

Fulmer Terry (DeIDOT)

From: Ryan.O'Donoghue@dot.gov
Sent: Wednesday, August 03, 2011 10:24 AM
To: Fulmer Terry (DeIDOT); Smith Geri C (DeIDOT)
Cc: Timpson Earle (DeIDOT); Nick.Blendy@dot.gov
Subject: SR 26 Mainline Ensure Fonsi is valid
Attachments: SR 26 Mainline Ensure Fonsi is valid 8 3 2011.pdf

Terry,

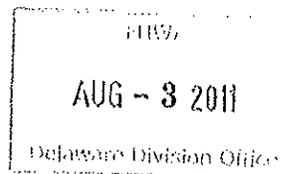
Attached in PDF format is copy of the approved document that would ensure that the FONSI for SR 26 Mainline State Project #T200411210 is still valid. Based on FHWA's review of this document; DeIDOT has addressed all FHWA comments and concurs that the social, economic and environmental conditions that supported the FONSI and Nationwide 4(f) are still valid and the findings are still applicable and no additional environmental evaluation/documentation is required. If you have any questions regarding this email please feel free to let us know. Thanks again for putting the letter together.

Ryan

Ryan O'Donoghue
Area Engineer
FHWA DeIMar Division
Delaware Office
300 S. New St., Suite 2101
Dover, DE 19904
Phone 302-734-2745
Fax 302-734-3066



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
RO. BOX 778
DOVER, DELAWARE 19903



SHAILEN P. BHATT
SECRETARY

August 1, 2011

FHWA
Hassan Raza, Division Administrator
J. Allen Frear Federal Building
300 S. New Street, Room 2101
Dover, DE 19904

Dear Mr. Raza:

On August 8, 2008, the Federal Highway Administration (FHWA) issued a Finding of No Significant Impact (FONSI) for the SR 26, Atlantic Avenue, Clarksville to Assawoman Canal Project, in Sussex County, Delaware. Contract No.: T200411210, ESTP-S026(6). A Nationwide 4(f) Evaluation for Minor Involvement of Historic Sites was also prepared for this project and approved by FHWA on August 6, 2008 (copies attached). The purpose of this letter is to provide documentation and request concurrence from FHWA that the social, economic and environmental conditions that supported the FONSI and Nationwide 4(f) are still valid and that the findings are still applicable and no additional environmental evaluation/documentation is required.

The proposed transportation project consists of improving traffic operations and safety along SR 26 from Clarksville to the Assawoman Canal, a distance of approximately 3.94 miles. The existing two lane roadway experiences traffic congestion and decreased mobility; safety and roadway deficiencies; and development pressures restricted by traffic congestion. The Selected Alternative meets the project goals of reducing congestion and improving safety and mobility by adding a continuous shared center turn lane, improved shoulders for bicycles, sidewalks, and improved drainage, and stormwater management.

Since the time of the FONSI, the Department has been extensively involved in real estate coordination activities. The 2008 Environmental Assessment (EA) had indicated that some amount of permanent right-of-way acquisition would be required from 229 property owners in the project limits. Additional survey has been required to assess mitigation of property impacts and to keep the construction and right-of-way plan sets up to date due to constantly changing field conditions. Commercial development continues to progress in this heavily used resort area resulting in additional coordination requirements between new property owners, developers, and DelDOT. Final Right-of-Way plans show a



Hassan Raza Letter
August 1, 2011
Page 2

total of 272 parcel numbers within the project limits. With final design detail it has been determined that acquisitions are required from 250 parcels of which 23 parcels are only Temporary Construction Easements (TCE's). That leaves 227 parcels with either Fee Simple or Permanent Easement (PE) acquisitions. Only permanent acquisitions were accounted for in the EA. The nine displacements identified in the EA, five residential and four businesses remain the same. At this time, we anticipate an April 2012 PS&E.

Overall, right-of-way impacts remain primarily minor frontage takes with no additional full acquisitions other than as identified in the EA. The Right-of-Way and Relocation Study remains valid. The minor impacts to historic properties remain the same, right of way coordination for these properties is ongoing; some have gone to final settlement while two remain actively in the settlement process with offers having been made and final settlement expected in the near future, as such, the Finding of No Adverse Effect remains valid (the basis for the nationwide 4(f) determination).

The Preferred Alternative and typical sections remain the same and are consistent with DelDOT's Complete Street Policy (Policy Implement O-06 dated January 7, 2009) and support FHWA's Livability and Sustainable Communities Initiatives as part of the 2009 HUD/DOT/EPA Agreement. In addition, the project remains compatible with current state and local land use and transportation plans as identified in the EA as well as Strategies for State Policies and Spending.

There was no disproportionately high or adverse impact to any minority or low income communities. Given the nature of the project, there were no significant air quality issues. By providing a center left-turn lane, this project will reduce traffic idling therefore vehicle emissions concentrations in the project area should be decreased and overall air quality improved.

Because the EA was approved before July 13, 2010, it does not require re-evaluation under the 2011 DelDOT Highway Transportation Noise Policy. The roadway improvements extend through an area comprised mainly of residential and commercial properties. At the time of the projects noise study, all of the residential properties adjacent to SR 26 had front yards facing the roadway, and some portion of all of those properties were within the 66 dBA contour. Under future conditions, constructing the project would perpetuate this situation, decreasing the impacts only by the number of relocations. Noise mitigation would be unreasonable and impractical given the proximity of adjacent properties and the numerous driveways and entrances tying in directly onto SR 26.

There were no significant hazardous materials concerns. Known underground storage tank locations and any other sites encountered during construction would be adequately addressed by following DelDOT construction specifications for the treatment of potential soil or groundwater contamination.

Hassan Raza Letter

August 1, 2011

Page 3

The required Corps of Engineers Nationwide Permit has been applied for and approved. The wetland mitigation for this project has already been constructed (done under the SR 26 Detour Routes project). A Department of Natural Resources and Environmental Control (DNREC) Subaqueous Lands Permit and Wetlands Permit are still required and will be coordinated prior to PS&E.

There are no impacts to state or federal rare, threatened, or endangered species.

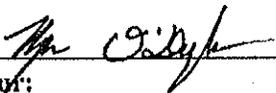
Based on the above information, we request concurrence from the FHWA that the approved environmental determination prepared for the SR 26, Atlantic Avenue project is still valid and that this work is consistent with the EA and FONSI determinations per 23 CFR 771.119; and the Nationwide Section 4(f) Determination per 23 CFR Part 774.

Please contact Terry Fulmer, Manager, Environmental Studies Office at 302-760-2095 or via email at Terry.Fulmer@state.de.us if any additional information is needed for your decision. Thank you.

Sincerely,

Natalie Barnhart

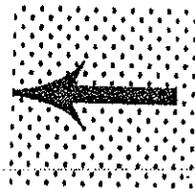
Natalie Barnhart
Chief Engineer


Concur:

For Hassan Raza, DelMar Administrator
Federal Highway Administration

8/3/2011

Date



NB:tfb

Attachment

cc: Mike Simmons, Assistant Director
Tom Banez, Project Manager
Terry Fulmer, Manager, Environmental Studies
Nick Blendy, FHWA
Dan Montag, FHWA
File



U.S. Department
of Transportation
**Federal Highway
Administration**

DELMAR Division - Delaware

300 South New St., Suite 2101
Dover Delaware 19904

August 6, 2008

In Reply Refer To: HDA-DE

Mr. Robert Taylor
Chief Engineer, Director
Delaware Department of Transportation
800 Bay Road
Dover, DE 19903



Dear Mr. Taylor:

Thank you for your letter of July 23, 2008 regarding the SR 26, Atlantic Avenue, from Clarksville to the Assawoman Canal Project in Sussex County; State Contract 24-112-10, and FHWA Contract ESTP-5026(6). You requested we approve a Finding of No Significant Impact (FONSI) for this project based on the findings of the Environmental Assessment (EA) and Section 4(f) Evaluation dated May 2008.

We understand the Department advertised the availability of these documents and received no comments from the public on the proposed undertaking. The only agency comments received were those from the Delaware Department of Natural Resources and Environmental Control (DNREC) in a May 21, 2008 email regarding the project's Draft Environmental Assessment. We have reviewed the documentation you have provided including the Department's July 22, 2008 response letter to DNREC that responds point by point to the DNREC comments.

We further understand that in response to DNREC comments, the waters, wetlands and subaqueous lands were reevaluated and a July 16, 2008 field view was held with DNREC and U.S. Army Corps of Engineers staff to confirm the status of the resources. This resulted in the clarification of regulatory jurisdiction delineations and classification type of impacted wetlands including a minor reduction of wetland impacts from 0.0728 acres as identified in the EA to the current 0.0637 acres. Portions of the EA have been updated based on the current information.

We have now completed our review of the submitted documentation and a signed Finding of No Significant Impacts (FONSI) is attached for your use in notifying the State Clearinghouse and the public through notice in local newspapers.

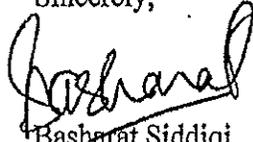
We have also approved the Nationwide 4(f) Evaluation for Minor Involvements of Historic Sites prepared for the project. Approvals of the FONSI and Nationwide 4(f) Evaluation take into account the conditions included in the DE SHPO Finding of No Adverse Effect dated December 14, 2007 appended to the EA and attached to the Nationwide 4(f) Evaluation. The approved Nationwide 4(f) Evaluation is attached for your files and continued implementation.

MOVING THE
AMERICAN
ECONOMY



If you wish to discuss these matters further, please contact Dan Montag at (302) 734-1719 or at daniel.montag@fhwa.dot.gov.

Sincerely,



Basarat Siddiqi
Assistant Division Administrator

Attachments: (2)

cc: Terry Fulmer, Location and Environmental Manager (w/attachments)
Robert McCleary, Assistant Director, Engineering Support
Mike Simmons, Assistant Director, Project Development
Tom Banez, Project Manager, South Project Development
Dan Montag, FHWA, Area Engineer
Dan Johnson, FHWA, Environmental Group Leader
Nick Blendy, FHWA, Environmental Specialist
Project Files (w/ attachments)

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT
FOR

SR 26, ATLANTIC AVENUE FROM CLARKSVILLE TO ASSAWOMEN CANAL
SUSSEX COUNTY, DELAWARE

The proposed transportation project consists of improving traffic operations and safety along SR 26 Atlantic Avenue from Clarksville to the Assawoman Canal, a distance of approximately 3.94 miles. The existing two lane roadway experiences traffic congestion and decreased mobility; safety and roadway deficiencies; and development pressures restricted by traffic congestion. The Selected Alternative meets the project goals of reducing congestion and improving safety and mobility by adding a continuous shared center left turn lane, improved shoulders for bicycles, sidewalks, and improved drainage and stormwater management.

The Federal Highway Administration (FHWA) has determined that the Selected Alternative will have no significant effect on the natural and human environment. This Finding of No Significant Impact (FONSI) is based on the project's Environmental Assessment and Section 4(f) Evaluation dated May 2008 approved by FHWA on June 2, 2008. These documents have been independently evaluated by FHWA and determined to adequately and accurately discuss the project need, environmental and cultural resource issues and impacts of the proposed project, along with appropriate mitigation measures. The documents provide sufficient evidence and analysis for determining that an Environmental Impact Statement is not required for the project.

In making this determination, the FHWA takes into account that:

- 1) Appropriate permits are to be applied for from the U.S. Army Corps of Engineers and the Delaware Department of Natural Resources and Environmental Control;
- 2) Section 106 coordination has resulted in a Finding of No Adverse Effect ; and
- 3) A Nationwide Section 4(f) Evaluation has been prepared and approved.

8/6/08.

Date



Basharat Siddiqi

Assistant Division Administrator

**DELMAR DIVISION
NATIONWIDE 4(f) EVALUATION FOR MINOR INVOLVEMENTS OF
HISTORIC SITES**

Project: # 24-112-10, ESTP-S026(6)

Description: SR 26, Atlantic Avenue, from Clarksville to Assawoman Canal

APPLICABILITY

	Yes	No
1. Are the historic sites adjacent to the existing highway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the project require the removal of alteration or historic structures, objects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Does the project disturb or remove archeological resources which are important to preserve in place rather than to recover?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Is the impact on the 4(f) site considered minor* (i.e. no effect, no adverse effect)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Has the SHPO agreed, in writing, with the assessment of impacts and the proposed mitigation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Does the project require the preparation of an EIS?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Is the project on new location?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. The scope of the project is one of the following?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Improved traffic operation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Safety improvements	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. 4R		
d. Bridge replacement on essentially the same alignment		
e. Addition of lanes		

* Please refer to the attached DE SHPO Finding of No Adverse Effect

ALTERNATIVES CONSIDERED

- | | Yes | No |
|--|-----|----|
| 1. The do-nothing alternative has been evaluated and is considered not to be feasible and prudent. | ✓ | □ |
| 2. An alternative has been evaluated which improves the highway without any 4(f) taking and it is considered not to be feasible and prudent. | ✓ | □ |
| 3. An alternative on new location avoiding 4(f) taking has been evaluated and is considered not to be feasible and prudent. | ✓ | □ |

MINIMIZATION OF HARM

- | | | |
|---|---|---|
| 1. The project includes all possible planning to minimize harm. | ✓ | □ |
| 2. Measures to minimize harm include the following: | * | |

* DE SHPO Finding of No Adverse Effect letter dated December 14, 2007

COORDINATION

- | | | |
|--|---|-----|
| 1. The proposed project has been coordinated with the following: | | |
| a. SHPO | ✓ | ___ |
| b. ACHP | ✓ | ___ |
| c. Property owner | ✓ | ___ |
| d. Local/State Federal agencies | ✓ | ___ |
| e. US Coast Guard (for bridges requiring bridge permits) | ✓ | N/A |

Note: Any response in a box requires additional information prior to approval.
Consult Nationwide 4(f) Evaluation.

DELMAR DIVISION
NATIONWIDE 4(f) EVALUATION FOR MINOR INVOLVEMENTS OF
HISTORIC SITES

Project: # 24-112-10, ESTP-S026(6)

Description: SR 26, Atlantic Avenue, from Clarksville to Assawoman Canal

SUMMARY and APPROVAL

The project meets all criteria included in the programmatic 4(f) evaluation approved on December 23, 1986.

All required alternatives have been evaluated and the findings made are clearly applicable to this project.

The project includes all possible planning to minimize harm and that there are assurances that the measures to minimize harm will be incorporated in the project.

The DE SHPO concurred with the Finding of No Adverse Effect on December 14, 2007.

8/05/2008
Date

Approved Paul W. Johns
Environmental Team Leader