acres identified in the inventory corridor, approximately 32.5 acres of potential SWP habitat was confirmed in the planning-level LOD in the median of the divided interstate. However, an IPaC official species list obtained from the USFWS does not list the SWP as a species of concern in the planning-level LOD. If the species does occur in the planning-level LOD, impacts from forest clearing along the eastern and

western edge of the existing right-of-way would render these areas as unsuitable, as well as some adjacent habitat areas due to increased plant densities from edge effects of the clearing. Forest clearing within the median also would likely render all habitat unsuitable either from forested conversion or fragmentation of the suitable habitat that would lead to unsuitable habitat conditions from an increased density of understory and herbaceous growth due to edge effects. Coordination with appropriate agencies and a survey to determine the presence of the species in the area would be conducted prior to construction.

Of the 5.9 acres identified in the inventory corridor as potential mussel habitat, approximately 0.3 acres occurs in the planning-level LOD. The quality of suitable mussel habitat within Chopawamsic Creek, Austin Run, and Potomac Creek should not be substantially impacted if the areas remain bridged and hydrologic conditions and water quality do not change as a result of construction activities. Suitable habitat within the median would likely be rendered unsuitable due to direct impacts or possible alterations in hydrology and water quality. Efforts to avoid and or minimize direct instream impacts and any downstream impacts can be made by adhering to strict Erosion and Sediment Control (ESC) and performing all instream construction activities behind cofferdams.

Of the 3.7 acres identified in the inventory corridor, approximately 0.3 acres of potential harperella habitat occurs in the planning-level LOD. However, the quality of suitable harperella habitat within Aquia Creek, Chopawamsic Creek, and Austin Run should not be substantially impacted if the areas remain bridged and hydrologic conditions do not change as a result of construction activities. The remaining potential habitat within the median would likely be rendered unsuitable due to direct impacts or possible alterations in hydrology and water quality.

To further reduce potential impacts to terrestrial and aquatic threatened and endangered species and their habitat, efforts to minimize the construction footprint would be considered during the permitting and design phase. The narrower, closed typical section of the roadway would be applied in the southern portion of the Build Alternative, where the majority of wetlands and streams within the study area are located. Construction practices would avoid the removal of existing vegetation to the greatest extent possible and include the implementation of best management practices for ESC as well as SWM to reduce potential impacts to adjacent habitats and properties.

Through informal consultation with U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the Endangered Species Act, it was determined that four federally listed species could potentially occur along the corridor: Dwarf Wedgemussel, Harperella, Small Whorled Pogonia, and Northern Long-eared Bat (NLEB). Final determinations regarding the project's effects on federally listed threatened and endangered species pursuant to Section 7 and conclusion of consultation with USFWS is not complete at this time. Due to the potential presence of the species where suitable habitat is present, performing presence/absence surveys may be required by the agencies. If presence of any species is confirmed, the agencies may recommend a time-of-year restriction for

activities within occupied habitat and these restrictions would be determined through the permitting process.

All applicable provisions of the Endangered Species Act and consultation required thereunder will be completed prior to construction. Based on FHWA's and VDOT's previous experience consulting with USFWS for the listed species, even if the project is likely to adversely affect the species and formal consultation is required, a "jeopardy" biological opinion for any of the listed species is highly unlikely. In addition, the formal consultation process requires the USFWS to issue a Biological Opinion that contains mandatory reasonable and prudent measures that the USFWS considers necessary or appropriate to minimize the impact. All reasonable and prudent measures in a Biological Opinion will be incorporated into the project in order to minimize any potential impacts to threatened and endangered species.

FHWA finds that the impacts to threatened and endangered species are not significant.

Hazardous Materials

A search of federal and state regulatory agency databases was performed to identify potential hazardous materials. An Environmental Data Resources, Inc. (EDR) report identified eight properties as a high priority, and an additional 13 parcels were listed as moderate priority for additional investigation work due to the risk of potential contaminant or hazardous material impacts associated with proposed construction activities along the highway improvement corridor. Please see **Table 3-23** in the Revised EA for detailed information on these sites. Site reconnaissance was performed to verify information provided in the EDR report and determine any additional information regarding recognized environmental conditions. The following potential environmental concerns were observed from publicly-accessible areas: underground and aboveground fuel storage tanks, unsecured 55-gallon drums, fuel dispensers, surface water discharge, a landfill, a soil stockpile, and an electrical transformer in poor condition.

Additional assessment and/or sampling investigations are recommended for 21 locations where subsurface disturbance may intersect soils or groundwater potentially impacted by the identified sites, or where partial property takes are anticipated. For the listed sites, a Phase I and/or Phase II Environmental Site Assessment is recommended to define whether specific impacts to the proposed construction design exists.

FHWA finds that the hazardous materials impacts are not significant.

Construction Impacts

During construction, temporary environmental impacts can occur but can be controlled, minimized or mitigated through careful attention to prudent construction practices and methods. Potential temporary construction impacts and preventive practices are summarized below.

Land Use. The Build Alternative would result in the conversion of approximately 37.8 acres to transportation land use, impacting primarily agricultural and commercial land use. Because most Build Alternative construction would occur in existing transportation right-of-way, these impacts would be generally limited to slivers of land bordering I-95. Therefore, the Build Alternative would not change the overall existing and planned land use pattern in the study area or Prince William and Stafford Counties, and it is not anticipated to require acquisition of complete properties. Temporary right-of-way required for construction would be short-term and returned to the previous land use upon completion of the project.

Water Quality. Potential impacts to the impaired water during construction include direct disturbance or alteration (e.g. placing of culverts or bridge widening), accidental spills, and sediment releases. Avoidance and minimization measures would be considered in the final design, as appropriate, to reduce the direct disturbance or alteration to the impaired streams. By following proper spill prevention and erosion and sediment control (ESC) procedures, the remaining potential construction-related direct impacts would be minimized.

Implementation of the Build Alternative would not affect aquifers/water supplies as there are no public groundwater wells, surface water intakes, springs, Sole Source Aquifers (SSAs), or reservoirs in the study area and roadway cuts are not anticipated to encounter the groundwater table.

Air quality. Emissions may be produced in the construction of this project from heavy equipment and vehicle travel to and from the site, as well as fugitive sources. Construction emissions are short term or temporary in nature and should not be significant. In order to mitigate these emissions, all construction activities would be performed in accordance with Virginia Department of Transportation (VDOT) Road and Bridge Specifications.

Noise. Construction activity may cause intermittent fluctuations in noise levels. During the construction phase of the project, all reasonable measures will be taken to minimize noise impacts from these activities. VDOT's Road and Bridge Specifications, Section 107.16(b)(3), establishes construction noise limits. The contractor will be required to conform to this specification to reduce the impact of construction noise on the surrounding community.

Solid Waste Disposal. Any solid waste impacts created during construction would be temporary. All solid waste material resulting from clearing and grubbing, demolition, or other construction operations would be removed from the project and disposed of in an appropriate manner.

Hazardous Materials. If contaminated materials are encountered during construction, VDOT will develop and implement appropriate procedures for their proper management and coordinate the removal, disposal, and/or treatment of the materials, as necessary. If

contaminated groundwater is encountered during construction, VDOT will implement appropriate specifications for proper management and treatment of the water, as necessary.

FHWA finds that the construction impacts would not be significant.

Indirect Impacts

The Build Alternative would be constructed primarily within existing VDOT right-of-way, and is not anticipated to require acquisition of complete properties. The land use within the project corridor would consist of agricultural, commercial, industrial, and residential land. I-95 and its interchanges have been in place for many decades. Most of the lands within one mile of the existing interchanges in Berea, Falmouth, Stafford, Garrisonville, and Aquia Harbour in Stafford County have been settled with well-established residential neighborhoods, commercial, and industrial areas. Induced growth resulting from the proposed transportation improvements could include infill rather than urban or suburban development. Induced growth is limited by restricted access areas in the northern portion of the study area due to the presence of Marine Corps Base Quantico and Prince William Forest Park. The portion of the study area north of the suburban areas of Berea and Falmouth, and south of Garrisonville, Aquia Harbour, and Stafford, is in a less advanced state of land use progression. However, the greatest potential for urbanization in this area occurs along the existing feeder roads and interchanges included within the Induced Growth study area boundary. Because the growth is anticipated to occur as infill or redevelopment around existing interchanges in previously developed areas, and such growth would occur primarily in areas allowing that type of development as identified in planning and zoning, it is anticipated that the indirect effects of induced growth to socioeconomic, natural, and historic resources would not be substantial.

Potential indirect effects to wetlands, streams, water quality, floodplains, wildlife habitat, and threatened or endangered species could result from temporary construction impacts and increased stormwater runoff due to increases in impervious surface area. Reduction in riparian canopy cover could indirectly affect water chemistry (decrease in Dissolved Oxygen and increase in temperature, both which impact nutrient cycling and aquatic life) in Falls Run, Claiborne Run, Potomac Creek, Accokeek Creek, Austin Run, Aquia Creek, and Chopawamsic Creek. In addition, the inverse could occur, as widening or constructing new bridges at the existing bridge crossings of Potomac Creek, Aquia Creek, and Chopawamsic Creek could shadow wetlands, and indirectly alter the plant community and wildlife habitat in these areas. The Build Alternative is located primarily within the median of I-95, and it would cause some habitat loss along the corridor because of vegetation removal. Areas of potential vegetation removal occur mainly in the median of the divided interstate south of Aquia Creek and in lesser amounts along the outside edges of the existing lanes near the Warrenton Road interchange and in areas where stormwater management facilities are proposed. The removal of tree species could indirectly affect the NLEB through the elimination of suitable forage and summer roost habitat. Habitat fragmentation is indirectly associated with habitat loss and can have wide ranging indirect effects to wildlife. Potential indirect effects to these resources would be

minor, as VDOT would adhere to the local, state, and federal regulations governing construction impacts in these areas and use of standard ESC and SWM measures and their associated required monitoring protocols.

FHWA finds that the indirect impacts from the project would not be significant.

Cumulative Impacts

Cumulative impacts are the impact on the environment resulting from the incremental impact of the project when added to other past, present, and reasonably foreseeable future actions. Other past, present, and reasonably foreseeable future actions in the study area underway by the city, state and federal governments that could cumulatively impact the environment include:

Past Actions –

- Table 3-1 in the Revised EA identifies specific past actions since 1964 that have contributed to existing conditions within the Natural Resources Indirect and Cumulative Effects (ICE) study area. The past transportation and major development activities are focused upon as relevant to understanding the potential cumulative effects of the Interstate 95 Express Lanes Fredericksburg Extension Study alternatives.

Future Actions –

- When conducting cumulative effects analyses, FHWA and VDOT consider “Reasonably Foreseeable Future Actions” to be those actions that are fiscally constrained in the region’s transportation plans. Projects included in the documents, plans, or lists provided above are treated as reasonably foreseeable actions because future construction funds have been set aside for them in the planning process. Due to scarce financial resources, projects that do not have identified funding may not be constructed, and are therefore not reasonably foreseeable. **Appendix A** in the Revised EA lists all of the present and reasonably foreseeable future transportation projects that would add capacity within the respective study areas and notes the status of each project.
- Future growth and development could possibly further reduce and degrade terrestrial and aquatic habitat for the long term. However, federal, state, and local regulations would continue for the foreseeable future and would continue to require minimization, mitigation, and compensation for terrestrial and aquatic habitat direct and indirect effects.
- Adherence to VDOT specifications would minimize the Build Alternative’s contribution to cumulative effects (either direct or indirect) on habitat and protected species from the introduction of invasive species. As the direct effects of the Build Alternative to protected species would be minor, the Build Alternative’s contribution to cumulative effects of past, present, and foreseeable projects would be minor.

All of these actions have had or will have an impact on the environment. For purposes of cumulative impact analysis for this study, the primary issue is whether or not the proposed project would significantly impact the same resources as the actions listed above, resulting in an accumulation of impacts to the resource in question. Given that the impacts from the project on individual environmental resources are relatively minor, the effects of the Build Alternative would not significantly contribute to adverse cumulative impacts.

FHWA finds that the cumulative impacts would not be significant.

Council on Environmental Quality's Regulations

The Council on Environmental Quality's regulations requires consideration of a project's context and intensity in determining whether the project will have a significant impact (40 C.F.R. 1508.27). Regarding context, the regulations state, "Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant." Since this project is a site-specific action, significance depends upon the effects of the project on the project area.

Regarding intensity, the regulations identify issues that should be considered in determining if the intensity of a project's impacts is substantial enough to warrant the preparation of an environmental impact statement (40 C.F.R. 1508.27(b)(1-10)). These issues are considered in the determination of whether there is a significant impact. The issues are addressed as follows:

1. *Impacts that may be both beneficial and adverse* – In addition to the adverse impacts described above, the Build Alternative would also have beneficial impacts. The Build Alternative would reduce congestion by adding capacity to the I-95 corridor in the study area, provide a higher reliability of travel times for motorists, and provide new access points to the managed lanes system. We find that these beneficial impacts, when taken in conjunction with the adverse impacts, do not reach the level of significant requiring the preparation of an environmental impact statement.
2. *The degree to which the project affects public health or safety* – It is not anticipated that the project will adversely affect public health and safety. On the contrary, the project would reduce daily congestion and accommodate travel demands more efficiently, provide higher reliability of travel times, and expand travel choices within the project study area. Also, the project will not cause or contribute to an exceedance of the National Ambient Air Quality Standards.

3. *Unique characteristics of the geographical area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical area* – No park lands, wild and scenic rivers, or ecologically critical areas will be impacted by the project. As discussed earlier, the impacts to wetlands are not significant. The project as proposed will have no adverse effect on historic properties, provided the protection measures described in VDOT’s November 29, 2017 letter to DHR are implemented during construction at Site 44ST0909. The project’s effects on cultural resources (i.e., historic properties), are explained above.
4. *The degree to which the effects on the environment are expected to be highly controversial* – The term “controversial” refers to cases where substantial dispute exists as to the size, nature, or effect of the action rather than to the existence of opposition to a use, the effect of which is relatively undisputed. On this project, there has been no documented dispute regarding the size, nature, or effect of the project from the state or federal environmental resource agencies or any other entity. Further, no environmental resource agency has opposed the project. Based on the above, we find that the degree to which the effects on the environment are expected to be highly controversial does not require an environmental impact statement for this project.
5. *The degree to which the effects on the quality of human environment are highly uncertain or involve unique or unknown risks* – There are no known impacts on the quality of the human environment that can be considered highly uncertain or involve unique or unknown risks. Most of the project would be constructed within existing VDOT right-of-way, and is not anticipated to require acquisition of complete properties. Most of the Build Alternative construction would occur in existing transportation right-of-way, and right-of-way impacts would be generally limited to slivers of land bordering I-95. Therefore, the Build Alternative would not change the overall existing and planned land use pattern in the study area or Prince William and Stafford Counties, and it is not anticipated to require acquisition of complete properties. No community facilities, services or access would be adversely affected by the project. The project will not cause or contribute to an exceedance of the National Ambient Air Quality Standards.
6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration* – This action will not set a precedent for future actions with significant effects or represent a decision in principle about a future consideration. FHWA’s regulations at 23 CFR 771.115(a) list the types of actions that normally require the preparation of an Environmental Impact Statement. The widening of an existing roadway is not on the list. The project has logical termini and independent utility and represents a reasonable expenditure; it does not force additional improvements to be made to the transportation system. This decision will not establish a precedent regarding the requirements of NEPA as they will be applied to future projects.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts* - This action has logical termini and independent utility and does not force additional transportation improvements to be made to the transportation system. Cumulative impacts were addressed in the REA and in this document, and we find that they are not significant.
8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss of significant scientific, cultural, or historic resources* – No highways or objects listed in or eligible for listing in the National Register of Historic Places will be adversely affected by the project. Pursuant to the regulations implementing Section 106 of the National Historic Preservation Act, the Build Alternative would have no adverse effect on historic resources.
9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act* – No critical habitat would be impacted. With regard to endangered or threatened species, there are four federally listed species whose Section 7 ranges intersect with the project area. The four species are the following: Dwarf Wedgemussel, Harperella, Small Whorled Pogonia, and Northern Long-eared Bat (NLEB). As discussed in the REA, FHWA and VDOT will complete the Section 7 consultation process following completion of surveys for the listed species.

Based on FHWA's and VDOT's previous experience consulting with USFWS, even if the project is likely to adversely affect listed species and formal consultation is required, a "jeopardy" biological opinion for any of the four species is highly unlikely. In addition, the formal consultation process requires USFWS to issue a Biological Opinion that contains mandatory reasonable and prudent measures that USFWS considers necessary or appropriate to minimize the impact. All reasonable and prudent measures in a Biological Opinion will be incorporated into the project in order to minimize any potential impacts to threatened and endangered species. Based on the above, the impacts to threatened and endangered species populations would not be significant. Notwithstanding, FHWA will not authorize the use of federal funds for construction until VDOT documents the results of the Section 7 consultation in a NEPA reevaluation for FHWA's consideration

10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment* – The proposed action does not knowingly threaten a violation of any Federal, State, or local law for the protection of the environment. All applicable permits will be acquired prior to construction.

Conclusion

Based on the foregoing information and other supporting information, we find that the proposed project will not have a significant impact on the environment. Therefore, an environmental impact statement is not warranted, and the Revised Finding of No Significant Impact is being issued accordingly. The Revised Finding of No Significant Impact will be reevaluated as appropriate pursuant to 23 C.F.R. 771.129(c) as major approvals are requested from FHWA.