

FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR

PROJECT: Commonwealth Railway Mainline
Safety Relocation Project

LOCATION: Cities of Portsmouth, Suffolk, and
Chesapeake, Virginia

The FHWA has determined that the Build Alternative will have no significant impact on the environment. This Finding of No Significant Impact is based on the Draft Environmental Assessment (EA) and the letter finalizing the Draft EA that have been independently evaluated by the FHWA and determined to adequately and accurately discuss the need, environmental issues, and impacts of the project and appropriate mitigation measures. They provide sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the Draft EA, the letter finalizing the Draft EA, and the rationale supporting the Finding of No Significant Impact.

5/22/07

Date

/s/ John Simkins

for: FHWA Division Administrator

Rationale for Selection of the Build Alternative and Rationale for the Finding of No Significant Impact

Commonwealth Railway Mainline Safety Relocation Project

We have reviewed the Virginia Department of Transportation's (VDOT) May 15, 2007 letter finalizing the Draft Environmental Assessment (EA) and requesting a finding of no significant impact (FONSI) (attached), the Draft EA (attached), and responses to comments on the preliminary Draft EA. The Draft EA was revised via a letter that reflects 1) changes in the proposed action and mitigation measures resulting from comments received and impacts of those changes; 2) necessary findings, agreements, or determinations required for the proposal; and 3) pertinent comments received and appropriate responses. This approach is prescribed in FHWA Technical Advisory T6640.8A under Section II(h). To summarize the transmittal letter:

- 1) There were no changes in the proposed action or mitigation measures resulting from comments received on the Draft EA;
- 2) The U.S. Army Corps of Engineers has issued a permit for the project pursuant to Section 404 of the Clean Water Act. The 9.4 acres of impacted Federal jurisdictional wetlands would be mitigated via a debit from the Hampton Roads Airport Mitigation Bank;
- 3) A notice of availability of the Draft EA was published in the local newspaper, followed by a 30-day comment period. The Draft EA was available for review at local offices as well as on the internet. No comments were received on the Draft EA. Prior to approval of the Draft EA, a preliminary Draft EA was submitted to the Virginia Department of Environmental Quality (VDEQ) Office of Environmental Impact Review. VDEQ distributed the preliminary Draft EA to other agencies and entities in Virginia. No agencies or entities indicated that the project would have a significant impact. The letter finalizing the Draft EA considered the VDEQ comments and provided responses as appropriate.

The project has independent utility, and the construction of the proposed improvements represents a reasonable expenditure of funds even if no additional transportation improvements are made. Based on our review, we have determined that the National Environmental Policy Act (NEPA) and all other applicable environmental requirements have been addressed and we find that the project will not have any significant environmental impacts.

Alternatives

No-Build Alternative

Consistent with the requirements of NEPA and FHWA guidelines, consideration was given to taking no action to meet the purpose and need of the project. The No-Build

Alternative also provides a baseline condition with which to compare the improvements and consequences associated with the Build Alternative. The No-Build Alternative does not allow for the construction of the rail line and, as such, would not address the purpose and need as described in section 1 of the Draft EA. Therefore, FHWA does not select this alternative.

Build Alternative

The Build Alternative is described in detail in section 2.1.1 of the Draft EA. It would consist of constructing approximately 5.5 miles of railroad in the medians of the existing Western Freeway (Route 164) and I-664. It also includes a new highway grade separated overpass to be constructed on Route 17 where the at-grade rail corridor transitions from the median of Route 164 to the median of I-664. Also as part of the Build Alternative, approximately 4.3 miles of the existing railroad within the cities of Chesapeake and Portsmouth would be abandoned. The Build Alternative would address the purpose and need and would not have significant environmental impacts. FHWA selects the Build Alternative.

Rationale for the FONSI for the Build Alternative

The following is a summary of the social and environmental impacts identified for Build Alternative in the Draft EA and letter finalizing the Draft EA:

Land Use

The Build Alternative would be constructed entirely within right-of-way owned by the Commonwealth of Virginia. Land use categories of the surrounding areas in each city would not be impacted by construction of the Build Alternative.

Economic

The Build Alternative would have a beneficial impact on the local economy. It would improve the operating efficiency of the regional rail system serving existing industries, the APM Marine Terminal, and the future VDA Craney Island Marine Terminal. This, in turn, would benefit the productivity of local and regional businesses, and industrial economies that are dependant on ports-related transportation.

Social

No community facilities/services are located within the rail corridor. Therefore, no negative impacts to these resources are anticipated. The Build Alternative would have a beneficial impact on neighborhoods and community cohesion in the existing railroad area. Eliminating 14 at-grade rail crossings would improve safety in the neighborhoods where these crossings exist, would decrease the noise levels and air pollution in the

adjacent communities, and would improve circulation of automobile traffic flow in the local area.

Parks, Recreation, and Open Space

No parks, recreation areas, or open spaces would be impacted by the Build Alternative.

Cultural Resources

The Build Alternative would have no effect on any known properties on or eligible for the National Register of Historic Places.

Right-of-way/Relocation

The Build Alternative would be constructed entirely within right-of-way owned by the Commonwealth of Virginia. No right-of-way or relocations would be required for the Build Alternative, and low income or minority populations would not be disproportionately impacted.

Air Quality

The Build Alternative would have beneficial air quality impacts as compared to the No-Build condition, and it is in compliance with the general air quality conformity provisions. The Build Alternative is not expected to be a major source of air pollution and is not expected to interfere with attainment or maintenance of National Ambient Air Quality Standards (NAAQS). The projected carbon monoxide (CO) concentrations would be well below the NAAQS for CO. The temporary air quality impacts from construction are expected to be minor.

Noise

As described in section 3.8 of the Draft EA, a detailed noise analysis was conducted. A substantial amount of noise is already present in the project area. If the project were constructed, noise levels near sensitive receptors along the proposed railroad corridor would result in “no impact” conditions at five locations and “moderate impact” conditions at one location – the Bon Secours Maryview Nursing Care Center. A noise barrier would be constructed in the area of the care center to mitigate the noise impacts to “no impact” conditions. Also, the Build Alternative would reduce noise levels in residential neighborhoods along the existing rail corridor and eliminate the need for 14 at-grade crossings.

Aquatic Resources

The Build Alternative is not anticipated to have an adverse effect on groundwater or surface water resources. The drainage design would entail creating closed systems from existing open systems by installing drop inlets and connecting pipes. Existing detention

basins and other cleared areas within the rail corridor right-of-way should provide the necessary area to treat stormwater runoff. The drainage design process would strive to preserve existing drainage patterns to the greatest extent possible.

Any impacts to water quality are expected to be temporary and would be minimized by erosion and sediment control best management practices in accordance with current design practices. The design, construction, and maintenance of the railroad would also comply with the Virginia Stormwater Management Regulations. The potential for groundwater contamination would be minimized by applying recommendations from the Best Management Practices Handbook: Sources Affecting Groundwater.

The Build Alternative would not impact streams on the National Park Service Nationwide Inventory, Final List of Rivers, existing or eligible Wild and Scenic Rivers, or existing or proposed State Scenic Rivers. The Build Alternative would also not affect anadromous fish, trout streams, or shellfish beds.

Approximately 9.9 acres of wetlands would be impacted by the Build Alternative. As indicated in the WET analysis, impacts to wetlands would not be significant since these areas have a low probability of providing most of the wetland functions evaluated. On-site mitigation adjacent to the project is not practicable. As stated above, the wetland impacts would be mitigated via a debit from the Hampton Roads Airport Mitigation Bank. The U.S. Army Corps of Engineers has issued a Section 404 permit for the project.

Protected Species

No adverse impacts are anticipated to federally listed species or federally listed critical habitat.

Hazardous Materials

The Build Alternative would be constructed within the median of two highways and a small section in undeveloped areas in Suffolk and the APM Marine Terminal. There are no hazardous waste sites within the project location. In addition, there are no reports of hazardous waste sites within the corridor of the existing railroad. Therefore, hazardous waste sites are not anticipated to be impacted by the Build Alternative.

Indirect and Cumulative Impacts

By diverting containerized cargo traffic away from local and regional highways, indirect impacts from the Build Alternative include the likely reduction of highway congestion and improvement of highway safety. An increase in population density or growth rate is not anticipated to result from construction of the Build Alternative or abandonment of the existing rail line, and land adjacent to the existing rail line is already heavily developed.

The cumulative effect of the Build Alternative combined with the projects listed in section 3.13.1 of the Draft EA would be beneficial to the local and regional economy. The Build Alternative would improve the operating efficiency of the regional rail system serving existing industries, the APM Marine Terminal and the future VPA Craney Island Marine Terminal. This, in turn, would benefit the productivity of local and regional businesses, and industrial economies that are dependant on ports-related transportation. The primary negative impact from the Build Alternative is to wetlands. The wetland impacts associated with the Build Alternative would incrementally add to the cumulative wetland impact, but these impacts would be mitigated through coordination with and concurrence by the U.S. Army Corps of Engineers.

Construction

Water Quality. The Build Alternative may have some short-term effects on groundwater or surface water resources due to stormwater runoff during construction. To minimize potential stormwater impacts, the project would comply with the Virginia Erosion and Sediment Control regulations during construction. Since more than one acre of land would be disturbed, the project would also require a stormwater permit from VDCR. During construction, non-point source pollutants could possibly enter groundwater or surface water from stormwater runoff. To minimize these impacts, appropriate erosion and sediment control practices, as outlined in the 1992 Virginia Erosion and Sediment Control Handbook, would be used, including the prompt vegetation of disturbed areas.

Air Quality. Air quality impacts from construction would be temporary and would primarily consist of emissions from diesel powered construction equipment and fugitive dust. The project would comply with all applicable local, state, and federal regulations and include adherence to the Virginia Environmental Regulations 9 VAC 5-40-5600 et seq. open burning; and 9 VAC 5-50-60 et seq. fugitive dust emissions. The de minimis thresholds for the project area as an ozone non-attainment area are 100 tons per year of nitrogen oxides (NO_x) and 100 tons per year of volatile organic compounds (VOCs). The emissions of NO_x and VOCs from construction equipment are anticipated to be below the annual de minimis levels, and are not regionally significant.

Noise. Construction activity may cause intermittent fluctuations in noise levels. However, in light of the context of the project area, impacts would not be significant.

Solid Waste Disposal. Any solid waste impacts 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 according to state and local requirements.

Hazardous Materials. Construction may require the use of hazardous materials by contractor personnel. Hazardous materials would be handled according to local, state, and federal laws and regulations.

Council on Environmental Quality's Regulations

The Council on Environmental Quality's regulations require consideration of a project's context and intensity in determining whether the project would have a significant impact on the environment (40 CFR 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 in 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 (EIS) (40 CFR 1508.27(b)(1-10)). Even if the project involves one or more of these issues, an EIS is not necessarily required. Rather, these issues are considered in FHWA's 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 addressing the purpose and need, the project would have a few beneficial impacts, including benefits to the economy and benefits to the neighborhoods and community cohesion in the existing railroad area. These beneficial impacts, when taken in conjunction with the negative impacts, are not significant.

2. *The degree to which the project affects public health or safety* – The project should not adversely affect public health and safety. The project should reduce traffic on the local highways, thereby improving safety. In addition, the Build Alternative would have beneficial air quality impacts as compared to the No-Build condition, and it is in compliance with the general air quality conformity provisions. The Build Alternative is not expected to be a major source of air pollution and is not expected to interfere with attainment or maintenance of National Ambient Air Quality Standards (NAAQS). The projected carbon monoxide (CO) concentrations would be well below the NAAQS for CO.

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 known historic or cultural resources, park lands, prime farmlands, wild and scenic rivers or ecologically critically areas would be impacted by the Build Alternative. The Build Alternative would impact approximately 9.9 acres of wetlands. However, as indicated in the WET analysis, impacts to wetlands would not be significant since these areas have a low probability of providing most of the wetland functions evaluated. In addition, the U.S. Army Corps of Engineers has issued a Section 404 permit for the project, and the wetland impacts would be mitigated via a debit from the Hampton Roads Airport Mitigation Bank.

4. *The degree to which the effects on the environment are expected to be highly controversial* – Based on case law, it is FHWA’s position that 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. There has been no documented dispute regarding the size, nature, or effect of the project from any entity.

Based on the above, we find that the degree to which the effects on the environment are expected to be highly controversial does not warrant an EIS 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. The project is largely confined to the median of two highways. In addition, the Build Alternative is not expected to be a major source of air pollution and is not expected to interfere with attainment or maintenance of National Ambient Air Quality Standards (NAAQS). The projected carbon monoxide (CO) concentrations would be well below the NAAQS for CO.

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 would not set a precedent for future actions with significant effects or represent a decision in principle about a future consideration. 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* – As discussed above, the cumulative effect of the Build Alternative combined with the projects listed in section 3.13.1 of the Draft EA would be beneficial to the local and regional economy. The Build Alternative would improve the operating efficiency of the regional rail system serving existing industries, the APM Marine Terminal, and the future VPA Craney Island Marine Terminal. This, in turn, would benefit the productivity of local and regional businesses, and industrial economies that are dependant on ports-related transportation. The primary negative impact from the Build Alternative is to wetlands. The wetland impacts associated with the Build Alternative would incrementally add to the cumulative wetland impact, but these impacts would be mitigated through coordination with and concurrence by the U.S. Army Corps of Engineers.

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* – The

project would have no effect on known districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places.

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* – The project would have no effect on any federally endangered or threatened species or any critical habitat.

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. In addition, all applicable permits will be acquired prior to construction.

Conclusion

Based on the information contained in the Draft EA, the letter finalizing the Draft EA, and other supporting documentation, we find that the project will not have any significant impact on the environment, either individually or cumulatively. Therefore, an EIS is not warranted, and the FONSI is being issued accordingly.